

EXPLANATORY MEMORANDUM TO

The Biocidal Products (Fees and Charges) Regulations (Northern Ireland) 2015 S.R. 2015 No. 254

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Enterprise, Trade and Investment to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under powers conferred by section 2(2) of the European Communities Act 1972 and Articles 40(2) and (4), and 55(2) of the Health and Safety at Work (Northern Ireland) Order 1978 (“the 1978 Order”). The Statutory Rule is subject to the negative resolution procedure.

2. Purpose

- 2.1. The purpose of the Statutory Rule is to revoke the Biocidal Products (Fees and Charges) Regulations (Northern Ireland) 2013¹, consolidating the fees elements of those regulations (which are to remain), but not the annual charge provisions (which are being withdrawn).

3. Background

- 3.1. The Biocidal Products (Fees and Charges) Regulations (Northern Ireland) 2013 were created to recover costs from industry for work carried out under the directly acting EU Regulation No. 528/2012 concerning the placing on the market and use of biocidal products. HSE undertakes this work on behalf of HSENI and the arrangements are similar to those that applied under previous legislation. Prior to HSE consulting on the equivalent Great Britain fees and charges regulations in 2013, it agreed with HM Treasury that it would carry out a post implementation review of the Regulations.

Following the review, it was decided to withdraw the requirement for businesses to pay the annual charge element of the fees and charges regime, which is £630 per business at 2013 prices.

- 3.2. An Agency Agreement currently exists between HSENI and HSE which allows appropriate functions in relation to biocides to be performed by HSE on behalf of HSENI. The agreement also requires HSENI to ensure that the costs incurred by HSE in performing these functions are paid in full. In practice, HSE deals directly with the companies involved to recoup the costs incurred.

4. Consultation

- 4.1. UK Stakeholders were informed, via an HSE e-bulletin, issued on 14 November 2014, of proposals to withdraw the annual charge to industry. A second e-bulletin was issued on 26 November 2014 to check HSE’s estimates for the savings that would arise from the removal of the annual charge. Comments were requested by 12 December 2014 and consultees included the nine Northern Ireland companies registered to pay the annual charge.
- 4.2. There were seven responses to the e-bulletins, none of which were from Northern Ireland companies. Respondents indicated that HSE’s estimated administrative savings from the withdrawal of the biocidal products annual charge were broadly correct.

¹ S.R. 2013 No. 207 <http://www.legislation.gov.uk/nisr/2013/207/contents/made>

5. Equality Impact

5.1 The Rule has been screened for any possible impact on equality of opportunity affecting the groups listed in section 75 of the Northern Ireland Act 1998 and no adverse or differential aspects were identified.

6. Regulatory Impact

6.1 A Regulatory Impact Assessment was conducted in respect of the Great Britain Health and Safety and Nuclear (Fees) Regulations 2015 and is attached to this memorandum (see Annex). Analysis of the costs and savings in relation to the removal of the annual charge can be found at paragraphs 22 to 33.

6.2. Removal of the annual charge raises no new obligations on industry and no additional costs to industry are anticipated. Any familiarisation with the changes will be negligible, as businesses simply need to be aware that they no longer need to pay the charge, while other obligations remain unchanged.

7. Financial Implications

7.1. There are nine Northern Ireland companies registered to pay the annual charge and, in addition to the initial notification to HSE, all liable businesses must respond to an invoice each year. Assuming 1 hours work per business at a full economic cost of £41, per year, this, along with the saving in relation to the charge itself (£630 per business based on 2013 prices), is an estimated total saving to Northern Ireland business of £6039per year.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Department has considered the matter of Convention rights and is satisfied that there are no matters of concern.

9. EU Implications

9.1 The Statutory Rule provides for the charging regime in relation to Regulation (EU) No. 528/2012. Whilst the imposition of fees by Member States' competent authorities in respect of specific procedures carried out under the Biocidal Products Regulation is compulsory, an annual charge on industry in relation to other more general biocides-related work is optional.

10. Parity or Replicatory Measure

10.1. In Great Britain the Health and Safety and Nuclear (Fees) Regulations 2015 have been used to provide for the changes and to revoke the Biocidal Products (Fees and Charges) Regulations 2013.

11. Additional Information

11.1. Not applicable

May 2015

<p>Title: Replacement of Health and Safety (Fees) Regulations 2012 and the Biocidal Products (Fees and Charges) Regulations 2013 with the Health and Safety and Nuclear (Fees) Regulations 2015.</p> <p>IA No:</p> <p>Lead department or agency: Health and Safety Executive</p> <p>Other departments or agencies:</p>	Impact Assessment (IA)		
	Date: 30 January 2015		
	Stage: Validation		
	Source of intervention: Domestic		
	Type of measure: Secondary legislation		
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Summary: Intervention and Options**RPC Opinion: Awaiting****Cost of Preferred (or more likely) Option**

Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Two-Out?	Measure qualifies as
£0.42 million	£3.79 million	£-0.34 million (-£0.04 million in scope OTO)	Yes	OUT

What is the problem under consideration? Why is government intervention necessary?

The Health and Safety (Fees) Regulations 2012, which set out fees levied by HSE on businesses to recover the costs of certain regulatory activities, are outdated and need to be updated to reflect a number of changes to fees provisions in other secondary legislation.

HSE also needs to make changes to specific fees provisions. A review of the Biocidal Products (Fees and Charges) Regulations in 2013 suggests that the annual charge places a disproportionate burden on small and medium sized enterprises (SMEs). Additionally, fees income from a large proportion of businesses under the Ionising Radiations Regulations 1999 is less than the administrative effort to HSE in collecting it. HSE therefore wishes to make changes to these fees provisions.

What are the policy objectives and the intended effects?

The policy objectives are to i) reflect changes already implemented to fees provisions in other secondary legislation and ensure that the Fees regulations are up to date; and ii) make changes to certain fees provisions to resolve the issues identified above.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Given that changes to fees must be prescribed in regulations, and that most reflect changes in other secondary legislation, there are no viable alternatives to regulation.

Option 1: 'Do nothing'. The Health and Safety (Fees) Regulations 2012 and Biocidal Products (Fees and Charges) Regulations 2013 would remain in force.

Option 2 (Preferred Option): To revoke existing Fees Regulations and implement the Health and Safety and Nuclear (Fees) Regulations 2015. The new regulations would reflect changes to other secondary legislations. In addition, they would revoke the Biocidal Products (Fees and Charges) Regulations, and transfer all biocidal products fees provisions, except for the annual charge, which would be revoked. The 2015 Fees regulations will also introduce a de minimis limit in respect of charges raised under the Ionising Radiations Regulations, such that HSE would not raise invoices where the total charge per employer is less than £25. This option ensures that the regulations are up to date while addressing issues with certain fees provisions.

Will the policy be reviewed? It will be reviewed. If applicable, set review date:

Does implementation go beyond minimum EU requirements?	No				
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded: N/a		Non-traded: N/a		

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible SELECT SIGNATORY: Date:

Summary: Analysis & Evidence

Policy Option 1

Description: Do Nothing

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years 10	Net Cost (Present Value (PV)) (£m)			
			Low: Nil	High: Nil	Best Estimate: Nil	
COSTS (£m)	Total (Constant Price)	Transition Years	Average (excl. Transition) (Constant Price)	Annual (Constant Price)	Total (Present Value) Cost	
Low	Nil	0	Nil		Nil	
High	Nil		Nil		Nil	
Best Estimate	Nil		Nil		Nil	
Description and scale of key monetised costs by 'main affected groups'						
This option continues with the status quo and would lead to no additional costs or benefits						
Other key non-monetised costs by 'main affected groups'						
This option continues with the status quo and would lead to no additional costs or benefits						
BENEFITS (£m)	Total (Constant Price)	Transition Years	Average (excl. Transition) (Constant Price)	Annual (Constant Price)	Total (Present Value) Benefit	
Low	Nil	0	Nil		Nil	
High	Nil		Nil		Nil	
Best Estimate	Nil		Nil		Nil	
Description and scale of key monetised benefits by 'main affected groups'						
This option continues with the status quo and would lead to no additional costs or benefits						
Other key non-monetised benefits by 'main affected groups'						
This option continues with the status quo and would lead to no additional costs or benefits						
Key assumptions/sensitivities/risks					Discount rate (%)	3.5

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: Nil	Benefits: Nil	Net: Nil	N/A	N/A

Summary: Analysis & Evidence

Policy Option 2

Description: Replace Health and Safety (Fees) 2012 Regulations with Health and Safety and Nuclear (Fees) 2015 Regulations

FULL ECONOMIC ASSESSMENT

Price Base Year 2013	PV Base Year 2015	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: 0.42

COSTS (£m)	Total (Constant Price)	Transition Years	Average (excl. Transition)	Annual (Constant Price)	Total (Present Value)	Cost
Low	Nil	0	Nil		Nil	
High	Nil		Nil		Nil	
Best Estimate	Nil		Nil		Nil	

Description and scale of key monetised costs by 'main affected groups'

None identified.

Other key non-monetised costs by 'main affected groups'

None identified.

BENEFITS (£m)	Total (Constant Price)	Transition Years	Average (excl. Transition)	Annual (Constant Price)	Total (Present Value)	Benefit
Low	Nil	0	0.05		0.42	
High	Nil		Nil		Nil	
Best Estimate	Nil		Nil		Nil	

Description and scale of key monetised benefits by 'main affected groups'

Businesses will save around £390,000 per annum from fees and charges that are no longer paid. However, the cessation of payment of these fees represents an equal loss to HSE, as HSE no longer receives the fees income. Businesses will also benefit from reduced administrative costs, by an estimated £49,000, where they no longer need to process payments and invoices associated with these fees and charges. This represents a net saving to society.

Other key non-monetised benefits by 'main affected groups'

The removal of the annual charge under the Biocidal Products (Fees) Regulations and introduction of a de minimis limit for fees under the Ionising Radiations Regulations would also reduce the administrative burden to HSE of calculating and collecting the fees. These have not been calculated for the purposes of this validation impact assessment as they are not borne by business.

Key assumptions/sensitivities/risks

Estimates of the impact of the revocation of the Health and Safety (Fees) Regulations 2012 and replacement with Health and Safety and Nuclear (Fees) Regulations 2015 are based on assumptions regarding administrative costs to businesses in processing payments. These assumptions are discussed further in the evidence base and have been validated following information received from informal consultation with stakeholders.

Discount rate (%) 3.5

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: Nil	Benefits: 0.3	Net: 0.3 (0.04 in scope of OITO)	Yes	OUT

Evidence Base (for summary sheets)**Problem under consideration***Health and Safety (Fees) Regulations*

1. HSE charges duty holders for a wide variety of statutory functions through the Fees Regulations. It also recovers its costs for on-shore major hazards (COMAH), offshore oil and gas and gas transportation through hourly rates, which are not specified in the Regulations. These rates are set administratively and industry is notified of future rates through cost recovery review groups which include representation from the main industry associations.
2. HSE has no power to set cost recovery rates in its own right and therefore recommends cost recovery rates to the Secretary of State for Work and Pensions who, if content, makes the Health and Safety (Fees) Regulations.
3. There have been a number of changes to other secondary legislation during 2013 and 2014, which need to be reflected in the Fees Regulations. For example, HSE no longer undertakes certain activities for which fees are included in the 2012 Fees Regulations. This includes approvals for explosives for use in certain mines and notifications of Tower Cranes. Paragraph 13 details all relevant changes to secondary legislation.
4. A review of the Biocidal Products (Fees and Charges) Regulations in 2013 suggests that the annual charge places a disproportionate burden on small and medium sized enterprises (SMEs). This is discussed further below. In addition, HSE also needs to make changes to specific fees provisions. An internal review has determined that fees income from a large proportion of businesses under the Ionising Radiations Regulations is lower than the administrative effort to HSE in collecting it.

Biocidal Products (Fees and Charges) Regulations

5. Under the Biocidal Products (Fees and Charges) Regulations 2013, HSE collects fees and charges from those who place biocidal products on the market. This is to recover costs that arise from work that HSE does under the EU Biocidal Products Regulation No 528/2012.
6. Prior to consulting on the creation of the Biocidal Products (Fees and Charges) Regulations in 2013, HSE agreed with HM Treasury that it would undertake a post implementation review of these regulations, which require HSE to charge businesses fees for certain activities that it undertakes and, in addition, collect an annual charge (commonly known as the General Industry Charge or GIC). The annual charge is intended to recover the costs of activities undertaken by HSE that fall outside of those for which an activity fee is payable.
7. When this review was undertaken in 2013, industry stakeholders raised concerns that these fees and charges place a disproportionate burden on small and medium sized enterprises (SMEs). HSE noted that the annual charge in particular, which is levied at a flat rate regardless of business size, is perceived as being unfair to SMEs. Whilst the imposition of fees by Member States' competent authorities in respect of specific procedures carried out under the Biocidal Products Regulation is compulsory,

an annual charge on industry in relation to other more general biocides-related work is optional. HSE therefore reviewed the activities funded from the annual charge and decided that they could be funded via alternative sources, such as other Grant in Aid funded activities and savings in accommodation and IT overheads that will be realised in 2014/15. In the interests of reducing regulatory burdens on all businesses, HSE therefore proposes to remove the annual charge.

8. In order to remove the requirement for the biocidal products annual charge, the authorising legislation needs to be updated. The annual charge is currently included in the Biocidal Products (Fees and Charges) Regulations 2013. As there is no logic for HSE to continue with two sets of Fees Regulations, this creates an opportunity to consolidate both into the Health and Safety (Fees) Regulations.

Rationale for intervention

9. Government intervention is necessary in order to ensure that the Health and Safety (Fees) regulations are up to date and that certain fees and charges do not place a disproportionate burden (including administration) on businesses and HSE. It is necessary to make these changes via regulatory intervention, since changes to fees must be prescribed in regulations.

Policy objective

10. The policy objectives are to i) reflect changes already implemented to fees provisions in other secondary legislation and ensure that the Fees regulations are up to date; and ii) make changes to certain fees provisions to address the issues highlighted in paragraphs 4-8.

Description of options considered (including do nothing)

11. Given that changes to fees must be prescribed in regulations, and that most reflect changes in other secondary legislation, there are no viable alternatives to regulation.

Option 1: Do Nothing (Baseline)

12. Under the 'Do Nothing' baseline the Health and Safety (Fees) Regulations 2012 would remain in force. Fees provisions would remain unchanged. Fees Regulations would not reflect changes to other secondary legislation, and Biocidal Products (Fees and Charges) Regulations 2013 would not be revoked. We take this *status quo* as our baseline against which we assess the costs and benefits of Option 1.

Option 2 (preferred)

13. Under the preferred option, the Health and Safety and Nuclear (Fees) Regulations 2015² would revoke and replace the Health and Safety (Fees) Regulations 2012. The 2015 regulations would reproduce all of the fees provisions, except to reflect changes to other secondary legislation. These changes are as follows:

² Following the creation of the Office for Nuclear Regulation as a statutory corporation on 1 April 2014, ONR's fees are now created in the Fees Regulations under the Energy Act 2013. The appropriate references have been included and the title amended to reflect this.

- **From 1 October 2014, the Explosives Regulations 2014 (ER2014), the Acetylene Safety (England and Wales and Scotland) Regulations 2014 (ASR2014) and the Genetically Modified Organisms (Contained Use) Regulations 2014 came into force. These are a set of consolidating regulations and revoke other regulations relating to both explosives and acetylene. The Fees Regulations 2015 will reflect these amendments, but there are no planned changes to the fee provisions. Hence, for these changes, there are no additional impacts to assess in this impact assessment.**
 - A number of amendments to reflect changes in fee provisions in the following secondary legislation, which have already been subject to impact assessment (IA):
 - Removal of fees in Petroleum (Consolidation) Regulations 2014, which came into force on 1 October 2014³.
 - Revocation of The Health and Safety (First-Aid) Regulations 1981 (and associated fees) from 1 October 2013⁴.
 - Revocation of The Notifications of Conventional Tower Cranes Regulations 2010 (and associated fees) from 1 April 2013⁵.
 - Changes in proposed Mines Regulations 2014⁶, which are planned to be laid in mid-December and come into force on 6 April 2015. HSE will no longer approve explosives for use in certain mines and, consequently, there will be no fees payable.
 - Introduction of a de minimis limit of £25 in respect of the Ionising Radiations Regulations, whereby we would not invoice companies whose total annual charge would be lower than this amount.
14. In addition, the Fees Regulations would revoke the Biocidal Products (Fees and Charges) Regulations 2013, consolidating the fees elements of those regulations (which are to remain), but not the annual charge (which is being withdrawn). Activities for which businesses are currently required to pay a fee under the Biocidal Products (Fees and Charges) Regulations 2013⁷ would remain unchanged. Subject to approval of the necessary regulatory changes by Parliament, the effect will be that from 2015 onwards businesses will no longer need to notify HSE of their liability to pay the annual charge and they will not be required to pay it.
15. HSE considered restructuring the annual charge in order to reduce the burden on SMEs. However, this would also require regulatory changes and be administratively more complex, while still incurring costs to duty holders in notifying liability to pay the Charge and to HSE in assessing liability to pay and processing payments. Because of

³ <http://www.legislation.gov.uk/en/uksi/2014/1637/impacts>

⁴ RPC Reference RPC12-HSE-1489(2). Impact Assessment validated on 04/06/2013.

⁵ <http://consultations.hse.gov.uk/gf2.ti/f/16450/427717.1/pdf/-/CD239%20Appendix%20B.pdf>

⁶ Please see the following link below for the final stage Impact Assessment on the Mines Regulations 2014. The IA has been validated by the Regulatory Policy Committee (RPC): <http://www.legislation.gov.uk/uksi/2014/3248/impacts>

⁷ <http://www.legislation.gov.uk/uksi/2013/1507/impacts>

this, the proposed option is to remove the Charge entirely and reduce the regulatory burden on all affected businesses.

16. The 2012 Fees Regulations include a commitment to publish a post-implementation review after three years of those Regulations coming into force. An Independent Review ‘Fee for Intervention – the first eighteen months experience’⁸ was published in June 2014. This covers the only policy change which was introduced in those Regulations. By revoking and replacing the 2012 Fees Regulations, the requirement for a review is extended.

Monetised and non-monetised costs and benefits of options (including administrative burden)

General Assumptions

17. Given that the policy changes have no identifiable end date, costs and benefits are assessed over a 10 year appraisal period, starting in 2015. Where costs/benefits arise in the future, a discount rate of 3.5% in accordance with the HM Treasury Green Book.
18. All costs and benefits are calculated for Great Britain in 2013 prices.
19. Estimates are presented to two significant figures throughout the analysis, unless stated otherwise. Because of this, there will be some rounding error present and estimates may not sum; however, the underlying analysis – including assessment of EANCB – has been performed using unrounded values.

Option 1 – Do nothing (Baseline)

20. Under Option 1, the Health and Safety (Fees) Regulations 2012 would remain in force. Fees provisions would remain unchanged, and any changes to other secondary legislation and Biocidal Products (Fees and Charges) Regulations 2013 would not be reflected. As this represents the baseline, there would be no additional costs and/or benefits.

Option 2 - Replacement of the Health and Safety (Fees) Regulations 2012 with Health and Safety (Fees) Regulations 2015

Costs and costs savings

21. Most of the changes described above have no additional impact on business. This is because there are no changes in fees provisions (where the amendments are simple legislative updates to ensure that the Fees Regulations refer to the correct secondary legislation) or because the impacts on business have been assessed elsewhere. The fees changes that will have additional impacts (and have not been accounted for in separate Impact Assessments, as indicated above) are as follows.

Removal of the requirement to pay the annual charge in the Biocidal Products (Fees and Charges) Regulations 2013

⁸ <http://www.hse.gov.uk/fee-for-intervention/independent-ffi-review-panel-final-report-2014.pdf>

22. The removal of the annual charge will have two main impacts on business:
- Businesses will no longer incur the annual charge; and
 - Businesses will no longer be required to notify HSE of their liability to pay the charge and respond to a charge invoice
23. The annual charge is levied at a flat rate, meaning that businesses pay the same amount, irrespective of size. The annual charge is calculated each year by adding up all of the chargeable costs incurred by the authorities (HSE) and dividing them by the total number of liable companies in Great Britain (as set out in the Biocidal Products (Fees and Charges) Regulations 2013). The actual charge varies from year to year, depending on the actual total costs chargeable to it and the number of companies liable to pay.
24. The businesses liable to pay the annual charge are those that place biocidal products on the market. According to HSE finance data, over the past four years, the average total annual charge to industry was £390,000 (in 2013 prices) spread over an average of 616 businesses (or £630 per business in 2013 prices). Assuming that a similar level of charge would be levied in the future (see paragraph 29), the removal of the annual charge would represent a saving to businesses equal to this value. Approximately 90% of businesses in the biocides industry are SMEs, so a similar proportion of cost savings would fall to this group. The cessation of the annual charge represents a transfer from HSE to businesses, since HSE will experience an equivalent reduction in fees income. Therefore, the net impact to society is zero.
25. Businesses would also benefit from a reduced administrative burden as they would no longer need to comply with the charge. This would be twofold: firstly, businesses would no longer need to notify their liability to pay the annual charge. Businesses only need to notify HSE of their liability to pay the charge once, after which liability is assumed for future years until HSE is notified otherwise. Since only a small number of businesses (around 10) newly notify HSE of their liability to pay each year, associated costs are assessed to be negligible, and we do not assess this further in this IA.
26. Secondly, liable businesses would no longer be required to process and respond to an invoice each year to make a payment. HSE data shows that the average annual number of invoices sent to businesses over the period 2010/2011 – 2013/2014 was 616.
27. HSE estimates that the processing of an invoice takes businesses approximately one hour in total. This assumption is based on HSE knowledge of the invoicing process, and was validated via consultation with stakeholders. Businesses liable to pay the annual charge were asked via the HSE Biocides e-bulletin whether they agreed with HSE's assessment that processing the invoice would take approximately one hour, at a cost of around £30 per hour⁹, plus 30% non-wage costs. HSE received seven responses, which suggested that the assumptions were either 'about right' or underestimated costs. Given the small number of responses, and the fact that the majority of businesses liable to pay the annual charge did not respond, we maintain these assumptions as a conservative estimate.

⁹ Based on a median wage rate of £31.23 for 'Financial Managers and Directors' in ASHE (2013 Revised Results).

28. Assuming 1 hour in total per business and a full economic cost of £41 per hour (based on a median wage rate of £31.23 for 'Financial Managers and Directors' in ASHE (2013 Revised Results), uprated by 30% for non-wage costs), the above activities cost each business an estimated £41 per year, or £25,000 across all 616 businesses. This represents a cost saving to businesses under the proposals.
29. The above savings are based on the assumption that the total number of liable businesses will be roughly in line with historical experience. The continuing assessment of active substances under the EU Biocides Regulation and the requirement for all associated product types to be authorised for use and marketing following this assessment may increase the number of businesses with obligations to notify HSE of their liability in the baseline scenario (that is, the annual charge continues to be levied), and therefore increase the number of businesses invoiced. However, it is not possible to quantify accurately the potential size of this effect. We therefore use the total level of charge and average number of invoices issued over the last five years as a conservative estimate when calculating the annual cost savings to business of the removal of the annual charge and consequent reduction in administrative burden.
30. Removal of the annual charge would raise no new obligations on industry; therefore, we do not expect any additional costs to industry would arise. Any familiarisation with the changes would be negligible, as businesses would simply need to be aware that they no longer need to pay the charge, and businesses have already been consulted and are aware of the forthcoming change. HSE would further publicise this change through its website and write to all of those who currently pay the charge and the relevant Trade Associations.
31. On the basis of the above, we estimate there will be a recurring annual saving to business as a result of the removal of the annual charge in the region of £410,000.
32. Table 1 summarises the total annual savings to business as a result of the removal of the annual charge.

Table 1: Summary of total annual savings to business from removal of the annual charge

Total annual saving from transferring annual charge payment to HSE	£390,000
Total associated annual administrative saving	£25,000
<i>Total annual saving to businesses from removal of annual charge</i>	<i>£410,000*</i>

*Does not sum due to rounding

33. Aside from no longer needing to calculate and collect the annual charge, most of the activities previously funded through the annual charge would continue. The removal of the annual charge would thus be realised as a loss of income to HSE, equal to the total amount of charges received. However, this would represent a transfer from HSE to business, and so would result in zero net cost to society. HSE expects to make up the shortfall using income from other Grant in Aid funded activities and savings in accommodation and IT overheads that will be realised in 2014/15. There would be some small administrative savings to HSE of no longer needing to calculate and collect the annual charge; however, these have not been calculated for the purposes of this Validation Impact Assessment.

Mines Regulations 2014.

34. As discussed above, HSE will no longer approve explosives for use in certain mines, meaning that businesses will not be required to pay associated fees. This will result in savings to business, equal to the amount of fees that would otherwise have been paid and any associated administrative costs. In reality, however, these savings are likely to be minimal: for example, there were no approvals during 2012-13 or 2013-14 and therefore no fees were paid.
35. Familiarisation costs arising from Mines Regulations 2014 have been accounted for in the impact assessment for these regulations. There are therefore no additional costs from this change to account for.

De minimis limit for fees under Ionising Radiations Regulations

36. An average of 583 businesses – or 65% of the total businesses invoiced – were invoiced for less than £25 under the Ionising Radiations Regulations over the period 2010/11 – 2013/14 (totalling an average value of £5,800 per year in 2013 prices). Introducing a de minimis limit of £25 (i.e. not charging businesses where the fees is less than £25) would therefore reduce the number of invoices by around 65%, and result in a reduction of around £5,800 in the total value billed. This change will remove costs to business whilst helping HSE to control costs, since we estimate that the administrative effort involved in raising the invoices and pursuing debts exceeds the associated fees income. We do not expect any material familiarisation costs in relation to this change, given its simple nature and the fact that affected businesses would not need to seek any information – HSE would simply not invoice them for these fees.
37. Alongside savings to business equal to the actual value billed, the introduction of a de minimis limit of £25 would also remove the administrative burden of processing the invoice for these companies. On average, 583 businesses are invoiced for a sum less than £25 per year. HSE estimates that the process of responding to an invoice under the Ionising Radiation Regulations is largely identical to the process of responding to an invoice under the Biocidal Products (Fees and Charges) Regulations 2013. Using estimates validated in consultation with industry (see Paragraph 27), assuming 1 hour in total per business and a wage rate of £41 per hour, the above activities cost each business an estimated £41, or £24,000 per annum across all 583 businesses. This therefore represents a cost saving to businesses under the proposals.
38. On the basis of the above, we estimate there would be a recurring annual saving to business as a result of the introduction of a de minimis limit for fees associated with the Ionising Radiations Regulations in the region of £29,000 per annum (error due to rounding). Only the £24,000 administrative saving would represent a net saving to society, because the £5,800 saving by businesses from no longer paying the fee would be a transfer from HSE to businesses.

Benefits

39. The proposed changes are not expected to have any impact on current levels of health and safety. This is because there would be no change in the statutory health and safety requirements on duty holders, or the level of HSE regulatory activity.

Total monetised net savings

40. Total monetised net savings from the changes proposed are as follows:
- Approximately £390,000 saving to businesses per annum in fees and charges, as a result of the removal of the biocidal products industry annual charge (£386,000 per annum) and the £25 de minimis limit for Ionising Radiations Regulations fees (£5,800). Over the ten year appraisal period, this amounts to a combined saving to businesses of £3.4 million (net present value). This saving represents a transfer from HSE to businesses, so the net saving to society as a whole is zero.
 - £49,000 estimated annual saving (£420,000 net present value over 10 years) to businesses in administration costs, as a result of no longer needing to process invoices associated with the above fees/charges. This is not a transfer and represents an additional net saving to society as a whole.
41. Fees and charges are out of scope of One-In-Two-Out (OITO) framework, according to Section 1.9 of the Better Regulation Framework Manual.¹⁰ However, administrative costs/savings are in scope. See section on 'Direct costs and benefits to business' for a fuller discussion costs and benefits to businesses under OITO.

Rationale and evidence, risks and assumptions

42. Given the limited nature of the changes proposed, HSE has taken a proportionate approach to this impact assessment. Meetings were held with representatives of the COMAH and gas transportation industries at the end of September and beginning of October 2014 to discuss the proposals. Stakeholders from the biocides industry were also notified of the planned changes to the fees and charges for biocidal products and about the consolidation of the biocidal products fees into the Fees Regulations. Information gathered during these consultations suggest that this scope of analysis is appropriate.
43. The main impacts arise from the removal of the annual charge under the Biocidal Products (Fees and Charges) Regulations 2013. We have consulted businesses who pay the annual charge on our assumptions regarding the administrative costs of processing payments (as discussed in paragraph 27), and responses suggested that these assumptions were reasonable.

Direct costs and benefits to business

44. Total annual savings to business are estimated to be £0.44 million, with a ten year net present value of £3.8 million. This includes both savings from fees/charges no longer paid, and avoided administrative costs.

¹⁰ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/211981/bis-13-1038-better-regulation-framework-manual-guidance-for-officials.pdf

45. Applying the methodology set out in the Better Regulation Framework Manual,¹¹ Equivalent Annual Net Costs to Business (EANCB) over a ten-year appraisal period are -£0.34 million.
46. The above EANCB includes the cost savings to business of no longer incurring the biocidal products annual charge and Ionising Radiation Fees. However, fees changes that do not arise from a change in the scope of regulatory activity are out of scope of the OITO framework (see page 41 under Section 1.9 of the Better Regulation Framework Manual).
47. Under the OITO framework, only the administrative savings to business associated with the proposal would qualify as an OUT. Accordingly, Equivalent Annual Net Costs to Business over a ten year appraisal period that are in scope are -£0.04 million.

Wider impacts

48. The post-implementation review of the Biocidal Products (Fees and Charges) Regulations 2013 highlighted concerns from stakeholders that the associated fees and charges place a disproportionate burden on SMEs. HSE notes that the annual charge, levied at a flat rate regardless of business size, is viewed as being particularly unfair to SMEs, who make up around 90% of liable businesses in the biocides industry. It is anticipated that the same proportion of cost savings will thus fall to this group.
49. It has not been possible to estimate the proportion of savings associated with the introduction of a de minimis limit for fees under the Ionising Radiations Regulations that will fall to SMEs. However, as there are no exceptions to small or micro businesses under the proposal, any expected cost savings will accrue evenly among businesses regardless of size.
50. Given that there will be no change in the level of regulatory activity or requirements on duty holders, and the small magnitude of overall total costs, HSE does not anticipate any other wider impacts as a result of the proposal.

Summary and preferred option

51. The preferred option 2 is to revoke the Health and Safety (Fees) Regulations 2012 and Biocidal Products (Fees and Charges) Regulations 2013, and replace them with the Health and Safety and Nuclear (Fees) Regulations 2015.
52. Total annual savings to business of this option are estimated to be £0.44 million, with a ten year net present value of £3.8 million.
53. Total annual net monetised benefits to society of this option (excluding transfers) are estimated to be £49,000, or £0.42 million ten year net present value.

¹¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/211981/bis-13-1038-better-regulation-framework-manual-guidance-for-officials.pdf