

<p>Title: Consideration of the options in response to the Lötstedt, review to remove the requirement for HSE to approve the training and qualifications of appointed first-aid personnel from the Health and Safety (First Aid) Regulations 1981</p> <p>IA No: HSE 0074</p> <p>Lead department or agency: Health and Safety Executive</p> <p>Other departments or agencies: N/a</p>		<p>RPC Opinion: Validated</p>
<p>Date: 29 /04 /2013</p> <p>Stage: Final</p> <p>Source of intervention: Domestic</p> <p>Type of measure: Secondary legislation</p> <p>Contact for enquiries: Andy.McGrory@hse.gsi.gov.uk 0151 951 4048 Anna.Barnes@hse.gsi.gov.uk</p>		

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB in 2009 prices)	In scope of One-In, One-Out?	Measure qualifies as
£85m	£3.7m	-£0.38m	Yes	OUT

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

The Government, in its response to the review of health and safety law, *Reclaiming Health and Safety for All*, a report by Professor Ragnar E Lötstedt, recommended the removal of first aid training and qualifications beyond the minimum requirements laid out in EU legislation. The approval by HSE is therefore seen as unnecessary burdensome on business. The approval of training and qualifications has been undertaken since the Regulations came into force by the direct approval of training organisations by HSE. Opening up the market for employers to choose training providers and training courses that are right for their business would allow greater flexibility and may reduce costs.

What are the policy objectives and the intended effects? The primary objective is to meet the requirement to implement the relevant Lötstedt review recommendations. The regulations should not impose measures that go beyond the minimum requirements in EU legislation i.e. there should be no 'gold plating'. More specifically, the policy objectives are as follows:

- Removal of HSE approval of first aid training and qualifications,
- To reduce the burden on the self-employed.

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

As the Lötstedt review has recommended changes to the Regulations, which have been accepted by the Government, HSE has no option other than to implement the recommendations in the Lötstedt review which relate to the First Aid Regulations. The 'do nothing' option is not therefore a viable option available to HSE and so has not been analysed as such in this impact assessment. However, it remains the baseline against which the other options for implementing Lötstedt's recommendations are compared.

Within the context of the Lötstedt recommendations and their acceptance by the Government, there is only one realistic and viable option:
To amend the First Aid Regulations to remove the requirement for HSE to approve first aid training providers and remove the requirement from self employed persons to provide their own equipment for first-aid. This objective will be delivered as part of work on a wider recommendation on the self employed contained within the Lötstedt Review.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 2017

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 (see para.149)	Micro	< 20	Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded:	N/a	Yes
	Non-traded:	N/a	Yes
		N/a	Yes

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 Minister:

Date:

20/6/13



Policy Option 1

Summary: Analysis & Evidence

Description: Amend the First Aid Regulations to remove the requirement for HSE to approve first aid training and providers and remove the requirement from self employed persons to provide their own first aid equipment

FULL ECONOMIC ASSESSMENT

Price	Year 2012	Year 10	Time Period	Net Benefit (Present Value (PV)) (£m)
PV Base	Year 2012	Low: 57	High: 117	Best Estimate: 85

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Description and scale of key monetised costs by 'main affected groups'		
			Best Estimate	High	Low
0.6	4	0.12	1.7	2.8	2.2
1.6		0.14			
1.1		0.13			

Total costs include lost revenue to government of around £1.1m over the 10 year appraisal period, and one-off familiarisation costs to business of around £1.1m, (which is based on duty holders spending between 2 – 4 minutes each at a cost of between £1 and £2 for each duty holder, and training providers spending between 15 and 30 minutes each at a cost of between £7 and £14 for each provider).

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

It is possible that some duty holders might experience additional costs when trying to identify a suitable training provider once HSE's approval is removed. The impact will depend on the extent to which duty holders currently rely on the HSE standard, how training providers adapt to the changes and whether they look for alternate verification systems. HSE has not been able to gather information to assist in quantifying this effect either through an on-line survey or through public consultation. If more business is given to larger training organisations who have established reputations, (such as those approved by Cfqual or the likes of St John's Ambulance) then it could become harder for smaller players to compete in the market. The behaviour of duty holders and training providers, along with market reactions are difficult to predict ex ante and so have not been quantified.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Description and scale of key monetised benefits by 'main affected groups'		
			Best Estimate	High	Low
0	4	6.8	58	120	87
0		14.0			
0		10.0			

Total benefits include reduced fees and admin time for training providers of around £0.5m and the saving from the requirement to have assessors of around £4m over 10 years. There will also be savings to the public bodies that undergo high trauma first aid training, notably the police and fire service, estimated to be around £82 million over 10 years.

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

Similar to the savings achieved by the Police and Fire Services, there could be savings for the NHS, but due to the variability between types of Trust it is not possible to quantify these. HSE intends that the resource freed up in the First Aid Approval and Monitoring Section will be used in higher risk areas. Thus, there is a potential for health and safety outcomes to improve, although this cannot be quantified.

Key assumptions/sensitivities/risks

It is difficult to predict ex ante how the market will respond to the removal of HSE approval, and whether training providers will seek alternative approval in order to provide a quality assurance mark for their services, and how duty holders will respond when the list of approved providers is removed. This IA is therefore based on the best information available to HSE at the time of writing.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:	Benefits: 0.56	Net: 0.43	In scope of OIOO? Yes	Measure qualifies as OUT	Costs: 0.12
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Background

1. Since July 1981 the Health and Safety (First Aid) Regulations (hereafter 'The First Aid Regulations') have placed a requirement on employers to make arrangements to ensure that their employees receive immediate attention if they are injured or taken ill at work. These Regulations continued the duties relating to first aid placed on employers by s.61 of the Factories Act, which was wholly repealed by these Regulations. These duties also predated this 1961 Act.

2. The Regulations address equipment and facilities, numbers of first aiders and training of first aiders. Whilst not required to undertake training, there is also a requirement for self employed persons to provide their own equipment for first aid, to enable them to render first aid to themselves during their work.

3. More specifically, Regulation 3 of the First Aid Regulations states that, where there has been an assessment and a need highlighted for a first-aider (based on the employers risk assessment and the hazards, risks and number of employees in the workplace) employers must provide adequate numbers of people trained to an appropriate level.

4. Providers delivering training need to be approved by the Health and Safety Executive (HSE).

5. Regulation 5 places a requirement on self employed persons to provide appropriate equipment to render first aid to themselves.

6. Since the First Aid Regulations came into being the HSE approval of training and qualifications has been undertaken by direct approval of training providers themselves.

7. The Regulations are applicable to all employment sectors in GB with the exception of diving at work, where other regulations, being the Diving at Work Regulations 1997 apply, and the armed forces where there is Crown Privilege under the Health and Safety at Work Act 1974.

8. An Approved Code of Practice (ACoP) and guidance supplement the Regulations, providing substance and context to the Regulations and introduce related material such as syllabus content.

9. The Health and Safety Executive (HSE) First Aid Approvals and Monitoring Section (FAAMS) approve training providers and qualifications; and Scout Enterprises, a 'not for profit' organisation and a registered charity, is contracted to HSE to monitor training providers.

¹ Scout Enterprises went into liquidation in November 2012. Under the 'do nothing' baseline to which this policy is compared, HSE have appointed a call-off contractor (A former employee of Scout Enterprises and suitably qualified) in the interim to monitor training providers. So where this LA refers to Scout Enterprises, please interpret as 'or alternative monitor of training providers.'

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10. There are currently approximately 1,100 organisations across GB approved by HSE to deliver first aid training

Recent modifications of training requirements

11. Under the Regulations, required training was either a four-day first aid at work course (FAW) or a two-day course of instruction if previously trained and re-qualifying before the current certificate expires, with no lesser alternative for lower risk workplaces.

12. The introduction of the EU Framework Directive in 1989 contained clauses covering First Aid at work. The existing GB Regulations were deemed to implement these provisions without change.

13. In 2003, HSE published research by Casella Winton which examined many aspects of first aid provision in the workplace². A key finding was that due to the changing workplace, a four day course may not be appropriate for all businesses' first aid needs. As a result, plans were put in place to make changes to the recommended syllabus in that FAW was to become a three day course and that a new course was to be introduced to suit businesses with lesser needs – Emergency First Aid at Work (EFAW), a one day course. These changes came into force on 1 October 2009.

14. At the same time HSE was working with the Office of Qualifications and Examinations Regulation (Ofqual) (then the Scottish Qualifications Curriculum Development Agency) and the Scottish Qualifications Association (SQA) to make EFAW a nationally accredited qualification that could be delivered by training centres registered with Ofqual- approved Awarding Bodies. This was particularly aimed at training organisations who did not want HSE approval, or to deliver the three day FAW course. At this time Ofqual had shown an interest in also taking on the FAW course. HSE decided that it would consider that option in the light of satisfactory progress with the proposed EFAW approval arrangements.

15. On 1 October 2009, guidance relating to the syllabus was changed to reflect a 3 day FAW course and 1 day EFAW course. The 2 day course of requalification for FAW was also retained for those individuals who undertook requalification training within 28 days of their previous certificate expiring. These have been successfully running since with HSE approved providers delivering both FAW and EFAW, and Ofqual approved Awarding Bodies delivering only EFAW up until January 2013, from which point they were also able to deliver FAW courses.

² Available at: <http://www.hse.gov.uk/research/rrpdf/rr069.pdf>

- A review of the Approved Code of Practice and guidance. This work stream is in addition and separate to the amendments to the First

are:

24. General recommendations which apply to the First Aid Regulations,

23. This should be accompanied by revised guidance clarifying what is suitable for different environments to help businesses adopt measures that are suitable for their workplace, and that explains clearly what the regulations actually require. I therefore recommend that HSE amends the Health and Safety (First Aid) Regulations 1981 to remove the requirement for HSE to approve the training and qualifications of appointed first-aid personnel."

22. In fact the regulations do not insist upon a particular number of first-aid personnel and there is a requirement for employers to make provision for first-aid under the Framework Directive 89/391. However, the regulations do currently stipulate that the training and qualifications for the appointed first-aid person must be approved by HSE and this appears to both go beyond the requirements of the Directive and have little justification. So long as they meet a certain standard, allowing businesses to choose training providers should allow them greater flexibility to choose what is right for their workplace, and possibly reduce costs.

21. A number of organisations have identified the requirement under the Health and Safety (First Aid) Regulations 1981 to have a qualified first-aid person appointed in the workplace as being an unnecessary requirement for low-risk workplaces.

20. "Health and Safety (First Aid) Regulations 1981

19. More specifically, in relation to first aid provision in the workplace, the Lötstedt review stated the following.

18. Recommendations relevant to this impact assessment include a change to the First Aid Regulations, and one other more general recommendation.

17. Following the recommendations from Professor Ragnar Lötstedt's review of Health and Safety Legislation (the 'Lötstedt review'), HSE is now moving forward at pace to make changes to the First Aid Regulations. The Government's acceptance of the Lötstedt review's recommendations now requires the changes to the Regulations to be made.

Rationale for intervention

16. Immediately prior to the Lötstedt review of Health and Safety in 2011, HSE was in the process of a policy project to examine the policy options around approval of training and qualifications.

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29. The 'do nothing' option is not therefore a viable option available to HSE and so has not been analysed as such in this impact assessment. However, it remains the baseline against which the other options for implementing Lötstedt's recommendations are compared.
28. As the Lötstedt review has recommended changes to the Regulations which have been accepted by the Government, HSE has no option but to implement the recommendations in the Lötstedt review which relate to the First Aid Regulations.

Options

- Removal of HSE approval of First Aid training and qualifications,
27. More specifically, the policy objective is as follows:
26. The regulations should not impose measures that go beyond the minimum requirements in EU legislation i.e. there should be no 'gold plating'.
25. The primary objective is to meet the requirement to implement the relevant Lötstedt review recommendations. In accepting the recommendations the Government aims to remove the financial and administrative burden on business imposed by the First Aid Regulations of obtaining and maintaining HSE approval or of becoming a registered training centre of an Awarding Organisation (AO). It is also the intention that the changes will allow greater choice and flexibility in selection of training provision for businesses.

Policy objectives

- Removal of requirements (under Regulation 5) placed on self-employed persons, thus addressing the recommendation of 'exempting from health and safety law those self-employed whose work activities pose no potential risk of harm to others'; was originally considered in an earlier IA (02/08/2012) alongside the other first aid recommendations. However, the intention now is to deliver this work taking forward a wider recommendation on the self-employed contained within the Lötstedt Review; Therefore the costs and benefits for this proposal have been removed from this IA but the policy objective remains.
- Aid Regulations and is therefore not costed in this impact assessment. The guidance will, however, aim to give clarity to duty holders on the first aid requirements for their work place and selection of appropriate providers.

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35. Based on FAAMS records, it is predicted that going forwards, HSE would continue to be asked to approve between 70 and 80 applications annually from training providers in the absence of change. Similarly, based on FAAMS records it is predicted that there would be between 220 and 240 renewal certificates provided each year (with each organisation requiring a renewal certificate every 5 years) in the absence of change. It is also predicted, based on current records, that there would be just over 220 monitoring visits per year. These

34. HSE best estimates are that around 65-80% of accredited training provision is performed by the voluntary sector, such as the Red Cross and St. John's Ambulance. Training providers approved by Awarding Bodies under Ofqual / SQA provide about 10% of training, with the remainder (10 – 25%) being split between the smaller training providers.

33. There are currently 1,215 approved training providers, of which 30 have affiliation with the police, 42 have affiliation with the fire and rescue services, and 40 are NHS trusts. HSE is also undertaking a review of approved training providers that have not sought to renew their certificates following expiry at 5 years. Thus, there will be around 1,100 HSE approved training providers that will be affected by the changes to the regulations.

Assumptions

32. HSE has consulted duty holders through:

- Informal consultation and by way of an on line 'pop-up' survey hosted on HSE's website, targeting employers. The survey has had a good response (with almost 600 responses). The survey responses are also in line with HSE's expectations based on anecdotal evidence from stakeholders.
- Full open consultation ran from 22nd October 2012 – 3rd December 2012. The questions asked at consultation focussed on stakeholders' views of the current framework, the ACOF and suggestions for guidance.

Information and data sources

Key Risks and Assumptions

31. Option 1- Amend the First Aid Regulations to remove the requirement for HSE to approve first aid training and qualifications

30. Within the context of the Löfstedt recommendations and their acceptance by the Government, there is only one realistic option for consideration:

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39. It is assumed that the relevant Police staff that currently receive specialised first aid training could save approximately just over 1 day of time from removing the current duplication in high trauma courses, based on evidence provided by a member of the Association of Chief Police Officers (ACPO). Similarly, information from the Fire and

38. In order to estimate the number of training providers that might 'go-it-alone' after HSE approval is removed, HSE has applied the following logic. HSE understands from discussions with the industry to date that around 800 training providers would either look for alternative assurance process that would include an assessor element, or would instead move to the Ofqual/ SQA route. This would leave 300 providers about which HSE has no indications to say whether or not they would seek alternative approval. HSE's best assumption is that some of these providers would also look to seek alternative approval due to the fact the approval validates their training courses. For prudence therefore, the estimate of 300 providers who might go it alone is reduced by 1/3 to 200 providers. It is assumed that a range of between 150 and 250 providers (to reflect the uncertainty) will therefore go it alone. This range is assumed to remain constant over the 10 year appraisal period, i.e. any providers that enter the market are offset by those that leave the market, and it is assumed there is no growth in the percentage of training providers that seek approval from alternative means. For these providers that will 'go-it-alone' they will save costs per firm related to approval fees is around £2,400 over 5 years and there would be a saving of about £160 per firm per course from no longer having to appoint assessors.

37. It is assumed that between 20% and 30% of employers with > 10 employees will send their workers on first aid training courses while 80-90% of employers with more than 10 workers will send their employees on training courses. These compliance estimates are based on HSE's experience in the field and the relatively low number of prosecutions that are levied against duty holders for not having an appointed first aider in place. Employers are required by law to judge whether or not they need an approved first aider on the balance of risk. It is assumed that for employers with > 10 employees, the balance of risk will be deemed to be lower in more cases than for larger businesses, and so a lower proportion of businesses with > 10 employees will train first aiders. It is important to note this is our best assumption, but it would certainly be dependent on the environment in which they work.

36. It is assumed that the number of duty holders (business premises in the UK) would remain broadly constant over the 10-year appraisal period. In other words, new entrants to the market will be more or less cancelled out by those leaving the market.

monitoring visits take place 2.5 years after the original application is approved.

Rescue Service is that the flexibility could save 4 days of time in the first year, and 2 days of time every third year.

40. A note has been added to HSE's First Aid web-pages, to explain the proposed changes. It is not expected that it will take duty holders more than between 2 and 4 minutes to familiarise themselves with this note on the website. It is estimated that it will take training providers between 15 – 30 minutes to find out about the changes and communicate the changes internally.

41. An appraisal period of 10 years has been used as per government guidelines. There is too much uncertainty beyond this period to provide robust estimates of costs and benefits.

42. A discount rate of 3.5% has been used to discount future costs and cost savings, in line with Green Book³ guidance.

The Baseline

43. In order to describe the impact of the proposed changes to the First Aid regulations, it is first necessary to describe what is currently happening, and would continue in the absence of change.

Approvals required for training providers

44. Currently, for a training provider to run a FAW course or a FAW requalification course, the training provider must be approved by HSE (since drafting, Ofqual have also been approved to run FAW courses in January 2013).

45. A training provider can run an EFAW course, if:

- it has already been approved to run a FAW course, i.e. it can transfer the same standard to EFAW, or;
- it is approved by a recognised Awarding Body of Ofqual / Scottish Qualifications Authority (SQA) eligible to award an accredited qualification in FAW or EFAW, applying a training standard set by HSE

46. Any training organisation approved to run FAW and / or EFAW courses can also provide annual refresher courses, (in-house occupational health professionals can also run refresher training in the workplace provided they have current experience of first aid skills and are competent to train and are familiar with the current standards).

³ Treasury Green book available at: http://www.hm-treasury.gov.uk/d/green_book_complete.pdf

HSE and third party approval of training providers

47. HSE's FAAMS administers the approval and monitoring process. It issues and renews Certificates of Approval to those organisations whose training and qualifications in FAW meet the required standards.

48. HSE's contractor, (previously Scout Enterprises), carries out approval and monitoring visits to training providers.

Approval fees

49. Approval of providers involves a number of steps. The fee charged for approval by FAAMS covers all assessment activities carried out by FAAMS and Scout Enterprises (including the original approval assessment visit and the original approval monitoring visit explained below). The fee charged is not refundable. In 2012/13 the fee charged for new FAW approval is £1,693⁴.

50. Training providers need to provide HSE with an Original Approved Questionnaire plus copies of a detailed list of documentation, including personal portfolios of at least four individuals (two trainers and two assessors); the course syllabus and timetables etc. The requirements on training providers are presented in more detail in Annex 1.

Assessment visit

51. Once FAAMS are satisfied that a complete set of information has been provided, they will instruct Scout Enterprises to carry out an Original Approval Assessment visit. This will verify the information provided to FAAMS. If major improvements are required then FAAMS might instruct Scout Enterprises to carry out another visit and a fee will be charged retrospectively.

Monitoring visit

52. On issuing the Certificate of Approval, FAAMS instruct Scout Enterprises to arrange an Original Approval Monitoring visit. This focuses on the trainers and assessors in relation to teaching and assessing standards. The visit will assess the equipment and premises used for training, and where practicable, the visit will take place in the first three months after approval.

Post-approval monitoring

53. These visits assess whether the training standard is being maintained. These take place 2.5 year after training and subsequently every 5

⁴ For the fees charge by HSE for the approval process, see: <http://www.hse.gov.uk/firstaid/first-aid-training.htm>



years. A fee is charged for these visits and in 2012/13 it is set at £576.

54. Approval certificates last for a period of 5 years. The fee charged for renewal of the certificate of approval is charged at £117 in 2012/13.

Summary

55. The following is a summary of fees charged for the Approval and Monitoring process

New FAW approval	£1,693
Post-approval Monitoring visit	£576
Renewal of Certificate of Approval	£117

Current volume of work for FAAMS

56. The work performed by FAAMS to approve training providers, to issue renewal certificates and for the monitoring process, is in principle all fully cost recovered. Thus, any costs incurred by FAAMS associated with the approval process are fully recovered by HSE.

57. As already explained, some of the work of FAAMS is contracted out to Scout Enterprises. Scout Enterprises are a not-for-profit organisation, (as would be any other contractor) and so it is assumed that the fee income that is transferred to the contractor is equal to the costs that the contractor incurs.

58. It is predicted by HSE FAAMS that under the baseline situation there would be between approximately 70 - 80 approvals per annum. Given a fee charged per approval of £1,693, the total fees received by FAAMS (and so the costs incurred by FAAMS) are estimated to be between approximately £120 thousand and £140 thousand per annum.

Total fees charged to training providers

59. For each approval, £800 is paid to Scout Enterprises for the assessment and monitoring visits they undertake, described above. Based on an estimate of 70 - 80 approvals per annum of the £120 thousand - £140 thousand total fees received by FAAMS, between £56 thousand and £64 thousand is transferred to Scout Enterprises..

60. The fees charged by FAAMS for renewal certificates are assumed to exactly cover the costs for issuing these renewals. It is predicted by FAAMS that between around 220 - 240 certificates are issued per annum and the fees per renewal are set at £117. Thus, the total fees received by FAAMS for renewals (and so costs incurred by FAAMS) are estimated to be between £26 thousand and £28 thousand.

61. For the monitoring of training providers, it is predicted by FAAMS that there will be between 220 and 240 monitoring visits in the future. When combined with the monitoring fee per visit of £576, the fees received by FAAMS for monitoring are estimated to be between £130 thousand and £140 thousand per annum. Again, the fees received are assumed to be equal to the costs incurred.

62. As with the approvals process, Scout Enterprises (the contractor) assist HSE with the monitoring process, and are transferred £400 of the £576 fee to cover the work they do. Of the £120 thousand - £150 thousand collected in fees for monitoring, between £88 thousand and £96 thousand is transferred to Scout Enterprises.

63. On average therefore, the total annual fees received by FAAMS are estimated to be between £270 thousand and £310 thousand. Of this total, between **£140 thousand and £160 thousand** is transferred to Scout Enterprises for the work they do in this area, and the remainder retained by HSE to cover their work i.e. between **£130 thousand and £150 thousand** per annum.

Current role of Ofqual / SQA

64. As explained above, Ofqual and SQA are able to approve Awarding Bodies to deliver the EFAW qualification, and from January 2013 can now deliver the FAW qualification. HSE approved providers can deliver both FAW and EFAW courses.

65. There are around 19 Awarding Bodies holding an EFAW accreditation in England and Wales, and 4 in Scotland. There have been no new Awarding Bodies appointed by Ofqual since May 2010. It is not anticipated that Ofqual/SQA will approve new Awarding Bodies in the near future. Obtaining Awarding Body status is a complex and very lengthy procedure which can typically cost the prospective Awarding Body £100 thousand in management resource time.

66. The Awarding Bodies in England and Wales which are currently accredited by Ofqual charge a variety of prices to approve training providers. From looking at a sample of these awarding bodies, the price to approve training varies from £75 for approval process that just takes 2 hours, to £1 thousand for a process that takes 15 days. The costs of monitoring and certificates also vary quite widely, and from a sample of these Awarding Bodies, it is estimated that the total cost over a 5 year period for the approval and monitoring process could vary from between £230 to £970 per training provider.

67. This compares to the total charge by HSE over a 5 year period for the approval and monitoring processes of both FAW and EFAW training providers of £2,386, as explained above. Potential cost savings to

training providers as a result are discussed in more detail in the cost savings section below.

Current costs to training providers

68. The fee income received by FAAMS is calculated above as between £270 thousand and £310 thousand per annum. In other words, this is the current cost to training providers of seeking HSE approval to deliver both FAW and EFAW courses per annum. Over a 10 year appraisal period, the fee costs to duty holders of the approval process are estimated to be between **£2.3m and £2.6m.**

69. As also explained, training providers who are just delivering EFAW courses, can seek approval from accredited awarding bodies. The cost of this approval (described in paragraph 65) is less than that charged by HSE. HSE estimates that approximately 180 thousand individuals were trained in EFAW in the last year. However, the cost to training providers of seeking approval for the EFAW element of their courses will not change under the proposed amendments and so it is not proportionate to estimate these current costs. Similarly, at the time of writing it has just become possible for Ofqual / SQA to approve providers of FAW courses. Again, this will not change under the proposed amendments to the Regulations, and so it is not proportionate to estimate the current costs of such approvals.

70. As well as the fees charged, there is a cost associated with the time it takes training providers to make their applications and to arrange and cooperate with the monitoring process.

71. HSE assumes that it takes training providers approximately one day to complete the approval application. Assuming the application is completed by a manager in the organisation, applying the adjusted wage rates per ASHE 2011⁵, the total cost of making these applications per annum, based on the estimate of between 70 and 80 applications, is estimated to be between **£16 thousand and £18 thousand** per annum or between **£140 thousand and £160 thousand** over a 10 year appraisal period.

72. As part of the approval process, monitoring visits to the provider take place, as already described and costs estimated above. The majority of the monitoring visits involve just observation of the training that takes place, and so it is not thought that there is an additional administration cost to the training provider of these visits.

73. Löfstedt and HSE wanted standards to be maintained by setting the standards for FAW and EFAW. HSE is a 'key user' of Ofqual etc

⁵ Annual Survey of Hours and Earnings (ASHE) 2012, Office of National Statistics. Median gross hourly wage rate of a 'Production Manager' is around £23.50. Increased by 30% to £30.55 to reflect the true economic cost of employing that person, so including the employers tax contributions, pensions, overheads etc.

regulated first aid qualifications and the Skills for Health *Principles of Assessment* which stipulates standards of first aid training delivery going forward. (see Annex 1). HSE anticipates that due to the nature of these requirements being around reasonable operation of a training business, these standards would be maintained in the absence of HSE's approval for commercial reasons. As a result, it is not proportionate to estimate the baseline costs of these requirements, as these are expected to continue under option 1. The one exception to this is around the requirement for providers to have two independent assessors for every FAW course. It has been estimated by FAAMS that for a FAW course training 12 people, two assessors are currently required for about 3 hours of work, and the cost of this would be around £160 (£27 per hour per trainer) per course.

74. It is estimated that the total cost to training providers of seeking approval and maintaining that approval from HSE per annum is between **£2.5 million and £2.8 million**, with a best estimate of around **£2.6 million** over ten years. Of this estimate, the total cost to industry of the administrative procedures associated with the approval and monitoring process are estimated to be between **£140 thousand and £160 thousand** over ten years. There are also costs to providers of using two independent assessors, estimated to be £160 per course.

Costs to Duty holders

75. Currently duty holders can use the resources provided by HSE to understand their requirements in law, and use HSE's list of Approved Training Providers or the list of Awarding Bodies to locate an approved provider (for EFAW), in order to select an appropriate training provider.

76. For both FAW and EFAW courses, employers can be confident of the quality of the courses being offered, and so can instead focus their decision on other variables associated with the course. The on-line pop up survey has provided information about duty holders' current procedures for selecting an approved training provider.

77. The weighted average of responses for the time taken to identify a training provider is 4.2 hours based on 597 responses received to that question. As with all surveys, the estimate is subject to error, and so a range of +/- 10% has been applied, giving a range from 3.7 hours to 4.6 hours. Initial feedback from the pop-up survey is that a range of workers could be selecting the training provider, and so the weighted average gross wage rate has been used, combining the % of responses per type of worker to the gross hourly wage rate for that category of workers per ASHE 2012⁶. The cost per duty holder making

⁶ 21% of responses said a senior manager would undertake these tasks, so equated to a 'Corporate Manager' per ASHE 2012 (gross hourly wage rate of £25.47); 37% said a middle manager would be involved, again equated to a Production Manager (£23.50); 3% said it would be a foreman, (£14.69 ph); 9% said a PA/ office manager, equated to Administrative occupations per ASHE (£11.64 ph); 18%

the change is estimated to be around £100 on average, with a range from £93 to £114.

78. The total cost per duty holder over a 10 year period will depend on how often the duty holder repeats the search for a first aid training provider. A range of frequencies were provided by responders to the survey, ranging from every 6 months to never. A weighted average frequency was calculated (setting the response of 'never' to '10 yearly', so outside of the appraisal period) and the average was calculated as 3.6 years. Again, this estimate is subject to error, and so a range has been provided of +/- 10%. The frequency of searching could therefore range from between 3.3 years to 4 years.

79. According to the Inter-Departmental Business register (IDBR) 2010, the 3-year average of business premises⁷ in the UK for the years 2009, 2010 and 2011 was 2.5 million. Those business units with fewer than 10 employees are required by law to judge whether or not they need an approved first aider on the balance of risk. Based on HSE's experience in the field, it is assumed that between 20% and 30% of these business units with fewer than 10 employees will actually train first aider(s) and may appoint a person to be responsible to take charge of first aid arrangements within the workplace; an 'appointed person'. The three year average of business units with fewer than 10 employees is 2.1 million. Thus it is assumed that between 410 thousand and 620 thousand of business units with fewer than 10 employees will be required to take action by the First Aid Regulations at any time.

80. Of the business units with more than 10 employees (three year average of 430 thousand) HSE assume that compliance with requirements is generally very high. This is based on experience and the very low level of prosecutions stemming from the First Aid Regulations. Compliance is therefore estimated to be between 80% and 90%. Thus, it is estimated that between 340 thousand and 390 thousand business units with more than 10 employees will be required to take action by the First Aid Regulations at any time.

81. In total the estimated number of business units training first aiders will be between around 760 thousand and 1 million in any one year in the appraisal period, with a best estimate of 880 thousand.

82. It is assumed that each business premise will have appointed one worker who is responsible at any time for sourcing suitable training providers. It is also assumed that over the 10 year appraisal period the number of new duty holders (business premises) is cancelled out

said HR officer, equated to HR Administrative occupations per ASHE (£10.56 ph) ; and 12% said 'other' equated to average employee per ASHE (£14.82 ph). The weighted average gross hourly wage rate best thought to represent this group is therefore calculated as £20, which is then up-rated by 30% to include the non-wage costs of employment.⁷
⁷ Premises are the number of local units in VAT and / or PAYE Based Enterprises.

by the number of duty holders leaving the market, and so on average the population of duty holders sourcing first aid training remains constant per annum.

83. Using the information on the frequency of searching for a first aider of 3.6 years, from the on-line survey (para 77) on average it can be assumed there would be 240 thousand premises (and so duty holders) searching in each year, with a range from 190 thousand to 310 thousand.

84. The total current annual costs to duty holders according to the on line survey of searching for training providers is estimated to be around **£25m**, with a range from **£18m to £35m**. The total current cost to duty holders over 10 years is estimated to have a present value of around **£217m**, with a range from **£150m to £303m**.

Costs and Benefits

Option 1 – to amend the First Aid Regulations to remove the requirements for HSE to approve first aid training providers and remove the requirement from self employed persons to provide their own equipment for first aid.

Costs

Government - HSE

85. As outlined in the Baseline section (para 56), the work of FAAMS on approval of training providers is cost neutral, i.e. HSE recovers the costs it incurs.

86. Under Option 1, if HSE are no longer required to approve training providers, then it will lose annual revenue of approximately £130 thousand to £150 thousand. Over the 10 year appraisal period, the present value of this lost fee income is estimated to be around between **£1.1 million and £1.3 million with a best estimate of £1.2million.**

87. It is anticipated by HSE that the FAAMS resource that is freed up by the proposed changes would be used for other non-cost recoverable activities in FAAMS, although a small cost recovery would be made (£5,000 pa) for training of off-shore medics. The present value of these cost recoverable elements is estimated to be £43 thousand over the 10 year appraisal period. This is cost neutral to society but the costs will be transferred from one group of duty holders to another.

88. The total loss to HSE of revenue is therefore estimated to be between **£1.0 million and £1.2 million, with a best estimate of £1.1million.**

89. FAAMS will continue to provide advice to duty holders on an ad hoc basis but will focus on other areas in support of the medical advisors within HSE in areas of higher risk to workers and in line with HSE's priorities. There could therefore be positive implications for health and safety outcomes, if HSE can divert resource from the lower risk areas associated with approving training providers, to areas where the resource can have more impact. This is one of the intentions of the intervention, and is discussed further in the health and safety impacts section below.

90. It is likely that there will also be costs to HSE of redrafting guidance and writing to all the current HSE approved training providers to let them know about the change. HSE anticipates that it will take a Band 3 specialist from FAAMS 2 months to write the guidance, and a week of Band 2 resource to review the guidance. This HSE time, as well as any time spent by HSE communicating the change by letter, is seen as 'business as usual' and so is not a relevant cost to include in the IA.

Scout Enterprises (the contractor)

91. As explained in foot note 1, Scout Enterprises have gone into liquidation. HSE have appointed a 'call off' contractor in the interim. Under the baseline (do nothing) scenario, it is envisaged that HSE would appoint a new contractor. So when appraising the option to amend the First Aid Regulations, it is appropriate to compare the costs and benefits of that option to the baseline which includes Scout Enterprises or its replacement contractor. It has been estimated above that Scout Enterprises used to receive between approximately £144 thousand and £160 thousand per annum from HSE for its monitoring work or between £1.2m and £1.4m over a 10 year appraisal period, with a best estimate of £1.3m. It is assumed that the replacement for Scout Enterprises would continue to receive this amount under the baseline case.

92. As HSE understand, Scout Enterprises did not make any profit on this work (they were a not-for-profit outfit). This would be the case for any replacement contractor. Consequently, under the option to amend the First Aid Regulations, it can be argued that the impact on society will be nil, as the contractor's costs and revenues are assumed to match.

Duty holders

93. It is estimated in the baseline section that it costs current duty holders on average between £18 million and £35 million per annum to search for suitable training providers, (£150 million to £303 million over 10 years). These estimates are based on responses to an online survey (597 responses).

94. The responses from the on-line survey indicate that there is a difference of opinion within the stakeholder community about whether option 1 to remove the requirement for HSE to approve training providers will mean that it takes duty holders more or less time to search for a suitable provider. In fact, 41% thought there would not be any change in the time taken, 34% thought there would be an increase and 25% thought there would be a decrease. It is not clear why some duty holders think there could be a decrease in the time taken to search for a suitable training provider and HSE hypothesise that perhaps the survey question was misinterpreted.⁸ The responses to full consultation did not provide further evidence on this matter, and so it has not been possible to quantify any change in search costs for duty holders as a result.

95. There could also be an effect on prices charged to duty holders. The simplistic view is that if training providers no longer need to seek approval from HSE, then the costs to training providers decrease and this could be passed onto duty holders through reduced course prices. However, more careful consideration of the market reveals that the removal of HSE's approval could introduce uncertainty around quality in the market. Duty holders might look to reduce this uncertainty by turning to the larger, well-known training providers such as those in the voluntary sector. This could lead some of the smaller players to go out of business, and the market for training providers becoming more concentrated. If the market were to become very concentrated so that only the larger voluntary organisations were to remain, then they could begin to act like an oligopoly⁹ and the prices of first aid courses to duty holders could increase. However, as the assumption is that these organisations would be the voluntary organisations, it is much less likely they would act like an oligopoly (assuming they would not try to maximise profit) and so less likely that there would be an increase in prices. It is not possible to predict with any certainty how the market will respond.

96. There will also be familiarisation costs for duty holders. It is estimated that duty holders will incur familiarisation costs only at the point where they look to find a new training provider. It is assumed that they will not spend time understanding the changes to the regulations until the point comes when they look to change their training provider. As explained in paragraph 77 it is estimated from the survey responses that employers look to replace their training provider on average after between 3.3 years and 4 years. It is also explained above that on average there will be between about 760 thousand and 1 million business units at any time that are required to take action under the Regulations and train their staff in first aid. Thus it is assumed that

⁸ The question asked: "In the event that HSE no longer approves training providers what do you anticipate will happen to the amount of time businesses spend trying to identify a training provider?"

⁹ An oligopoly is a market or industry that is dominated by a small number of sellers. As there are only a few sellers, each is likely to be aware of the actions of the others.

102. As discussed in para 23, this work will now be considered within another recommendation of the Lofstedt Review on self employed generally and dealt with in a separate impact assessment. The costs and benefits for this proposal have therefore been removed from this IA but the policy objective remains.

Self Employed

101. It is not appropriate to include familiarisation costs for those new market entrants over the appraisal period. This is because the change to the regulations proposed is changing one of the existing requirements and not adding in any new requirements or removing any requirements. Thus, the time taken to understand the requirements under the First Aid Regulations for new entrants should be the same before and after the proposed changes. New entrants will only be interested in the situation when they enter the market, not what has changed over time.

100. No adjustment has been made for any business units likely to leave the market before the end of the 3.3-4 years. However, the total estimate of businesses complying with the regulations is based on the average data for the last 3 years, and so should already incorporate an adjustment for changes in the stock of businesses over a 3 year period.

99. It is important to note that the familiarisation cost is largely driven by the number of duty holders. The one off cost per business unit however is estimated to be between £1. and £2 only.

98. On this basis, the total costs of familiarisation are estimated to be between £0.6 million and £1.6 million in the first 3-4 years, with a best estimate of £1.1 million.

97. It is also assumed that the familiarisation will take between 2 and 4 minutes. This is the average range – some may take longer, and some less time than this. HSE will include information on the HSE First Aid website that notifies users of the changes made to the approval process. It is thought it will only take a couple of minutes for a duty holder to read this information. N.B. The additional costs of finding a new training provider have been considered separately to familiarisation, see paragraph 93 above. The cost of the time spent on familiarisation is based on the reported survey responses about the level of staff involved with the first aid process (see paragraph 76 for more details).

over the next 3-4 years, all of the 760 thousand to 1 million business units will familiarise themselves with the changes, spread evenly over the period.

Training Providers

103. There will be familiarisation costs to training providers. HSE plan to communicate the changes to training providers by way of a letter. It is anticipated that this will take training providers between 15-30 minutes to read and discuss per organisation.

104. As explained in paragraph 32, there are approximately 1,100 training providers that are approved by HSE and so will need to undertake familiarisation. Assuming that the time spent on familiarisation will be at manager grade, then the total cost of the time spent familiarising in the first year of the appraisal period is estimated to be around **£13 thousand, with a range from £8 thousand to £17 thousand.**

105. The cost per training provider is estimated to be a one off cost of approximately £10.50 only.

106. There will not be on-going familiarisation costs as this will be a one-off change to existing regulations. Any new entrants to the market will not have additional requirements to understand and so the familiarisation costs only apply to the one off change, and so to the existing training providers.

Cost SavingsTraining providers

107. Some training providers may choose to 'go it alone', i.e. to not seek approval from an alternative Ofqual/SQA Awarding Body, or another approval process. These training providers that 'go it alone' will experience savings associated with not having to pay fees to HSE for the approval process, and not having to appoint two independent assessors per course (see baseline for further details). Based on indications from informal consultation with stakeholders, HSE expects that around 800 training providers would either look for alternative assurance process that would include an assessor element, or would instead move to the Ofqual/SQA route. This would leave 300 providers about which HSE has no indications to say as to whether they would seek alternative approval. However, in reality, HSE assumes that some of these providers would also seek alternative approval due to the fact the approval validates their training courses and provides a selling point. For prudence therefore, the estimate of 300 providers who might go it alone is reduced by 1/3 to 200 providers. A range of between 150 and 250 providers is assumed to remain constant over the 10 year appraisal period, i.e. any providers that enter the market are offset by those that leave the market, and there is no

growth in the percentage of training providers that seek approval from alternative means. This may not turn out to be the case due to market reactions, as explained in paragraph 140 below, and is highlighted as a risk of the IA.

Approval and monitoring process

108. As outlined in the baseline section, HSE has estimated annual costs to training providers to secure HSE approval for the first time and for renewal certificates and for monitoring and training, of between £270 thousand and £310 thousand or £2.3 million to £2.6 million over the appraisal period

109. The total cost of the administration procedures associated with seeking approval have been estimated to be between £16 thousand and £18 thousand per annum, or between £140 thousand and £160 thousand over the appraisal period.

110. It is assumed that for the 150-250 firms (based on HSE discussions with industry about who will seek approval elsewhere and the approval and monitoring process will be saved. The total costs estimated are based on the number of approvals and monitoring visits that take place in any year for the 1,100 HSE approved training providers in the market (1,215 net of those providers who are affiliated to the police, fire and rescue and NHS trusts). If the number of firms making savings is between 150 and 250, (14-23% of firms) then the savings are expected to apply to only this proportion of the baseline data on approvals and monitoring. The cost savings are calculated as between **£340 thousand and £580 thousand** over 10 years with a best estimate of **£480 thousand** (annual costs of between **£40 thousand and £70 thousand**).

111. It is assumed that for all other training providers in the market, they will seek approval either from the Ofqual route or via other approval routes. The fees that they will pay for this alternative approval will depend on commercial decisions, and HSE cannot predict these fees ex ante. It is possible that there could be some saving compared to the current HSE fees, but this is not possible to quantify.

112. Consequently, it is only possible to say ex ante that the savings to training providers arising from the fees and approval processes will likely be between **£340 thousand and £580 thousand** over 10 years.

Assessor requirements

113. The HSE approval process requires training providers to have at least two specific individuals to act as independent assessors on FAW courses. This requirement would not apply under the Ofqual / SQA Awarding Body route, or if the training provider decided to 'go-it-alone'.

117. From information supplied by the Voluntary Aid Societies and the number of training courses conducted annually sent to HSE as a statutory obligation by Awarding Organisations, it is estimated that as a minimum, training providers run about 10 EFAW courses a year and 5-6 FAW courses. So, on average between 15-16 courses per annum per training provider. Assuming 150 - 200 relevant training providers (see above) then this equates to between 2,100 and 4,250 courses per annum. Assuming £160 will be saved per course (based on wage rates of £27 per hour per assessor), then this equates to a total saving of between **£340 thousand and £680 thousand per annum**. Over a ten year period, the total cost savings to 150-250 training providers from not having to comply with the assessor requirements is estimated

116. For the 150-250 training providers that are estimated to 'go-it-alone', (based on HSE discussions with industry and best judgement) they will be outside of the HSE approval or other approval system, and it is assumed therefore they will no longer require two assessors for each course, providing a saving of around £160 per course.

115. So in reality, for those providers who opt to seek approval under the Ofqual / SQA route, there probably will not be any savings associated with the reduced requirements around assessors. It is possible that for providers who seek an alternative method of approval, there could be similar obligations that impose similar costs to the requirement for assessors, and so no saving against the providers who are expected to seek alternative approval has been claimed.

114. From a limited sample of Ofqual/SQA Awarding Bodies it has been ascertained that the unit cost of Ofqual / SQA Awarding Body certificates can range from between £6 to £17. For a course of 12 people, the certificate costs could range from £72 to £204, and so on average it is likely that the extra costs from the certificates will more or less cancel out the cost savings from the reduced requirements around assessors for those training providers who seek approval under the Ofqual / SQA route.

Training providers would instead have to ensure that the staff delivering training were competent both to train and to assess. As explained in the baseline section, this could deliver savings of £160 per average course that currently requires two assessors (see Annex 1). However, under the Ofqual / SQA Awarding Body route, it would be necessary for training providers to purchase certificates from the Awarding Body (rather than to just print their own certificates under the HSE approval route), and it is thought that the total cost of these certificates for every attendee on the courses could cancel out the saving from the reduced requirements around assessors.

to be between £2.9 million and £5.9 million with a best estimate of £4.3 million¹⁰.

118. However, while these savings are best estimates it is not possible to fully capture any impacts that will depend on how the market responds to the new arrangements. For instance:

- a. A training provider may not intend to seek alternative approval (through Ofqual / SQA or other means) ex ante, but once HSE is removed from the process, they may find it is easier to compete if they do. These market reactions are not possible to predict, and so the analysis can only be based on the best evidence available to us.
- b. It is possible that in the absence of HSE's approval, that the large well-known voluntary aid organisations e.g. St John Ambulance, obtain a greater market share. As outlined in the Baseline section, it is assumed that over 1 thousand small training providers currently make up around 10% of the market share. On removal of HSE's approval, it is possible that employers will become uncertain about the quality of training courses and so will seek further information on which to make their decisions.

119. Total quantified cost savings to training providers over 10 years are estimated to be between £3.2 million and £6.4 million, with a best estimate of £4.8 million.

Duty holders

120. Clearer guidance produced by HSE may result in more employers understanding the requirement to make first aid provision within their workplace based on risk. This may then lead to a reduction in the requirement for first aid provision in, for instance, a small, low-risk workplace and an increase in the 'appointed person' provision. This would then of course lead to a net cost saving to business; however, it is not possible to quantify this effect ex ante as it will depend on the success of the guidance in achieving this objective. The work being undertaken to review the ACOF and guidance may provide evidence of any savings associated with clarification of the ACOF but this is not within the scope of this IA.

121. In paragraphs 122-132 it is explained that there could be savings achieved for public sector bodies that require first aid training that goes above and beyond that delivered by FAW and EFAW. The additional courses required to deliver the complex high trauma areas

¹⁰ NB. It is important to note that there will also be cost savings to public bodies from the flexibility that removing the HSE approval process delivers, and these are estimated in paragraph 121 onwards.

125. There are approximately 163 thousand police, (including specials but not including NI). 100% of these staff will complete EFAW training annually. The ACPD member provided the example of the Met police, where there are approximately 38 thousand officers and specials, and approximately 7 thousand of these will attend additional first aid training courses. If the additional training could be merged into just one course, then this could save just over 1 day per officer. It is calculated that the likely saving for the Met would be between 7

124. From discussions with a member of the Association of Chief Police Officers (ACPO) the following has been ascertained:

123. However, because HSE approved qualifications (FAW and EFAW) are a legal requirement, these courses have to be undertaken first, with the high trauma training provided as an add-on. The high trauma training builds on the basics in FAW and EFAW and there is necessarily some duplication of learning. Removal of HSE approval of training and qualifications will allow courses to be tailored to cover the basics; (FAW or EFAW) as appropriate and high trauma aspects, without duplication, creating just one course instead of two. This is expected to deliver time savings to these public bodies.

122. There will be a cost saving to public sector bodies. As explained in paragraph 32, there are currently 30 training providers who have affiliation with the police, 42 who have affiliation with the fire and rescue services, and 40 who have affiliation with NHS trusts. The training courses required for police officers and the fire and rescue services contain more advanced content compared to the standard FAW course because of the public protection nature of the work these services undertake and the fact that these services are very often the first responder on site and provide advanced life support in response to injuries. In light of this, a higher level of first aid training is required for these emergency services to be able to deal with high trauma events.

Government

required for these emergency services can tend to duplicate the basics in FAW and EFAW, as it is necessary to work from a basic standard. It is anticipated that when HSE no longer need to approve training providers for FAW / EFAW, bespoke courses for these emergency services can be designed which will remove the duplication and save time. The same savings are not expected in the private sector however. This is because private sector bodies tend to require additional courses (for example training on working with Hydrofluoric acid or how to use a defibrillator), which sit alongside FAW and EFAW without causing unnecessary duplication. Thus, no such cost savings arising from removing duplication are expected for the private sector.

130. On average, it is assumed that 25% of the 12,250 staff will require an initial course every year (being new staff). It is estimated that against the initial training course, around 4 days could be saved from being able to tailor a more bespoke course. The total saving

129. HSE's understands from discussion with a member of the Fire and Rescue Service, that if HSE's approval of the Fire and Rescue training providers is removed, then assuming all fire and rescue services have staff trained to a higher standard (trauma care or similar) already in place, then there could be savings to be made by creating bespoke courses, as described for the police service above. The discussions with the member of the Fire and Rescue services reveal that there are approximately 1,960 stations nationwide. The stations are made up of Retained Duty System, Day Crewing System and Whole-time Duty System. In all three crewing types there could be anywhere between 12 staff and 60 staff per station and these could have no watches (one group of staff), two watches or four watches. So on average, it is assumed there are 2.5 watches per station and 2.5 of those staff on any given watch being first aid trained. This means a total number of 12,250 staff ($2.5 \times 2.5 \times 1,960$). It is assumed that this number of staff remains constant over time, with new starters balancing out those that leave.

128. The total annual savings are therefore estimated to be between **£4.2million and £9.1 million, with a best estimate of £6.5 million.** The total cost over 10 years is estimated to be between **£78 million and £78 million with a best estimate of £56 million.**

127. The salary range for frontline police staff (constable – sergeant grades) is from £23 thousand to £41 thousand.¹¹ Assuming there are 220 working days in a year on average, this equates to a day rate of between £106 and £187. The true economic cost of this day rate is 30% greater, to reflect the full costs of employment, as described in footnote 6 (so between £140 and £240).

126. The remainder of the police force in GB is therefore around 125 thousand. Assuming the same proportion of police staff require specialist training as in the Met (18%) then this equates to approximately 23 thousand staff requiring training. Again, with a saving of just over 1 day, this equates to a saving of between 24 thousand and 29 thousand days of time (+/- 10% to reflect the uncertainty in the estimate). The total number of staff days saved for the Police force (Met plus rest of GB) is estimated to be around 34 thousand per annum (with a range between 31 thousand and 38 thousand).

thousand and 9 thousand days per annum, allowing a range of +/-10% to reflect the uncertainty in the estimates.

¹² Information sourced from Prospects, the official graduate recruitment site, see http://www.prospects.ac.uk/firefighter_salary.htm

135. The overall impact of the proposal on health and safety outcomes is not clear but is likely to be small. Due to the complex

Health and Safety Impacts

134. The total cost savings to public bodies over the 10 year appraisal period are estimated to be between £55 million and £113 million with a best estimate of £82 million.

133. It is also possible that there will be similar savings achieved by the 40 NHS Trusts that are training providers, for the same reasons as described for the Police and Fire and Rescue Services, i.e. the ability to tailor bespoke courses that can cover their more advanced training requirements more efficiently and without duplication. There is also the fact that the NHS is obviously comprised of trained clinicians, and so there is the possibility that the NHS may use their in-house skills to provide the training they require rather than use external training providers, and this could also deliver some savings. However, it has not been possible to estimate the potential savings for the NHS due to the large variability between Trusts. For instance, some are Ambulance Trusts and some are Hospital Trusts, and some of these Trusts will undertake first aid training on a commercial basis and some will only do in-house training. Thus, the potential savings for the NHS could be significant, but cannot be quantified.

132. The total annual savings are therefore estimated to be between £2.2 million and £4.0 million, with a best estimate of £3.0 million per annum. The total savings over the 10 year period are estimated to be between £19 million and £34 million, with a best estimate of £26 million.

131. The salary range for frontline fire staff ranges from £21 thousand to £35 thousand.¹² Assuming there are 220 working days in a year on average, this equates to a day rate of between £96 and £159. The true economic cost of this day rate is 30% greater, to reflect the full costs of employment, as described in footnote 6 (so between £125 and £207).

each way to reflect the likely uncertainty in the estimates). against initial training courses could be around 12,250 days per annum, with a range from 11,000 to 13,500 to allow +/- 10% uncertainty. The remaining 75% of staff require refresher training, and it is estimated that the saving against this could be 2 days every 3 years, or 6,100 days per annum. In total, it is estimated that around 18,400 days could be saved by the Fire and Rescue Services per annum (with a range of 17,400 days to 19,400 days, based on +/-10% uncertainty).

Table 1: Costs and Benefits to Business

Cost and Benefit summary tables

138. A majority of respondents at consultation (63%) disagreed with the recommendation. However, analysis of the consultation responses shows that many of these respondents were training providers who have a vested interest in maintaining HSE formal approval 'support' for their commercial activities. Further analysis suggests that, although against the removal of 'HSE approval' in principle, respondents were mostly concerned that this would reduce the standards of workplace first aid training and therefore provision. The previous paragraph argues that this should not be the case, and consultation respondents did not provide evidence to the contrary.
137. The Casella Winton Report (see Para 12) concluded that a large majority of employers consider first aid provision to be important and beneficial to their workplace and compliance rates were extremely high. There is no reason to believe that this would change following the amendment to the regulations. The removal of the requirement may also have a positive effect on employers, allowing them greater flexibility to decide on the most appropriate training to suit their specific workplace needs and may bring greater opportunity for innovation and adaptation to be made to courses to suit particular work places, given they will have the freedom to select their own training providers rather than those approved by HSE. HSE will continue to maintain the standards for first aid (see paras 12-13). The changes do not remove employers' obligations to complete a first aid needs assessment.
136. However, HSE anticipates that the movement of FAAMS staff from approval of training providers to higher risk-based work, in line with current health and safety priorities, could have a positive effect on outcomes.
- causality between any health and safety regulations and health and safety outcomes, it is not possible to quantify any impacts.

20/06/2013

Present value of Cost / Benefits to Government		Minimum (Millions)	Best Estimate	Maximum
COSTS	Government	£1.0	£1.1	£1.2
Total costs		£1.0	£1.1	£1.2
COST SAVINGS	Public bodies	£55	£82	£113
Total cost savings		£55	£82	£113
Net Benefits	Streamlining cost savings for NHS Health and safety benefit from targetting HSE time on higher risk areas	£54	£81	£112

Table 2: Costs and Benefits to Government

N. B totals may not sum due to rounding

Present value of Cost / Benefits to Business		Minimum (Millions)	Best Estimate	Maximum
COSTS	Familiarisation duty holders	£0.6	£1.1	£1.6
Total costs		£0.6	£1.1	£1.6
COST SAVINGS	Training providers approval process assessors	£0.3	£0.5	£0.6
Total cost savings		£3.2	£4.8	£6.4
Net Benefits	Additional time taken for business to identify suitable training providers Concentration in the market for training providers	£2.6	£3.7	£4.8

20/06/2013

N. B totals may not sum due to rounding

Table 3: Total costs and benefits to society

Total present value of costs		Best Estimate	Minimum (£millions)	Maximum
COSTS	Government	£1.0	£1.1	£1.2
	Familiarisation	0.6	1.1	1.6
Total costs	duty holders	0.01	0.01	0.02
	training providers	£1.7	£2.2	£2.8
COST SAVINGS	Training providers	0.3	0.5	0.6
	approval process	2.9	4.3	5.9
	Public bodies	55	82	113
	Total cost savings	£58	£87	£119
Net Benefits	Additional time taken for business to identify suitable training providers	Uncertain cost		
	Concentration in the market for training providers	Possibly significant cost		
	Streamlining cost savings for NHS	Possibly significant		
	Health and safety benefit from targeting HSE time on higher risk areas	Quite significant		
Total		£57	£85	£117

N. B totals may not sum due to rounding

Unquantified impacts

Additional time taken for duty holders to identify suitable training providers

139. HSE intends that the introduction of clearer and more suitable guidance may mitigate the risk of duty holder uncertainty and therefore any increase in the time taken to locate suitable training providers. The new guidance will aim to give greater clarity to employers on the provision of first aid within their workplaces, in terms of the level of training and the number of approved first aiders required for their individual workplace including the provision of case studies. However, the guidance will also cover the selection of training providers and a list of things to check, and so this places the onus on the end user to verify the training provider, rather than HSE under the baseline case. As well as the guidance, duty holders might develop some 'rules of thumb' for identifying training providers, or the providers themselves might develop alternative commercially sensible signalling processes. Despite these mitigating factors, it is still thought to be likely that a small percentage of duty holders will spend longer overall identifying suitable training providers. Only 10% of respondents to the consultation made any mention of time taken to identify a provider of which less than 20% were employers. The free text did not further expand on this preventing further analysis. The pop-up survey revealed no evidence to the contrary with over 70% stating that time taken to identify a training provider once HSE approval has been removed will either stay the same or take less time. However, it is not possible to predict outcomes with any accuracy, therefore the effect on duty holder search time has not been quantified.

Market changes

140. There are also impacts that cannot be quantified due to the inherent difficulties of predicting how the market will react to HSE being removed from the approval process. For instance there is uncertainty around the extent of the cost savings that might be achieved by training providers, as this will depend on the market reaction to the changes proposed, and whether training providers look for alternative quality assurance measures, such as under the Ofqual / SQA route. The cost saving calculated for training providers is the expected saving for those that choose to 'go it alone'¹³ from no longer paying for HSE approval, and the savings from no longer requiring two assessors per course delivered. However, the number of training providers expected to go it alone ex ante may be different to that which transpires once HSE

¹³ Those that 'go-it-alone meaning those that do not seek alternative approval or independent quality assurance from alternative means.

¹⁴ For more information and a link to the full report, see http://www.ukas.com/media-centre/news-articles/2013/Economic_Benefits_Of_Accreditation.asp. UKAS is the sole national body recognised by the government for the accreditation of calibration and testing laboratories and inspection and certification bodies, against national and international standards.

143. There could also be a change in the barriers to entry to the market. Removing the approval process in theory removes the barrier

(e.g. from Ofqual) discussed in the previous paragraph. theory that some of the providers might seek alternative accreditation negative consequences for these businesses. This backs up the accredited by HSE, then the removal of this accreditation could have currently being realised by some first aid training providers following If such benefits around marketing, reputation and efficiency are extend to other sectors, including the accreditation of first aid training. calibration services, it is possible that some of the findings could specifically to the accreditation of certification, testing, inspection and added benefits. While this is a piece of research that relates higher price for accredited services, which is thought to reflect the process. The survey also showed a widespread 'willingness to pay' a reported benefits in efficiency and service quality from the assessment felt that it was a requirement of their customers, while nearly 20% provided a marketing and reputational advantage while a further 16% report it found that 50% of respondents considered that accreditation and products, and undertook other independent analysis to create the delivering United Kingdom Accreditation Service (UKAS)¹⁵ services from Birkbeck, University of London surveyed a selection of businesses certification, measurement and inspection services¹⁴. Researchers has assessed the economic benefits derived from the accreditation of commissioned by the Department for Business, Innovation and Skills 'The Economics of Accreditation' 142. A recent report on

141. The lack of approval will create asymmetric information, meaning an imbalance of information between the training providers, and the duty holders who are looking to use the services of the training providers. The training providers will know the quality of their courses, but this may not be visible to duty holders who want to buy training. If duty holders try to correct for this by only using existing, well established training providers with strong reputations, then there is the risk that other training providers with less established reputations will not be able to compete. This in turn could lead to less established training providers seeking some way to signal to the market their quality, and this could be through other quality assurance schemes such as the Ofqual/ SQA route. Although HSE will no longer approve training, it will still retain the function of setting the educational standard i.e. syllabus for first aid at work. Providers may wish to show competence by ensuring that the training courses they provide at least deliver this standard.

approval is removed, and the market attempts to correct for the issues this will create.

Table 4: Non-quantified impacts

145. It is possible that the movement of HSE FAAMS staff from approval of training providers to higher risk-based work, in line with current health and safety priorities, could have a positive effect on health and safety outcomes. There are too many confounding factors for this to be quantified robustly.

Impacts on health and safety outcomes

144. There could be potential cost savings for NHS Trusts, of which there are 40 who are currently approved by HSE, by avoiding duplication in high trauma courses, see more details in paragraph 132. However, it is not possible to quantify these savings due to the variability between Trusts (e.g. Ambulance vs hospital trusts) and the fact that some trusts will do commercial training as well as in house training.

Streamlining cost savings for NHS,

to start-up businesses in the training providers market, although there is some possibility that this could be limited by the effect described in the previous paragraphs.

147. There are certain areas which cannot be quantified see table 4 above and paragraphs 138 – 144. However, given the fact that it is very difficult to predict how the market will react to the changes proposed, it is not proportionate to try to quantify these impacts beyond the descriptions already provided.

146. The level of analysis in this IA reflects the fact that the government have made a commitment to make these changes to the First Aid regulations. HSE set up an on-line survey that has received a high number of responses, (almost 600) and the main assumptions are based around the conclusions drawn from this.

Rationale and evidence that justify the level of analysis used in the IA (proportionality approach);

Health and safety impacts	Cost savings	Costs	Government
<p>If the changes result in fewer employees becoming trained in first aid, this would mean fewer qualified first aiders in the general population with trained clinicians rather than HSE approved training providers. Potential savings for NHS duty holders due to ability to tailor training courses to suit their particular requirements and also to use their bank of first aiders in the first aiders in the general population with possible implications for the burden on the NHS in emergency situations.</p>	<p>Potentially significant savings</p>		<p>Government</p>
		<p>Possibility of concentration of the market for training providers with smaller firms going out of business – there are around 400 smaller providers</p>	<p>Training providers</p>
<p>Possible negative impact on health and safety if increased uncertainty results in lower compliance. However, this could be offset by improved guidance. Unclear impact on H&S</p>		<p>Additional search costs due to uncertainty around quality. Possible increase in fees if training provider market is concentrated. Potentially significant due to large number of duty holders</p>	<p>Duty holders</p>

Direct costs and benefits to business calculations (following OTO methodology);

148. It is estimated that the total present value of the net benefit to business over the 10 year appraisal period will be a present value of around £3.7 million with a range from £2.6 million to £4.8million.

149. It is estimated that the Equivalent Annual Net cost to Business will be -£0.43 million in 2012 prices with a range from -£0.30million to -£0.56million. Under the OTO methodology the EANCB should be expressed in 2009 prices with a 2010 PV base year. The EANCB is therefore calculated as an O/T of -£0.38m under OTO methodology. The EANCB has been calculated in accordance with Better Regulation Executive OTO methodology and Green Book¹⁶ guidance, with direct impacts identified and separated.

150. It is important to note that the overall policy has net benefits to society of £85 million (over 10 years), which are largely due to the large cost saving expected for the public bodies from being able to tailor their courses and reduce the number of days the courses take.

Micro businesses

151. HSE was granted a waiver from the Micro Business Exemption on 17th October 2012. The requirement to provide first aid provision is based on the duty holders risk assessment and needs to be proportionate and adequate to the needs of the particular workplace, including size, work activity and other factors. It therefore needs to be uniformly regulated for micro and other size businesses.

Summary and preferred option with description of implementation plan.

152. HSE is committed to implement Professor Lötstedt's recommendation. The total net benefit to society of the proposal to implement the recommendation is estimated to be around £85m, with an Equivalent Annual Net Benefit to business (an O/T) of -£0.38m. It should be noted it has not been possible to quantify all impacts, and these are discussed in table 4 above.

153. HSE intends to implement the recommendation by way of an amending Statutory Instrument (SI) to be laid before Parliament on 1st October 2013, subject to HSE Board and parliamentary approval.

¹⁶ The Treasury Green Book guidance for public sector bodies on how to appraise proposals before committing funds to a policy or programme. Available at: <https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government>

c. Limit the ability of suppliers to compete?

indirectly the number of suppliers would be limited. smaller players going out of business, leaving the market and so well known names in the voluntary sector. This could lead to the use the educational standard set by HSE and so turn to the larger longer be certain about the quality of the training, unless providers smaller players in the markets means that duty holders can no the fact that HSE no longer approves the courses provided by The policy could indirectly limit the number of suppliers, if

b. Does the policy indirectly limit the number or range of suppliers?

a. Does the policy directly limit the number or range of suppliers?
The policy does not directly limit the number or range of suppliers.

are answered as follows:
more detailed analysis of competition impacts is necessary, and these Office of Fair Trading have four filter questions to decide whether a on competition, although the direction of the impact is not clear. The 157. It is anticipated that the proposed changes could have an impact

Competition

156. A statutory equalities IA has been completed.

Statutory Equalities Duties

Wider Impacts

155. The sensitivity analysis has shown that apart from that just discussed, there are no other assumptions that have a high influence on the cost estimates in this IA.

154. Detailed sensitivity analysis was performed by inflating all of the assumptions separately by 1% to see what effect this has on the cost estimates which depend on that assumption. It was found that only 1 assumption has more than a 1% effect on the cost estimates, being the number of new approvals received per annum. The number of new approvals per annum is based on HSE records and so the risk of this being mis-specified in the IA is minimised.

Sensitivity analysis

- 160. It is not anticipated that there will be any other direct or significant indirect impacts of the proposal.
- 159. Focussing of HSE FAAMS resource on higher risk areas of workplace health and safety could have a positive effect on health and safety outcomes, but this is not possible to quantify.

Health and well being

- 158. It is possible that the proposal will have a negative impact on small training providers if the removal of HSE's approval means that training providers can no longer signal their quality to the market other than using the HSE syllabus for first aid at work. If this happens, duty holders may choose well known training providers with well established reputations, such as from the voluntary sector, and so small providers could end up going out of business. It is not certain whether this will happen, as the small training providers may seek another way to signal their quality to the market, for example via the Ofqual/ SQA approval process. There could also be savings to small firms who no longer need to seek approval or use assessors in their training programmes, and there will be savings to the solo self employed (not included in this IA - see para 23), which could help improve their profit margins. The overall potential impact on small firms cannot be quantified as it is not certain how the market will react to the proposed changes.

Small firms

- d. Reduce suppliers' incentives to compete vigorously?
It is not thought that the proposal will reduce suppliers' incentives to compete vigorously.
- It is possible that the removal of the approval process, as described above, will mean that duty holders tend to choose well known players with well established brands, and so the smaller players are no longer able to compete in the market as they have no way to signal their quality to duty holders.

Requirements for training organisations

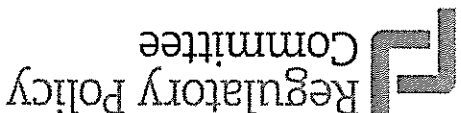
Applications to HSE will be assessed against certain criteria¹⁷. The main points are:

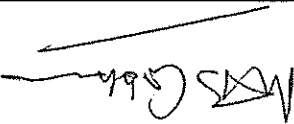
- a. there should be an efficient administration system;
- b. FAW certificates should contain a number of items including reference to the First Aid Regulations and that HSE is the approved training provider;
- c. there should be at least four individuals, being two trainers and two assessors;
- d. each trainer should have a personal portfolio with a valid FAW certificate, a formal teaching / training qualification and evidence to show they have delivered training in the previous three years and that at least two practical and two theoretical sessions were covered by a trained assessor.
- e. Assessors also need a personal portfolio that contains a valid FAW certificate, a formal assessing qualification, evidence to show the assessor has regularly provided FAW assessments, and that at least two practical and two theoretical assessments were under the supervision of a qualified assessor.
- f. If the trainer / assessor is a doctor, nurse or paramedic, appropriately registered, then they are exempt from the requirement to hold a FAW certificate.
- g. The training provider should also have a quality assurance plan, which identified who should carry out the monitoring, its frequency and methods. All trainers and assessors should be monitored at least once a year.
- h. There should also be a course evaluation procedure and a complaints procedure.
- i. Training providers also need to have a lesson plan for each syllabus topic. There are also requirements around the length of the course - FAW courses should have at least 18 contact hours and should be run over a minimum of three days.
- j. Administration procedures should be in place to ensure students are not accepted for requalification training unless they have a valid FAW certificate. The requalification course should take a minimum of 12 hours and be spread over 2 days
- k. For the assessment, there should be an appropriate waiting area, separate from where the assessments are conducted. Two qualified assessors who have not been involved with the training should conduct the assessment (one assessor can be used when the number of students on a course is no greater than 6).
- l. There are also requirements around the equipment that trainers require and the quality of the training venue.

¹⁷ Detailed requirements for training organisations applying to HSE to run FAW courses, set out in <http://www.hse.gov.uk/pubns/wc641.pdf>

m. It is also recommended that a single trainer teaches no more than 12 students so that each individual receives an appropriate level of support.
n. For EFAW courses, no assessors are required as there is no assessment. EFAW should contain at least six contact hours and the training can be run over 1 day.

20/06/2013

<p>Validation of the One-in, Two-out Status and the Net Direct Impact on Business</p>	 <p>Validation Impact Assessment (IA)</p> <p>Consideration of the options in response to the Löfstedt, review to remove the requirement for HSE to approve the training and qualifications of appointed first-aid personnel from the Health and Safety (First Aid) Regulations 1981</p> <p>Health and Safety Executive</p> <p>IA Number Not provided</p> <p>Origin Domestic</p> <p>Expected date of implementation 1 October 2013 (and SNR number)</p> <p>Date of Regulatory Triage Confirmation N/A</p> <p>Date submitted to RPC 29/05/2013</p> <p>Date of RPC Validation 04/06/2013</p> <p>RPC reference RPC12-HSE-1489(2)</p>
<p>RPC assessment</p>	<p>VALIDATED</p>
<p>Departmental Assessment</p> <p>One-in, Two-out status OUT</p> <p>Estimate of the Equivalent Annual Net Cost to Business -£0.38m</p> <p>(EANCB)</p>	<p>Background (extracts from IA)</p> <p>What is the problem under consideration? Why is government intervention necessary?</p> <p>The Government, in its response to the review of health and safety law, <i>Reclaiming Health and Safety for All</i>, a report by Professor Ragnar E Löfstedt, recommended the removal of requirement for HSE approval of both training providers and qualifications. The requirements for HSE approval of first aid training and qualifications go beyond the minimum requirements laid out in EU legislation. The approval by HSE is therefore seen as unnecessarily burdensome on business. The approval of training and qualifications has been undertaken since the Regulations came into force by the direct approval of training organisations by HSE. Opening up the market for employers to choose training providers and training courses that are right for their business would allow greater flexibility and may reduce costs.</p> <p>What are the policy objectives and the intended effects?</p> <p>The primary objective is to meet the requirement to implement the relevant Löfstedt review recommendations. The regulations should not impose measures that go beyond the minimum requirements in EU legislation i.e. there should be no 'gold plating'. More specifically, the policy objectives are as follows:</p> <ul style="list-style-type: none"> • Removal of HSE approval of first aid training and qualifications, • To reduce the burden on the self-employed.

<p>Michael Gibbons, Chairman</p>		<p>Signed</p>
<p>RPC comments</p> <p>The IA says that it is a deregulatory proposal (an OUT) with an Equivalent Annual Net Cost to Business of -£0.38m. This is consistent with the current Better Regulation Framework Manual (paragraph 2.9.11) and provides a reasonable assessment of the likely impacts.</p>		
<p>What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)</p> <p>As the Lofstedt review has recommended changes to the Regulations, which have been accepted by the Government, HSE has no option other than to implement the recommendations in the Lofstedt review which relate to the First Aid Regulations. The 'do nothing' option is not therefore a viable option available to HSE and so has not been analysed as such in this impact assessment. However, it remains the baseline against which the other options for implementing Lofstedt's recommendations are compared.</p> <p>Within the context of the Lofstedt recommendations and their acceptance by the Government, there is only one realistic and viable option:</p> <p>To amend the First Aid Regulations to remove the requirement for HSE to approve first aid training providers and remove the requirement from self employed persons to provide their own equipment for first-aid. This objective will be delivered as part of work on a wider recommendation on the self employed contained within the Lofstedt Review.</p>		

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

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
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded:	Yes	Small
	Non-traded:	Yes	Medium
		Yes	Large

Will the policy be reviewed? If applicable, set review date: Month/Year

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

Option 1 - Do nothing - the Docks Regulations 1988 would remain on the statute book.

Option 2 - As originally proposed in the public consultation document: Revoke the Docks Regulations 1988 and withdraw the existing ACOF and guidance (Safety in Docks-COP25). We would then rely on other regulations to ensure the same standard of health and safety requirements in docks.

Option 3 - Amended option 2: largely the same as the original proposal but provide shorter, simplified version of the ACOF. Policy Option 3 is preferred as it addresses concerns raised through the consultation process while not creating an additional burden on business. Policy option 3 results in a net cost of zero to business compared to option 2 which generates a small "in". This is because option 3 reduces the size of the ACOF rather than removing it and therefore the familiarisation and one-off costs are lower for option 3 compared to option 2.

What are the policy objectives and the intended effects?

The policy objective of this work is to streamline the legislative framework by removing outdated prescriptive legislation. The remaining regulatory requirements of the Docks Regulations are largely replicated in other sets of more modern, goal-setting regulations. This proposal is part of a larger deregulatory programme that we would expect to contribute to an improved perception of HSE's regulatory activity, showing it to be sensible and proportionate without lowering health and safety standards.

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

Parts of the Docks Regulations 1988 have already been revoked by more recent goal setting legislation. In response to the Lotstedt review and Red Tape Challenge, HSE has identified the remaining parts of the Docks Regulations as also having been superseded by more modern legislation. Revoking the Docks Regulations will simplify the legislation that relates to dock work while maintaining the same standards of protection for those affected by dock activities. If the Docks Regulations are revoked the current supporting Approved Code of Practice (ACOP) will have no legal basis and will also need to be withdrawn. HSE proposes to replace the existing ACOF with a shorter, simplified version of the ACOF.

Total Net Present Value	0
Business Net Present Value	0
Net cost to business per year (FANCB on 2009 prices)	0
In scope of One-In, Measure qualifies as One-Out?	Yes
Zero Net Cost	

Cost of Preferred (or more likely) Option

Summary: Intervention and Options	
<p>Title: Revocation of Docks Regulations 1988 and replacement of Safety in Docks ACOF (COP25) with a shorter, simplified ACOF publication</p> <p>IA No: HSE0069h)</p> <p>Lead department or agency: Health and Safety Executive</p> <p>Other departments or agencies: None</p>	<p>RPC Opinion: Awaiting Scrutiny</p>
<p>Date: 08/04/2013</p> <p>Stage: Final</p> <p>Source of intervention: Domestic</p> <p>Type of measure: Secondary legislation</p> <p>Contact for enquiries: Hayley Ford - Hayley.ford@hse.gsi.gov.uk</p> <p>Tara McNally tara.mcnally@hse.gsi.gov.uk</p>	

Summary: Analysis & Evidence

Policy Option 1

Description: Do Nothing

FULL ECONOMIC ASSESSMENT

Price Base Year 2010	PV Base Year 2010	Time Period Years 1	Low: 0	High: 0	Best Estimate: 0
Net Benefit (Present Value (PV)) (£m)					

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)	Description and scale of key monetised costs by 'main affected groups'		
				Low	High	Best Estimate
	0	0	0	This is the status quo / baseline option and as such costs are zero		
				Other key non-monetised costs by 'main affected groups'		

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)	Description and scale of key monetised benefits by 'main affected groups'		
				Low	High	Best Estimate
	0	0	0	This is the status quo / baseline option and as such benefits are zero		
				Other key non-monetised benefits by 'main affected groups'		

Description and scale of key monetised benefits by 'main affected groups'						
Other key non-monetised benefits by 'main affected groups'						
Key assumptions/sensitivities/risks						
Discount rate (%)						
na						

BUSINESS ASSESSMENT (Option 1)

Costs: 0	Benefits: 0	Net: 0	In scope of OIOO? No	Measure qualifies as NA
Direct impact on business (Equivalent Annual) £m:				

Policy Option 2

Summary: Analysis & Evidence

Description:

Revoke Docks Regulations 1988]

FULL ECONOMIC ASSESSMENT

Year 2010	PV Base	Time Period	Low: 0	High: 0	Best Estimate: -0.23
Year 2010	Year 2010	Years 1	Net Benefit (Present Value (PV)) (£m)		

COSTS (£m)		Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0	1	0	0
High	0		0	0
Best Estimate	0.12		0	0.12

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

The main one-off costs would fall on industry in terms of familiarisation (approximately £17 thousand) and updating training and internal guidance (approximately £100 thousand). There would be negligible costs to industry in terms of printing training materials and negligible costs to industry and HSE in terms of updating HSE guidance. Such materials are likely to be reproduced on a regular basis already.

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

Consultation highlighted the costs from potential confusion and the potential for a reduction in level of health and safety standards. However, the revocation of the Docks Regulations would not lower the legal protection of workers, as it would not result in changes to current duties or the ability for HSE to enforce these duties. Accordingly, employers and workers would not need to alter their behaviour in any way, and this would result in no impacts on health and safety from the proposal.

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

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

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

The removal of these sets of regulation will contribute towards streamlining the Health and Safety legislative framework. There will also be ongoing annual benefits to industry from the reduction in materials they need to be familiar with.

Key assumptions/sensitivities/risks	Discount rate (%)	na
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BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:	Benefits: 0	Net: -0.01	Yes	In scope of OIOO?	Measure qualifies as
Costs: 0.01					IN

Policy Option 3

Summary: Analysis & Evidence

Description: Amended policy option 2 with shorter simplified ACOP

FULL ECONOMIC ASSESSMENT

Price Base Year 2010	PV Base Year 2010	Time Period Years 1	Net Benefit (Present Value (PV)) (£m)
			Low: Optional High: Optional Best Estimate: 0

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

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

There would be no familiarisation costs to industry, as the ACOP would not be removed. There would be negligible costs to industry in terms of printing training materials and negligible costs to industry and HSE in terms of updating HSE guidance. Such materials are likely to be reproduced on a regular basis already.

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

Consultation highlighted the costs from potential confusion and the potential for a reduction in level of health and safety standards. However, amended policy option 2 with a shorter ACOP would not lower the legal protection of workers, as it would not result in changes to current duties or the ability for HSE to enforce these duties. Accordingly, employers and workers would not need to alter their behaviour in any way, and this would result in no impacts on health and safety from the proposal.

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

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

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

The removal of these sets of regulation will contribute towards streamlining the Health and Safety legislative framework. There will also be ongoing annual benefits to industry from the reduction in materials they need to be familiar with. The sign-posting format of the ACOP will also mean dutyholders not re-reading the same materials. While this hasn't been quantified, sector experts believe that this will, as a minimum, mitigate any costs of deregulation.

Key assumptions/sensitivities/risks		Discount rate (%)
		na

BUSINESS ASSESSMENT (Option 3)

Direct impact on business (Equivalent Annual) £m:	In scope of OIOO?	Measure qualifies as
Costs: 0	Benefits: 0	Net: 0
	Yes	Zero net cost

Evidence Base Revocation of Docks Regulations 1988 and replacement of Safety in Docks ACOP (COP25) with a shorter, simplified ACOP

Problem under consideration;

1. HSE has identified a number of health and safety related Statutory Instruments (SIs) that are redundant or that have been overtaken by more modern legislation or do not deliver their intended benefits. This work will remove redundant legislation and its only one small element of a much wider programme of work to make the legislative framework simpler and easier to understand, while maintaining the same standards of protection for those in the workplace or affected by work activities.

2. Parts of the Docks Regulations 1988 have already been revoked by more recent goal setting legislation. In addition, HSE officials believe that the remaining parts of the Docks Regulations have been superseded by the legal general requirements of other recent legislation. This includes the general requirements of the Management of Health & Safety at Work Regulations 1999 (MHSWR) and the Workplace (Health, Safety & Welfare) Regulation 1992 along with the more specific requirements of the Provision and Use of Work Equipment Regulations 1998, Lifting Operations and Lifting Equipment Regulations 1998 and the Work at Height Regulations 2005. Revocation of the Docks Regulations will make the legislative framework relevant to docks simpler and easier to understand whilst maintaining the same standards of protection for those working in docks or affected by dock activities.

3. The Docks Regulations are supported by an Approved Code of Practice (ACOP) and guidance (Safety in Docks COP25). If the Docks Regulations are revoked then the current ACOP will have no legal basis and will need to be withdrawn. HSE originally consulted on withdrawing the ACOP and replacing it with industry guidance. The HSE Board, following concerns raised by some stakeholders, has decided to retain a shorter, simplified ACOP based on duties under the Health & Safety at Work etc Act 1974 and relevant statutory provisions. HSE have completed a second consultation on the text of this ACOP that will also signpost more detailed guidance already being produced by the Ports Industry (planned for completion by April 2014). It is proposed that the Docks Regulations will be revoked in October 2013 with a coming into force date of April 2014. The current Safety in Docks ACOP (COP25) will then be replaced by a shorter, simplified version in April 2014. The new publication will also incorporate the guidance from two other HSE publications (INDG 446 - A Quick Guide to Health and Safety in Ports and HSG177 - Managing Health and Safety in Dockwork).

Background

4. Professor Lofstedt's independent review of health and safety legislation 'Reclaiming health and safety for all' (<http://www.dwp.gov.uk/docs/lofstedt-report.pdf>) was published in November 2011. In response to this, and the Red Tape Challenge, HSE has identified a number of health and safety regulations that are either redundant, have been overtaken by more modern legislation or do not deliver their intended benefits. This includes the Docks Regulations 1988. Without any intervention these would remain in force and contribute to the impression that health and safety law is extensive, complex and out of date.

5. The public were given the opportunity to comment on Regulations under the Government's Red Tape Challenge initiative – those that work well and those that do not. This exercise was launched on 7 April 2011 with a new theme in the spotlight on the website every three weeks. Workplace Health and Safety is a cross cutting theme and open to challenge throughout the initiative. It was also in the spotlight from 30 June for 3 weeks. Some 197 Regulations were in scope for the Workplace Health and Safety theme. All Red Tape Challenge comments are collated to provide a clearer picture for Government of which Regulations should stay, which

should go and which should change. All the Health and Safety Theme comments received were considered by HSE.

6. The Docks Regulations 1988 were conceived as a single set of regulations which addressed port-specific activities and risks at a time when there was limited published guidance and standards for docks and the ship/shore interface, and accident rates were very high.
7. The Approved Code of Practice and guidance (Safety in Docks COP25) was introduced to support the Docks Regulations. The ACOF and guidance give advice on how to comply with the law. The ACOF has a special legal status in that if companies follow the advice in it, they will be doing enough to comply with the law in respect of those specific matters. They may also use alternative methods to those set out in the Code in order to comply with the law. The ACOF is accompanied by guidance which does not form part of the Code and has a different legal status. Following the guidance is not compulsory and you are free to take other action. But if you follow the guidance you will normally be doing enough to comply with the law.

8. If the Docks Regulations are revoked then the current ACOF (COP25) will have no legal basis and will need to be withdrawn. HSE originally consulted on withdrawing the ACOF and replacing it with industry guidance but following concerns raised by some stakeholders the HSE Board has decided to retain a shorter, simplified ACOF based on duties under the Health & Safety at Work etc Act 1974 and relevant statutory provisions.

9. HSE has completed a second consultation on the text of a shorter, simplified ACOF. This ACOF will also signpost a suite of more detailed Safety in Ports guidance documents being produced by the Ports industry (planned for completion by April 2014). The replacement ACOF would be based on duties under the Health & Safety at Work etc Act 1974 and relevant statutory provisions, and would be published in April 2014 when the revocation of the Docks Regulations will come into force. The new publication will also incorporate the guidance from two other HSE publications (INDG 446 - a quick guide to health and safety in ports and HSG177 - managing health and safety in dockwork).

10. It is proposed that the Docks Regulations 1988 are removed and the supporting Approved Code of Practice, Safety in Docks COP25 withdrawn and replaced with a shorter, simplified ACOF and guidance publication.

Rationale for intervention;

11. Intervention is necessary to implement the Government response to the above mentioned Red Tape Challenge and Lofstedt Review. The requirements under the prescriptive Docks Regulations 1988 have been superseded by more modern goal-setting legislation. Although these Regulations have been used in enforcement action over recent years, all of the deficiencies identified would also fall under parallel legislation. This work will make the legislative framework relevant to docks simpler whilst maintaining the same standards of protection for those working in docks or affected by dock activities.

12. The removal of duplicate legislation removes the need for dutyholders to spend resource on reading and understanding the additional legislation, it would also save dutyholder resource by reducing the uncertainty and complexity of the health and safety legislative framework. Deregulation, on the whole, reduces barriers to entry and fixed start-up costs thus making markets more contestable. This theory is supported by anecdotal evidence from consultation, for example:

"I am in favour of revoking these measures and in particular seeing the resultant removal of burden on small businesses."

22. It is important to note that as the underlying legal duties have not changed then the ACOF will not change behaviour. In addition the replacement ACOF will be a simplified version of the existing ACOF so redundant and outdated text will be removed and guidance text inserted to signpost readers to current industry and HSE guidance.

21. HSE originally consulted on a option 2 which proposed the revocation of the Docks Regulations and the withdrawal of the ACOF. Option 3 is a revised version of option 2 that was developed following representation from some stakeholders during the original public consultation process. Paragraphs 25-27 and annex 1 summarise the responses to the first consultation. The analysis of the costs and benefits has been updated to reflect the current, revised option which is a movement back towards the baseline option.

20. In light of the consultation feedback, specific aspects of the consultation proposal represented by Option 2 have been modified. These modifications are presented as Option 3, and represent HSE's considered proposal following consultation;

19. Option 3 – Amended option 2: Revoke the Docks Regulations 1988 and replace the existing ACOF & guidance (Safety in Docks-COP25) with a shorter, simplified version of the ACOF. The Docks Regulations should be revoked in October 2013 with a coming into force date of April 2014. We would then rely on other regulations to ensure the same standard of health and safety requirements in docks. The new ACOF & guidance would signpost detailed guidance produced by the Ports industry (planned for completion by April 2014). The replacement ACOF would be published in April 2014 when the revocation of the Docks Regulations comes into force.

18. Option 2 - As originally proposed in the public consultation document: Revoke the Docks Regulations 1988 and withdraw the existing ACOF and guidance (Safety in Docks-COP25). We would then rely on other regulations to ensure the same standard of health and safety requirements in docks.

17. Option 1 – Do nothing - the Docks Regulations 1988 would remain on the statute book.

Description of options considered (including do nothing);

16. This deregulatory measure is within scope of One In Two Out. This impact assessment has monetised one off costs in terms of familiarisation and changes to training materials which have been confirmed by industry. It has not been possible or deemed proportionate to quantify the ongoing benefits from the reduced annual familiarisation and the contribution to the reduction to the perception that health and safety legislation is complex. However, it is expected that the ongoing benefits would, as a minimum mitigate the one off costs and therefore we present this deregulatory measure as a zero net cost

One in Two Out (OTO)

15. No alternatives to regulation have been considered because this is a deregulatory measure.

Alternatives to regulation

14. This work forms part of HSE's programme of wider reforms to help employers understand quickly and easily what they need to do to manage workplace risks.

13. The policy objective of this work is to contribute to the streamlining of the legislative framework by removing one set of Regulations and the associated Approved Code of Practice that are no longer needed to support the control of health and safety risks in the workplace. Without any intervention the Docks Regulations would remain in force and contribute to the impression that health and safety law is complex, confusing and out-of-date.

Policy objective and intended effects;

Implications identified include:

Of the 26 responses we received on this question, 23 (almost 90%) said No and 3 said Yes. Written responses also included comments that could be considered under this question (also Q5.1)

Question 5.3 Would this revocation and the withdrawal of the ACOF have any implications (positive or negative) for business, workers or others that HSE has not identified?

Judgement:

There was also a concern raised by 7 responders that there was a lack of evidence in the CD about what will replace the Docks Regulations and ACOF to make a reasoned

- It would result in the Docks Regulations being replaced with guidance
- Contravenes HSWA, S.1(2) as there will be a reduction in standards
- Use of more general regulations will result in difficulties in interpretation
- Revocation might send out signal that wider safety culture promoted by Regulations and ACOF is being relaxed.
- Docks should have specific regulations due to their hazardous nature.
- Significant enforcement is undertaken using the Regulations so they are still relevant.

The following reasons were given either by direct response to this question or via the general written responses:

Of the 33 responses to the question, 28 (over 80%) said Yes and 5 said No. There were also six written responses that did not directly answer any of questions 5.1, 5.2 or 5.3. Three of these responses appeared to disagree with the proposal.

Of the 28 respondents to this question that said 'Yes', 3 made qualified comments. Of these 2 said 'Yes' provided there is no lowering of health and safety standards. One also highlighted the need for an appropriate awareness-raising and communication exercise.

Of the 5 respondents to this proposal that said 'No', 4 made qualified comments. In addition, comments were received in the six written responses.

Question 5.1 Do you agree with the proposal (as outlined in the Annex) to revoke the Docks Regulations 1988 and for HSE to withdraw its approval of COP25

23. Consultation consisted of both formal and informal elements. The first formal consultation on the original proposal to revoke the Docks Regulations and withdraw the supporting ACOF took place between 3 April 2012 and 4 July 2012 and the results are summarised below.
24. Thirty three (33) responses were received which answered at least one of the questions in the CD in relation to the Docks Regulations. In addition 6 written responses were received that commented on the Docks Regulations but didn't specifically answer the given questions.
25. Annex 1 provides more detail of formal consultation responses. Table 1 summarises the organisations that responded and the proportion of the respondents within these organisations compared to total responses. Table 2 gives a summary of the responses to the specific questions in the consultative document. The results were that:
- Consultation and data analysis**

- It might send out a signal that the wider safety culture promoted by the existence of the Regulations and ACOF is being relaxed.
 - Safety standards could be affected with no clear guidelines for employers managers and employees
 - It will take time for an employer to read and understand the revocations and introduce general confusion.
 - It will be especially beneficial as regards medical fitness.
 - After revocation, regulations affecting ports will be Goal-Seeking instead of Prescriptive, which allow greater flexibility to provide management interventions that work for each individual situation.
- At the time, the responses to the consultation show that the significant majority of the respondents agree with HSE's view that this legislation is no longer required. However concerns continue to be raised about the loss of information following the withdrawal of the ACOF. The docks industry have completed a gap analysis to identify where the withdrawal of the ACOF will leave a gap in guidance and are currently working in conjunction with HSE to publish new guidance.
26. Analysis also included examining HSE records on the use of these sets of Regulations over the last 13 years. During this time, the Docks Regulations have been cited 56 times on Notices and 38 times in approved prosecution activity. However the use of the Docks Regulations is often in conjunction with other sets of regulations. In the instances where the Docks Regulations alone have been cited in enforcement action, there are other existing legal provisions that would cover the circumstances. Furthermore analysis shows that the enforcement action taken under the Docks Regulations is mainly historic, the majority of which occurred more than 5 years ago. It should also be noted that over the last 13 years, legislation other than the Docks Regulations has been used extensively in enforcement action against companies in the Docks industry.
27. In order to obtain information for this impact assessment, a presentation and information gathering exercise was conducted at a meeting of the Port Skills and Safety (PSS) Group. PSS are a trade association that is open to all port related organisations. PSS has an extensive membership amongst the ports industry. The aim of PSS is to encourage and promote high standards of health and safety and a highly skilled workforce within the ports industry. The PSSG meeting concerned attracted approximately 50 delegates from the ports industry. Analysis presented in this impact assessment was largely derived from feedback from that group.
28. Following representation from some stakeholders during the first consultation, the HSE Board decided to retain a shorter, simplified ACOF based on duties under the Health & Safety at Work etc Act 1974 and relevant statutory provisions. The second consultation took place between 9th April 2013 and 22nd May 2013 and focussed on the text of the shorter, simplified ACOF.
29. An overview of the responses is attached at Annex 2. The CD was structured to allow stakeholders to consider and comment on the areas of the proposed ACOF that interested them so the number of responses for each section does vary. Of the 25 responses received, the majority agreed that the proposed ACOF text provides a clear and appropriate representation of a preferred method of compliance (working practice) in a modern port or dock environment. There were however concerns from significant stakeholders on some of the detail. A summary of these and HSE's initial analysis of them is attached at Annex 2.

Monetised and non-monetised costs and benefits of each option (including administrative burden);

General Assumptions

30. Costs and benefits are not assessed over 10 years as all one-off costs are anticipated to occur in year 1.

31. No discount rate is used due to all monetised costs occurring in year 1 and any benefits / cost savings being monetised.

32. The year of analysis is 2013. The regulatory change would come into force in October 2013 (subject to Board approval) but it is expected that any one-off costs will take place in 2013 as dutyholders familiarise themselves with the changes in advance of the regulatory changes.

33. Industry costs per hour are assumed to be approximately £30. This is based on costs presented in the Annual Survey of Hours and Earnings (Table 14 - 2010) (Office for national statistics)¹ and up-rating by 30% to allow for non-wage costs (in accordance with the Green Book)

34. Figures presented in this IA are, in general, rounded to two significant figures; however, calculations are based on non-rounded numbers. Given this, some figures presented may not add up to the totals presented.

35. Time estimates (for example, familiarisation and changes to training) presented within the evidence base have been derived through consultation with industry as detailed in paragraph 26.

36. Option 1: do nothing - Option 1 would maintain the status quo and so would have no cost or benefit implications.

37. Option 2 would result in one-off costs to industry in terms of familiarisation and changes to training and material and benefits / cost-savings in terms of ongoing familiarisation and reducing the perception that health and safety legislation is complex and over burdensome.

38. Option 3 would have no costs to industry in terms of familiarisation and minimal costs in terms of changing training materials as the ACOF will still exist, albeit in a shorter and simpler format. The costs from updating training materials will therefore be smaller than those associated with option 2.

39. The evidence for this assessment is set out below. Evidence was gathered based on the original proposal (option 2) therefore, sector experts were consulted to triangulate the evidence based on option 2 to present a proportionate assessment of the impacts of option 3.

Evidence on the current level of use of the SI

40. HSE's initial assessment was that this SI is currently used by businesses and so its revocation would impose one-off costs. This initial assessment was presented to the industry via the Port Skills Safety group meeting detailed in paragraph 27 where there was general support and agreement with the assessment. The following costs to business estimates have been based on information received from this meeting (and triangulated with sector expert opinion and responses from IA specific questions at consultation).

¹ See <http://www.ons.gov.uk/ons/publications/re-references-tables.html?edition=icm%3A77-200444>

SIC	Description
5010	Sea and coastal passenger water transport
5020	Sea and coastal freight water transport
5030	Inland passenger water transport
5040	Inland freight water transport
5222	Service activities incidental to water transportation (harbours, locks, lighthouse)
5224*	Cargo handling

Table 1: Standard Industrial Classifications

45. Using the Inter-Departmental Business Register (IDBR - premises), we estimate that there are in the region of 2900 dutyholders that would need to familiarise themselves with the changes (see table 1 below for SIC codes used). This is on the basis that one person from each site would need to get up to speed with the changes and communicate this to the rest of the business. However, on the basis of the number of SMEs in the industry who are unlikely to know about the regulation or the proposed changes and communication that has already happened with industry, we estimate that approximately 40% of these will not familiarise themselves with the changes. Therefore if approximately 1700 dutyholders spend 20 minutes on familiarisation at a cost of £30 per hour (see paragraph 29 for hourly cost assumption), there would be a one-off familiarisation cost in the region of £17 thousand.
44. In formal consultation, respondents were asked to estimate the time it would take for affected dutyholders to read and understand the proposed changes. Responses ranged from "zero" to "30 - 40 hours". The majority of respondents said it would take 40 minutes or less, with the modal response being 20 minutes, we use this estimate for our calculations. This is also consistent with time estimates collected at consultation for the revocation of the Ship-building and Ship Repair Regulations.
43. For option 2 there will be costs to business in terms of one-off familiarisation and for updating training courses and training materials.

**Option 2
Costs to business**

42. While consultation responses are undoubtedly biased, those that responded are likely to be the more engaged and most likely to know/use the statutory instruments analysed in this IA. Hence, this group would be the most likely to know details of the costs to business.
41. Although a consultation stage IA was not produced for assessing the impacts of the removal of the Docks Regulation, formal consultation was used to gather information for the analysis presented here.

46. SIC code 5224 includes cargo handling for water transport activities but also for air and land transport activities where there is no available breakdown for the number of premises; therefore this is an overestimate for the number of dutyholders that the regulation applies to. However, the use of this SIC code is consistent with official figures used in Docks reports.

47. Industry would also need to update current training courses and training materials. Industry estimated (at the meeting described in paragraph 29) that it would take, on average, two hours to revisit materials and make the relevant changes and that each business location would need to update their training material. Using the same assumptions as for familiarisation, this would result in a one-off cost in the region of £100 thousand.

48. Training materials would need to be printed on a regular basis and therefore the costs associated with this are deemed to be negligible.

49. There will also be updates to HSE guidance which HSE do in consultation with industry, however, this is an ongoing process which would have happened irrespective of the revocation of the Docks Regulations and therefore, we anticipate that their removal will have a negligible impact.

50. Total one-off costs to business are therefore expected to be in the region of £120 thousand.

Option 3

51. HSE do not expect there to be any costs in terms of familiarisation as the ACOF associated with the regulation will not be removed. This means that dutyholders will continue with their normal practice in terms of determining their duties. There will however, be a change in the text of the ACOF which will be shorter, simpler and act as a sign-post to detailed guidance. This could imply a small cost-saving for new dutyholders who will no longer have duplicate guidance to read, as well as to existing businesses, if they need to refer back to the ACOF periodically.

52. HSE expect that there will still be some dutyholders that update training courses and materials; however, this will require a much lower level of input and is more likely to be as part of a regular review and update. While costs have not been calculated for this, it is expected to be substantially lower than the £100 thousand estimated under option 2.

53. HSE expect that there will be a negligible overall costs associated with option 3.

Costs to HSE: options 2 and 3

54. HSE will be involved in updating guidance and ensuring that industry is suitably informed of the proposed changes. HSE is not planning a large scale communications campaign and any work resulting from the revocation would form part of HSE ongoing work in the sector, therefore, there will be no additional costs to HSE as a result of revoking the Regulations.

Benefits and impact on health and safety: options 2 and 3

55. As previously described, these are redundant SIs and therefore are not intended to have any impact on health and safety protection as such, their removal will have no impact on health and safety protection. When appropriate, adequate controls are maintained through more modern legislation.

56. There is also an overarching benefit which is to simplify the legislative framework and the movement from prescriptive to goal setting legislation was quoted as also being a benefit.

57. HSE's initial consultation also highlighted the costs from potential confusion and the potential for a reduction in level of health and safety standards. However, it was a small minority of

- respondents who raised that issue, with most stakeholders consulted (both at that stage and on dialogue with industry) not considering this a problem.
58. Additionally, the revocation of the Docks Regulations would not lower the legal protection of workers, as it would not result in changes to current duties or the ability for HSE to enforce these duties. Accordingly, employers and workers would not need to alter their behaviour in any way, and this would result in no impacts on health and safety from the proposal.
59. HSE recognises that some people see the risk to health and safety standards as a real issue of this revocation. The concerns highlighted in consultation and HSE's response to these are considered in the "Risks and Assumptions" section.
60. Given that the ACOF associated with the regulation is going to be replaced with a shorter, simplified one that does not alter their legal duties, it could be expected that dutyholders may benefit from small time savings (see paragraph 49). These savings would be an annual benefit. The text for the ACOF will not be finalised until just before it is published in April 2014. Therefore is not possible to estimate the savings it creates. However, it is expected that, over a ten year period it would be greater than the costs of this deregulatory proposal.
- Rationale and evidence that justify the level of analysis used in the IA (proportionality approach):**
61. Although a consultation stage IA was not produced for assessing the impacts of the removal of the Docks Regulation and associated ACOF, formal consultation was used to gather information for the analysis presented here.
62. Analysis of HSE records and consultation (internal and external) both identified the proposed SIs as redundant or have been overtaken by more modern legislation. A proportionate cost analysis has been presented above.
63. While consultation responses are undoubtedly biased, those that responded are likely to be the more engaged and most likely to know/use the statutory instruments analysed in this IA. Hence, if there were any costs to business, this group would be the most likely to know about it. Furthermore, consultation responses have been triangulated with responses from informal consultation and a comprehensive discussion with industry representatives as detailed in paragraph 29.
64. There remain some uncertainties of the impacts of the policy proposal that it would not be proportionate to estimate, these are detailed in the following section.
- Risks and assumptions;**
65. HSE's initial assessment was that these legislative measures were either redundant or had been overtaken by other more modern regulation so there would be no risk associated with them being revoked. This assessment was agreed with at the time by those industry representatives at the Port Safety and Skills group meeting described in paragraph 27.
66. The majority of those who responded to the consultation question on the Docks Regulations agreed with the proposals.
67. However, when specifically asked if there were any other impacts of the removal, the following issues were raised:
- The proposal results in a move away from prescriptive methods to goal-seeking. This could lead to difficulties of interpretation and "waiting to hear the right answer" from court cases

- Communication needs to take pace to ensure people are aware that duties still remain, it is just elsewhere in legislation
 - Will always be some level of confusion – example given that some people still refer to previous acts that were removed
 - HSE need to ensure that the standard of health and safety is maintained
- The change from a prescriptive to goal setting legislative framework has been raised as both a positive and negative aspect of the revocation proposals.

68. Goal setting legislation allows duty holders to chose the most appropriate methods or equipment available to meet the legal requirements (though it can be seen as introducing a level of uncertainty). Businesses are already complying with a range of goal setting Regulations such as the Lifting Operations and Lifting Equipment Regulations (LOLER) so removing prescriptive legislation should assist dutyholders (once they are familiar with the changes) because they have to comply with only one, goal setting, framework.

69. Concerns in terms of communication and confusion should be addressed through the ongoing communication HSE has, and will continue to have, with industry.

70. Thus, although it is not possible to estimate the extent of the impact, we would expect the long term overall impact of moving to goal-seeking regulation to be positive.

Direct costs and benefits to business calculations (following OIO methodology);
 71. This deregulatory measure is within scope of One In Two Out and is deemed as being a zero net cost.

Wider impacts

72. There would be no wider impacts as a result of this simplification.

Summary and preferred option with description of implementation plan.
 The preferred option is Option 3. This is based on the analysis of, and the responses to both the first and second consultations. It is considered that the Docks Regulations 1988 can be revoked without any lowering of health and safety standards in workplaces.

Annex 1 – Responses to first consultation

Table 1

a) Type of organisation

Option	Number of respondents	Percentage of total (%)
Academic	4	12
Consultancy	0	0
Local government	5	15
Industry	12	36
Trade association	3	9
National government	0	0
Non-departmental public body	2	6
Charity	2	6
Trade union	0	0
Non-governmental organisation	0	0
Member of the public	0	0
Pressure group	0	0
Other (please specify)	0	0
Not stated	5	15
Total	33	

In addition to the breakdown of the responses above, of the 6 written responses we received, 5 were from Trade Unions and 1 was from a Trade Association.

b) Capacity of respondent

Option	Number of respondents	Percentage of total (%)
Health and Safety professional	5	15
An employer	12	36
An employee	0	0
Trade union official	0	0
Training provider	4	12
Other (please specify)	7	21
Not stated	5	15
Total	33	

In addition to the breakdown of responses above, of the 6 written responses we received, 5 were from Trade Union Officials and 1 was from a Trade Association.

Question 5.1 Do you agree with the proposal (as outlined in the Annex) to revoke the Docks Regulations 1988 and for HSE to withdraw its approval of COP25

Option	Number of respondents	Percentage of total %
Yes	28	85
No	5	15
Total	33	100

In addition six written responses were received that did not specifically answer Question 5.1.

Two of these expressed the view that these Regulations should not be revoked. A further three call for a revision of the regulations and retention of those parts that are still required to maintain current legal standards.

Comments made to support the responses
<p>'Yes' respondents' comments</p> <p>We received 3 additional comments both via the questionnaire and written responses.</p> <p>Amongst these comments, these key points were raised:</p> <ul style="list-style-type: none"> • Yes provided there is no lowering of health and safety standards – 2 responses • Need to ensure that there is an appropriate awareness-raising and communication exercise – 1 response <p>'No' respondents' comments</p> <p>We received 10 comments both via the questionnaire and written responses that were against revocation.</p> <p>Amongst these comments, these key points were raised:</p> <ul style="list-style-type: none"> • Lack of evidence to allow responders to make a judgement – 7 responses • Docks Regulations will be replaced by guidance – 8 responses • Contravenes HSWA, S.1(2) as there would be a reduction in standards – 1 response • Use of more general regulations will result in difficulties in interpretation – 3 responses • Docks should have specific regulations due to their hazardous nature – 9 responses • Revocation might send out the signal that the wider safety culture promoted by Regulations and ACOF is being relaxed – 4 responses • Significant enforcement is undertaken using the Regulations so they are still relevant – 5 responses

Table 2

Option	Number of respondents	Percentage of total %
Yes	23	88
No	3	12
Total	26	

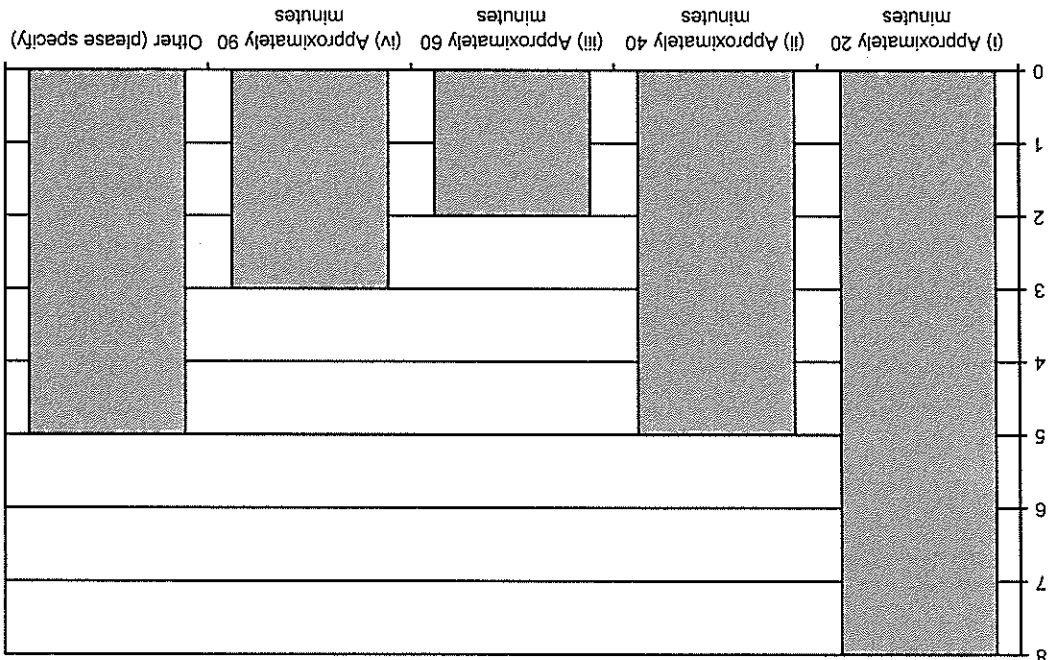
Comments made to support the responses

'Yes' respondents' comments

- it will take time for an employer to read and understand the revocations and introduce general confusion.
- Safety standards could be affected with no clear guidelines for employers managers and employees
- it will take time for an employer to read and understand the revocations and introduce general confusion.
- it will be especially beneficial as regards medical fitness.

Question: Q.5.3 Would this revocation and the withdrawal of the ACOF have any implications (positive or negative) for businesses, workers or others that HSE has not identified?

Comments made to support the responses
<ul style="list-style-type: none"> • None - 2 responses • Not applicable - 1 response • No experience - 1 response • 2-3 hours - 1 response



Question: Q.5.2 To help HSE prepare the Impact Assessment please consider how long you estimate it will take for an employer to appreciate that this revocation will not change their day to day operations?

Option	Total	Percentage of total (%)
Academic		
Consultancy	3	12
Local government		
Industry	9	36
Trade association	4	16
National government	3	12
Non-departmental public body	1	4
Charity		
Trade union	1	4
Non-governmental organisation		
Member of the public		
Pressure group		
Other (please specify)		
Not stated	4	16
Total	25	100%

a) Type of organisation

Table 1

Table 2 summarises the proportion of respondents that agreed that the ACOP text is a clear and appropriate representation of a preferred method of compliance (working practice) in a modern port or dock environment for each particular topic.

Table 1 summarises the type of organisations that responded as well as the capacity of the respondents.

The consultation received 25 responses. The majority agreed that the proposed ACOP text provides a clear and appropriate representation of a preferred method of compliance (working practice) in a modern port or dock environment. There were however concerns from significant stakeholders on some of the detail.

Annex 2 – Responses to second consultation

<ul style="list-style-type: none"> • After revocation, regulations affecting ports will be Goal-Seeking instead of Prescriptive, which allow greater flexibility to provide management interventions that work for each individual situation.
<p>'No' respondents' comments</p> <ul style="list-style-type: none"> • No comments received
<p>Other comments received in written form</p> <ul style="list-style-type: none"> • It might send out a signal that the wider safety culture promoted by the existence of the Regulations and ACOP is being relaxed. • If it is proposed to replace the ACOP with an industry code, could have an implication for safety going forward depending both on the drafting of the code and the seriousness with which it is regarded by businesses and others concerned.

b) Capacity of respondent

Option	Total	Percentage of total (%)
Health and Safety professional	8	32
An employer	2	8
An employee		
Trade union official	1	4
Training provider	2	8
Consultant	1	4
Not stated	11	44
Total	25	100%

Table 2 - Question 1 - Do you agree that the ACOP text is a clear and appropriate representation of a preferred method of compliance (working practice) in a modern port (or dock) environment in each of the following areas?

	YES	NO
a) Workplace transport	7 (58%)	5 (42%)
b) Working at height	7 (54%)	6 (46%)
c) Lifting operations	9 (69%)	4 (31%)
d) Slips and trips	12 (100%)	0
e) Transport by Water	10 (77%)	3 (23%)
f) Rescue and lifesaving	7 (54%)	6 (46%)
g) Personal protective equipment	11 (85%)	2 (15%)

Analysis of response content:

Amongst the text comments, some key points raised included:

- Level of detail - 4 respondents noted that there was not enough detail in the ACOP, however 2 other respondents liked the shorter format.
- Need for new ACOP paragraphs - One respondent felt that additional ACOP paragraphs should be included to cover other relevant hazards e.g. securing of loads.
- One respondent felt that one particular ACOP paragraph restricted the enforcement activities of another Government agency.
- Three particular ACOP paragraphs were felt to conflict with other legislation namely Lifting Operations and Lifting Equipment Regulations 1998 and The Provision and Use of Work Equipment Regulations 1998
- Two responses felt that the ACOP did not reflect a modern port and the ACOP phrases needed modernising. One respondent provided examples of possible updated paragraphs.
- A number of respondents felt that the current text in some areas was too generic in its current form and needed to better reflect the workings and specific issues found whilst working in ports/docks;
- Nine respondents identified additional topics that they felt should be included. These included noise, offshore wind industry, training, mooring, ionising radiation (3 responses), working time, fatigue, fire safety and chemical hazards.
- One respondent raised a concern regarding the clarity and inter-relationship between guidance and ACOP phrases.
- One respondent commented that the ACOP would not provide a reference document for the ports industry.
- One respondent felt that the ACOP principally covered safety in ports and should be re-titled 'Health & Safety in Ports'
- One respondent was concerned about the short timescale to introduce a new ACOP.

In addition to these, a number of drafting and editorial comments were put forward by the respondents, which will be incorporated into subsequent drafts of the ACOP.

