Title:
Revocation of the Gasholders (Record of Examinations) Order 1938 and repeal of Section 39 (2) of the Factories Act 1961
IA No: HSE0069c

Lead department or agency:
Health and Safety Executive

Other departments or agencies:
None

Impact Assessment (IA)

Date: 18/07/2012

Stage: Final

Source of intervention: Domestic

Type of measure: Secondary legislation

Summary: Intervention and Options

RPC Opinion: RPC Opinion Status

Cost of Preferred (or more likely) Option				
Total Net Present Value	**Business Net Present Value**	**Net cost to business per year** (EANCB on 2009 prices)	**In scope of One-In, One-Out?**	**Measure qualifies as**
£0m	£0m	£0m	No	NA

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

In response to the Lofstedt review and the Red Tape Challenge HSE has identified a number of health and safety regulations, including the Gasholder (Record of Examinations) Order 1938 and a related provision section 39(2) in the Factories Act 1961, which are either redundant or have been overtaken by more modern legislation. Without any intervention these regulations would remain in force and contribute to the impression that health and safety law is complex, confusing and out of date. This work is one 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.

What are the policy objectives and the intended effects?

The policy objective of this work is to streamline the legislative framework by removing the Gasholders (Record of Examinations) Order 1938 and a related provision section 39(2) in the Factories Act 1961 as redundant or out-of-date legislation that is no longer needed to control health and safety risks in the workplace. Added to this, if the 1938 Order is revoked, the Gasholder and Steam Boilers (Metrication) Regulations 1981 can also be revoked. (These Regulations amend the 1938 Order by subsituting the measurements expressed in metric units for imperial measures and is analysed in a separate metrication specific impact assessment).

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 Gasholder (Record of Examinations) Order 1938 and a related provision section 39(2) in the Factories Act 1961 would remain on the statute book.

Option 2 - Revoke the Gasholder (Record of Examinations) Order 1938 and a related provision section 39 (2) in the Factories Act 1961.

No alternatives to regulation have been considered as this is a deregulatory measure
Option 2 is the preferred option as it will remove unnecessary out of date regulation from the statute books. Almost 90% of the responses to HSE's consulltation question "the proposal to revoke the Gasholder (Records of Examinations) Order 1938 and section 39(2) in the Factories Act 1961?" were in favour of this option]

Will the policy be reviewed? It will not be reviewed. **If applicable, set review date:** Month/Year

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** No	**< 20** No	**Small** No	**Medium** No	**Large** No
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)			**Traded:**	**Non-traded:**	

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.

Signed by the responsible Minister: M Ilk Date: 27/12/13

Summary: Analysis & Evidence

Policy Option 1

Description: Do Nothing

FULL ECONOMIC ASSESSMENT

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

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

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

This is the baseline option and as such has zero costs

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)
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'

This is the baseline option and as such has zero benefits

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

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

BUSINESS ASSESSMENT (Option 1)

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

Summary: Analysis & Evidence

Policy Option 2

Description: Revoke Gasholder (Record of Examinations) Order 1938 and a related provision section 39(2) in the Factories Act 1961.

FULL ECONOMIC ASSESSMENT

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

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

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

There will be no costs to business from revoking the Gasholder (Record of Examinations) Order 1938 and a related provision section 39(2) in the Factories Act 1961. Industry use an industry standard to determine their examination process and the advice in this industry standard will not change as a result of the revocation.

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)
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 this Regulation plus the related provision in the FA 1961 will contribute towards streamlining the Health and Safety legislative framework.

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

BUSINESS ASSESSMENT (Option 2)

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

Evidence Base for Revocation of the Gasholders (Record of Examinations) Order 1938 and repeal of Section 39 (2) of the Factories Act 1961

Problem under consideration;

1. Professor Löfstedt'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. Measures identified include the Gasholder (Record of Examinations) Order 1938 and a related provision section 39(2) in the Factories Act 1961. 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. This work is 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. 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 are now being considered by HSE.

3. Section 39 of the Factories Act (FA) 1961 sets out precautions as respects water-sealed gasholders with a storage capacity of not less than 140 cubic metres. Section 39(2) was amended in 2009 (by S.I. 2009/605) and requires a duty holder to have the gasholder "*thoroughly examined externally by a competent person at least once in every two years and a record containing the prescribed particulars of every such examination shall be entered in or attached to the general register*". The 1938 Order gives the details of the "prescribed particulars" which must be included in each record of examination of these water-sealed gasholders.

4. Both section 39 of the FA and the 1938 Order originated at a time when the production of town gas (made from coal) at gas works was commonplace and widespread. Gas works required on-site storage capacity to cope with diurnal demand patterns and water-sealed gasholders were most commonly sued for this purpose. Above ground water-sealed gas-holders can contain very significant quantities of water as well as gas. Failure to manage the integrity of the holder can lead to catastrophic releases of both substances. In the 1930's it was not uncommon for individual factories to produce their own town gas and operate their own gas holders. Since the introduction of natural gas to the UK in the 1960s and 70s there has been a drastic reduction in the number of water-sealed gasholders in operation (informal consultation with industry identified less than 80 operational water-sealed gasholders. Those water –sealed gasholders still in operation are connected to the gas distribution networks. If the 1938 Order is revoked, the Gasholders and Steam Boilers (Metrication) Regulations 1981 will also be redundant and can also be revoked. These Regulations amend the 1938 Order by substituting measurements expressed in metric units for imperial measurements.

5. Links to legislation:

- Gasholders (Record of Examinations) Order 1938 SI 1938/ 598 http://www.legislation.gov.uk/uksro/1938/598/contents/made;
- Section 39 (2) of the Factories Act 1961 – SI 1961/34; http://www.legislation.gov.uk/ukpga/Eliz2/9-10/34/section/39.

Rationale for intervention;

6. Intervention is necessary to implement the Government response to the above mentioned Red Tape Challenge and Löfstedt Review. The Gasholder (Records of Examinations) Order 1938 and related provision section 39(2) of the FA are not used as other provisions are applied instead. However they are in the statute books and principles of good regulation suggest that they should be removed.

7. This proposal is part of a wider deregulatory process. In general, 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, would reduce the burden on industry and therefore reduces barriers to entry and fixed start-up costs thus making markets more contestable. This theory is supported by some anecdotal evidence from consultation:

   "*The TUC welcomes simpler and better regulation and supports moves to remove, merge, simplify or amend outdated, overly complex or unnecessary regulations.*"

Policy objective and intended effects

8. The policy objective of this work is to contribute to the streamlining of the legislative framework by removing the Gasholders (Record of Examinations) 0rder 1938 and a related provision section 39(2) of the FA 1961, that are no longer needed to control health and safety risks in the workplace as other provisions are applied instead. Without any intervention these would remain in force and contribute to the impression that health and safety law is complex, confusing and out-of-date.

9. If the proposed revocation goes ahead the Gasholders and Steam Boilers (Metrication Regulations 1981 can also be revoked. These Regulations amend the 1938 Order by subsituting the measurements expressed in metric units for imperial measures.

10. 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.

Alternatives to regulation

11. No alternatives to regulation have been considered as this is a deregulatory measure. However;

12. The Institute of Gas Engineers and Managers (IGEM) has established technical standards relating to water-sealed gasholders in their SR/4 publication. These publications are established as trusted gas industry standards and are used to assist in compliance with legislation and official approved codes of practice and guidance. HSE will continue to work with IGEM and industry to amend SR/4 following the revocation of the 1938 Order and related provision in the FA 1961.

One In One Out (OIOO)

13. This deregulatory measure is not within scope of One In One Out as there will not be any additional cost or cost savings to industry as a result of the revocation proposal.

Description of options considered (including do nothing);

14. Option 1 – Do nothing - the Gasholder (Records of Examinations) Order 1938 and a related provision section 39(2) in the Factories Act 1961would remain on the statute book.

15. Option 2 – Revoke the Gasholder (Record of Examinations) Order 1938 and a related provision section 39 (2) in the Factories Act 1961

16. Option 2 is the preferred option as it will remove unnecessary or out of date regulation from the statute books. Almost 90% of the responses to HSE's consulltation question "Do you agree with the proposal to revoke the Gasholder (Records of Examinations) Order 1938 and section 39(2) in the Factories Act 1961?" were in favour of this option.

Consultation and data analysis

17. Consultation on the proposed revocation of the Gasholders (Records of Examination) Order 1938 and related provision section 39(2) of the Factories Act 1961 ran for 12 weeks ending on the 4 July 2012 and consisted of both formal and informal elements. 40 responses were received, however not all respondents answered every question.

18. **Annex 1** provides a summary of the consultation responses relating to the Gasholders (Records of Examination) Order 1938 and related provision section 39(2) of the Factories Act 1961. This Annex also provides details of the organisations that responded and the proportion of the respondents within these organisations compared to total responses and gives a summary of the responses to the specific questions as set out in the consultative document.

19. The results of the specific questions posed at consultation were:

- Of the 40 respondents who answered the question *"Do you agree with the proposal to revoke the Gasholder (Records of Examinations) Order 1938 and section 39(2) in the Factories Act 1961"?* 36 (88%) were in favour. Of the four that disagreed, two responders felt that they did not have the relevant experience to answer the question, one wanted clarification that gasholders fell within the remit of Provision and Use of Work Equipment Regulations (PUWER) and the fourth felt that the revocation should not go ahead in case gas holders became more widely used again when North Sea gas is depleted. Therefore, in fact, only one respondent was against the revocation.

- Of the 30 respondents who answered the question *"Would this revocation have any implications (positive or negative) for businesses, workers or others that HSE has not identified?* 24 (86%) agreed that it would have no implications and the remaining respondents did not raise any areas of contention.

- To the question "*To help HSE prepare the Impact Assessment (IA) please estimate what changes to your business you would make (if any) as a result of the Order being revoked"* all **16** responders had no comment and did not provide any information to be used in the IA.

20. HSE also consulted informally with key stakeholders i.e. gas distribution networks and IGEM to request further information regarding the proposals which would help inform the IA. Three of the four duty holders contacted replied with detailed responses and confirmed that they based their inspections on the IGEM industry guidance and would not change their current behaviour in relation to the inspection of gasholders. Furthermore, IGEM confirmed that they would not change their inspection recommendations in respect of water sealed gas holders, as set out in the IGEM

technical standards publication SR/4 Edition 3 titles "*Variable Volume Gasholders Storing Lighter than Air Gases*".

21. Analysis also included examining HSE records on the use of this set of Regulations and the FA over the last 13 years. During this time Section 39 of the FA and the 1938 Order has been cited in one improvement notice (in relation to a non-network gasholder) issued in the same period.

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

General Assumptions

22. Given the nature of the deregulatory measure, no assumptions have been made with reference to base year, analysis period or discount value.

Option 1: do nothing

23. Option 1 would maintain the status quo and so would have no costs or benefits.

Option 2: Revoke the Gasholder (Record of Examinations) Order 1938 and a related provision section 39 (2) in the Factories Act 1961

24. Option 2 would require the removal of the 1938 Order and related provision in the FA 1961. The evidence for this assessment is set out below.

Costs to business

25. HSE's assessment is that the 1938 Order and related provision in the FA 1961 are currently not used by businesses as the industry standard provided by IGEM is the primary guidance for examination of water-sealed gasholders. The only potential cost to industry would be IGEM needing to update the industry standard. Having spoken to IGEM, they would only consider an urgent amendment to their guidance if the changes would compromise safety, as this is not the case, there is no plan for them to bring forward their next re-drafting of the industry standard.

26. IGEM would respond to this change by sending an email to dutyholders. This is unlikely to take a lot of time for either IGEM or dutyholders who read the email and as such, there will be no significant cost to industry from this revocation. Furthermore, when an updated standard is sent to dutyholders, it will simply be a case of taking out the references to the FA and 1938 Order.

27. Respondents broadly agreed with the revocation of the 1938 Order and related provision in the FA 1961, with one respondent stating that as the use of gasholders has greatly declined the legislative provisions have reduced and they are superseded by other legislation.

28. 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. Given their negative responses to the question "Are any of these Regulations used in practice in the relevant sector/industry?" it is reasonable to assume there will be no cost to industry.

29. HSE initially identified a potential cost saving if industry, as a result of the revocation, reduced their inspections from every year to every two years (which, although inspection every two years is the current regulatory requirement, the industry standard recommends every year) However, IGEM have confirmed that they will not change their recommendation for an annual inspection on the basis that;

"Most, if not all water-sealed holders in the gas distribution network are decommissioned during the summer months, and inspection is required as part of the re-commissioning process to verify integrity after the period out of service. The SR/4 committee believes that annual inspection is appropriate and that the clause should remain in the IGEM/SR/4 Standard."

30. Industry has also confirmed that while they are aware of the legal two yearly inspection requirements, they will continue to use the IGEM industry standard as guidance and will also continue with annual inspections.

31. HSE also identified a second potential cost saving for new entrants into the market having less regulation to familiarise themselves with. This however, is not likely to be realised due to no new entrants coming into the market and due to the industry standard being the main guidance rather than the legislation itself.

32. In summary, HSE analysis indicates that there will be no costs or cost savings to industry as a result of the revocation.

Costs to HSE

33. There will be no additional costs to HSE as a result of revoking the Gasholders (Records of Examinations) Order 1938 and a related provision section 39(2) of the Factories Act 1961. HSE will continue to work with IGEM and industry in developing the industry standards. IGEM consult with HSE when they make changes to their industry standard, having said this, when an updated standard is sent to dutyholders, they will simply take out the references to the FA and 1938 Order.

Benefits and impact on health and safety

34. As previously described, the 1938 Order and section 39(2) of the FA are out-of-date, and there will be no impact on health and safety protection because when appropriate, adequate controls are maintained through more modern legislation.

35. There is also an overarching benefit which is to simplifying the legislative framework.

36. HSE believes that section 39(2) of the FA and the 1938 Order can be removed without lowering health and safety protections. This is because a substantial body of other legislation applies to these gasholders and to the records that should be kept to demonstrate that a gasholders material integrity is being adequately managed. It is considered that these regulations provide sufficient legislative cover to maintain health and safety (namely: the Health and Safety at Work etc. Act 1974 (HSWA), the Provision and Use of Work Equipment Regulations 1998 (PUWER), the Control of Major Accident Hazards regulations 1999 (COMAH) and the Management of Health and Safety at Work regulations (MHSWR) Regulation 3).

37. COMAH qualifying water-sealed gasholders (i.e. those with a capacity of 50 tonnes of methane or more) attract the general duty of COMAH Regulation 4 which states that "every operator shall take all measures necessary to prevent major accidents and limit their consequences to persons and the environment". The demonstration by the operator, through thorough record keeping, of an adequate integrity management regime is an essential and accepted part of meeting that duty.

38. In the case of non-COMAH gasholders, PUWER Regulation 6(2) and (3) provides adequate cover for inspection purposes of such gasholders (although it does not contain a strict requirement for an examination at set intervals). These regulations are supported by the Approved Code of Practice (ACoP)"Safe use of work equipment – Provision of Use of Work Equipment Regulations 1999 (publication L22. This also refers to the

MHSWR 1999 reg 3). Together with PUWER this ACoP supports the legal requirement for an appropriate inspection and details of what should form part of the inspection i.e. visual checks, functional checks and testing.

39. The Institution of Gas Engineers and Managers (IGEM) have published technical standards since the 1960s. These are established as trusted gas industry standards and are used to assist in compliance with legislation and official approved codes of practice and guidance.

40. Of their publications IGEM/SR/4 Edition 3 entitled "Variable Volume Gasholders Storing Lighter than Air Gases" (Section 6.2) covers the inspection of water-sealed gasholders, based on section 39 of the FA and the information requirements as detailed in the 1938 Order. This industry standard recommends that an intermediate examination is undertaken, meaning a potential annual inspection which goes further than the "every 2 years" inspection specified in the FA.

41. Informal consultation with the gas distribution networks that operate water sealed gasholders has identified that they do not have any objections to the proposed revocations. It also highlighted that although aware that the legal requirement under section 39(2) of the FA is to undertake a two yearly inspection; they actually conduct an annual inspection in line with the recommendations in the publication IGEM SR/4 and will continue to do so even if the proposed revocation goes ahead.

42. HSE contacted IGEM to determine what impact the revocation will have in terms of their industry guidance publication. They have confirmed the following:

- They will not change the advice that they give in their publication and will continue to recommend an annual inspection;
- Amendments will be made depending on the nature and impact of the changes. If deemed urgent (i.e. where safety could be compromised) amendments would be made as soon as possible or if not, at the next review. (Currently every 4/5 years).
- Amendments would be feely available to download through their website. IGEM would also consider emailing members.

43. The nature of the impacts will not be urgent and therefore it is expected that the changes will be made at the next review.

44. HSE will continue to work in partnership with IGEM and industry to support any changes to the SR/4 standard that might be required as they have done with previous updates. This will focus on a goal setting approach to ensure the standards in place are both adequate and appropriate.

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

45. The analyses of HSE records and both internal and external consultation have identified the proposed 1938 Order and related provision in the FA 1961 has been overtaken by more modern legislation. A proportionate cost analysis has been presented above.

46. Although a consultation stage IA was not produced for assessing the impacts of the removal of the Regulation, formal and informal consultation was used to gather information for the analysis presented here.

47. 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 discussions with industry.

48. 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

49. 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.

50. Almost 90% of the responses to HSE's consulltation question "Do you agree with the proposal to revoke the Gasholder (Records of Examinations) Order 1938 and section 39(2) in the Factories Act 1961?" agreed with the proposals.

51. The two uncertainties raised through consultation where:

- The potential reduction in health and safety standards;
- Moving from a prescriptive basis to a target base

52. Consultation with dutyholders affected by the revocation indicates that there will be no changes to their behaviour as a result of this revocation and therefore, the potential for a reduction in health and safety standards is low.

53. HSE will continue to work with IGEM and industry to maintain the industry standard which should sufficiently eliminate any potential for a reduction in health and safety standards.

54. The change from a prescriptive to goal setting legislative framework has been separately identified as both a positive and negative aspect of the revocation proposals as a whole. Goal setting legislation allows duty holders to choose the most appropriate methods or equipment available to meet the legal requirements (although it can be seen as introducing a level of uncertainty). Businesses are already complying with a range of goal setting Regulations such as the Personal Protective Equipment Regulations 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.

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

55. This deregulatory measure is not within scope of One In One Out as there will not be any additional cost or cost savings to industry as a result of the revocation proposal.

Wider impacts

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

Summary and preferred option with description of implementation plan.

57. HSE's preferred option, on the basis of HSE's expert analysis and the responses to the consultation, is therefore that these legislative measures referred to in this IA can be revoked without any lowering of health and safety standards.

58. The aim following Ministerial approval is to implement the revoking Regulations with effect from April 2013, subject to Parliamentary scrutiny.

59. HSE will ensure that stakeholders are alerted to the proposed changes and will update the relevant HSE web pages to provide signposts to key guidance for the gas distribution sector.

Annex 1 – Gasholder (Record of Examinations) Order 1938 and related provision section 39 (2) of the Factories Act 1961 - Consultation responses

Table 1 - General information

a) Type of organisation

Option	Number of respondents	Percentage of total (%)
Consultancy	4	10
Local government	7	18
Industry	10	25
Trade association	4	10
National government	2	5
Non-departmental public body	0	0
Charity	1	3
Academic	2	5
Trade union	3	8
Non-governmental organisation	0	0
Member of the public	0	0
Pressure group	0	0
Other (please specify)	5	13
Not stated	2	5
Total	**40**	

b) Capacity of respondent

Option	Number of respondents	Percentage of total (%)
Health and Safety professional	22	56
An employer	2	5
An employee	7	18
Trade union official	2	5
Training provider	1	3
Other (please specify)	2	5
Not stated	4	10
Total	**40**	

Table 2 – Summary of responses to specific questions

Question 4.1 - Do you agree with the proposal (as outlined in Annex 4) to revoke the Gasholder (Records of Examinations) Order 1938 and section 39(2) in the Factories Act 1961?

Option	Number of respondents	Percentage of total (%)
Yes	35	88
No	4	10
No comment	1	3
Total	**40**	

*Percentages may not add up to 100 due to rounding

If "No" what are your objections?
HSE has not accounted for the likely re-introduction of such installations in the near future when north sea natural gas is depleted.

Question 4.2 – To help HSE prepare the Impact Assessment please estimate what changes to your business would you make (if any) as a result of the Order being revoked.

HSE received 16 responses to this question; however no respondees offered any information to inform the Impact Assessment. Twelve respondents answered 'none' and the other four responses were - 'no comment'; '0'; 'no impact'; and 'no individual data available'.

Question 4.3 – Would this revocation have any implications (positive or negative) for businesses, workers or others that HSE has not identified?

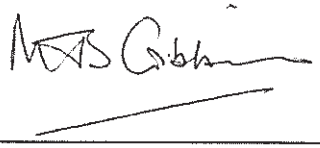
Option	Number of respondents	Percentage of total (%)
Yes	4	14
No	24	86
Total	**28**	

If you have answered "Yes" please explain what these are.
1. It was not clear from the CD if there had been consideration of the use of water-sealed gasholders outside the gas distribution networks. For example the use of water-sealed gas holders at: waste water treatment plants, and steel manufacturing plants is a common occurrence. Whilst gas distribution networks will be familiar with the wide range of industry guidance produced by IGEM, this would be less likely with other groups. The respondent also commented that it was unclear how non-gas networks users will be used. 2. It is not clear what current regulation would ensure that gasholders are included in the remit of gasholders, as Provision of Use of Work Equipment Regulations 1998 (PUWER) is imprecise on the matter. PUWER 98 differs from PUWER 92 in a number of ways. They are: (a) an extension of the definition of "work equipment" to include installations". And yet later leaves it unclear as to whether gasholders would be considered as work equipment.

Regulatory Policy Committee	**Validation of the Net Direct Impact on Business**
Title of the 'Validation' IA	Revocation of the Gasholders (Record of Examinations) Order 1938 and repeal of Section 39 (2) of the Factories Act 1961
Lead Department/Agency	Health and Safety Executive
Expected date of implementation	
Origin	Domestic
Date IA submitted to RPC	02/10/2012
Date of RPC Validation	02/11/2012
Date of RTA Confirmation	N/A
RTA Confirmation reference	RPC12-HSE-1573
Departmental Assessment	
Overall Direction of Impacts	Out of Scope
Estimate of the Equivalent Annual Net Cost to Business claimed by the Department	Zero
RPC Validation	
Direction of Impact	Out of Scope
Estimate of the Equivalent Annual Net Cost to Business Validated by RPC	Zero

RPC Comments

The department says the proposal will have no direct impact on business because these regulations have been superseded by an industry standard, which all businesses work to. This is supported by feedback gathered from stakeholders during the consultation. Based on the evidence presented this appears to be a reasonable assessment.

Signed  **Michael Gibbons,** Chairman

Title:
Revocation of the Shipbuilding and Ship-repairing Regulations, 1960
IA No: HSE0069d
Lead department or agency:
Health and Safety Executive
Other departments or agencies:
None

Impact Assessment (IA)

Date: 18/07/2012
Stage: Final
Source of intervention: Domestic
Type of measure: Secondary legislation

Summary: Intervention and Options

RPC Opinion: RPC Opinion Status

Cost of Preferred (or more likely) Option				
Total Net Present Value	**Business Net Present Value**	**Net cost to business per year** (EANCB on 2009 prices)	**In scope of One-In, One-Out?**	**Measure qualifies as**
0	0	0	Yes	Zero Net Cost

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

In response to the Lofstedt review and the Red Tape Challenge HSE has identified a number of health and safety Regulations that are either redundant or that have been overtaken by more modern legislation. Without any intervention these would remain in force and contribute to the impression that health and safety law is complex, confusing and out of date. This work is one 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.

What are the policy objectives and the intended effects?

The policy objective of this work is to streamline the legislative framework by removing redundant or out-of-date legislation that is no longer needed to control health and safety risks in the workplace.

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 Shipbuilding and Ship-repairing Regulations, 1960 would remain on the statute book.

Option 2 - Revoke the Shipbuilding and Ship-repairing Regulations, 1960.

Option 2 is the preferred option as it will remove unnecessary or out of date regulation from the statute books.The majority of responses to the question on whether HSE should revoke the Shipbuilding and Ship-repairing Regulations agreed with the proposal.

Will the policy be reviewed? It will not be reviewed. **If applicable, set review date:** Month/Year

Does implementation go beyond minimum EU requirements?			No		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	**Micro** Yes	**< 20** Yes	**Small** Yes	**Medium** Yes	**Large** Yes
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)			**Traded:**	**Non-traded:**	

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.

Signed by the responsible Minister: n lh Date: 27/2/13

Summary: Analysis & Evidence

Policy Option 1

Description: Do Nothing

FULL ECONOMIC ASSESSMENT

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

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

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

This is the baseline option and as such has no costs

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)
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'

This is the baseline option and as such has no benefits

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

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

BUSINESS ASSESSMENT (Option 1)

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

Summary: Analysis & Evidence

Policy Option 2

Description: Revoke the Shipbuilding and Ship-repairing Regulations, 1960.

FULL ECONOMIC ASSESSMENT

Price Base Year 2012	PV Base Year 2010	Time Period Years 1	Net Benefit (Present Value (PV)) (£m)		
			Low: 0	**High:** 0	**Best Estimate:** 0

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		0	**0**

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

There are no envisaged significant costs as a result of this proposal.

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)
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.

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

BUSINESS ASSESSMENT (Option 2)

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 for Revocation of the Shipbuilding and Ship-repairing Regulations, 1960

Problem under consideration;

1. HSE has identified a number of health and safety related legislative measures that are redundant or that have been overtaken by more modern legislation or do not deliver their intended benefits. This work is 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.

Background

2. Professor Löfstedt'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. 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.

3. 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 are now being considered by HSE.

4. It is proposed that the following legislation is removed:
    - Shipbuilding and Ship-repairing Regulations, 1960, including
    - regulation 6: safe access in general
    - regulation 11: vessels used for access or as a working place
    - regulation 69: lighting
    - regulation 70: work in boilers
    - regulation 80: young persons
    - regulation 81: safety supervision

5. A summary of each regulation, what they cover, and why there are no long needed, is provided below. The full text of the Regulations can be found at http://www.legislation.gov.uk/uksi/1960/1932/contents/made.

6. The Shipbuilding and Ship-Repairing Regulations (SSRR) 1960 are designed for the safety, health and welfare of people employed in the construction and repair of ships and vessels in a yard or dry dock and in the construction and repair of ships (but not of vessels other than ships) in a harbour or wet dock.

7. These Regulations revoked the Shipbuilding and Ship-repairing Regulations 1932 and were intended to constitute a comprehensive code of safety provisions for the shipbuilding and ship repair industry.

8. The majority of these Regulations have been revoked, and much of what remains is covered by more recent goal setting legislation including the Health and Safety at Work etc Act 1974; Management of Health and Safety at Work Regulations 1999 (MHSWR); Confined Spaces

Regulations 1997; Provision and Use of Work Equipment Regulations 1998 (PUWER); Lifting Operations and Lifting Equipment Regulations 1998 (LOLER); Work at Height Regulations 2005 (WAHR) and the Dangerous Substances and Explosive Atmospheres Regulations 2002.

9. HSE believes that these Regulations can be revoked without reducing health and safety protections. HSE has carefully considered the implications for revoking the remaining duties and further information on these areas is set out below.

10. The Workplace (Health, Safety and Welfare) Regulations 1992 (WHSWR) are, by virtue of regulation 3(1) (a), disapplied to a "workplace which is or is in or on a ship within the meaning assigned to that word by regulation 2(1) of the Docks Regulations 1988". The extent to which these Regulations may apply will depend on the point at which a ship being built becomes a ship. If the proposal is approved HSE will use the revoking Statutory Instrument to amend the WHSWR 1992 so that comparable duties under them will apply to a "workplace which is or is in or on a ship" to cover any gaps created by the revocation of SSRR (as highlighted in the following paragraphs)..

11. **Regulation 6** safe access in general - can be generally covered by HSWA and for fire emergencies by the Regulatory Reform (Fire Safety) Order 2005 in relation to England and Wales and The Fire (Scotland) Act 2005. HSE will amend the WHSWR so that comparable duties under them will apply.

12. **Regulation 11** vessels used for access or as a working place – can be covered by sections 2 and 3 of the Health and Safety at Work Act (HSWA). However, PUWER 98 will apply to most mobile offshore installations while at or near their work stations and when in transit to their working stations. PUWER would also apply to boats, scows and floating platforms used for the purpose of shipbuilding or repair. Overcrowding of such equipment would be covered by the MHSWR.

13. **Regulation 69 lighting** – Where the work is under the control of the shipyard the essential provision for the provision of lighting on the vessel and access routes can be covered by Sections 2 and 3 of the HSWA. On rare occasions the ship owner remains in control of repair work while the ship is in the shipyard and under SSRR has the responsibility to provide suitable lighting. HSE will amend the WHSWR so that comparable duties under them will apply.

14. **Regulation 70 (work in boilers)** - specifically prohibits work in any boiler, boiler furnace or boiler flue until it has been sufficiently cooled to make work safe for the persons employed. The more recent MHSWR require an employer to do a risk assessment (Regulation 3) and the Confined Spaces Regulations 1997 states that, so far as is reasonably practicable, no person at work shall enter or carry out any work in a confined space otherwise than in accordance with a system of work which, in relation to any relevant "specified risks", renders that work safe and without risks to health. Furthermore the ACoP, Regulations and guidance to the Confined Spaces Regulations (Safe Work in Confined Spaces) contains guidance in relation to boilers.

15. **Regulation 80** prohibits a young person from some activities until they have been employed in a shipyard for at least six months. HSE believes that this prescriptive requirement has been superseded by obligations (for young workers under 18) under the MHSWR. Under MHSWR issues such as whether a young person has an appreciation of the accident risks or is psychologically mature enough for the work have to be specifically addressed through risk assessment before a young worker can do such work regardless of how long they have been employed.

16. **Regulation 81** requires every shipyard where there are in excess of 500 employed to employ someone with relevant experience to supervise the observance of these regulations and to promote safe work generally. The revocation of the remaining regulations would render this requirement obsolete and the general requirements under MHSWR (regs 5 and 7) would extend to the general duties under this regulation in any event. Current industry practice is consistent with the requirements of MHSWR rather than the SSRR.

17. The Shipbuilding and Ship-Repairing Regulations (SSRR) 1960 are designed for the safety, health and welfare of people employed in the construction and repair of ships and vessels in a yard or dry dock and in the construction and repair of ships (but not of vessels other than ships) in a harbour or wet dock.

18. These Regulations revoked the Shipbuilding and Ship-repairing Regulations 1932 and were intended to constitute a comprehensive code of safety provisions for the shipbuilding and ship repair industry

Rationale for intervention;

19. Intervention is necessary to implement the Government response to the above mentioned Red Tape Challenge and Löfstedt Review. These regulations are not used, but are in the statute books and principles of good regulation suggest that they should be removed.

20. In general, 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, would reduce the burden on industry and therefore reduces barriers to entry and start-up fixed costs thus making markets more contestable. This theory is supported by some anecdotal evidence from consultation:

"The TUC welcomes simpler and better regulation and supports moves to remove, merge, simplify or amend outdated, overly complex or unnecessary regulations."

Policy objective and intended effects;

21. The policy objective of this work is to contribute to the streamlining of the legislative framework by removing legislative measures that are no longer needed to control health and safety risks in the workplace. Without any intervention these would remain in force and contribute to the impression that health and safety law is complex, confusing and out-of-date.

22. 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

Alternatives to regulation

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

24. HSE will update its web pages to signpost duty holders to other relevant guidance that provides details of how to comply with the more recent goal setting (i.e. less prescriptive) legislation.

Microbusinesses exemption

25. Microbusinesses are not exempt as this is a deregulatory measure.

One In One Out (OIOO)

26. This deregulatory measure is within scope of One In One Out and is deemed as having "Zero net costs". A monetised cost of £530 (EANCB) has been calculated in the costs section; however it is highly likely that the majority of these costs would be subsumed into "business as usual" for industry. Furthermore, the non-monetised benefits from the overall

slim-lining of regulation are likely to more than compensate for this small cost. In addition, the calculation for familiarisation have been based on maximum estimates for the number of managers who would take the time to familiarise themselves with the changes. While it is expected that hardly any of industry would do this, there is no evidence base to determine what proportion of total industry would do so, hence maximum estimates being used. The £530 figure is therefore expected to be a large overestimate of this cost.

Description of options considered (including do nothing);

27. Option 1 – Do nothing - the Shipbuilding and Ship-repairing Regulations, 1960 would remain on the statute book.

28. Option 2 – Revoke the Shipbuilding and Ship-repairing Regulations, 1960

Consultation and data analysis

29. Consultation consisted of both formal and informal elements. Informal consultation included discussions with representatives of the shipbuilding industry which were confirmed during the formal consultation. Formal consultation took place between 3 April 2012 and 4 July 2012. A summary of the responses follows.

30. Annex 1 provides more detail of formal consultation responses. Table 1 summarises the type of organisations that responded and the capacity of the respondents. Table 2 gives a summary of the responses to the specific questions in the consultative document. The results were that:

Question 5.4 – Do you agree with the proposal to revoke the Shipbuilding and Ship-repairing Regulations 1960?

31. 28 respondents (over 95%) who answered the question "Do you agree with the proposal (as outlined in the Annex) to revoke the Shipbuilding and Ship-repairing Regulations 1960?" said 'Yes'.

32. 7 respondents gave answers to the question "if you have answered 'No' what are your objections", although none had actually answered 'no' to the question.

33. While two responses qualified their 'yes' answers. A number of the remaining responses raised concerns that HSE maintain heath and safety standards.

34. The key issue raised in these comments is the need to ensure that the removal of these regulations does not create any gaps in workplace protection, or lead to a lowering in safety standards. In addition any measures identified to fill any gaps created need to be in place before the regulations are removed. HSE undertook, within the Consultative Document, to review existing guidance on this topic and ensure it was signposted. In addition the WHSWR would be amended so that they would apply to shipbuilding and repair activity in a shipyard in respect of both general access and lighting.

35. One response from a representative of the shipbuilding industry stated that the revocation would have little or no impact on their undertakings and that consensus (from a meeting they held) was that the regulations have been overtaken by newer regulations such as Work at Height, DSEAR, Confined Spaces Regs, and the Dock Regs etc. to the extent that they are rarely if ever looked at. This would support the view that these regulations are of limited influence within the industry.

36. There were 23 responses submitted for the question relating to costs and 26 responses on positive or negative implications of change. Only one of those identified a negative implication for business, however, no impact was identified.

37. Analysis also included examining HSE records on the use of these sets of Regulations over the last 13 years. During this time 14 of the regulations have been cited on 4 Notices issued however, none were issued within the last 10 years and none have been cited in approved prosecution activity in the same period.

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

General Assumptions

38. Costs and benefits are not assessed over 10 years as all one-off costs are anticipated to occur in year 1. However, for OIOO calculations, the guidance says that an "in" needs to be assessed over the same time period as a corresponding out (OIOO FAQ's). The corresponding "out" for this legislation is assessed over a ten year analysis period and therefore the EANCB is analysed over 10 years also.

39. No discount rate is used due to all monetised costs occurring in year 1.

40. The year of analysis is 2013. The regulatory change comes into force in April 2013 and expected that any one-off costs will take place in 2013.

41. 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)

42. Cost calculations for OIOO will have a present value base year of 2010 and a price base year of 2009, in line with the published OIOO guidance.

43. 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.

Option 1: do nothing

44. Option 1 would maintain the status quo and so would have no cost or benefit implications.

Option 2: Revoke the Shipbuilding and Ship-repairing Regulations, 1960.

45. Option 2 would require the removal one redundant SI, the Shipbuilding and Ship-repairing Regulations, 1960.

46. The evidence for this assessment is set out below.

Costs to business

47. HSE's assessment is that these SIs are currently not used by businesses. Despite industry in general no longer using this legislation, there will be a one-off familiarisation cost simply due to removing the 12 instruments. One respondent from the shipbuilding industry (Marine National Interest Group – Marine NIG) stated that:

"With regard to the Ship Building and Ship Repair Regulations I had intended sending you the extract of the minutes along with a paragraph outlining how we as a group examined the regulations and concluded that their revocation would have little or no impact on our undertakings. The consensus of the meeting was that the regulations have been overtaken by newer regulations such as Work at Height, DSEAR, Confined Spaces Regs, and the Dock Regs etc. to the extent that they are rarely if ever looked at, indeed several members

[1] See http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcm%3A77-200444

commented that they no longer use or refer to them at all. The NIG as a whole was supportive of the initiative to remove the regulations from the Statute."

48. Which emphasises that familiarisation will be a small burden and not take much time.

49. At consultation, respondents were asked how long it would take to appreciate that the changes would not change their day-to-day operations. Responses varied from "zero" to "90 minutes" with the mode and median response being 20 minutes. On this basis, we use 20 minutes as our best estimate. Although this is based on a small sample, this seems like an appropriate length of time to understand that the revocation will not change anything for the day-to-day running of dutyholders.

50. Using the Industry Departmental Business Register (IDBR) data base for business premises, we assume that a manager from each business premise in sector industry code (SIC) "building of ships and floating structures" will spend 20 minutes on familiarisation. Give the cost of a mangers time at £30 per hour, this equates to a one off cost in the region of £4600. This is likely to be an overestimate as it is not expected that all of industry are aware of the revocation process and there is no planned HSE communication programme to make dutyholders aware.

51. Total one-off costs to industry will be in the region of £4600.

52. HSE originally identified the potential for cost saving for new dutyholders who would have less regulation to familaise themselves with. However, given that industry no longer use these legislation, this potential cost saving is not likely to be a real one and therefore has not been included in our analysis.

Costs to HSE

53. There will be no significant additional costs to HSE as a result of revoking the Regulations. There will be HSE involvement in ensuring that the duties under the revoked legislation are sufficiently covered by alternative legislation and that duties to industry are still understood (e.g. improving industry guidance) however, this is something that HSE are involved in on an ongoing basis already and will form a part of "business as usual" therefore, there are no additional costs to HSE.

Benefits and impact on health and safety

54. As previously described, these are redundant regulations so there will be no impact on health and safety protection. In some cases, this assessment has been echoed through industry responses to consultation. However, it has also been cited as a risk of revocation. Gap analysis has identified that when appropriate, adequate controls are maintained through more modern legislation. This will be re-emphasised through a sign-posting website to ensure industry are directed to the more up-to-date legislation.

55. There is an overarching benefit which is simplifying the legislative framework.

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

56. Both the analysis of HSE records and consultation (internal and external) identified the proposed SIs as redundant, or having been overtaken by more modern legislation. A proportionate cost analysis has been presented above.

57. Although a consultation stage IA was not produced for assessing the impacts of the removal of the Shipbuilding and Ship-repairing Regulations, formal consultation was used to gather information for the analysis presented here.

58. 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.

59. 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;

60. 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.

61. Thirty two (97%) of those who responded to the consultation exercise agreed with the proposals. However, when specifically asked if there were any other impacts of the removal, the following issues were raised:

- "The fact that there is acknowledgement of possible gaps in statutory protection if this revocation goes ahead demonstrates the need for great care in reassuring all who work in and visit workplaces covered by these Regulations that standards are not being allowed to drop"
- "It will take time for an employer to read and understand the revocations and introduce general confusion"
- "No, on the basis that HSE can meet its intended aim in para 5.19 Annex 5-13 of amending WHSWR 1992 to cover gaps caused by revoking SSRR1960"

These concerns will be mitigated by creating an HSE Shipbuilding and repair web site, signposting appropriate existing HSE, industry guidance and amendments to the WHSWR. It is not believed that these changes will have a significant impact on employers understanding of their responsibilities.

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

62. This deregulatory measure is within scope of One In One Out and is deemed as having "Zero net costs". A monetised cost of £530 (EANCB) has been calculated in the costs section; however it is highly likely that the majority of these costs would be subsumed into "business as usual" for industry. Furthermore, the non-monetised benefits from the overall slim-lining of regulation are likely to more than compensate for this small cost. In addition, the calculation for familiarisation have been based on maximum estimates for the number of managers who would take the time to familiarise themselves with the changes. While it is expected that hardly any of industry would do this, there is no evidence base to determine what proportion of total industry would do so, hence maximum estimates being used. The £530 figure is therefore expected to be a large overestimate of this cost.

Wider impacts

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

Summary and preferred option with description of implementation plan.

64. HSE's preferred option, on the basis of HSE's expert analysis and the responses to the consultation, is therefore that these measures can be revoked without any lowering of health and safety standards

65. If the proposal is approved HSE will explore how to use the revoking Statutory Instrument to amend the W(HSW)R so that comparable duties under them will apply to a "workplace which

is or is in or on a ship". This is specifically in respect of Regulation 8 – Lighting and Regulation 12 – Condition of floors and traffic routes. In addition the W(HSW)R ACOP would need to be updated to ensure the guidance to Regulation 4 – Requirements under these regulations, was updated to include reference to owners of ships as people other than employees who may have responsibility for lighting.

66. HSE will update its web pages to signpost duty holders to other relevant guidance that provides details of how to comply with the more recent goal setting (i.e. less prescriptive) legislation. This work would need to be completed by 31st March 2013 and is part of HSE sector experts' work plan.

Annex 1 – Consultation responses

Table 1 - General information

a) Type of organisation

Option	Number of respondents	Percentage of total (%)
Consultancy	3	9
Local government	6	19
Industry	10	31
Trade association	1	3
National government	1	3
Non-departmental public body		
Charity	1	3
Academic	2	6
Trade union	1	3
Non-governmental organisation		
Member of the public		
Pressure group		
Other (please specify)	2 (not specified)	6
Not stated	5	16
Total	**32**	**100***

*individual figures may not add up to totals due to rounding

b) Capacity of respondent

Option	Number of respondents	Percentage of total (%)
Health and Safety professional	16	50
An employer	2	6
An employee	4	13
Trade union official	2	6
Training provider	1	3
Other (please specify)	2 (not specified)	6
Not stated	5	16
Total	**32**	**100***

*individual figures may not add up to totals due to rounding

Table 2 – Summary of responses to questions

Question 1 - Do you agree with the proposal to revoke the Shipbuilding and Ship-repairing Regulations 1960?

Option	Number of respondents	Percentage of total (%)
Yes	28	97
No	1	3
Total	**29**	

If you have answered 'No' what are your objections?
This question was answered 7 times although none had specifically responded 'No' to Q5.4 (See the "additional comments received" box below for actual responses)
2 responses qualified their 'Yes' answer
1 raised concerns about the proposals but didn't say 'No'
1 provided qualified support but had not answered 'Yes' or 'No'
1 provided support from industry but had not answered 'Yes' or 'No'
2 have made additional comments which refer generally to docks and shipbuilding being dangerous places to work, but have not raised any specific concerns in respect of this proposal

Supplementary questions

a) 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?	
Time	Responses
Approximately 20 minutes	9
Approximately 40 minutes	4
Approximately 60 minutes	2
Approximately 90 minutes	4
Other (please state)	4 (all '0' or no response)

b) Would this revocation have any implications (positive or negative) for businesses, workers or others that HSE has not identified?		
Option	**Number of respondents**	**Percentage of total (%)**
Yes	1	4
No	25	96
Total	**26**	

If you have answered 'Yes' please explain what these are
No explanation given

Additional comments received in respect of question 1

Yes, conditionally. It is noted that "HSE believes that these Regulations can be revoked without reducing health and safety protections". Revoking these regulations would create a gap in workplace protection in respect of workplaces in or on ships in respect of lighting requirements. A similar point is made in the consultation document specifically in relation to lighting requirements on ships (Regulation 69 refers). The HSE offers to explore closing any such gaps in the revoking SI. The CIEH argues that it is essential to ensure that there should be no gap in safety requirements for workers and workplace visitors arising out of the proposed revocation.

With regard to the Ship Building and Ship Repair Regulations I had intended sending you the extract of the minutes along with a paragraph outlining how we as a group examined the regulations and concluded that their revocation would have little or no impact on our undertakings. The consensus of the meeting was that the regulations have been overtaken by newer regulations such as Work at Height, DSEAR, Confined Spaces Regs, and the Dock Regs etc. to the extent that they are rarely if ever looked at, indeed several members commented that they no longer use or refer to them at all. The NIG as a whole was supportive of the initiative to remove the regulations from the Statute.

Ship Building and Shiprepairing Regulations
A number of changes and alternative provisions are suggested in the CD and we mention a few below. We are concerned that revocation is being proposed without ensuring that equivalent protection is first in place.

All of the changes and alternative provisions must be brought together to provide clear and explicit guidance concerning shipbuilding and repairing that sets out legal requirements, guidance etc.

Examples:

Reg 6 Safe Access in General

In response to the statements made in the consultation document
"If the proposal is approved HSE will explore how to use the revoking Statutory Instrument to amend the W(HSW)R so that comparable duties under them will apply to a "workplace which is or is in or on a ship".

Some partially relevant guidance exists on HSE's Ports web pages"

This needs to be explored and implemented before revocation.

Reg 11 Vessels used for access or as a working place
It is noted that the British Marine Federation produce a members-only guide on working near water
http://www.britishmarine.co.uk/publications.aspx?category=Technical

Members only access is not good enough and we can only accept unrestricted access. If the guidances has to be placed on a web site it should be HSE's website..

Reg 69 - Lighting

We note that if the proposal is approved HSE will explore how to use the revoking Statutory Instrument to amend the WHSWR so that comparable duties under them will apply to a "workplace which is or is in or on a ship". It is also stated that there is existing guidance for lighting in docks and for dock operations produced jointly by HSE and Port Skills and Safety. All this needs to be explored and implemented before revocation.

Reg 80 - Young Persons

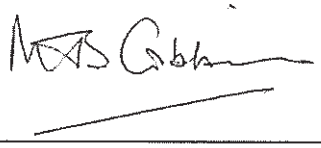
It is noted that specific guidance on "Young people" on HSE's website, which refers to this regulation. It this proposal is agreed the guidance could be linked to a new

"Shipbuilding" micro site and the wording amended. http://www.hse.gov.uk/youngpeople/law/prohibitions/ship.htm Once again these actions need to be in place before revocation. Reg 81 - Safety supervision Existing non-shipbuilding specific guidance exists at http://www:hse.gov.uk/managing/index.htm It is not believed that current workplace practice would be to employ a person exclusively for this role and that such a person might well have additional responsibilities. Even though this may not be current practice it needs to be dealt with explicitly.
Provided there is no lowering of health and safety standards, we agree with the proposal (as outlined in the Annex) to revoke the Shipbuilding and Ship-repairing Regulations 1960.
Yes, provided there is no lowering of health and safety standards and the Workplace (Health, Safety and Welfare) Regulations 1992 are amended so that they apply to a "workplace which is or is in or on a ship"

Regulatory Policy Committee	**Validation of the Net Direct Impact on Business**
Title of the 'Validation' IA	Revocation of the Shipbuilding and Ship-repairing Regulations, 1960
Lead Department/Agency	Health and Safety Executive
Expected date of implementation	
Origin	Domestic
Date IA submitted to RPC	02/10/2012
Date of RPC Validation	02/11/2012
Date of RTA Confirmation	N/A
RTA Confirmation reference	RPC12-HSE-1570
Departmental Assessment	
Overall Direction of Impacts	Zero Net Cost
Estimate of the Equivalent Annual Net Cost to Business claimed by the Department	Zero
RPC Validation	
Direction of Impact	IN
Estimate of the Equivalent Annual Net Cost to Business Validated by RPC	£530

RPC Comments

The RPC has validated the £530 EANCB presented in the evidence base (paragraphs 26 and 62). This is a familiarisation cost. We accept that this is likely to be a maximum figure. As there seems to be no actual reduction in regulatory burdens from the current proposal, the familiarisation cost would appear to make this 'an IN' for OIOO purposes. However, for Statement of New Regulation reporting purposes this should be classified as zero net cost.

Signed  **Michael Gibbons,** Chairman

Title: Removal of Celluloid and Cinematograph Film Legislation **IA No:** HSE0069e **Lead department or agency:** Health and Safety Executive **Other departments or agencies:** None	**Impact Assessment (IA)** **Date:** 18/07/2012 **Stage:** Final **Source of intervention:** Domestic **Type of measure:** Secondary legislation

Summary: Intervention and Options

RPC Opinion: RPC Opinion Status

Cost of Preferred (or more likely) Option				
Total Net Present Value	**Business Net Present Value**	**Net cost to business per year** (EANCB on 2009 prices)	**In scope of One-In, One-Out?**	**Measure qualifies as**
£0m	£0m	£0m	No	NA

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

In response to the Löfstedt review and the Red Tape Challenge, HSE has identified a number of health and safety Regulations that are either redundant, have been overtaken by more up to date Regulations or do not deliver their expected benefits. Without any intervention these would remain in force and contribute to the impression that health and safety law is complex, confusing and out of date. This work is one 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.

What are the policy objectives and the intended effects?

The policy objective of this work is to streamline the legislative framework by removing redundant or out-of-date legislation that is no longer needed to control health and safety risks in the workplace.

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 Celluloid and Cinematograph Film Act 1922, the Celluloid and Cinematograph Film Act 1922 (Repeals and Modifications) Regulations 1974 and the Celluloid and Cinematograph Film Act 1922 (Exemptions) Regulations 1980 would remain on the statute book.

Option 2 - Revoke the Celluloid and Cinematograph Film Act 1922, the Celluloid and Cinematograph Film Act 1922 (Repeals and Modifications) Regulations 1974 and the Celluloid and Cinematograph Film Act 1922 (Exemptions) Regulations 1980.

No alternatives to regulation have been considered as this is a deregulatory proposal. Option 2 is the preferred option as it will remove unnecessary or out of date regulation from the statute books - the vast majority of the respondents to the consultation question regarding the removal of the three pieces of legislation were in favour of this option.

Will the policy be reviewed? It will not be reviewed. **If applicable, set review date:** Month/Year

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** No	**< 20** No	**Small** No	**Medium** No	**Large** No
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)			**Traded:**	**Non-traded:**	

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.

Signed by the responsible Minister: _____ Date: 27/2/12

Summary: Analysis & Evidence

Policy Option 1

Description: Do Nothing

FULL ECONOMIC ASSESSMENT

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

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

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

This is the do nothing option and as such has no costs

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)
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'

This is the do nothing option and as such has no benefits

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

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

BUSINESS ASSESSMENT (Option 1)

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

Summary: Analysis & Evidence

Policy Option 2

Description: Revoke the Celluloid and Cinematograph Film Act 1922

FULL ECONOMIC ASSESSMENT

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

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

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

HSE's assessment, based on consultation (formal and informal), analysis of enforcement activity and internal sector experts knowledge, is that these sets of regulations are no longer used by business or used by HSE for enforcement. Therefore there are no expected costs from the removal of the Celluloid and Cinematograph Film Act 1922.

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)
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.

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

BUSINESS ASSESSMENT (Option 2)

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

Evidence Base (for summary sheets)

Problem under consideration

1. HSE has identified a number of health and safety related legislative measures 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 that has been overtaken by more modern measures, and is 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.

Background

2. Professor Löfstedt'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. 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.

3. 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 are now being considered by HSE.

4. On the basis of these reviews, it is proposed that the following legislative measures are removed:

   - **Celluloid and Cinematograph Film Act 1922**
   - **Celluloid and Cinematograph Film Act 1922 (Repeals and Modifications) Regulations 1974**
   - **Celluloid and Cinematograph Film Act 1922 (Exemptions) Regulations 1980**

5. A summary of each measure, what they cover, and why there are no long needed, is provided below:

   - **Celluloid and Cinematograph Film Act 1922 (S.I. 1922/35) –** http://www.legislation.gov.uk/ukpga/Geo5/12-13/35/contents

     This Act (and the following two sets of regulations) relate to the prevention of fire in premises where raw celluloid or cinematograph film is kept or stored. It relates to non-workplaces (e.g. domestic premises and premises used by civil societies, such as film clubs).

     The legislation no longer applies to workplaces, within the meaning of the Regulatory Reform (Fire Safety) Order 2005 (RR(FS)O). This element has been superseded by more recent legislation - they are now covered by the Dangerous Substances and Explosive Atmospheres Regulations 2002 (DSEAR), in relation to any special, technical or organisational workplace fire precautions and, in relation to general fire safety precautions (such as the means for escape), by the RR(FS)O. The Act does still relate to the self-employed, however both the RR(FS)O and DSEAR apply to the self-employed

with business premises, so if the Act is repealed, standards for health and safety for the self-employed with business premises will be maintained[1].

If this Act is repealed, then the following two sets of amending Regulations can also be revoked.

- **Celluloid and Cinematograph Film Act 1922 (Repeals and Modifications) Regulations 1974 (S.I. 1974/1841) –** http://www.legislation.gov.uk/uksi/1974/1841/contents/made

  These Regulations repeal and modify provisions of the 1922 Act in consequence of the establishment of the Health and Safety Executive and the coming into operation of the Health and Safety at Work etc Act 1974.

- **Celluloid and Cinematograph Film Act 1922 (Exemptions) Regulations 1980 (S.I. 1980/1314) –** http://www.legislation.gov.uk/uksi/1980/1314/contents/made

  These Regulations allow HSE to grant exceptions from any requirement or prohibition imposed by or under section 1(1) of the 1922 Act, or any order made under section 1(4) of that Act.

- HSE believes that this Act and the two sets of Regulations are no longer required. The prevention of fire in workplaces is covered by more recent legislation. The risk from work activities involving plant or machinery and the use or storage of dangerous substances that have a particular risk of fire or explosion (such as raw celluloid and cinematograph film) are covered by DSEAR. In addition, general fire safety (including in small venues such as clubs and church halls that film clubs might use) is covered by the Regulatory Reform (Fire Safety) Order 2005 in England and Wales, and Part 3 of the Fire (Scotland) Act 2005, supported by the Fire Safety (Scotland) Regulations 2006 in Scotland.

- HSE does not believe that raw celluloid (nitro-cellulose) is used or stored in non-workplace premises (based on a previous consultation exercise related to the introduction of DSEAR). Cinematograph film (also known as nitrate-base film material or cellulose nitrate film) has not been used to produce motion pictures since 1951. Some old nitrate-base film materials may still be present in private premises but this will be a reducing amount. HSE is not aware of any formal reports of fires being caused by nitrate-base film materials in non-workplace premises in recent years.

Rationale for intervention

6. Intervention is necessary to implement the Government response to the above mentioned Red Tape Challenge and Löfstedt Review. These regulations are not used, but are in the statute books and principles of good regulation suggest that they should be removed.

7. In general, 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, would reduce the burden on industry and therefore reduces barriers to entry and start-up fixed costs thus making markets more contestable. This theory is supported by some anecdotal evidence from consultation:

   "The TUC welcomes simpler and better regulation and supports moves to remove, merge, simplify or amend outdated, overly complex or unnecessary regulations."

8. HSE believes that this legislation is no longer required. The prevention of fire in workplaces is covered by more recent legislation. The risk from work activities involving plant or machinery and the use or storage of dangerous substances that have a particular risk of fire or explosion (such as raw celluloid and cinematograph film) are covered by the Dangerous

[1] Lofstedt recommendations also include an exemption for the self-employed who do not pose a risk to others. This proposal is being considered in a separate Impact Assessment

Substances and Explosive Atmospheres Regulations 2002. In addition, general fire safety (including in small venues such as clubs and church halls that film clubs might use, and in some multiple-occupancy domestic premises) is covered by the Regulatory Reform (Fire Safety) Order 2005 in England and Wales, and Part 3 of the Fire (Scotland) Act 2005, supported by the Fire Safety (Scotland) Regulations 2006 in Scotland.

9. HSE does not believe that raw celluloid (nitro-cellulose) is used or stored in non-workplace premises (based on a previous consultation exercise related to the introduction of DSEAR). Cinematograph film (also known as nitrate-base film material or cellulose nitrate film) has not been used to produce motion pictures since 1951. Some old nitrate-base film materials may still be present in domestic premises but this will be a reducing amount. HSE is not aware of any formal reports of fires being caused by nitrate-base film materials in non-workplace premises in recent years.

Policy objective and intended effects

10. The policy objective of this work is to contribute to the streamlining of the legislative framework by removing three legislative measures (one Act and two Regulations) that are no longer needed to control health and safety risks in the workplace. Without any intervention these would remain in force and contribute to the impression that health and safety law is complex, confusing and out-of-date.

11. 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.

Alternatives to regulation

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

13. If this legislation is removed HSE will continue work with stakeholders to review the available guidance on cellulose nitrate film.

One In One Out (OIOO)

14. The removal of the Celluloid and Cinematograph Film Act 1922 et al. would not have a direct impact on business and therefore this is out of scope of One In One Out. This is consistent with the OIOO guidance and Scope Decision Guide (FAQs document).

Description of options considered (including do nothing)

15. Option 1 – Do nothing - the three legislative measures would remain on the statute book.

16. Option 2 – Revoke the following measures:

- Celluloid and Cinematograph Film Act 1922
- Celluloid and Cinematograph Film Act 1922 (Repeals and Modifications) Regulations 1974
- Celluloid and Cinematograph Film Act 1922 (Exemptions) Regulations 1980

17. Option 2 is the preferred option as it will remove unnecessary or out of date regulation from the statute books – furthermore, 91% of the total respondents to the consultation question regarding the removal of the three pieces of legislation were in favour of this option.

Consultation and data analysis

18. Consultation consisted of both formal and informal elements. Formal consultation took place between 3 April 2012 and 4 July 2012.

19. 91% of the total respondents to the question regarding the removal of the three pieces of legislation agreed with the proposal.

20. Annex 1 provides more detail of formal consultation responses. Table 1 (in annex 1) summarises the organisations that responded and the proportion of the respondents within

these organisations compared to total responses. Table 2 (in annex 1) gives a summary of the responses to the specific questions in the consultative document. A summary of the results:

Question 1.1 – Do you agree with the proposal

- 39 respondents (91%) who answered the question "Do you agree with the proposal to revoke the Celluloid and Cinematograph Film Act 1922, the Celluloid and Cinematograph Film Act 1922 (Repeals and Modifications) Regulations 1974 and the Celluloid and Cinematograph Film Act 1922 (Exemptions) Regulations 1980?" said '*Yes*'.
- Of the respondents to this question that said '*Yes*', 24 made comments. 10 of these stated that more recent legislation provides adequate cover on this issue. Seven more suggested that the legislation is now out-of-date and unnecessary. Two respondents suggested that there is still a need for guidance materials on this topic.
- Four respondents (9%) disagreed with the proposal, but of these only one, an organisation representing UK film archives, made a comment. This said:

  "*Whilst it is agreed that:*
  - *criminalising individuals who keep nitrate film in domestic or non-work premises is heavy-handed,*
  - *that individuals are often unaware of both the dangers and the legislation,*
  - *that the film continues to deteriorate if not stored in correct conditions, and*
  - *that it is difficult to know how much material remains to be found*

  the fact is that it remains an issue, albeit on a small scale these days. The presence of legislation could provide leverage when negotiating with those who do have nitrate film, and help induce them to relocate their material to an appropriate archive."
- The key issue raised in this comment is the leverage legislation offers in persuading someone to pass on their nitrate film to an archive. The current legislation sets down suitable control methods for storing nitrate film but, because it was drafted in a different era, the legislation does not impose duties on individuals to dispose of any film materials they possess. Therefore, this leverage is perceived rather than actual, and keeping legislation stating that nitrate film can be kept (under certain conditions) may present a confusing picture, when good practice advice would suggest the materials should not be kept from a fire safety perspective. HSE committed, within the Consultative Document, to reviewing currently available guidance on this topic to ensure the appropriate advice is available. This advice should be sufficient leverage because, as the comment acknowledges, individuals are often unaware of the dangers of nitrate film.

Question 1.2 – Are there any groups who keep film materials

- 36 respondents (92%) who answered the question "Are there any groups or individuals who keep or store raw celluloid or cinematograph film in non-workplace premises, and therefore have duties under this legislation?" said '*No*'.
- Of these '*No*' respondents, none made a comment.
- Of the three respondents (8%) who said '*Yes*' to this question, two made comments. One comment questioned whether HSE had considered if there are any private collections containing nitrate film. HSE has been unable to find any specific examples of private collectors who keep nitrate film – information from archive organisations suggests that nitrate film materials tend to come to light during house clearances and similar circumstances, when the film materials have been forgotten.
- The other '*Yes*' came from an organisation representing UK film archives and it agrees with this premise; it says:

  "[Our] members and associates are still offered nitrate films, though less frequently. There is no list of contacts as such as most offers are dealt with straight away."

General Question – Any further comments

- One specific comment regarding the celluloid legislation was also made by an individual film archive organisation under the general question "Are there any further comments you would like to make on the issues raised in this consultation document that you have not already responded to in this questionnaire?". This said:

  "*With the repeal of the legislation how might the authorities deal with (the unlikely case of) a private collector of nitrate films who recklessly decided to store them in residential premises? Do other laws exist which would require a collector to remove such a nitrate collection?*"

- As previously mentioned, the current legislation does not prevent the storage of nitrate film in domestic premises, but imposes certain control measures. HSE will be working to ensure guidance is available to individuals to give advice on what to do with nitrate film. Local Authorities enforce the current legislation but anecdotal evidence suggests enforcement levels are negligible. This is because, in order to investigate or take action, they need significant grounds for concern, something which is not forthcoming for nitrate film when quantities are low, and reducing in domestic premises. It is also unlikely that this topic would be a priority due to the relatively low risk level and the substance becoming obsolete.

Question 1.3 – Help in preparing the Impact Assessment

- There were 17 responses submitted to the question relating to what impact the removal of the legislation would have, and there were 15 responses in relation to the costs and savings of this proposal. The general consensus of responses was that there would be little or no costs or cost-savings as a result of the removal of this legislation. The reasons for this were either that alternative legislation is already in place covering these issues or they were unaware of individuals or groups that used Celluloid and Cinematograph Film.

- Reference was made to:

  "those familiar with the old legislation may take time to acclimatise to using new legislation"

  However, the same individual went on to comment that those affected should already be up to speed with more modern legislation. In any case, it is expected that those affected will be a very small number of people and therefore the costs associated with this would be negligible.

21. The responses to the consultation show that a significant majority of the respondents agree with HSE's view that this legislation is no longer required. HSE's commitment to reviewing the available guidance on nitrate film will ensure that any individuals that do come across these materials are able to deal with them safely.

22. This legislation is enforced by Local Authorities and there is no central information on enforcement levels. However, anecdotal responses from a small number of Local Authorities suggests that the amount of enforcement activity is likely to be nil or negligible.

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

General Assumptions

23. Given the nature of the deregulatory measure, no assumptions have been made with reference to base year, analysis period or discount value.

Option 1: Do nothing

24. Option 1 would maintain the status quo and so would have no cost or benefit implications.

Option 2: Revoke the Celluloid and Cinematograph Film Act 1922; the Celluloid and Cinematograph Film Act 1922 (Repeals and Modifications) Regulations 1974 and the Celluloid and Cinematograph Film Act 1922 (Exemptions) Regulations 1980.

25. Option 2 would require the removal of 3 redundant SIs.

26. The evidence for this assessment is set out below.

Costs to business

27. These SIs are no longer used by industry and so their revocation would not impose any significant costs on them.

28. The majority of consultation respondents agreed with HSE's assessment that the legislation was out of date and not used by industry, furthermore, no current users of celluloid or cinematograph film were identified through either formal or informal consultation. This evidence was triangulated with feedback from Local Authorities who enforce the current legislation who said that anecdotal evidence suggests enforcement levels are negligible.

29. Evidence from consultation did however suggest that if there were users of celluloid or cinematograph film, they would most likely be unaware of the legislation surrounding it. Therefore, they would be unlikely to familaise themselves with the revocation of the Act.

30. 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. Given their negative responses to the question "What impact would the removal of the legislation have on the health and safety of these groups / individuals?" it is reasonable to assume there will be no cost to industry.

Costs to HSE

31. There will be a small amount of additional costs to HSE as a result of revoking the Regulations for updating the available guidance materials. However, some of this work was already planned and the remaining work can be met from existing resources already dedicated to this work stream.

Benefits and impact on health and safety

32. As previously described, these are redundant or out-of-date SIs so there will be no impact on health and safety protection. When appropriate, adequate controls are maintained through more modern legislation.

33. HSE believes that this legislation is no longer required. The prevention of fire in workplaces is covered by more recent legislation. The risk from work activities involving plant or machinery and the use or storage of dangerous substances that have a particular risk of fire or explosion (such as raw celluloid and cinematograph film) are covered by the Dangerous Substances and Explosive Atmospheres Regulations 2002. In addition, general fire safety (including in small venues such as clubs and church halls that film clubs might use, and in some multiple-occupancy domestic premises) is covered by the Regulatory Reform (Fire Safety) Order 2005 in England and Wales, and Part 3 of the Fire (Scotland) Act 2005, supported by the Fire Safety (Scotland) Regulations 2006 in Scotland.

34. HSE does not believe that raw celluloid (nitro-cellulose) is used or stored in non-workplace premises (based on a previous consultation exercise related to the introduction of DSEAR). Cinematograph film (also known as nitrate-base film material or cellulose nitrate film) has not been used to produce motion pictures since 1951. Some old nitrate-base film materials may still be present in domestic premises but this will be a reducing amount. HSE is not aware of any formal reports of fires being caused by nitrate-base film materials in non-workplace premises in recent years.

35. To support HSE's view, 15 out of the 17 respondents who gave comments on the consultation question "What impact would the removal of the legislation have on the health and safety of these groups / individuals?" either said that it is unlikely that the removal of the legislation would have any significant impact or that they could not identify any groups who it would impact on. Of the remaining responses, two issues were raised in regard to the impact on health and safety;

    - One response highlighted that this raised potential health issues if the groups storing film would be at risk if they didn't consider the issues in light of DSEAR. However, HSE consultation has not been able to identify any such groups that exist and, consultation has also highlighted that industry do not know about the Celluloid and Cinematograph film Act. Hence, if such a group does exist and they are not already aware and acting in accordance with DSEAR, they are even less likely to be aware and acting in accordance with the Celluloid and Cinematograph film Act.

    - A second response suggested that the Act should be expanded to suit different sectors and company sizes. However, doing this would increase the amount of duplicated legislation as this is already the covered by DSEAR. This would therefore go against the policy objectives of the revocation.

36. There is an overarching benefit of simplifying the legislative framework as a result of removing duplicate and out-of-date legislation which is justified via the arguments presented in paragraph 12.

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

37. Analysis of HSE records and consultation (internal and external) both identified the proposed SIs as redundant, having been overtaken by more modern legislation. A proportionate cost analysis has been presented above.

38. Although a consultation stage IA was not produced for assessing the impacts of the removal of the Celluloid and Cinematograph Film legislation, formal consultation was used to gather information for the analysis presented here.

39. 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 discussion with Local Authority enforcers.

40. 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

41. HSE's initial assessment was that these legislative measures are redundant, having been overtaken by other more modern regulation so there is no risk associated with them being revoked.

42. Over 90% of the total respondents to the consultation question regarding the removal of the three pieces of legislation agreed with the proposal.

43. However, during consultation the following issues were raised:

- The ability to use the current legislation for leverage when dealing with private individuals
- The incidence of private collections

Both of these issues have been considered and addressed in paragraph 8.

Direct costs and benefits to business calculations (following OIOO methodology)

44. The removal of the Celluloid and Cinematograph Film Act 1922 et al. would not have a direct impact on business and therefore this is out of scope of One In One Out. This is consistent with the OIOO guidance and Scope Decision Guide (FAQs document).

Wider impacts

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

Summary and preferred option with description of implementation plan

46. HSE's preferred option, on the basis of expert analysis and the responses to the consultation, is therefore that these measures can be revoked without any lowering of health and safety standards in workplaces.

47. The preferred option will remove unnecessary and out of date regulation from the statute books – furthermore, 91% of the total respondents to the consultation question regarding the removal of the three pieces of legislation were in favour of this option.

48. Subject to relevant approvals and clearances, this legislation will be removed via a new statutory instrument.

Annex 1 – Consultation responses

Table 1 - General information

a) Type of organisation

Option	Number of respondents	Percentage of total (%)
Consultancy	5	9
Local government	9	17
Industry	11	21
Trade association	3	6
National government	2	4
Non-departmental public body	1	2
Charity	3	6
Academic	3	6
Trade union	4	8
Non-governmental organisation	1	2
Member of the public	1	2
Pressure group	0	0
Other (please specify)	5	9
Not stated	5	9
Total	**53**	

b) Capacity of respondent

Option	Number of respondents	Percentage of total (%)
Health and Safety professional	23	43
An employer	2	4
An employee	8	15
Trade union official	5	9
Training provider	1	2
Other (please specify)	10	19
Not stated	4	8
Total	**53**	

Table 2 – Summary of responses to questions

Question 1.1 - Do you agree with the proposal to revoke the Celluloid and Cinematograph Film Act 1922, the Celluloid and Cinematograph Film Act 1922 (Repeals and Modifications) Regulations 1974 and the Celluloid and Cinematograph Film Act 1922 (Exemptions) Regulations 1980?

Option	Number of respondents	Percentage of total %
Yes	39	91
No	4	9
Total	**43**	

Comments made to support the responses
'Yes' respondents' comments We received 24 comments both via the questionnaire and written responses. Amongst these comments, these key points were raised: ▪ 4 expressed general agreement to the proposal. ▪ 8 suggested that the nitrate film medium is virtually obsolete and therefore the legislation is also no longer required. ▪ 10 said that this issue is adequately covered by more modern legislation; two of these confirmed that this is also the case in Scotland. ▪ 2 said that guidance on this issue should remain available, and one of these suggested current guidance should be improved. ▪ 1 advised that any film stocks still in domestic premises would further decline over time, and that these householders would not be aware of the current legislation so it would not be affecting their behaviour. ▪ 1 said that this change would not decrease the legislative burden on industry. ▪ 1 said that this change would not impact on the ports industry. **'No' respondents' comments** We received one comment via the questionnaire, which suggested that keeping the legislation could provide leverage in influencing people to dispose of nitrate film, although it did acknowledge that people were unlikely to be aware of either the legislation or the dangers of nitrate film. One respondent provided a comment without having answered Question 1.1, which said that they did not wish to comment based on their lack of experience of this issue.

Question 1.2 - To the best of your knowledge, are there any groups or individuals who keep or store raw celluloid or cinematograph film in non-workplace premises, and therefore have duties under this legislation?

Option	Number of respondents	Percentage of total %
Yes	3	8
No	36	92
Total	**39**	

If you have answered 'Yes', please can you provide contact details for any groups/ individuals who do keep or store raw celluloid or cinematograph film so they can be contacted to discuss the impact of this proposal?
'Yes' respondents' comments We received two comments via the questionnaire raising these points: ▪ That archive organisations are still offered nitrate films, although less frequently,

but there is no list of contacts, because these offers are dealt with straight away.
- Whether HSE had considered the incidence of private collections.

One respondent provided a comment without having answered Question 1.2, which said that they could not estimate how much film may be stored in individual collections and film clubs, but understand that it is stored in some museum and library collections. They acknowledged that these workplaces are covered by DSEAR, but suggested that guidance for workplace situations should be improved, and that they would be keen to contribute to this work.

Question 1.3 To help HSE prepare the Impact Assessment we would be grateful if you would answer the following questions:

a) What impact would the removal of the legislation have on the health and safety of these groups / individuals?

We received 17 comments via the questionnaire raising these points:
- 10 comments said either no or low impact as other more modern legislation applies, and guidance is also available from both HSE and archive organisations.
- 5 said either that they did not know, were unaware of any groups/individuals affected, had nothing to add, or felt this was not applicable to them.
- 1 said that any groups storing film will be at risk if they are not considering the issue in light of DSEAR.
- 1 suggested that the change would mean that a best practice approach would remain, requiring a risk management process.
- 1 argued that the legislation should not be removed but adapted to suit different sectors and sized companies.

b) What additional costs or savings do you estimate the removal of the legislation would impose on these groups / individuals, e.g. in terms of monetary costs, or in time spent?

We received 15 comments via the questionnaire raising these points:
- 8 said either no or low costs or savings due to the limited number of groups/individuals affected.
- 2 said this would depend on the individual circumstances.
- 2 said they were unaware of any groups/individuals affected, or had nothing to add.
- 1 suggested that those familiar with the current legislation may take time to acclimatise, but they should already be up to speed with more modern legislation.
- 1 suggested there could be significant savings for SMEs if the legislation were adapted to suit differing sectors and organisations sizes.
- 1 raised the point that it took 10 minutes to complete the consultation so this could be multiplied by several thousand.

Additional comments received

General Question across all 14 legislative measures being consulted on: 'Are there any further comments you would like to make on the issues raised in this consultation document that you have not already responded to in this questionnaire?'. Comments here relate to either the general consultation or specifically to celluloid legislation:

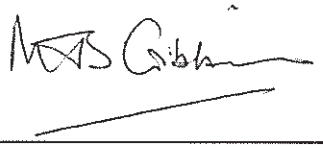
We received 14 comments, both via the questionnaire and written responses, which either relate to the general consultation or specifically to celluloid legislation. Amongst these comments, these key points were raised:

- 8 comments are supportive, and broadly agree with reducing burdens on business by removing red tape. 1 of these acknowledged that the small number of the proposals that impact on fire hazards and/or fire fighting have largely been superseded by more modern legislation.
- 1 said that removing the legislation would not reduce burdens on business.
- 2 comments are opposed to the proposals to remove legislation, although 1 does acknowledge that in some cases the measures have been superseded by more modern legislation.
- 3 have no specific comments to make on celluloid, but have made comments on other parts of the consultation.
- 1 comment expressed disappointment that an Impact Assessment had not been prepared, and another 1 raised the need for an evidence base analysis before final judgement on removal is taken.
- 1 questioned how the authorities might tackle domestic enforcement following the removal of the legislation.

Regulatory Policy Committee	**Validation of the Net Direct Impact on Business**
Title of the 'Validation' IA	Removal of Celluloid and Cinematograph Film Legislation
Lead Department/Agency	Health and Safety Executive
Expected date of implementation	
Origin	Domestic
Date IA submitted to RPC	02/10/2012
Date of RPC Validation	02/11/2012
Date of RTA Confirmation	N/A
RTA Confirmation reference	RPC12-HSE-1575
Departmental Assessment	
Overall Direction of Impacts	Out of Scope
Estimate of the Equivalent Annual Net Cost to Business claimed by the Department	Zero
RPC Validation	
Direction of Impact	Out of Scope
Estimate of the Equivalent Annual Net Cost to Business Validated by RPC	Zero

RPC Comments

The department says the proposal will have no direct impact on business, which is also supported by the feedback gathered from stakeholders during the consultation. Based on the evidence presented this appears to be a reasonable assessment.

Signed  **Michael Gibbons,** Chairman

Title:	Impact Assessment (IA)
Revocation of the Locomotives etc. Regulations 1906 (Metrication) Regulations 1981 (S.I. 1981/1327); Gasholders and Steam Boilers (Metrication) Regulations 1981 (S.I. 1981/687); Docks, Shipbuilding etc (Metrication) Regulations1983 (S.I. 1983/644) **IA No:** HSE0069f	**Date:** 18/07/2012
	Stage: Final
	Source of intervention: Domestic
Lead department or agency: Health and Safety Executive **Other departments or agencies:** None	**Type of measure:** Secondary legislation

Summary: Intervention and Options

RPC Opinion: RPC Opinion Status

Cost of Preferred (or more likely) Option				
Total Net Present Value	**Business Net Present Value**	**Net cost to business per year** (EANCB on 2009 prices)	**In scope of One-In, One-Out?**	**Measure qualifies as**
£0m	£0m	£0m	No	NA

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

In response to the Lofstedt review and the Red Tape Challenge HSE has identified a number of health and safety Regulations that are either redundant or that have been overtaken by more modern legislation. Without any intervention these would remain in force and contribute to the impression that health and safety law is complex, confusing and out of date. This work is one 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.

What are the policy objectives and the intended effects?

The policy objective of this work is contribute to the streamlining of the legislative framework by removing three sets of metrication Regulations that are no longer needed to control health and safety risks in the workplace. Without any intervention these would remain in force and contribute to the impression that health and safety law is complex, confusing and out-of-date. This work therefore 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.

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 Regulations would remain on the statute book.

Option 2 - Revoke the Locomotives etc. Regulations 1906 (Metrication) Regulations 1981 (S.I. 1981/1327); Gasholders and Steam Boilers (Metrication) Regulations 1981 (S.I. 1981/687); and Docks, Shipbuilding etc (Metrication) Regulations1983 (S.I. 1983/644) .

Option 2 is the preferred option as it will remove unnecessary or out of date regulation from the statute books. Over 90% of the responses to the relevant questions in HSE's consulltation exercise were supportive of this option.

Will the policy be reviewed? It will not be reviewed. **If applicable, set review date:** Month/Year

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** No	**< 20** No	**Small** No	**Medium** No	**Large** No
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)			**Traded:**		**Non-traded:**

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.

Signed by the responsible Minister: M Ill Date: 27/12/12

Summary: Analysis & Evidence

Policy Option 1

Description: Do Nothing

FULL ECONOMIC ASSESSMENT

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

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

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

This is the 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)
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'

This is the baseline option and as such benefits are zero

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

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

BUSINESS ASSESSMENT (Option 1)

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

Summary: Analysis & Evidence

Policy Option 2

Description: Revoke Metrication Regulations

FULL ECONOMIC ASSESSMENT

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

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

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

HSE's assessment, based on consultation (formal and informal), analysis of enforcement activity and internal sector experts knowledge, is that these sets of regulations are either not used by industry (Locomotive etc Regulations), or will become redundant when other revokations take place, and are not used for enforcement by HSE. Therefore there will be no costs associated with their removal.

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)
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.

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

These regulations are redundant on the basis of the revocation of their parent regulations.

BUSINESS ASSESSMENT (Option 2)

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

Evidence Base for Revocation of the Locomotives etc. Regulations 1906 (Metrication) Regulations 1981 (S.I. 1981/1327); Gasholders and Steam Boilers (Metrication) Regulations 1981 (S.I. 1981/687); Docks, Shipbuilding etc (Metrication) Regulations1983 (S.I. 1983/644)

Problem under consideration;

1. HSE has identified a number of health and safety related legislative measure that are redundant or that have been overtaken by more modern legislation or do not deliver their intended benefits. This work is 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.

Background

2. Professor Löfstedt'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. 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.

3. 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 are now being considered by HSE.

4. It is proposed that the following legislative measures are removed:

- The Locomotives etc Regulations 1906 (Metrication) Regulations 1981 (SI 1981/1327
- The Gasholders and Steam Boilers (Metrication) Regulations 1981 (SI 1981/687)
- The Docks, Shipbuilding etc (Metrication) Regulations 1983 (SI 1983/644).

Rationale for intervention;

5. Intervention is necessary to implement the Government response to the above mentioned Red Tape Challenge and Löfstedt Review. The Locomotives etc metrication Regulations are now redundant, as their 'parent' Regulations are to be revoked. In the case of the other 2 sets of metrication regulations if, following this consultation, their 'parent' Regulations are to be revoked, then they too will become equally redundant. They are all currently on the statute books and principles of good regulation suggest that they should be removed, subject to the qualifying revocation of their 'parent' Regulations.

6. In general, the removal of redundant 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, would reduce the burden on industry and therefore reduces barriers to entry and start-up fixed costs thus making markets more contestable (Contestable Market Theory, W. J. Baumol). This theory is supported by some anecdotal evidence from consultation:

   "The TUC welcomes simpler and better regulation and supports moves to remove, merge, simplify or amend outdated, overly complex or unnecessary regulations."

Policy objective and intended effects

7. The policy objective of this work is to contribute to the streamlining of the legislative framework by removing 3 legislative measures: 2 sets of Regulations and 1 Order, all metrification Sis that are, or will become, no longer needed to control health and safety risks in the workplace. Without any intervention these would remain in force and contribute to the impression that health and safety law is complex, confusing and out-of-date.

8. 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.

Alternatives to regulation

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

One In One Out (OIOO)

10. The removal of these metrication regulations would not have a direct impact on business and therefore this is out of scope of One In One Out. This is consistent with the OIOO guidance and Scope Decision Guide (FAQ's document).

Description of options considered (including do nothing);

11. Option 1 – Do nothing - the 3 legislative measures would remain on the statute book.
12. Option 2 – Revoke the following measures:
    - **The Locomotives etc Regulations 1906 (Metrication) Regulations 1981 (SI 1981/1327**
    - **The Gasholders and Steam Boilers (Metrication) Regulations 1981 (SI 1981/687)**
    - **The Docks, Shipbuilding etc (Metrication) Regulations 1983 (SI 1983/644)**

Consultation and data analysis

13. Consultation consisted of both formal and informal elements. Formal consultation took place between 3 April 2012 and 4 July 2012. Informal consultation took place prior to the publication of HSE CD 239, and involved other Government Regulators (eg. Office of Rail Regulation ORR), relevant HSE Sectors and policy teams, and industry trade associations

and lead bodies (see separate Impact assessment Annexes and documentation associated with HSE Consultation CD 238).

14. Of those persons specifically responding to the question relating to these Regulations, over 90% supported their repeal.

15. Annex 1 provides more detail of formal consultation responses, it summarises the organisations that responded and the proportion of the respondents within these organisations compared to total responses. The annex also provides a summary of the responses to the specific questions in the consultative document. The results were that:

- 33 out of 35 respondents who answered the question "Do you agree with the proposal (as outlined in the Annex) to revoke the... *3 sets of metrication Regulations...* ?" were in favour.
- 2 persons who answered the same question said *No*. Of those, 1 qualified their response by saying that if the parent legislation to which these Regulations referred were to be repealed/revoked, then these Regulations would be redundant, and on that basis would support their revocation (NB the SI revoking the Locomotives etc Regulations 1906 has already been laid, and thus this is already the case for that example). 1 of the respondents who voted *Yes*, also made this same point in the Free-text section
- A small number of respondents, commenting in text form rather than answering the questionnaire itself, argued that the whole CD should be withdrawn. Although not directly referencing the question dealing with these metrication Regulations, such a view might be construed as a negative response. Also, a number of respondents dealt with specific questions in the CD, and made no comment either way regarding other questions. These two classes of responses have not been included in the analysis, as it would be inappropriate to construe or imply a *Yes* or *No* response from them.
- The overarching nature of the response agrees with what sector experts in HSE have opined, that the Locomotives etc metrication Regulations are now redundant, as the legislation to which they refer is about to be revoked. They can therefore be revoked without any adverse impact. And that as the Shipbuilding and Ship Repair Regulations 1960 and Gasholders (Records of Examinations) Order are themselves going to be revoked following consultation, their 'metrication' Regulations can also be revoked without risk.

16. Analysis also included examining HSE records on the use of these sets of Regulations over the last 13 years. During this time none of these SIs have been cited on Notices issued nor have they been cited in approved prosecution activity in the same period. This is, however, to be expected, as they are modifying Regulations, rather than duty-bearing Regulations.

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

General Assumptions

17. Given the nature of the deregulatory measure, no assumptions have been made with reference to base year, analysis period or discount value.

Option 1: do nothing

18. Option 1 would maintain the status quo and so would have no cost or benefit implications.

Option 2: revoke/repeal The Locomotives etc Regulations 1906 (Metrication) Regulations 1981 (SI 1981/1327), the Gasholders and Steam Boilers (Metrication) Regulations 1981 (SI 1981/687), and the Docks, Shipbuilding etc (Metrication) Regulations 1983 (SI 1983/644]:

19. Option 2 would require the removal of 3 redundant SIs.

20. The evidence for this assessment is set out below.

Costs to business

21. HSE's assessment is that 1 of these SIs is currently not used by businesses (Locomotive etc Regulations) with the other 2 will become redundant following the revocation of their parent regulations and so their revocation would not impose costs on them.

22. The majority of responses from consultation agreed with this assessment. Where there was disagreement (in 2 cases) the only supporting comment was that as the parent legislation was to be removed, these would be redundant anyway. No additional impacts were identified during consultation.

23. 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. Given the lack of substantive objections, costs or issues raised in the free text box for Question 6.1, it is reasonable to assume there will be no cost to industry.

24. HSE has also examined its records on the use of these sets of Regulations over the last 13 years. During this time none of the SIs have been cited on Notices issued nor have they been cited in approved prosecution activity in the same period. Sector experts in HSE agree that these sets of Regulations are not used for enforcement purposes.

25. A summary of each measure, what they cover, and why there are no long needed, is provided below.

- Gasholders and Steam Boilers (Metrication) Regulations 1981 (SI 1981/687): these Regulations amend the Examination of Steam Boilers Regulations 1964 and the Gasholders (Record of Examinations) Order 1938 by substituting measurements expressed in metric units (cubic metres) for imperial measurements (cubic feet). The Examination of Steam Boilers Regulations 1964 (SI 1964/781) were revoked by SI 1989/2169 (Pressure Systems and Transportable Gas Containers Regulation 1989). So if the Gasholders (Record of Examinations) Order 1938 is revoked as proposed, then these Regulations are redundant and can be revoked.
- Docks, Shipbuilding etc (Metrication) Regulations1983 (SI 1983/644): these Regulations amended the Docks Regulations 1925; the Docks Regulations 1934; the Shipbuilding and Ship-repairing Regulations 1960; the Shipbuilding (Lifting Appliances etc. Forms) Order 1961; and the Docks Certificates (No. 2) Order 1964, by substituting amounts or quantities expressed in metric units for amounts or quantities not so expressed. Of the Regulations mentioned above only the Shipbuilding and Ship-repairing Regulations 1960 remain so if the Shipbuilding and Ship-repairing Regulations 1960 are revoked as proposed then these Regulations can be revoked.
- The Locomotives etc. Regulations 1906 (Metrication) Regulations 1981 (SI 1981/1327):these Regulations amend the Locomotives and Waggons (Used on Lines and Sidings) Regulations 1906 by substituting measurements expressed in metric units for measurements not so expressed. As the Regulations for use of

locomotives and waggons on lines and sidings in or used in connection with premises under the Factory and Workshop Act 1901 (1906) (1906 No.679), previously included in HSE's consultation 'Proposals to revoke seven Statutory Instruments' (CD238), are now to be revoked then these Regulations can also be revoked.

Costs to HSE

26. There will be no additional costs to HSE as a result of revoking the Regulations as the removal of these regulations will not require any further engagement with industry and there is no intention of conducting a post implementation review of this revocation.

Benefits and impact on health and safety

27. As previously described, these are redundant or out-of-date SIs so there will be no impact on health and safety protection.

28. The specific benefits from removing these Regulations is a contribution to the overarching benefit of simplifying the legislative framework.

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

29. Analysis of HSE records and consultation (internal and external) both identified the proposed SIs as redundant, or potentially so. The full costs and benefits of their removal have been presented above.

Risks and assumptions;

30. HSE's initial assessment was that these legislative measures were redundant, or potentially so, so there would be no risk associated with them being revoked.

31. The majority of respondents to the relevant part of the consultation exercise agreed with the proposals. As such, we deem that there are negligible risks or uncertainties with respect to the analysis presented.

32. Risks that were identified related to the dependencies of two of the sets of Regulations on other revocations. If those revocations go ahead, then there is no risk. If they do not, then the relevant metrication Regulations may need to be retained or some saving provision made so as to ensure that their modifications do not lapse.

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

33. The removal of these metrication regulations would not have a direct impact on business and therefore this is out of scope of One In One Out. This is consistent with the OIOO guidance and Scope Decision Guide (FAQs document).

Wider impacts

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

Summary and preferred option with description of implementation plan.

35. HSE's preferred option, on the basis of HSE's expert analysis and the responses to the consultation, is therefore that these measures can be revoked without any lowering of health and safety standards.

Annex 1 – Consultation responses

Table 1 - General information

a) Type of organisation

Type of organisation	Number of respondents	Percentage of total (%)
Consultancy	3	8
Local government	8	22
Industry	10	27
Trade association	3	8
National government	1	3
Non-departmental public body	1	3
Charity	1	3
Academic	2	5
Trade union	0	0
Non-governmental organisation	0	0
Member of the public	1	3
Pressure group		0
Other (please specify)	4	11
Not stated	3	8
Total	**37**	

b) Capacity of respondent

Capacity of respondent	Number of respondents	Percentage of total (%)
Health and Safety professional	21	57
An employer	3	8
An employee	4	11
Trade union official	1	3
Training provider	1	3
Other (please specify)	4	11
Not stated	3	8
Total	**37**	

Table 2 – Summary of responses to questions

Responses to question 6.1 - Do you agree with the proposal (as outlined in the Annex) to revoke the:
- **Docks, Shipbuilding etc (Metrication) Regulations 1983; and**
- **Gasholders and Steamboilers (Metrication) Regulations 1981;**
- **Locomotives etc Regulations 1906 (Metrication) Regulations 1981**

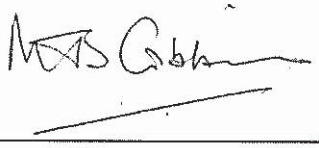
Option	Number of respondents	Percentage of total (%)
Yes	33	94
No	2	6
Total	**35**	

If you have answered 'No' what are your objections?
3 people made comments on this proposal (although none of them had responded 'no') **1 qualifying their 'yes' response** • Yes, we agree with the proposal (as outlined in the Annex) to revoke the regulations listed above if the statutory instruments they relate to are revoked. **1 giving qualified support to the proposal** • If the Shipbuilding and Ship-repairing Regulations 1960 are revoked (as proposed in Annex 5) then the Docks, Shipbuilding etc (Metrication) Regulations 1983 have no legislation on which to "bite" and can be revoked without effect. If the Gasholders (Record of Examinations) Order 1938 is revoked (as proposed in Annex 4), then the Gasholders and Steam Boilers (Metrication) Regulations 1981 are redundant and can be revoked without effect. If the Locomotives etc Regulations 1906 (Metrication) Regulations 1981 for use of locomotives and wagons on lines and sidings in or used in connection with premises under the Factory and Workshop Act 1901 (1906) (1906 No.679), included in HSE's consultation 'Proposals to revoke seven Statutory Instruments' (CD238), are revoked then these Regulations have no legislation on which to "bite" and can be revoked without effect. **1 was a nil response** • We do not have enough experience in this area to give appropriate answers the questions

Regulatory Policy Committee	**Validation of the Net Direct Impact on Business**
Title of the 'Validation' IA	Revocation of the Locomotives etc. Regulations 1906 (Metrication) Regulations 1981 (S.I. 1981/1327); Gasholders and Steam Boilers (Metrication) Regulations 1981 (S.I. 1981/687); Docks, Shipbuilding etc (Metrication) Regulations1983 (S.I. 1983/644)
Lead Department/Agency	Health and Safety Executive
Expected date of implementation	
Origin	Domestic
Date IA submitted to RPC	02/10/2012
Date of RPC Validation	02/11/2012
Date of RTA Confirmation	N/A
RTA Confirmation reference	RPC12-HSE-1569
Departmental Assessment	
Overall Direction of Impacts	Out of Scope
Estimate of the Equivalent Annual Net Cost to Business claimed by the Department	Zero
RPC Validation	
Direction of Impact	Out of Scope
Estimate of the Equivalent Annual Net Cost to Business Validated by RPC	Zero

RPC Comments

The IA says that the proposal will remove a set of metrication regulations that are no longer needed to control health and safety risks in the workplace. The department says the proposal will have no direct impact on business, which is supported by the feedback gathered from stakeholders during the consultation. Based on the evidence presented this appears a reasonable assessment. This assumes that the original regulations are also revoked, as is planned.

Signed  **Michael Gibbons,** Chairman

Title:	Impact Assessment (IA)
Revocation of the Notification of Installations Handling Hazardous Substances Regulations 1982 and 2002 (as amended) and a consequential amendment to The Dangerous Substances (Notification and Marking of Sites) Regulations 1990 **IA No:** HSE0069g **Lead department or agency:** Health and Safety Executive **Other departments or agencies:**	**Date:** 26/07/2012 **Stage:** Final **Source of intervention:** Domestic **Type of measure:** Secondary legislation

Summary: Intervention and Options

RPC Opinion: RPC Opinion Status

Cost of Preferred (or more likely) Option				
Total Net Present Value	**Business Net Present Value**	**Net cost to business per year** (EANCB on 2009 prices)	**In scope of One-In, One-Out?**	**Measure qualifies as**
Zero	Zero	Zero net cost	Yes	Zero net cost

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

HSE is working to deliver the recommendations in Professor Lofstedts independent review of health and safety legislation 'Reclaiming health and safety for all' which was published in November 2011. In his report he recommended a number of regulations should be revoked. In response to Government initiatives such as the Red Tape Challenge, HSE officials have also looked closely at health and safety legislation and have identified some further measures they believe are no longer required. This includes the NIHHS Regulations. The NIHHS Regulations were in force before the Seveso II Directive. However, the Hazardous Substances Consent procedure and the COMAH Regulations now largely subsume the NIHHS procedure.

What are the policy objectives and the intended effects?

The policy objective of this work is to contribute to the streamlining of the legislative framework by removing two sets of regulations that are no longer needed to control health and safety risks in the workplace. Without any intervention these regulations would remain in force and contribute to the impression that health and safety law is complex, confusing and out of date.

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.

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

Option 1 –Do nothing: Do not revoke the NIHHS Regulations or the amending Regulations.

Option 2 - Revoke both sets of NIHHS Regulations and do not make a consequential amendment.

Option 3 - Revoke both sets of NIHHS Regulations and make a consequential amendment to the NAMOS Regulations.

The preferred option is option 3. On the basis of the analysis it is concluded that this option satisfies the main objective to streamline and simplify the notification system for businesses, whilst maintaining health and safety standards through existing legislation.

Will the policy be reviewed? It will not be reviewed. **If applicable, set review date:** N/A

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[1].	**Micro** Yes	**< 20** Yes	**Small** Yes	**Medium** Yes	**Large** Yes
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)			**Traded:** N/a	**Non-traded:** N/a	

I have read the Impact Assessment and I am satisfied that (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.

Signed by the responsible Minister: MHh Date: 27/7/12

[1] Micro businesses are in scope of the revocation as the intention of the revocation is to simplify the notification procedure for business.

Summary: Analysis & Evidence

Policy Option 1

Description: Do nothing

FULL ECONOMIC ASSESSMENT[1]

Price Base Year 2012	PV Base Year 2012	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	**High:** Optional	**Best Estimate:** Nil

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

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

This is the baseline option in which it is assumed the status quo continues and so there are no costs associated with this option

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

N/a

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

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

This is the baseline option in which it is assumed the status quo continues and so there are no benefits associated with this option

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

N/a

Key assumptions/sensitivities/risks — **Discount rate (%)** 3.5

N/a

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:	In scope of OIOO?	Measure qualifies as

[1] Where the likely Equivalent Annual Net Cost or Benefit is less than £5 thousand, all costs and benefits are rounded to Zero as per BRE guidance and to reflect that reporting these minimal estimates implies more accuracy than is reasonable to assume.

Costs: Nil	**Benefits:** Nil	**Net:** Nil	N/a	N/a

Summary: Analysis & Evidence

Policy Option 2

Description: Revoke both sets of NIHHS Regulations and do not make a consequential amendment.

FULL ECONOMIC ASSESSMENT[1]

Price Base Year 2012	PV Base Year 2012	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Zero	**High:** Zero	**Best Estimate:** Zero

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Zero	3	Zero	Zero
High	Zero		Zero	Zero
Best Estimate	Zero		Zero	Zero

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

Costs include familiarisation costs to duty holders who notify under Ammonium Nitrate (AN) and to the Fire and Rescue Services.. These are both one off costs and are based on consultation evidence. The total costs are expected to be minimal and are estimated in paragraphs 29 and 39 of the Evidence Base.

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

There is the potential for negative health and safety consequences if HSE no longer receives notifications about Ammonium Nitrate at the specified quantities in the NIHHS (Amendment) Regulations but it is not possible to quantify these impacts although they could be significant. There could also be certain sites that fall under the Petroleum Consolidation Act (PCA) when NIHHS is revoked. Limited evidence from consultation with stakeholders and with HSE experts indicates that the number of sites affected and the cost per site will be small. There could also be costs to Local Authorities who are required to take on enforcement of certain sites whose activities fall within their jurisdiction. Whilst HSE cannot estimate which sites these are at this stage and so the total cost cannot be quantified, it is expected that the total number of LAs affected will be small.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Zero	1	Zero	Zero
High	Zero		Zero	Zero
Best Estimate	Zero		Zero	Zero

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

It is estimated that there will be time savings to duty holders who currently notify AN under the NIHHS regulations and cost saving to government (HSE) from no longer having to process the AN notifications received. These cost savings are expected to be small over the 10 year appraisal period and are estimated in paragraphs 54 and 56.

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

There will be a reputational benefit to Government as they will be streamlining and simplifying notification processes by removing unnecessary regulations that have since been superseded.

Key assumptions/sensitivities/risks **Discount rate (%)** 3.5

It has not been possible to estimate the number of sites that might fall into scope of the PCA, or the number of LAs that might have to take on enforcement of new sites. The main difficulty in providing such quantification is that the NIHHS regulations are not in common use by industry, which is the main justification for making the changes proposed. However, both costs are not expected to be significant.

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:	In scope of OIOO?	Measure qualifies as

[1] Where the likely Equivalent Annual Net Cost or Benefit is less than £5 thousand, all costs and benefits are rounded to Zero as per BRE guidance and to reflect that reporting these minimal estimates implies more accuracy than is reasonable to assume.

Costs: Minimal	**Benefits:** Minimal	**Net:** Zero	Yes	Zero net cost

Summary: Analysis & Evidence

Policy Option 3

Description: Revoke both sets of NIHHS Regulations and make a consequential amendment to the NAMOS Regulations.

FULL ECONOMIC ASSESSMENT[1]

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

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Zero	3	Zero	**Zero**
High	Zero		Zero	**Zero**
Best Estimate	Zero		Zero	**Zero**

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

Costs include familiarisation costs for duty holders and to the Fire and Rescue Services. These are both one off costs and are based on consultation evidence. The total costs are expected to be minimal and are estimated in paragraphs 43 and 48 of the Evidence Base

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

As explained under option 2, there could be certain sites that fall under the PCA when NIHHS is revoked, but the total cost impact is expected to be small. There could also be costs to Local Authorities who are required to take on enforcement of certain sites whose activities fall within their jurisdiction. Total costs cannot be estimated due to uncertainty in the number of sites that will be affected however the total cost is expected to be small .

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

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

There are no quantified benefits that will arise from option 3. Nothing is changing in practice for duty holders working with AN, so there wont be any cost savings around these notifications.

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

It is expected that there will be some health and safety benefit from option 3, as the Fire and Rescue Services (FRSs) will be notified of sites storing AN at the quantities specified in the NIHHS (Amendment) Regulations 2002. This will enable the FRSs to take the necessary precautions when dealing with incidents at these sites, which will in turn limit the health and safety consequences caused by these incidents and the consequences to the site itself. It is not possible to quantify this effect however.
There will be a reputational benefit to Government as they will be streamlining and simplifying notification processes by removing unnecessary regulations that have since been superseded.

Key assumptions/sensitivities/risks **Discount rate (%)** 3.5

It has not been possible to estimate the number of sites that might fall into scope of the PCA, or the number of LAs that might have to take on new sites. The main difficulty in providing such quantification is that the NIHHS regulations are not in common use by industry, which is the main justification for making the changes proposed. However, both costs are not expected to be significant.

BUSINESS ASSESSMENT (Option 3)

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

[1] Where the likely Equivalent Annual Net Cost or Benefit is less than £5 thousand, all costs and benefits are rounded to Zero as per BRE guidance and to reflect that reporting these minimal estimates implies more accuracy than is reasonable to assume

Evidence Base for the Revocation of the Notification of Installations Handling Hazardous Substances Regulations 1982

Background

1. The NIHHS Regulations 1982 http://www.legislation.gov.uk/uksi/1982/1357/contents/made were introduced following the [1]Flixborough disaster in 1974 to address public concern about industrial plant safety.
2. The 1982 regulations were amended in 2002 http://www.legislation.gov.uk/uksi/2002/2979/contents/made. They changed the period of notice for ammonium nitrate (AN) from three months to at least four weeks, and lowered the specified quantity to 150 tonnes for AN and mixtures containing AN where the nitrogen content exceeds 15.75% of the mixture by weight[2].
3. The NIHHS Regulations provided the first element of the three measures (identification, control of risks and mitigation of consequences) for the management of risks from installations handling hazardous substances. They require a person who stores, manufactures, processes or transfers a specified minimum quantity of a defined hazardous substance, as set out in the regulations, to notify HSE about the activity. The person has to notify their name, address and inventory of the hazardous materials on site three months before starting the activity.
4. The notifications provided HSE with details about hazardous sites and helped to define priorities in inspection programmes. HSE used the information to inform Local Planning Authorities (LPAs) about the location of sites in their areas to assist them in development control. However, notifications are now also obtained through other legislation[3] including the Control of Major Accident Hazard (COMAH) Regulations, the Hazardous Substances Consent (HSC) Regulations and the Planning (Hazardous Substances) Regulations (PHS), so LPAs can now obtain that information via the planning legislation.
5. The NIHHS Regulations contain a requirement to update HSE if the information in the original notification has changed or there is significant intensification or an increase in the scale of activities at a site. This requirement would also include de-notification. They also make HSE the enforcing authority for health and safety requirements at all notified sites.

Problem under consideration

6. HSE is working to deliver the recommendations in Professor Lofstedts independent review of health and safety legislation 'Reclaiming health and safety for all' which was published in November 2011. In his report he recommended a number of regulations should be revoked. In response to Government initiatives such as the Red Tape Challenge, HSE officials have also looked closely at health and safety legislation and have identified some further measures that they believe are no longer required. This includes the NIHHS regulations.
7. The NIHHS Regulations were in force before the Seveso II Directive. However, the Hazardous Substances Consent procedure and the Control of Major Accident Hazard

[1] The Flixborough disaster was an explosion at a chemical plant close to the village of Flixborough on 1 June 1974. It killed 28 people and seriously injured 36.
[2] Regulation 6 of NIHHS Amendment Regulations 2002
[3] The complete list of related legislation is as follows: The Dangerous Substances (Notification and Marking of Sites) Regulations 1990 (NAMOS); the Control of Major Accident Hazards (COMAH) Regulations 1999 as amended; The Petroleum (Consolidation) Act 1928 and associated Regulations; The Planning (Hazardous Substances) (PHS) Regulations 1992; The Planning (Hazardous Substances) (PHS) (Scotland) Regulations 1993; The Town and Country Planning (Development Management Procedure) (England) Order 2010; The Town and Country Planning (General Development Procedure)Order 1995; and the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008.

Regulations (COMAH Regulations) which implement the Seveso II Directive into national legislation, now largely subsume the NIHHS procedure. It is difficult to make a like for like comparison between the threshold values in the two sets of regulations but any differences between COMAH and NIHHS are covered by the Planning Hazardous Substances (PHS) Regulations 1992.

8. The PHS regulations brought about a significant change to the regime under NIHHS because they control the type of substance, the quantity, location and storage arrangements, where as the NIHHS Regulations only require notification and do not include any controls.

9. Under NIHHS, a small number of substances (seven) have lower thresholds than in COMAH/Seveso (eg, the NIHHS threshold for methane is 15 tonnes, for COMAH it is 50 tonnes). However, if NIHHS is revoked, existing protection will remain the same because the PHS Regulations contain the same notifying threshold levels as NIHHS in respect of the seven substances that have lower thresholds, when compared to COMAH. Therefore HSE will be aware of sites containing these substances through the PHS regime.

10. There is however, one outstanding issue in relation to Ammonium Nitrate (AN) which needs to be considered if the NIHHS Regulations are revoked. Operators who use AN[4] at or above the specified threshold as set out in the NIHHS (Amendment) Regulations 2002 are currently required to notify HSE. This requirement will be removed if the NIHHS Regulations are revoked.

11. Schedule 1 paragraph 2 of the The Dangerous Substances (Notification and Marking of Sites) Regulations 1990 (NAMOS[5]) Regulations provides that Regulation 4 (which relates to notification), does not apply to substances which are notifiable to HSE under the NIHHS Regulations – this includes AN at or above the specified threshold as set out in the NIHHS (Amendment) Regulations 2002. However, with the revocation of NIHHS, it needs to be ensured that there is a specific requirement for the notification of AN at this specified threshold. This can be achieved by a consequential amendment to the NAMOS Regulations to require operators to notify the Fire and Rescue Services[6] if they have or exceed 150 tonnes of AN (and mixtures containing AN with the same nitrogen content as in NIHHS) on site. This will continue to provide the FRS with necessary intelligence if they have to attend an incident.

Rationale for Intervention

12. There are key benefits supporting the revocation of the NIHHS Regulations 1982 and 2002, and the consequential amendment to NAMOS, which are as follows:

    a. It will help to ensure that fire fighters are aware of sites containing 150 tonnes of AN (as currently defined in the NIHHS (Amendment) Regulations 2002) as such sites will be notified to the FRSs. Appropriate precautions can then be taken to minimise heightened risk. Currently, these notifications are received by HSE who do not pass them onto the FRSs.

    b. It is an opportunity to streamline and simplify a notification system which, over the years, has gradually become complicated because of new legislation from Europe and the UK;

[4] As defined in the NIHHS (Amendment) Regulations 2002
[5] Schedule 1 – Exceptions – Regulation 4 (which relates to notification) shall not apply to (a) sites which are notifiable to the Executive in accordance with the Notification of Installations Handling Hazardous Substances Regulations 1982(2)
[6] In England, Scotland or Wales

c. The COMAH Regulations which implement the Seveso II Directive have been considered more recently and are based on more up to date scientific views from across Europe;

d. It will remove a burden from any UK businesses who are currently required to notify if they are storing hazardous substances at or above the qualifying thresholds under NIHHS/NAMOS, PHS Regulations and the COMAH Regulations. This involves potential duplication and provides grounds for confusion. Revoking NIHHS will make the notification process clearer and easier for businesses;

e. It will be in line with current Government policy not to impose higher standards than are necessary under EU legislation;

f. The thresholds in the planning legislation (PHS) which require consent for hazardous substances are virtually identical to NIHHS; this will continue to ensure public protection and HSE will be aware of these sites via this regime.

Response to consultation

13. This Impact Assessment (IA) has been prepared post consultation. The analysis of the responses shows that 87% of those who responded agreed to the revocation of the NIHHS Regulations 1982 and 86% agreed to the revocation of the 2002 Amending Regulations. Evidence collected during the consultation and from HSE experts who understand the NIHHS and NAMOS Regulations has supported the analysis of the IA.

Policy Objectives

14. The policy objective of this work is to contribute to the streamlining of the legislative framework by removing two sets of regulations that are no longer needed to control health and safety risks in the workplace. Without any intervention these regulations would remain in force and contribute to the impression that health and safety law is complex, confusing and out of date.

15. 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..

Options

16. *Option 1* –Do nothing: Do not revoke the NIHHS Regulations or the amending Regulations.

17. *Option 2* - Revoke both sets of NIHHS Regulations and do not make a consequential amendment to the NAMOS Regulations.

18. *Option 3* - Revoke both sets of NIHHS Regulations and make a consequential amendment to the NAMOS Regulations.

Preferred Option

19. The preferred option is option 3. On the basis of the analysis below, it is concluded that this option satisfies the main objective to streamline and simplify the notification system for businesses, whilst maintaining health and safety standards through existing legislation.

20. Revocation of the NIHHS (Amendment) Regulations 2002 will remove the requirement for operators to notify HSE when they use or store 150 tonnes or more of Ammonium Nitrate (AN)[7]. This preferred option 3 involves HSE making a consequential amendment to the NAMOS Regulations to protect Fire and Rescue Services (FRSs) personnel. This change will mean that duty holders will be required to notify the FRSs (rather than the

[7] As defined in the NIHHS (Amendment) Regulations 2002

current requirement to notify HSE) of the presence of AN (and mixtures containing AN where the nitrogen content exceeds 15.75% of the mixture by weight) at or above 150 tonnes. This will maintain existing health and safety protection for sites and could have an additional health and safety benefit for the FRSs. The information about the specified quantity of AN that will be received by FRSs under this option will allow them to take the necessary precautions when dealing with sites storing this substance, in order to mitigate, as far as possible, the consequences of accidents.

21. We consider it is appropriate to revoke these regulations because they have been superseded by the European Seveso II Directive. This Directive was implemented in Great Britain through the COMAH regulations and the PHS Regulations. These regulations now largely subsume the NIHHS procedure.

Analysis of Costs and Benefits

Risks and Assumptions

22. This impact assessment considers costs and benefits that extend into the future. Consequently, it is important that any monetised impacts are expressed in present values to enable comparison between policy options. The discount rate used to generate these present values is defined in the Green Book[8] as 3.5% for any appraisal period of less than 30 years.

23. Guidance issued by the Department for Business, Innovation and Skills[9] states that where a policy has costs and benefits that extend into the future and the policy has no identifiable end point, the impacts of the policy should be appraised over ten years. As this is the case for this policy, an appraisal period of ten years is used when considering the impact of costs and benefits in the future.

24. Where an individual or company is required to spend time doing something identified in this impact assessment, the value of their time (referred to as the opportunity cost of time) is approximated using wage data from the Annual Survey of Hours and Earnings (ASHE)[10]. The wage data extracted from ASHE is then uprated by 30% to reflect non-wage costs such as employer pension or National Insurance contributions, in line with guidance from the Green Book. The exception is where time spent by HSE is valued, in which case an internal source of data, the Global Ready Reckoner, is used. The wage data extracted from this source is not uprated by 30% as it already contains all non-wage costs.

25. Estimates and assumptions have been supported by evidence collected at consultation. In total 47 people responded to the consultation questions. The majority of responses came from industry (11%) and local government (8%) with a fairly even but smaller spread across most of the other types of organisations. The capacity in which the respondents replied were as health and safety professionals (47%), employees 15% and employers (9%), there was a smaller spread across the other types of respondents. The overall results from the consultation showed that a substantial majority of respondents supported the proposals for revocation. The estimates and assumptions have also been supported by an internal consultation with HSE operational staff who have expertise in dealing with duty holders who fall within scope of the NIHHS regulations.

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[8] http://www.hm-treasury.gov.uk/d/green_book_complete.pdf

[9] http://www.bis.gov.uk/assets/biscore/better-regulation/docs/i/11-1112-impact-assessment-toolkit.doc paragraphs 82-84

[10] http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcm%3A77-235202

Analysis of Costs

Option 1 – Do Nothing

26. As the Do Nothing option continues with the status quo, there will be no costs to either businesses or government. There may however be a negative impact on the reputation of government by maintaining a regulation that is no longer required. It is not possible to quantify this reputational risk so we assume there are zero costs associated with the do-nothing option.

Option 2 – Revoke both sets of NIHHS Regulations and do not make a consequential amendment

Costs to Business

Familiarisation

27. The main cost to businesses from Option 2 is familiarisation with the fact that the NIHHS Regulations are being revoked. In terms of familiarisation costs, two distinct groups of businesses should be considered; those that notify AN and those that notify general chemicals and are therefore covered by the COMAH Regulations.

28. Evidence gathered from HSE experts shows that notifications for general substances under the NIHHS Regulations are very rare, as all but 7 of the substances have the same (or stricter) requirements to notify under COMAH as they do under NIHHS and the dangerous substances listed in the Planning (Hazardous Substances) Regulations 1992 virtually mirror those in NIHHS. This has also been backed up by the responses to the public consultation whereby the majority of respondents (86%) said that their business does not have to produce notifications under NIHHS. Consequently, it is believed that general awareness of the NIHHS Regulations in this sector is low, and given that the majority of companies do not notify under these Regulations, they are unlikely to familiarise themselves with the fact that they are being revoked. For companies that are covered by the COMAH Regulations, we therefore assume zero familiarisation costs associated with the revocation of the NIHHS Regulations.

29. However, those companies that currently notify HSE that they store 150 tonnes or more of ammonium nitrate under NIHHS are expected to familiarise themselves with the proposed changes. Based on HSE records, there are around 100 such notifications and re-notifications received each year and a total of 700[11] separate duty holders that have made notifications since the regulations came into force. Any of these sites that no longer hold AN should de-notify HSE and so would be captured in the numbers. So, we assume that all 700 (with a range of +/- 10%) of these duty holders will familiarise themselves with the fact that they no longer have to re-notify HSE if there is a change in their activity or an increase in the quantity of the AN they store by 3 or more times, (HSE understands that some of the re-notifications received each year are from duty holders who choose to re-notify on an annual basis even though nothing has changed in their business). The majority of these businesses are farmers, with an average full economic hourly wage of £17.50[12]. Based on estimates provided to HSE via consultation, we have assumed that familiarisation with the fact that such duty holders no longer need to notify HSE will take approximately 15 minutes to complete (with a range of +/- 10% either side) and so cost between about £4 and £5 per business. It is expected that these familiarisation costs will be spread evenly over the first three years of the appraisal period, reflecting the fact that farmers will probably not undertake this familiarisation

[11] Based on unique records held in HSE's database.
[12] Source: Annual Survey of Hours and Earning; Mean wage for a farm manager (SOC 1211) uprated by 30% to reflect non-wage costs

immediately, but that to assume it would take place over the 10 year period would be too conservative. This results in a total familiarisation cost of between **£3 thousand and £4 thousand** over the appraisal period, which is a one off cost.

30. This is also thought to be the maximum familiarisation costs likely for those users of AN under option 2. This is because the estimates are based on the total number of duty holders that have ever notified HSE. It may be the case that some of these duty holders may no longer hold AN but forgot to de-notify HSE. Thus they would not spend time understanding the changes proposed. Although on this basis the familiarisation costs could be an over estimate, because the maximum estimate calculated is £4 thousand, and there is no readily available method by which to estimate the quantities of sites that should have de-notified HSE, it is not proportionate to analyse this cost any further.

Petroleum

31. There are references to NIHHS in Section 25a (1)(b) of the Petroleum (Consolidation) Act 1928 (PCA) and its associated Regulations, namely Regulation 15a of the Petroleum-Spirit (Motor Vehicles etc) Regulations 1929; Regulation 8(b) of the Petroleum-Spirit (Plastic Containers) Regulations 1982; and 2(4)(c) of The Petroleum (Consolidation) Act 1928 (Enforcement) Regulations 1979. All these references are included to dis-apply NIHHS sites from that legislation. If the NIHHS Regulations are revoked any current NIHHS sites where petrol is 'dispensed'[13] that are not covered by the COMAH Regulations, will be subject to the PCA and therefore subject to the licensing regime.

32. HSE expert opinion is that there will only be a very small number of sites that are currently dispensing petrol and are covered by the NIHHS regulations rather than PCA. For example, a site that dispenses petrol into its own on-site vehicles rather than using a petrol filling station. Following the revocation of NIHHS, it is understood that the majority of these NIHHS sites dispensing petrol would have sufficient quantities to fall under the scope of COMAH. Discussions with a small sample of HSE inspectors found that none had ever come across sites that are dispensing petrol but are not covered by COMAH.

33. As well as the expectation that only a small number of sites would actually fall under the scope of PCA, it is estimated that the actual cost per site would be minimal. The cost would comprise the payment of an annual licence fee, currently ranging from £42 to £120[14] depending on the quantity stored. The Dangerous Substances and Explosive Atmospheres Regulations (DSEAR) 2002 already apply at such sites, therefore both the annual cost per site and the present value of the costs over a 10 year period would be minimal.

34. Given that the number of sites is expected to be very small and the impact per relevant site is expected to be minimal, no further analysis of this cost has been provided on the grounds of proportionality.

Costs to Government

HSE

35. HSE is currently revoking a number of regulations and will communicate this as part of one package. The means by which these revocations will be communicated has not yet been decided, but any costs incurred will be part of business as usual on-going HSE costs and so are not relevant to be included in this IA .

36. There are unlikely to be significant familiarisation costs for government. In reality, very little will change for HSE. A small number of sites will be transferred to Local Authorities

[13] Dispensing means manual or electric pumping of petroleum-spirit from a storage tank into the fuel tank for an internal combustion engine, whether for the purposes of sale or not. (Section 23 of PCA, inserted by the Dangerous Substances and Explosive Atmospheres Regulations, DSEAR, 2002).

[14] Reg 9 of Health and Safety (Fees) Regulations 2012

where the main activity falls within their jurisdiction. HSE does not know at this stage which sites these will be or how many there will be but believes this would only affect a fairly small number of sites which it should be able to identify via the HSE data base COIN and through local intelligence. Details will then be forwarded to the relevant LAs. However, as HSE cannot identify the number of sites at this stage, it is not possible to estimate how many LAs will be affected and so what the familiarisation costs will be. However, the familiarisation costs per LA would be reasonably small (less than £100 on the assumption that the familiarisation would take less than 3 hours).

Fire and Rescue Services

37. It is assumed that there will be a cost to the Fire and Rescue Services around familiarisation with the changes. HSE understands from the FRSs that there are almost 2 thousand fire stations in the UK. HSE also understands from discussion with the FRSs that each station could have no watches, two watches or four watches. As nothing will be changing for the FRSs under this option 2, it is estimated that only one member of staff per station will take time understanding the changes, and this will take around 5 minutes (with a range of +/- 10%).

38. The salary range for frontline fire staff ranges from £21 thousand to £35 thousand[15]. 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, (such as employer tax and pension contributions). So the day rate is estimated to be between £125 and £207, or between £17 and £28 per hour.

39. The total cost of familiarisation for the FRSs is therefore estimated to be somewhere between **£2 thousand and £5** thousand one off costs in the first year the revocation takes place.

Health and safety costs

40. If the NIHHS Regulations are revoked and no amendment is made to NAMOS to capture AN at the specified threshold in the NIHHS Amendment regulations, then there could be negative health and safety consequences as HSE would no longer be receiving the notifications. However, due to the complex relationship between the notification process and health and safety outcomes, it is not possible to quantify the detrimental effect that not having these notifications could have on accident outcomes and injury rates.

Total costs of Option 2

Total costs Option 2	Total costs £'000s		
	Low	Likely	High
Familiarisation costs for users of AN	£3	£3	£4
Familiarisation time for FRSs	£2	£4	£5
Total quantified costs	£5	£7	£9
Cost of sites falling under PCA	~£2 per site		
Costs of familiarisation for Las	~ £0.1 per LA		
Health and safety impacts	Potentially significant		

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

41. The total present value of the costs to business over the appraisal period in option 2 are estimated to be between £3 and £4 thousand.

Option 3 – Revoke both sets of NIHHS Regulations and make a consequential amendment to NAMOS

Costs to Business

Familiarisation

42. Notifications via NIHHS are very infrequent and so it is reasonable to assume that the number of duty holders actually familiarising themselves with the changes will be very low and the costs of familiarisation have not therefore been quantified (see analysis under option 2).

43. Those companies that notify ammonium nitrate (under the NIHHS (Amendment) Regulations will continue to do so, but the regulations that require them to do so will be the NAMOS Regulations rather than the NIHHS Regulations and they will be required to send the notification to the FRSs rather than HSE. The only change that will occur is the legal power behind the requirement to report, but it is expected that duty holders will spend some time considering what has changed and where the notifications have to be sent and how to do this under NAMOS. As explained in paragraph 29, it is assumed that all 700 relevant duty holders will familiarise themselves and that the costs will take place over the first 3 years after implementation. As noted in paragraph 29, the familiarisation cost estimated is thought to be the maximum likely as some of the duty holders may have since gone out of business or will decide that they do not need to understand the changes. However, on the basis that the total familiarisation costs are estimated to be low anyway, it is not proportionate to further investigate the number of duty holders that might be involved with the familiarisation process. Based on consultation responses about the average time that familiarisation will take, it is assumed that duty holders may spend around 30 minutes on familiarisation (+/- 10%). (N. B. this is longer than in option 2 as it is assumed it will take longer to understand the new notification procedure under NAMOS in option 3 than to understand the requirement has simply been revoked as in option 2). Based on the same assumptions about costs of time as in paragraph 29, the estimated costs of familiarisation for AN duty holders is between **£5 thousand and £8 thousand** one off costs.

Petroleum

44. The analysis for petroleum is the same as in paragraphs 31 – 34 above. The total number of sites that will have to start complying with the PCA cannot be estimated but the overall impact is expected to be minimal.

Costs to Government

HSE

45. HSE is currently revoking a number of regulations and will communicate this as part of one package. The means by which these revocations will be communicated has not yet been decided, but any costs incurred will be part of business as usual on-going HSE costs and so are not relevant to be included in this IA.

46. There are unlikely to be significant familiarisation costs for government. In reality, very little will change for HSE. A small number of sites are being transferred to Local Authorities but HSE does not know at this stage which sites these will be or how many there will be. Maximum costs per LA for familiarisation have been estimated as £100, see paragraph 36 for more details about this potential cost.

Fire and Rescue Services

47. It is anticipated that there will be familiarisation costs to the Fire and Rescue Services (FRSs) for the time it takes to understand the changes that have taken place to the legal power behind the notifications. Under this option 3 it is proposed that the FRSs will receive the notifications from sites storing AN (as defined in the NIHHS Amendment Regulations 2002) at the specified quantities. As there is a real change for the FRSs, the familiarisation costs will be larger than under option 2. It is assumed that one employee per watch per station will be involved with the familiarisation process, so between 2 and 4 per station and that there are almost 2 thousand stations. Based on consultation with the FRSs, the time taken for familiarisation with such a change is estimated to be around 15 minutes (with a range of +/- 10% added).

48. On the same assumptions regarding the cost of time, (see paragraph 38), the total costs to the FRSs associated with option 3 are estimated to be somewhere between **£16 thousand and £66 thousand** one off costs.

49. There will also be a small cost to the FRSs of processing the notifications received. Currently, AN notifications are processed by a Band 6 administrator in HSE at an hourly cost of £18.50. Internal experts estimate that each notification takes approximately 10 minutes to process, giving a cost per notification of about £3. Assuming that there are approximately 100 notifications received per annum (with a range of 10% either way to allow for the uncertainty in the estimate) the total cost per annum of processing these notifications is estimated to be between £250 and £370 or between £2 thousand and £3 thousand over the ten year appraisal period. It is assumed that an equivalent cost will be borne by the FRSs to process these notifications instead of HSE. Whilst this is not an additional cost to society, it is a transfer between one government body and another, and so is highlighted here.

Total costs of Option 3

Total costs Option 3	Total costs £'000s		
	Low	Likely	High
Familiarisation costs for users of AN	£5	£7	£8
Familiarisation time for FRSs	£16	£36	£66
Total quantified costs	£21	£43	£74
Cost of sites falling under PCA	~£2 per site		
Costs of familiarisation for Las	~ £0.1 per LA		
Health and safety impacts	None noted		

50. The total present value of the costs to business over the appraisal period in option 3 are estimated to be between £5 and £8 thousand.

Analysis of Benefits

Option 1 – Do Nothing

51. As the Do Nothing option continues with the status quo, there will be no benefits to either businesses or government.

Option 2 – Revoke both sets of NIHHS Regulations and do not make a consequential amendment

Benefits to Business

AN Notifications

52. There will be a benefit to business from no longer having to submit notifications for AN. Based on HSE records, there are approximately 100 notifications submitted each year (with about 70 being new notifications and 30 being re-notifications). At consultation, industry was asked how long it took to complete new notifications, and only one response was received, given that the majority of respondents do not notify under NIHHS. This response noted that it would take half a day of time per notification. HSE feel this is the highest end of the range of time, and that it is likely to take from between 30 minutes to 3.5 hours (half a day). Given the average full economic hourly wage of a farmer (who would typically be making the notification) is £17.50 the cost saving per new notification not submitted is approximately between £10 and £60. For the 70 new notifications received per annum, this saving equates to between £600 and £5 thousand for all new notifications. Over the 10 year period, the present value of these cost savings is estimated to be between £5 thousand and £41 thousand.

53. In terms of re-notifications, HSE experts estimate that these should take duty holders 2 – 10 minutes to complete. Based on the above assumptions, the expected saving per notification is between £1 and £3 and over 10 years the present value of the savings on re-notifications is between £150 and £800.

54. The total saving against notifications for AN duty holders over a 10 year appraisal period is estimated to be between £5 thousand and £41 thousand.

Other notifications

55. It is assumed there is virtually no benefit to the rest of business from not having to notify under NIHHS (other than the saving for AN calculated above). Consultation evidence has shown that there are virtually no notifications received under these regulations per annum because the regulations are superseded by the requirement to notify under COMAH. Thus, it has been assumed that there will not be any cost savings to any duty holders other than those required to notify under AN.

On-going familiarisation costs

56. There could also be a benefit to new businesses around on-going familiarisation costs. Given that most of the requirements under NIHHS are replicated elsewhere very few businesses typically submit notifications for any substances other than AN under NIHHS (so familiarisation costs for new businesses are assumed to be zero). There could be some small saving for new businesses storing AN who would no longer have to familiarise themselves with the requirement, but this cost saving is not likely to be significant and it is not deemed proportionate to attempt to quantify.

Benefits to Government

57. As explained in paragraph 49, HSE is currently incurring costs of between about £250 and £370 per annum or between £2 thousand and £3 thousand over the ten year appraisal period to process AN notifications. Under this option 2 to not make a consequential amendment to NAMOS, then these costs will no longer be required (as AN notifications will not be processed at all) and so will be a real saving to society.

58. There will also be a reputational benefit to Government as they will be streamlining and simplifying notification processes by removing unnecessary regulations that have since been superseded.

Total benefits of Option 2

Total benefits Option 2	Total benefits £'000s		
	Low	Likely	High
Time savings for users of AN	£5	£22	£41
Savings to HSE from not processing notifications	£2	£3	£3
Total quantified benefits	£7	£24	£45
Reputational benefit	Significant		
On-going familiarisation for new AN businesses	Not significant		

59. The total present value of the benefits to business over the appraisal period in option 2 are estimated to be between £5 and £ 41 thousand.

Option 3 – Revoke both sets of NIHHS Regulations and make a consequential amendment to the NAMOS Regulations

Benefits to Business

Notifications

60. As with option 2, consultation evidence has shown that there will be virtually no benefit to those businesses that notify under NIHHS as virtually no notifications are received under this regulation per annum because the regulations are superseded by the requirement to notify under COMAH.

61. Under option 3, there will not be any cost savings to duty holders notifying under AN, as they will still have to submit this notification, but it will be under NAMOS and to the FRSs rather than under NIHHS and to HSE. So there will be no real changes in practice for duty holders working with AN (as defined in the NIHHS Amendment Regulations 2002).

On-going familiarisation costs

62. As with option 2 it is not expected there will be any on-going saving in familiarisation costs to new businesses. This is because evidence collected has shown that virtually no notifications are received under NIHHS on an annual basis for any substances other than AN. For new businesses storing AN, nothing is changing in this option and so there will be no saving associated with on-going familiarisation.

Benefits to Government

63. There will not be any reduction in total notifications received by government, as duty holders working with AN will still have to notify, but the notification will be under NAMOS rather than NIHHS, and the notification will be received by the FRSs rather than HSE.

64. So while there will not be any cost saving in total to government from the proposal, there will be a saving to HSE which is offset by an equal and opposite transfer of the cost to the FRSs. In paragraph 49 it is estimated that the costs of processing the AN notifications to HSE is estimated to be between £2 thousand and £3 thousand over 10

years. Under option 3, this duty to process the notifications will be transferred to the FRSs. Whilst there will not be an additional cost to society, the FRSs will incur the cost of processing the AN notifications when they would not under the do nothing baseline, and so the cost to the FRSs is estimated to be between £2 thousand and £3 thousand over the appraisal period.

65. As with option 2, there could also be a reputational benefit to Government as it will be seen to be streamlining and simplifying the notification process and removing regulations that have since been superseded.

Health and safety benefits

66. An additional benefit under this option compared to the baseline is that the FRSs will be aware of sites storing/using AN in the concentrations as defined in the NIHHS Amendment Regulations 2002 and so will be more readily able to ensure the health and safety of fire fighters and help to limit onsite damage if they have to attend an incident at a site where this type of AN is kept.

67. Option 3 will also ensure that the existing level of protection arising from the notification process for sites storing AN at the specified quantities will remain the same. It is not possible to quantify these health and safety benefits however due to the random nature of catastrophic events at such sites and the complexity involved in attributing reduced consequences to the notification process.

Total benefits of Option 3

Total benefits Option 3	Total costs £'000s		
	Low	Likely	High
Health and safety benefits	Potentially significant to workers and the public at risk of incidents and business premises		
Reputational benefit	Significant		

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

68. The analysis in the IA has been supported by evidence collected at consultation from a range of stakeholders, and from HSE experts who understand the NIHHS and NAMOS regulations, and who work with duty holders who fall under the scope of these regulations. The evidence collected supports the expectation that the NIHHS regulations are not largely being applied by industry because they have been superseded by the COMAH Regulations (implementing the Seveso II Directive into national legislation). As the preferred option to revoke both sets of NIHHS regulations and to make a consequential amendment to NAMOS is not controversial, and will create only small costs and savings due to the fact NIHHS is largely redundant already, the level of analysis in this IA is thought to be proportional.

Direct costs and benefits to business calculations (following OIOO methodology)

69. The total cost to business of option 3 is estimated to be approximately £7 thousand over the 10 year period, being attributable to the familiarisation costs for users of AN. This equates to an EANCB of £800.

70. It is estimated that there could also be a benefit to businesses storing AN (as defined in the NIHHS Amendment Regulations 2002) because if FRSs are aware of the presence of this substance on site, then this will help them to mitigate the consequences of any incidents at these sites, both to people present and to the buildings, equipment and stock. The total benefit achieved over the 10 year period will depend on the number of incidents that occur at such sites and the extent of these incidents. However, it is reasonable to assume benefits would be valued at at least £7 thousand over the 10 year period. Thus it has been assumed that option 3 has a net zero cost for OIOO purposes.

71. N.B In Option 2 the EAN Benefit to business is quantified at £2 thousand. However, there are potential health and safety costs to both sites storing AN and to the wider society from HSE not receiving AN notifications. On balance, it is reasonable to assume that the Equivalent Annual Net Cost to Business would be approximately zero for OIOO purposes also, and this is reflected in the summary sheets.

72. All costs and benefits with an equivalent annual value less than about £5 thousand have been rounded in the summary boxes on page 1 – 4. This is based on BRE guidance and because to report estimates with EAC of less than £5 thousand implies a higher degree of accuracy than exists in the IA estimates.

Wider impacts

Statutory Equalities IA

73. An Equality Impact Assessment (EIA) has been prepared and confirms there are no groups likely to be impacted by these changes.

74. It is not thought that there will be any wider impacts associated with this proposal in the following areas: competition, small firms, wider environmental issues, health and well being, human rights, justice, rural proofing, sustainable development.

Summary and preferred option with description of implementation plan

75. The preferred option is option 3. The net present value of this option over 10 years is a cost of around £40 thousand, which relates to familiarisation cost for AN duty holders and FRSs. It is estimated that the net cost to business of this option will be a present value of £7 thousand over the 10 year period. Whilst the changes proposed will impose relatively modest costs on business and society as a whole, it should deliver health and safety benefits to FRSs compared to the baseline. Notifications to the FRSs of AN as defined in the NIHHS Amendment Regulations 2002 will allow them to better deal with incidents on sites and reduce the consequences of such incidents. Although HSE currently receives these notifications, the information is not passed onto the FRSs. The proposal will also streamline a notification system which has gradually been superseded by European legislation.

76. HSE will ensure that industry stakeholders are aware of the changes as a result of the revocation of NIHHS. Communications will include the fact that as part of the revocation a consequential amendment for AN (as defined in the NIHHS Amendment Regulations) has been made to the NAMOS Regulations. It will also need to reflect that a small number of former NIHHS sites where petrol is dispensed (eg for on-site vehicles rather than using a petrol filling station) which are not covered by the COMAH Regulations, will be subject to the petroleum legislation and therefore the licensing regime.

Regulatory Policy Committee	**Validation of the Net Direct Impact on Business**
Title of the 'Validation' IA	Revocation of the Notification of Installations Handling Hazardous Substances Regulations 1982 and 2002 (as amended) and a consequential amendment to The Dangerous Substances (Notification and Marking of Sites) Regulations 1990
Lead Department/Agency	Health and Safety Executive
Expected date of implementation	
Origin	Domestic
Date IA submitted to RPC	02/10/2012
Date of RPC Validation	02/11/2012
Date of RTA Confirmation	N/A
RTA Confirmation reference	RPC12-HSE-1574
Departmental Assessment	
Overall Direction of Impacts	Zero Net Cost
Estimate of the Equivalent Annual Net Cost to Business claimed by the Department	Zero
RPC Validation	
Direction of Impact	IN
Estimate of the Equivalent Annual Net Cost to Business Validated by RPC	£800

RPC Comments

The RPC has validated the £800 EANCB presented in the evidence base (paragraph 69). This is a familiarisation cost. As there seems to be no actual reduction in regulatory burdens from the current proposal, the familiarisation cost would appear to make this an 'IN' for OIOO purposes. However, for Statement of New Regulation reporting purposes this should be classified as zero net cost.

The IA states (paragraph 72) that "*All costs and benefits with an equivalent annual value less than about £5 thousand have been rounded in the summary boxes on page 1 – 4. This is based on BRE guidance and because to report estimates with EAC of less than £5 thousand implies a higher degree of accuracy than exists in the IA estimates*". This reference to BRE guidance is incorrect. There is no *de minimis* in OIOO (page 4 of the OIOO Frequently Asked Questions, July 2012). More generally, it would not appear disproportionate to monetise costs and benefits in this case – indeed this has been done in the evidence base. The monetised figures in the evidence base should be presented in the summary sheets.

Signed	**Michael Gibbons,** Chairman

Title: Revocation of the Construction (Head Protection Regulations) 1989 IA No: HSE0069b Lead department or agency: Health and Safety Executive Other departments or agencies: None	Impact Assessment (IA) Date: 03/08/2012 Stage: Final Source of intervention: Domestic Type of measure: Secondary legislation

Summary: Intervention and Options

RPC Opinion: GREEN

Cost of Preferred (or more likely) Option				
Total Net Present Value	**Business Net Present Value**	**Net cost to business per year** (EANCB on 2009 prices)	**In scope of One-In, One-Out?**	**Measure qualifies as**
£-0.33m	£-0.33m	£-0.037m	Yes	OUT

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

The Construction (Head Protection) Regulations 1989 (CHP) and the Personal Protective Equipment (PPE) at Work Regulations 1992 provide broadly the same requirements on the wearing of head protection. This was recognised by Professor Ragnar Löfstedt in his independent review of health and safety legislation, in which he recommended the revocation of the CHP Regulations 1989, on the grounds that they "largely replicate regulatory responsibilities set out in the later Personal Protective Equipment at Work Regulations 1992" (as long as consultation did not "identify any evidence that this would lead to reduced protection"). The Government has accepted this recommendation. This revocation requires Government intervention.

What are the policy objectives and the intended effects?

The main objective of this revocation is to implement the Government's response to the Löfstedt report, by removing from statute books a regulation that is now considered to be unnecessary, as the regulatory responsibilities it sets out are largely replicated in another set of regulations. This would not reduce the level of legal protection. This proposal is part of a larger deregulatory package, so we would expect it to contribute to an improved perception of HSE's regulatory activity, showing it is sensible and proportionate, without lowering health and safety standards. Additionally, this proposal would generate some familiarisation savings to new businesses.

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 Construction (Head Protection) Regulations 1989 would remain in force.

Option 2: Revoke the Construction (Head Protection) Regulations 1989, and rely on the Personal Protective Equipment (PPE) at Work Regulations 1992 to regulate the provision and use of head protection on construction sites. Small amendments would also have to be made to the PPE Regulations, to remove the sections where they currently refer to the CHP Regulations.

This impact assessment does not identify a preferred option. Rather, it presents the evidence for decision-makers to do so. The summary numbers above are for option 2, as those for option 1 are all zero.

Will the policy be reviewed? It will not be reviewed. **If applicable, set review date:** Month/Year

Does implementation go beyond minimum EU requirements?			No		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	**Micro** Yes	**< 20** Yes	**Small** Yes	**Medium** Yes	**Large** Yes
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)			**Traded:** N/A	**Non-traded:** N/A	

I have read the Impact Assessment and I am satisfied that (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.

Signed by the responsible Minister: M Hn Date: 27/2/13

Summary: Analysis & Evidence

Policy Option 1

Description: Do nothing

FULL ECONOMIC ASSESSMENT

Price Base Year 2011	PV Base Year 2013	Time Period Years 10	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	Optional		Optional	**Optional**
High	Optional		Optional	**Optional**
Best Estimate	0		0	**0**

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

Option 1 would result in no costs to society

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

N/A

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

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

Option 1 would result in no benefits to society

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

N/A

Key assumptions/sensitivities/risks — **Discount rate (%)**

N/A

BUSINESS ASSESSMENT (Option 1)

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

Summary: Analysis & Evidence

Policy Option 2

Description: Revoke the Construction (Head Protection) Regulations 1989

FULL ECONOMIC ASSESSMENT

Price Base Year 2011	PV Base Year 2013	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 0.26	**High:** 0.40	**Best Estimate:** 0.33

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	1st	Optional	**Optional**
High	Optional		Optional	**Optional**
Best Estimate	0.37		0	**0**

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

There would be a £370,000 one-off cost to businesses for time spent familiarising themselves with the fact that the CHP Regulations have been revoked and that in effect, this does not affect head protection requirements.

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

If misunderstandings of the effects of the revocation were to lead to more fatal and/or non-fatal head injuries (see 'Key assumptions / sensitivities / risks' below), these would lead to costs. These would be mainly to workers and their families (e.g. in the form of pain, grief and suffering), but also to business (e.g. sick pay, lost production) and government (e.g. processing of benefits).

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional		0.075	**0.63**
High	Optional		0.090	**0.77**
Best Estimate	0		0.082	**0.70**

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

There would be annual savings to new businesses entering the sector, resulting from not having to familiarise themselves with the CHP Regulations. Our best estimate of these savings is £82,000 a year.

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

Contributing to an improved perception of HSE's regulatory activity, showing it is sensible and proportionate.

Key assumptions/sensitivities/risks — **Discount rate (%)** 3.5

We have gathered extensive evidence to evaluate the extent of the potential risk that the revocation might be misunderstood and this might lead to adverse health and safety outcome (paragraphs 63 to 93). Our overall conclusion is that while it is entirely possible that the level of protection would not be reduced, there is a non-negligible risk that this could happen; and that if it did, the consequences could be more fatal and non-fatal head injuries than would otherwise have occurred.

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 0.040	**Benefits:** 0.077	**Net:** 0.037	Yes	OUT

Impact assessment for the revocation of the Construction (Head Protection) Regulations 1989

Introduction

1. The proposal is to revoke the Construction (Head Protection) Regulations 1989[1] and rely on the Personal Protective Equipment (PPE) at Work Regulations 1992[2] to regulate the provision, use and upkeep of head protection on construction sites.

Background

2. The Construction (Head Protection) Regulations 1989 (CHP) were introduced after non-regulatory interventions failed to reduce the high-level of head injuries taking place at the time in the construction industry[3].

3. In 1989, the EU introduced a Directive on the use of PPE[4], which was transposed into UK law through the Personal Protective Equipment (PPE) at Work Regulations 1992.

4. Both these regulations provide broadly the same requirements on the wearing of head protection. This was recognised by Professor Ragnar Löfstedt in his independent review of health and safety legislation, commissioned by the Employment Minister in March 2011. In his report[5], published in November 2011, Professor Löfstedt recommended the revocation of the CHP Regulations 1989, on the grounds that they "largely replicate regulatory responsibilities set out in the later Personal Protective Equipment at Work Regulations 1992", as long the consultation process did not "identify any evidence that their revocation would result in reduced protection within the industry". The Government has accepted[6] this recommendation.

Policy objectives and intended effects

5. The main objective of this revocation is to implement the Government's response to the Löfstedt report, by removing from statute books a regulation that is now considered to be unnecessary, as the regulatory responsibilities it sets out are largely replicated in another set of regulations. This would not reduce the level of legal protection.

6. This proposal is part of a larger deregulatory package, so we would expect it to contribute to an improved perception of HSE's regulatory activity, showing it is sensible and proportionate, without lowering health and safety standards.

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[1] The regulations can be found at: http://www.legislation.gov.uk/uksi/1989/2209/contents/made

[2] The regulations can be found at: http://www.legislation.gov.uk/uksi/1992/2966/contents/made

[3] More detail on the evidence available on this issue will be provided later in this impact assessment.

[4] Council Directive 89/656/EEC

[5] See: Reclaiming health and safety for all: An independent review of health and safety legislation, by Professor Ragnar E. Löfstedt - http://www.dwp.gov.uk/docs/lofstedt-report.pdf

[6] See the Government's response to the Löfstedt report: http://www.dwp.gov.uk/docs/lofstedt-report-response.pdf

7. Additionally, this proposal would generate some savings to new businesses, as they would no longer have to spend time familiarising themselves with these particular regulations.

Alternatives to regulation

8. None have been considered, as this is a deregulatory measure.

Options considered

9. Given the above, we have considered only the following 2 options:

10. Option 1: Do nothing: the Construction (Head Protection) Regulations 1989 would remain in force.

11. Option 2: Revoke the Construction (Head Protection) Regulations 1989, and rely on the Personal Protective Equipment (PPE) at Work Regulations 1992 to regulate the provision and use of head protection on construction sites.

12. A small amendment would also have to be made to the PPE Regulations, to remove the section where they currently refer to the CHP Regulations. We would revoke Regulation 3(3)(f), which currently disapplies certain requirements of the PPE Regulations where the CHP Regulations apply.

The Regulations and the duties they impose regarding head protection

13. The CHP Regulations require the provision of suitable head protection for workers who are engaged in construction work, and place a duty on employers and persons in control of others to ensure, so far as is reasonably practicable[7], that 'suitable head protection' is worn if there is a foreseeable risk of head injury other than by falling. The duty to provide 'suitable head protection' covers any type of head protection that provides appropriate protection against the risks of head injury present in particular circumstances and includes forms of head protection such as bump caps as well as the more normal safety helmets. The CHP Regulations also provide for the making of rules and directions where it is necessary to ensure that head protection is worn, and a duty on workers to wear head protection where such rules and directions require it.

14. The CHP Regulations are prescriptive, with no element of assessing the risks of head injury and deciding on the best form of controlling those risks in relation to the duty to provide head protection. The only assessment of risk is in the duty to ensure that the head protection is worn. This requires employers, self-employed and employees who have control over others, to ensure that head protection is worn "unless there is no foreseeable risk of injury to the head other than by falling".

15. The assumption is that, in almost all cases, head protection should be worn when working on construction sites (the Guide to the Regulations[8] says that

[7] See: http://www.hse.gov.uk/risk/theory/r2p2.pdf

[8] This Guidance document can be found at: http://www.hse.gov.uk/pubns/priced/l102.pdf

the circumstances "where there is no foreseeable risk of head injury from falling or swinging objects or striking the head against something will be very limited.").

16. There is also a duty on employees (and the self-employed) to wear head protection in accordance with rules or directions made by employers or those in control. These rules or directions may be made in order to comply with the requirement to ensure that head protection is worn.

17. The Personal Protective Equipment (PPE) at Work Regulations are much less prescriptive and more objective-setting, covering all types of PPE and the wide range of workplace risks where the provision and use of PPE might be needed.

18. In the PPE Regulations, the requirement on employers to provide PPE (including head protection) is conditional on two things: that there is a risk to the health and safety of their employees and the extent to which those risks are not already adequately controlled by other means which are equally or more effective than the provision of PPE.

19. The Guide to the PPE Regulations[9] makes clear that in the provision and use of PPE, employers should use a hierarchy of controls and that PPE should be regarded as the last resort to protect against risks to health and safety: that engineering controls and safe systems of work should be considered first.

20. The PPE Regulations also put a duty on employers to take reasonable steps to ensure that any PPE provided to employees is properly used, including providing such information, instruction and training as is adequate and appropriate to enable the employee to know the risks the PPE protects against and how to use and maintain it properly. Additionally, there is a duty on employees to use the PPE in accordance with any information, training and instructions given them.

21. The main differences between the regulations are therefore the following:
    a. *their scope* – CHP applies only to the construction industry and to head protection, while PPE is wider, covering all industries and a large variety of personal protective equipment,
    b. *their approach* – CHP's approach is a prescriptive one. Under the CHP regulations, if there is a foreseeable risk of head injury other than by falling, head protection must be worn. The employer (or self-employed person) does not make the decision of which is the best way of controlling that risk. In contrast, the PPE regulations use an objective-setting approach, with the employer (or self-employed person) assessing which the best way of controlling the risk is and only using PPE as a last resort, when the risk cannot be adequately controlled in another way.

22. In practice, however, in spite of the different approach used by each of the regulations, HSE considers that the end result would be the same in terms of legal requirements. Having analysed the legal requirements and the reality of construction sites, our conclusion is that both regulations place on employers

[9] This Guidance document can be found at: http://www.hse.gov.uk/pubns/indg174.pdf

and the self-employed the same requirements in terms of when head protection should be provided and used. In short, the nature of the risks of head injury in construction work is such that, in order to comply with the PPE Regulations, the use of head protection would be needed in the same circumstances as it would be needed to comply with the CHP Regulations. The site rules that tend to apply in larger sites, and which (as we will show later) have a significant impact on the wearing of head protection, would not need to change to comply with the PPE Regulations.

Consultation and qualitative research

23. This IA takes account of the information gathered from public consultation, as well as qualitative research which was carried out in parallel.

Public consultation

24. On April 3rd 2012, HSE published a consultation document[10] on proposals to remove 14 legislative measures, amongst them the CHP regulations. This consultation document included a supporting consultation-stage IA for this measure, and invited interested parties to comment on the proposals, as well as on some of the assumptions made in the IA.

25. Public consultation ran for a 12-week period, ending on July 4th 2012. HSE received a total of 77 responses which answered some or all of the questions regarding the revocation of the CHP regulations. 66 of them came via the consultation questionnaire and the rest were narrative responses received through other channels. Responses were received from a range of stakeholders including industry, trade associations, trade unions, consultants, local government, and academics. Of the 77 responses received the greatest percentage of responses was from industry (26%) and consultancies (17%). Half of respondents replied to the consultation in their capacity as health and safety professionals.

26. There was substantial support for the proposal amongst respondents, with approximately three quarters of all respondents in favour. These respondents mainly come from 3 groups: those who categorise themselves as 'industry', 'health and safety consultants' or from local government. A few who agreed, did so while stating that any potential misunderstanding that the revocation removes requirements for the provision and wearing of head protection would need to be vigorously counteracted through publicity.

27. The background of respondents who disagree is more varied and includes two trade unions (UCATT and Unite) and respondents from pressure groups, industry, trade associations, government, health and safety consultants, academics, a training provider and a member of the public. The main concern they raise is that revocation would reduce safety standards. They refer to the fact that Professor Löfstedt's recommendation for revocation is conditional on consultation not identifying any evidence that would lead to reduced safety standards. They believe that it is the simple, prescriptive approach of the CHP Regulations that explains its past success in reducing the number of head injuries on construction sites and that the PPE Regulations are less straightforward. There are particular concerns that revocation would lead to a

[10] See: http://consultations.hse.gov.uk/gf2.ti/f/16450/427653.1/pdf/-/CD239.pdf

misunderstanding that the provision and wearing of head protection was no longer required. They also question the benefits of revocation if the estimated costs of the change seem to be more than those if the Regulations were left in place. Lastly, they question the adequacy of HSE's publicity plans to ensure there is no misunderstanding over the need to continue providing and wearing head protection, should the revocation go ahead.

28. A small number of those who submitted written responses do not explicitly express support one way or the other and include three trade unions (the TUC, GMB and CWU) and a trade association. Analysis shows that they express similar concerns to those who disagree, but say that, should the Regulations be revoked, there should be significant action to publicise the fact that this will not change the need for employers to provide, and workers to wear, head protection.

29. The consultation document also posed some specific questions referring to the assumptions used in the consultation-stage IA, to how the proposal might affect the level of provision and use of head protection in the construction industry and to HSE's communications plans for this proposal. The responses to these questions will be presented later on in this IA, in the sections containing the relevant analysis.

Qualitative research

30. The issue of the impact on health and safety of potential misunderstandings of the effects of the revocation on requirements was one that was raised in the consultation-stage IA. Existing evidence was not conclusive, and HSE stated plans to gather the views of stakeholders on the issue. This was done through public consultation, as mentioned above, but it was felt that supplementary qualitative research would be appropriate to best explore the issue. This was for two main reasons: 1) current sector knowledge suggested that any issues would mainly manifest themselves in the smaller end of the sector, a segment that, experience shows, does not usually send responses to public consultations, and 2) the complexity of the causal links in this issue was such that, it was felt, it would benefit from more in depth exploration, through conversation with a researcher.

31. For these reasons, HSE carried out a piece of qualitative research parallel to the formal, public consultation. This was done internally, by HSE analysts, and involved 15 telephone interviews with individuals from the construction industry. This was deemed to be a sufficient number of interviews, once the interviews started to bring up a consistent range of issues.

32. The original intention was to concentrate mainly on dutyholders from small businesses. In practice, it proved extremely difficult to recruit such individuals, and the bulk of the interviews ended up being with people who perform health and safety roles in medium to large-sized organisations. However, conversation with these individuals made it clear that they had excellent knowledge of the segment we were concerned about, as their projects invariably involved a number of subcontractors, many of whom were very small. The conversations therefore focused on their experience with these contractors and their knowledge of the segment. It should be noted that, had we spoken to small contractors themselves, we would also have focused on their experience of the behaviour of others in the sector (asking them about

their own behaviour would have been susceptible to social desirability bias, and their interest in participating in the research could have indicated that these participants were more likely to be engaged in health and safety than the wider target audience). Therefore the findings provide a useful insight into the views of a subset of the target population.

33. The conclusions of this research are presented later on in this IA, in the section containing the relevant analysis.

Costs and benefits

Option 1: Do nothing

34. Option 1 would continue with the status quo, and therefore has no cost or benefit implications.

Option 2: Revoke the CHP Regulations 1989

Coverage

35. The CHP Regulations place duties on employers and the self-employed in the construction sector. Latest figures from the Department for Business, Innovation and Skills (BIS)'s Business Population Estimates (BPE)[11] indicate that there are approximately 875 thousand enterprises in the sector. Of those, 725 thousand are individuals who are self-employed with no employees, with the remaining 150 thousand having 1 or more employees (98% of them have between 1 and 49).

36. We also considered the Inter Departmental Business Register (IDBR)[12] as a possible source of data. It shows a much smaller number of businesses for the construction sector (260 thousand in 2011). However, after consultation with HSE statisticians, it was decided that the BPE were a more reliable source for this particular sector. This is because our knowledge of the sector indicates that microbusinesses and the self-employed are very common in it, and the BPE incorporate them to their estimates. The BPE take data from IDBR, which contains businesses operating VAT and/or PAYE schemes and then add an estimate for the very small, unregistered enterprises also operating in the sector.

Period of analysis

37. We have chosen to analyse the costs and benefits of the proposal over a period of 10 years, following the Impact Assessment Toolkit's guidance[13] to use a 10-year period when there is not a more appropriate appraisal period, relating to the life of the policy.

Costs to business

38. As described in the previous section, although the two regulations in question are different in approach, the provision of head protection would be required

[11] Business Population Estimates for the UK and Regions 2011 - http://stats.bis.gov.uk/ed/bpe

[12] IDBR: http://www.ons.gov.uk/ons/about-ons/who-we-are/services/unpublished-data/business-data/idbr/index.html

[13] See: http://www.bis.gov.uk/assets/biscore/better-regulation/docs/i/11-1112-impact-assessment-toolkit.pdf

in the same circumstances. Existing businesses in the construction sector would therefore have to take no action regarding the provision and use of head protection and would incur no compliance costs.

39. A number of businesses, however, would incur some one-off familiarisation costs as they spend time understanding what the change has been and what it means for them. HSE is putting plans in place to communicate the changes effectively, aiming to ensure that businesses clearly understand that they need take no further action, and that they can understand this message efficiently, without spending undue time. This communication effort will also focus on preventing the unintended consequence of businesses misinterpreting the implications of the change and assuming they need not provide head protection any longer –we analyse this possibility in the *Risks and Uncertainties* section of this impact assessment.

40. Our initial estimates in the consultation-stage IA were based on HSE's knowledge of the sector. This indicated that very few of the self-employed and only a small proportion of those with employees would spend time on this, as the culture of the industry is so familiar with the need to wear head protection. Our estimate was that approximately 5% of the self-employed and 25% of businesses with employees would spend any time on this activity, and we stated that we would be seeking views on whether this was a reasonable assumption during consultation.

41. Using low estimates was supported both by the qualitative research (the general view was that awareness of the revocation would be low throughout industry) and by respondents to the formal consultation. The specific questions in the consultation document gathered approximately 60 responses. A substantial majority thought our estimates were reasonable. Of those who thought it was not, most thought they should be even lower (especially for the estimate of 25% for businesses with employees), stating that most self-employed would only hear of this through larger sites where they worked, and that most employers do not keep close track of regulatory changes. A number of respondents, however, thought the estimates should be higher, due to the subject matter. One respondent, for instance, argued that although compliance in the construction sector is normally low, "something as fundamental as head protection is likely to have a higher take-up". Having considered these responses, and that, on the whole, respondents thought the original assumptions reasonable, and that those who did not were relatively split on whether the estimates should be higher or lower, we will continue to use the 5% and 25% assumptions.

42. HSE will work with the industry so that the change and its implications are effectively communicated - to the smaller end of the construction industry in particular. This should minimise the time that businesses take to understand the change. The consultation-stage IA provided an estimate of no more than 10 minutes. This estimate was also checked with consultees, the great majority of whom agreed it was reasonable (although a small number made the point that it could be higher, and that it would depend on the individual and how well we communicated the message). Having considered the responses, we will continue to use the original estimate.

43. We assume the familiarisation would be undertaken by a construction manager, at a full economic cost of approximately £30 per hour[14]. Using the assumptions described, this results in a cost of £5 per person undertaking familiarisation.

44. We assume one manager in each of those businesses would undertake familiarisation at an hourly full economic cost of £30[14]. We recognise that for larger companies, more than one manager would engage in this activity. However, the vast majority of businesses in this sector are very small. As mentioned earlier, the BPE show that 98% of employers in the sector have between 1 and 49 employees. For this issue it is also useful to consider evidence from the IDBR, as it provides a more detailed breakdown for the businesses it covers (even though we know it does not include most of the smallest businesses in the sector),. 81% of these businesses have fewer than 5 employees, and 92% have fewer than 10 (the proportion for fewer than 50 is 99%, which coincides with the BPE). Based on this, we judge the assumption of one manager per business to be reasonable.

45. The assumptions described above would result in a one-off cost to businesses of £370 thousand in the first year.

46. In the consultation-stage IA, we judged it unlikely that there would be a significant number of businesses needing to familiarise themselves with the PPE Regulations as a result of the proposed revocation. This was based on the experience of HSE's Construction Division, which told us that businesses complying with the CHP Regulations will generally be familiar with and complying with the PPE Regulations for other types of protective equipment needed on construction sites. The small amendments needed to remove references to the CHP Regulations would be very minor, and not expected to result in businesses feeling the need to refamiliarise themselves with the PPE Regulations. We asked a question relating to this assumption in the consultation, and a large majority of respondents agreed that it was a reasonable assumption to make. Of those who answered that they did not agree with the assumption and provided additional comments, only one suggested a different estimate, which was very high. We will therefore continue to use this assumption.

Cost savings to business

47. New businesses entering the construction sector would now not have to spend time familiarising themselves with the CHP Regulations, and that would represent a cost saving to them. The CHP Regulations are not very long, so we estimated in the consultation-stage IA that it currently takes someone approximately half an hour to read and understand them. We asked a question relating to this assumption in the consultation, and a majority of respondents thought the assumption was reasonable. Of those who felt it was not, there was a mix between those who thought it took longer, those who thought it took less time and those who thought it depended on the individual. We will therefore continue to use this assumption.

[14] Source: Annual Survey of Hours and Earnings (ASHE) 2010, Office for National Statistics. Salary for SOC category 1122 (Managers in construction), uprated by 30% to account for non-wage costs.

48. Changes to the PPE Regulations (needed as a result of revoking the CHP Regulations) would shorten and simplify them slightly, so the new version would probably take a slightly smaller amount of time to read. We will not attempt to quantify this minor time saving.

49. If familiarisation was undertaken by a construction manager, at a full economic cost of approximately £30 per hour[14], this results in a cost saving of £15 per person undertaking familiarisation in a new business entering the construction sector. As before, we will assume one person per business undertaking familiarisation.

50. The only official figures for new businesses entering the construction sector come from the Office for National Statistics[15], and indicate that for the period 2008-2010, an average of 32 thousand new businesses entered the construction sector each year. However, these figures are based on data from the Inter Departmental Business Register, and therefore, as explained above, do not include many of the smallest businesses, especially the self-employed, which is a significant issue in the construction sector. We therefore conclude that 32 thousand new businesses per year is a considerable underestimate of the real number. During the consultation period we explored whether we could get more reliable official figures, but were unsuccessful. We have therefore decided to use a figure that comes from extrapolating from the data provided by the BPE and IDBR. Even though there is uncertainty in the figures we reached using this method (which we have taken into account by using ranges), we believe this is likely to be closer to reality than the figures based solely on IDBR.

51. As mentioned in paragraphs 35 and 36,the number of businesses estimated in the IDBR for the entire construction sector is over three times smaller than the estimate provided by the BPE, and it is reasonable to think that this would be similar for the estimates of new businesses (we might even expect the ratio to be larger, as on the whole, start-ups tend to be smaller than established businesses). Applying the appropriate ratio, which is approximately 3.4, gives an estimate of new businesses entering the construction sector each year of approximately 110 thousand. Due to the uncertainty inherent in arriving at this figure, we will use a range for our estimates: 95 to 120 thousand new businesses per year.

52. We will assume the distribution between employers and the self-employed is the same as for the total number of businesses in the sector (although we acknowledge that a larger proportion of self-employed might be expected amongst new entrants to the market. However, we have no data that would allow us to make this adjustment).

53. In the consultation-stage IA, we used the same assumptions as above for employers and the self-employed to estimate what proportion of new businesses actually familiarise themselves with the CHP Regulations. The rationale was that it might be expected that this proportion will not be too dissimilar to the proportion of existing businesses spending time familiarising themselves with the implications of the revocation.

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[15] Business Demography 2010 - http://www.ons.gov.uk/ons/rel/bus-register/business-demography/2010/stb---business-demography-2010.html

54. However, we asked questions relating to these assumptions at consultation, and although all respondents supported using low estimates for this, proportion (this was also supported in the qualitative research carried out internally), responses on whether our estimates were the right ones were split.

55. Approximately half of respondents thought the assumptions were reasonable, but the other half thought they should be lower. Many respondents expressed the opinion that, on the whole, not many new businesses read these regulations at all and their use and provision of head protection arises mainly from what might be called "knowledge creep": seeing the way things are done in industry generally, as well as site rules in sites in which they work as contractors (a respondent from a trade association stated that in their experience, new entrants to the industry tend to act as sub-contractors). Respondents who thought the estimates should be lower made some convincing arguments, and we will therefore adjust our estimates downward. Unfortunately, not many alternate estimates were suggested, but based on the approximate averages, we have decided to change the estimate for the self-employed from 5% to 3%, and that for the employers from 25% to 15%.

56. Using these assumptions, new businesses would save approximately £75 to £90 thousand (best estimate: £82 thousand) a year from not having to familiarise themselves with the CHP regulations. This results in a 10-year present value of £630 to £770 thousand (best estimate: £700 thousand).

Annual equivalent net cost to business and One-In, One-Out (OIOO)

57. The previous sections have identified a one-off cost to business of £370 thousand in the first year and annual savings to business of £75 to £90 thousand in the first 10 years. This represents annual equivalent net savings to business of £30 to £47 thousand, with a best (central) estimate of £39 thousand. Expressed in 2009 prices (as required for OIOO), this would be an 'Out' of £37 thousand under OIOO.

Costs to HSE

58. The main cost to HSE of taking forward this initiative is likely to be related to work on communicating the change. Plans presented in the consultation-stage IA were for publicising it through Construction Infonet[16], HSE's email bulletin for the construction industry, which would reach many of those in the sector interested in health and safety, as well as press releases to ensure accurate coverage and changes to the website (including reinforcing the guidance to the PPE Regulations).

59. Consultation identified that many of those who were opposed to, or had concerns about, the proposal, thought that HSE's plans for publicity set out in the CD were inadequate. However, many of those who were in favour of the proposal made useful suggestions and offers of help to publicise the change. These included providing toolbox talks and placing posters on site, including publicity in newsletters, provision of advice from health and safety consultants, inclusion of the message in training courses and help in distributing, or drawing attention to, any guidance that HSE produces. Others

[16] See: http://www.hse.gov.uk/construction/infonet.htm

suggested ways of publicising the change that HSE should carry out in co-ordination with the industry.

60. Based on this feedback, we have made amendments to our communications plans. Final details are still being approved, but the intention is to add to our original plans: taking up the offers of help from stakeholders, publication of a "Busy Builder" leaflet that can be used both by stakeholders and through the Working Well Together[17] (WWT) system and including head protection as a priority area for action (alongside asbestos, working at height and good order) during the course of next year's intensive inspection initiative on refurbishment. This would help target our communication efforts at the part of the industry where, as we will explain later, evidence suggests there could be misunderstanding of the change.

61. These activities would not have significant additional costs either on HSE (as they would be taken forward by current staff) or on stakeholders who made those offers (most of whom already carry out activities around the promotion of health and safety as part of their roles).

Benefits

62. There is a potential, speculative benefit in relying on regulations that are goal-setting rather than prescriptive, and that is that the former are more future-proof and potentially more economically efficient. The change from a prescriptive to a goal-setting legislative framework could be seen as both a positive or negative aspect of the revocation: Goal-setting legislation allows dutyholders to choose the most appropriate methods or equipment available to meet the legal requirements, though it can be seen as introducing a level of uncertainty. As we mentioned, businesses are already complying with a range of goal-setting regulations, not least the PPE regulations, so removing prescriptive legislation should assist dutyholders in that they have to comply with only one, goal-setting, framework.

Impact on health and safety

63. The revocation of the CHP Regulations would not lower the legal protection of workers, as it would not result in changes in when head protection needs to be provided and used in construction. Accordingly, employers and workers would not need to alter their behaviour in any way, and , provided the change is properly understood, this would result in no impacts on health and safety from the proposal.

64. However, HSE recognises that there is a risk that some businesses might misunderstand the change and think that they need not provide head protection for their workers any longer (or that some self-employed might think that they need not use theirs). This possibility and its potential consequences are explored in detail in the next section, on "Risks and Assumptions". The main conclusion that can be drawn from our analysis is that, although evidence is not conclusive enough for us to predict the effects of the proposal with certainty, the risk described above is one that a number of people in the industry consider to be a real one.

[17] An industry campaign which is supported by HSE. See: http://wwt.uk.com/

65. Based on this, we judge it is possible (but not certain) that the proposal might lead to a lowering of health and safety standards, and that this is more likely to happen on the small end of the market and/or in small or domestic projects. The evidence available does not allow us to estimate the extent of this risk (much less quantify expected health and safety effects). The next section presents the evidence available for decision-makers to consider.

Risks and assumptions

Misunderstanding of the effects of the revocation

66. The main risk in taking forward this initiative and revoking the CHP Regulations is that some firms would stop providing and requiring the use of head protection to their workers and that individuals (whether the self-employed or employees) would stop wearing head protection. This would be caused by a misunderstanding of the change, with dutyholders or workers thinking the requirement to provide and use head protection is no longer in force. If this happened in sufficient numbers, it could lead to an increased number of fatalities and injuries.

67. This is a risk that is recognised by Professor Löfstedt in his report, where he says that he only recommends revoking the regulations "provided that the consultation process does not identify any evidence that their revocation would result in reduced protection within the industry."

Issue 1: Does increased provision and use of head protection lead to better health and safety?

68. Prior to the introduction of the 1989 CHP Regulations, concerted efforts were made to increase the voluntary use of head protection in the construction industry through non-regulatory means. This included initiatives such as Working Rule Agreements between employers and employees in 1981[18]. Research was conducted in 1982 to evaluate their effectiveness, and found they had not succeeded in increasing the use of head protection.

69. The 1982 study was a survey[19] which found that only a third of sites visited had registered any improvement in wearing of head protection, and that even in those which had improved, only about a third of workers were wearing head protection. This was very low in comparison to other countries, such as the US, which registered almost 100% wearing of head protection in construction.

70. Based on the results of this evaluation, it was concluded that self-regulation had failed. Consequently, it was agreed the risk to injury to the head in construction would be reduced if there were specific duties in legislation requiring the provision and use of head protection on construction sites.

71. The CHP Regulations came into force in early 1990. Two years later, HSE carried out a survey, which found that on 69% of the sites visited, between 80% and 100% of workers wore suitable head protection and the majority of employers had adequate mechanisms to ensure the wearing of safety

[18] Safety helmets on construction sites. HSC Discussion Document 1979.

[19] Working Rule Agreement six month survey by HMFI in *Measuring the Effectiveness of HSE's field activities.* HSE occasional paper OP 16. HMSO 1985.

helmets where necessary. This was a marked improvement on the results found by the 1982 survey.

72. An evaluation of the effectiveness of the regulations was carried out in 1994[20] (the 1992 survey was an input into it), and found that the regulations had been very effective. It found, for instance, that in the period 1986-1993 there had been significant reductions in accident (especially fatal accident) rates, both for employees and the self-employed.

73. The available statistics on head injuries in construction are consistent with this finding on the effectiveness of the CHP Regulations (although of course the statistics are affected by other factors too). In our pre-consultation IA, we presented the figures in Annex 1, which show the number of reported head injuries to employees and the self-employed in Construction before and after the introduction of the regulations, from 1986/87 to 2010/11(p)[21]. It can be appreciated that non-fatal major head injuries have shown a downward trend over the years, albeit with year-on-year variations. They have fallen from an average of 165 a year in the period 1986/87 to 1989/90, to an average of 122 in the next 4 years and 130 in the most recent 4 years (2007/08 to 2010/11(p)). A more dramatic reduction happened with fatal injuries. Comparing the same periods, the average number of head injury deaths in construction sites fell from 48 a year (4 years to 1989/90) to 28 (4 years from 1991/92) and 14 (latest 4 years).

74. These figures, it should be noted, include all the kinds of head injuries taking place in the construction sector. These include injury types that might be prevented by wearing head protection (such as injuries incurred through a falling object striking the head), but also some types that would not (for instance, a worker falling from a great height and hitting their head against the ground). During the consultation period, HSE statisticians have conducted a more in-depth examination of the data, differentiating between injuries where the wearing of head protection would have been relevant, and where it would not.

75. Unfortunately, data detailed enough to perform this analysis was not available for the period before the introduction of the regulation, or for the period immediately afterwards, so the figures presented in Annex 2 start in 1996/97, some 7 years after the introduction of the regulations. This means that we cannot draw from them a clear picture of what effect the regulations might have had. However, the figures we do have show that, in the period analysed: a) the types of fatalities and injuries which might have been prevented by the wearing of head protection are only a proportion of total head fatalities and injuries. Over the period, these fatalities averaged 3 a year (about 10%-15% of all fatal head injuries) and injuries averaged approximately 45 a year (about a third of all major head injuries); b) there is not as clear a trend in them as in the figures in Annex 1 (fatal injuries have remained level during the period analysed, while major injuries show no clear trend, and if anything, might be higher in recent years).

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[20] "A study of the effectiveness of the Construction (Head Protection) Regulations 1989", 1994. Safety Policy Division, HSE.

[21] (p) = 2011 figures are provisional

76. In our consultation-stage IA, we stated that "All the evidence available points to the regulations having been highly efficient in increasing the wearing of head protection, and to this having prevented a large number of deaths or major injuries.". These new figures show that the number of deaths and injuries prevented is lower than previously presented, but do not cast doubt on the conclusion itself: it should be remembered that we have no data for the period immediately before the introduction of the regulations, or for the 7 years straight after that. Any effects of the regulations would have been expected to be felt then, and the regulations to have become mature by 1996/97.

77. In conclusion, **there is still evidence to conclude that if the wearing of head protection decreased, we could expect an increase in head injuries, including fatal ones.**

Issue 2: Would misunderstanding the effects of the revocation lead to less wearing of head protection?

78. We concluded above that if provision and use of head protection decreased, there would be negative effects on health and safety. The next question is whether a misunderstanding about what the revocation means in terms of the legal requirements would lead to less wearing of head protection.

79. Based on HSE's Construction Division's experience, we know that site rules requiring the use of head protection are crucial to making sure workers are protected. Evidence presented by Helander (1991)[22] suggests this was not happening before the regulations came in. Reporting on the situation then (when head injuries in construction were high), Helander found that in 25 out of 29 sites visited, the decision to wear a safety helmet was left to the individual worker.

80. Initial industry feedback presented in the consultation-stage IA indicated that there is a culture of wearing head protection in the construction industry. There is a requirement the Construction (Design and Management) Regulations 2007[23] to draw up site rules, and these usually cover the need to wear head protection. This suggested that businesses would not necessarily change the requirements they make of their workers if they misunderstood the effect of the revocation of the regulations.

81. Both the qualitative research and responses to the formal consultation found some evidence to support this. Use of head protection was felt to be widely accepted within the construction industry. It was described as 'second nature', particularly among larger companies and was largely thought to be driven by many sites taking a zero tolerance approach and good practice being cascaded from larger companies. However, there was also a perception that head protection is not always worn by individual workers, even on larger sites, and is less likely to be worn by smaller 'domestic' builders.

[22] Helander, M. G. (1991). "Safety hazards and motivation for safe work in the construction industry". International Journal of Industrial Ergonomics, vol. 8, no. 4, 205-223

[23] See: http://www.legislation.gov.uk/uksi/2007/320/contents/made

82. A small number of respondents to the public consultation referred to businesses reducing provision of head protection. Additionally, several participants in the qualitative research raised concerns that individual workers may use news about the revocation 'as an excuse' not to wear head protection, and there is some evidence that in some cases, workers might, if they can, choose not to wear head protection. Recent research[24] commissioned by HSE amongst 'hard-to-reach' small construction site operators found that in some cases, individuals would not comply with some regulations. It found that these individuals might not wear head protection in some circumstances due to reasons like discomfort ("A tall guy walking on a scaffold with a helmet you bang your head everywhere", it's hotter under the helmet), or pride (not liking being told what to do).

83. We also analysed responses from employers to the Fit3 survey, a large-scale survey of workplaces which HSE carried out in 2008. The most relevant question was regarding which factors the respondent considered to be important in driving changes to health and safety in their organisation[25]. They could choose up to three. In construction, 68% of respondents selected "Health and safety regulations", which would suggest that if they believed a regulatory requirement was no longer in force, they might change their behaviour. This was the most selected option. However, a large number of respondents also cited other factors: "Sickness absence" (55%) and "Customer requirements" (53%), which could point in the opposite direction. It should also be noted that this question did not refer to head protection specifically, but to general "changes in health and safety", so we might not necessarily be able to apply its conclusions directly to requirements to wear head protection.

84. From the available evidence we can conclude that **on larger sites and for larger companies, where the provision and use of head protection is likely to be more ingrained, a misunderstanding about the effects of the revocation is unlikely to have an effect on the provision and wearing of head protection. However, for self-employed or small contractors working in domestic or other small sites, it could potentially have an effect.**

Issue 3: Would the revocation lead to misunderstandings about whether head protection should still be worn?

85. The risk of businesses misunderstanding the nature of this change was one raised spontaneously by many respondents in the qualitative research, who were concerned that people might think they do not need to wear head protection anymore or could use it as an excuse not to provide or wear appropriate protection. It was also mentioned by several respondents to the formal consultation, who thought the revocation would "create confusion" in the industry.

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[24] Report of qualitative research amongst 'hard to reach' small construction site operators, HSE (2009): http://www.hse.gov.uk/research/rrpdf/rr719.pdf

[25] The question asked was: "Please could you say which two or three (of the following options) are most important in driving changes to health and safety in your organisation?"

86. This is a problem that could be mitigated by HSE putting efforts into communicating effectively and making use of the very constructive feedback received from stakeholders both in the formal consultation and the qualitative research (for instance, that the communication be framed around the idea of removing duplication, rather than revoking a regulation, as well as suggestions of several channels through which particularly difficult groups could be reached). If the revocation went ahead, HSE would take this feedback into account.

87. However, several of the participants in the qualitative research mentioned the possibility that news about the revocation might reach individuals through channels unrelated to HSE. They saw the potential for confusion as directly linked with the risk that the proposal could attract media publicity, which could send out incorrect messages about head protection requirements. Some respondents also mentioned word-of-mouth. On being asked whether, for instance, seeing a headline in a newspaper would lead individuals in the industry to find out more, several respondents were sceptical, and thought most individuals in the industry would take the headline at face value.

88. The extent of the confusion and misunderstandings will depend on how many people become aware of the news. Formal consultation responses to questions enquiring about the proportion of businesses spending time understanding the changes to the regulations suggested relatively small percentages would spend time doing that (see paragraphs 40 and 41). It would, of course, also depend on whether there is any publicity and coverage in the media of the issue.

89. When asked whether any segments of the industry might be particularly susceptible to confusion in this area, participants in the qualitative research generally agreed that it would be at the smaller end, where the self-employed or small contractors are less likely to be aware of regulations or regulatory change, perhaps because they are less likely to employ dedicated health and safety professionals, and instead take a lead from larger contractors when they are sub-contracted by larger sites. Larger businesses tend to have individuals dedicated to health and safety, and participants thought this meant the risk of confusion was very small amongst them.

90. In conclusion, **the evidence collected suggests that there is some risk of misunderstandings, especially for the smallest businesses in the sector. It also suggests that although HSE can take actions to mitigate that risk, the existence of other channels of communication through which individuals might hear about the change could mean that HSE's efforts are not enough.**

General view

91. As stated above, the general conclusion that can be drawn from the evidence presented in this section is that it is possible (but not certain) that the proposal might lead to a lowering of health and safety standards, and that this is more likely to happen at the small end of the market and/or in small or domestic projects.

92. It must also be noted, however, that the formal consultation included a question that enquired about potential effects on the level of provision and use of head protection, and a substantial majority of respondents answered that they thought the current standard would be maintained.

93. As previously noted, Professor Löfstedt's recommendation to revoke the CHP Regulations was conditional on "the consultation process ... not identify[ing] any evidence that their revocation would result in reduced protection within the industry." Our overall conclusion from the consultation and associated qualitative research is that while it is entirely possible that the level of protection would not be reduced, there is a non-negligible risk that this could happen; and that if it did, the consequences could be more fatal and non-fatal head injuries than would otherwise have occurred.

Concern from the Sikh community

94. The removal of the Regulations may lead to concern from the Sikh community believing the exemption for turban-wearing Sikhs to wear head protection on construction sites no longer exists. However, the provisions contained in Section 11 of the Employment Act 1989 provide the exemption of any requirement to wear a safety helmet on a construction site at any time when he is wearing a turban. Section 12 of the Employment Act 1989 would provide protection of Sikhs from racial discrimination in connection with the requirements as to wearing of safety helmets. Both these provisions will continue to apply.

95. The exemption for turban-wearing Sikhs may arouse resentment among others whose traditional head dress (or hairstyle e.g. Rastafarians), or medical problems make the wearing of head protection difficult.

96. Any changes to the Regulations may highlight the distinction between the requirement in EC Directive 89/656/EEC (which the PPE Regulations implement) to provide head protection and the exemption for turban wearing Sikhs in sections 11 and 12 of the Employment Act 1989. Legal advice indicates it is unlikely that the European Commission would consider the exemption as under-implementing the Directive, in light of other European legislation prohibiting discrimination on grounds of race.

Post-implementation review

97. We would not formally review the revocation of the CHP Regulations, but health and safety in the construction industry, including the numbers of head injuries reported, is closely monitored by HSE. If numbers were to suddenly start changing, we would carry out a detailed analysis of what caused it, to determine if the revocation of the CHP Regulations had an effect.

Annex 1

Number of head injuries to employees and the self-employed in construction

	Fatal Injuries	Non-Fatal Major Injuries
1986/87	44	142
1987/88	62	138
1988/89	42	180
1989/90	42	201
1990/91	30	141
1991/92	24	136
1992/93	25	107
1996/97	32	104
1997/98	26	124
1998/99	26	114
1999/00	26	120
2000/01	33	122
2001/02	24	139
2002/03	15	109
2003/04	21	108
2004/05	18	115
2005/06	15	148
2006/07	21	158
2007/08	16	174
2008/09	16	138
2009/10	11	111
2010/11 (p)	13	96

(p) = 2010/2011 figures are provisional

Note: data from 1993/94, 1994/95 and 1995/96 are not available, but definitions did not change during the period, and the numbers are consistent.

Annex 2

Number of head injuries to employees and the self-employed in construction, of the type where the wearing of head protection would have been relevant

	Fatal Injuries	Non-Fatal Major Injuries
1996/97	2	39
1997/98	3	47
1998/99	1	36
1999/00	6	38
2000/01	3	40
2001/02	2	52
2002/03	2	35
2003/04	3	26
2004/05	4	42
2005/06	3	60
2006/07	3	55
2007/08	2	66
2008/09	3	56
2009/10	0	34
2010/11 (p)		

(p) = 2010/2011 figures are provisional

Regulatory Policy Committee	**OPINION**	
Impact Assessment (IA)	Revocation of the Construction (Head Protection Regulations) 1989	
Lead Department/Agency	Health and Safety Executive	
Stage	Final	
Origin	Domestic	
IA number	Not provided	
Date submitted to RPC	14/01/2013	
RPC Opinion date and reference	29/01/2013	RPC12-HSE-1286(2)
One-in, One-out (OIOO) Assessment	**GREEN**	

Overall comments on the robustness of the OIOO assessment

The IA says the proposal is a deregulatory measure that has a direct net benefit to business (an 'OUT') with an Equivalent Annual Net Cost to Business (EANCB) of -£0.037m. The implied benefit is to the estimated number of new businesses entering the construction sector. These estimates are consistent with the forthcoming OIOO Methodology and on this basis the size of the OUT being claimed appears to be reasonable.

Overall quality of the analysis and evidence presented in the IA

Cost estimates. The IA acknowledges that there is a potential risk in that the new regime could lead to a misunderstanding, which may result in a reduction in safety levels and a potential increase in harm both to employees and the public, with a subsequent cost to business. It says *"..we are.. unable to monetise any expected costs in this area."* (Page 3). This situation should be kept under review.

In addition, paragraph 95 of the IA says that the original recommendation to revoke the CHP Regulations was conditional on the consultation not providing any evidence that there could be a reduction in safety protection as a result of this action. However, the IA reports that the *".. conclusion from the consultation..is that..there is a non-negligible risk that this could happen.."* . In addressing this risk the IA says *"the HSE Board have considered the evidence available, and have judged that the improvements in the HSE plans for communication of the measure are enough to mitigate the risks described above, and therefore do not expect impacts on health and safety."* This should also be kept under review.

Signed **Michael Gibbons,** Chairman

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Title:	Impact Assessment (IA)
Revocation of the Notification of Conventional Tower Cranes Regulations 2010 **IA No:** HSE0069a **Lead department or agency:** Health and Safety Executive **Other departments or agencies:** None	**Date:** 03/08/2012 **Stage:** Final **Source of intervention:** Domestic **Type of measure:** Secondary legislation

Summary: Intervention and Options

RPC Opinion: GREEN

Cost of Preferred (or more likely) Option				
Total Net Present Value	**Business Net Present Value**	**Net cost to business per year** (EANCB on 2009 prices)	**In scope of One-In, One-Out?**	**Measure qualifies as**
£-0.48m	£-0.48m	£-0.053m	Yes	OUT

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

In 2010, HSE introduced the requirement for all conventional tower cranes on construction sites to be notified to a Register. The best available evidence shows that it is very likely that the Register is providing minimal, if any, health and safety benefits, while costing business (and HSE) more than was estimated prior to introduction. The revocation of the Regulations which set out this requirement was one of the recommendations in the Löfstedt report, which the Government has accepted. This revocation requires Government intervention.

What are the policy objectives and the intended effects?

The main objective of this revocation is to implement the Government's response to the Löfstedt Report, removing requirements which have not realised their expected benefits. This will, as a consequence, provide savings to business and HSE, without lowering health and safety standards.

This proposal is part of a larger deregulatory package, and we would also expect it to contribute to an improved perception of HSE's regulatory activity, showing it is sensible and proportionate.

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

Option 1: Do nothing: businesses would continue to have the statutory duty to notify conventional tower cranes to HSE.

Option 2: Revoke the Notification of Conventional Tower Cranes Regulations 2010 and the Notification of Conventional Tower Cranes (Amendment) Regulations 2010, thus removing the statutory duty to notify conventional tower cranes on construction sites to HSE, and make consequential amendments to the Health and Safety (Fees) Regulations 2012.

The preferred option is Option 2, as it delivers savings to business and HSE without reducing health and safety standards.

Will the policy be reviewed? It will not be reviewed. **If applicable, set review date:** Month/Year

Does implementation go beyond minimum EU requirements?			Yes / No / N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	**Micro** Yes	**< 20** Yes	**Small** Yes	**Medium** Yes	**Large** Yes
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)			**Traded:** N/A	**Non-traded:** N/A	

I have read the Impact Assessment and I am satisfied that (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.

Signed by the responsible Minister: M Ilh Date: 27/7/12

Summary: Analysis & Evidence

Policy Option 1

Description: Do nothing

FULL ECONOMIC ASSESSMENT

Price Base Year 2011	PV Base Year 2013	Time Period Years 10	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	Optional		Optional	**Optional**
High	Optional		Optional	**Optional**
Best Estimate	0		0	**0**

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

Option 1 would result in no costs to society

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

N//A

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

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

Option 1 would result in no benefits to society

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

N/A

Key assumptions/sensitivities/risks

N/A

Discount rate (%)

BUSINESS ASSESSMENT (Option 1)

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

Summary: Analysis & Evidence

Policy Option 2

Description: Revoke the Notification of Conventional Tower Cranes Regulations 2010 and the Notification of Conventional Tower Cranes (Amendment) Regulations 2010

FULL ECONOMIC ASSESSMENT

Price Base Year 2011	PV Base Year 2013	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	**High:** Optional	**Best Estimate:** 0.48

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional		Optional	**Optional**
High	Optional		Optional	**Optional**
Best Estimate	0.005		0	**0.005**

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

Businesses would experience a one-off familiarisation cost of £5,000 in the first year. The net impact to HSE from not having to run the register, but no longer receiving fees in excess of annual running costs, to compensate for the initial set-up of the register, would be an annual cost of £11,000. However, this would effectively be a transfer to business, so it would be a zero net cost to society as a whole.

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

N/A

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional		Optional	**Optional**
High	Optional		Optional	**Optional**
Best Estimate	0		0.056	**0.48**

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

Business would experience cost savings of £56,000 p.a. from no longer having to register tower cranes.

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

The revocation would contribute to an improved perception of HSE's regulatory activity, showing it is sensible and proportionate

Key assumptions/sensitivities/risks — **Discount rate (%)** 3.5

Some stakeholders might object to the removal of the Register, on the grounds that it would lower health and safety standards. However, we have analysed evidence from a wide range of sources, from which we conclude that the removal of the Register would not be expected to have a detrimental effect. This evidence is presented in paragraphs 58 to 71 and 96 to 104.

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 0.001	**Benefits:** 0.053	**Net:** 0.053	Yes	OUT

IA for the revocation of the Notification of Conventional Tower Cranes Regulations (2010)

Background:

1. The Notification of Conventional Tower Cranes Regulations 2010[1] and the Notification of Conventional Tower Cranes (Amendment) Regulations 2010[2] ("the Tower Cranes Regulations") were the result of the then Government's policy initiative following a number of incidents (e.g. Canary Wharf, Liverpool, Battersea and Croydon), involving tower cranes which occurred since the year 2000. These incidents resulted in a total of eight deaths, including one member of the public. This led, in 2008, to the Work and Pensions Select Committee expressing concerns about the safety of tower cranes. It called on HSE to bring forward proposals to improve the safe use of tower cranes through the introduction of a national tower crane register. In November 2009, the HSE Board agreed to put in place a statutorily-based Register of Conventional[3] Tower Cranes used on construction sites.

2. The introduction of the Register was part of a broad package of measures designed to improve standards of safety in erection, operation and dismantling of tower cranes. This package included measures for improving the competence of those who use tower cranes and consideration of the adequacy of crane design standards.

3. The Tower Crane Register[4] was introduced at the beginning of March 2010 as the vehicle for recording notifications to HSE of the use of conventional tower cranes on construction sites. Following a month-long trial period in which notification was voluntary (and fee-free), the need to notify became a legal requirement when the Notification of Conventional Tower Cranes Regulations 2010 and the Notification of Conventional Tower Cranes (Amendment) Regulations 2010[5] came into force on 6 April 2010. Each notification also became chargeable from this date: a fee of £20 was required to be paid for each notification, under the Health and Safety (Fees) Regulations 2010.

4. In agreeing to a Register, the HSE Board also asked for an evaluation of the first 12 months of its operation. This was carried out internally in April-June 2011, and found that costs, both to business and HSE, had been higher than estimated in the Impact Assessment (IA) carried out when the Regulations were introduced[6]. It also found that benefits both to the general public and to HSE were likely to be minimal, if any at all. More detail on this evaluation (as well as the original IA) is provided later on in this IA.

5. In March 2011, as part of a wider reform of health and safety in Great Britain, the Employment Minister commissioned an independent review of health and safety legislation. Professor Ragnar Löfstedt -Director of the King's Centre for Risk Management at King's College, London was appointed to chair it. His report: "*Reclaiming health and safety for all: An independent review of health and safety legislation*"[7] was published in November 2011. It contained a recommendation to revoke the Notification of Conventional Tower Cranes Regulations 2010 and the Notification of Conventional Tower Cranes (Amendment) Regulations 2010, "because the Impact

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[1] The Regulations can be found at: http://www.legislation.gov.uk/uksi/2010/333/contents/made

[2] The Regulations can be found at: http://www.legislation.gov.uk/uksi/2010/811/contents/made

[3] Conventional tower cranes (also known as 'assisted-erected' tower cranes) are those whose essential structure involves a vertical tower on top of which is mounted a jib, but where the crane is brought to the construction site in sections and these are assembled on the site to form the crane.

[4] The Register can be found at: http://www.craneregister.org.uk/

[5] The Amendment Regulations were introduced to clarify the scope of the substantive Regulations

[6] This Impact Assessment can be found at: http://www.hse.gov.uk/ria/full2010/tower-cranes.pdf

[7] See: http://www.dwp.gov.uk/docs/lofstedt-report.pdf

Assessment was not able to identify any quantifiable benefits to health and safety outcomes." In Professor Löfstedt's opinion, it is unclear that a statutory Register is the best way to achieve the objective set out, which was to provide public assurance, and he urges HSE to consider alternative non-regulatory methods to do this. The Government has accepted[8] this recommendation.

Problem under consideration and rationale for intervention

6. The best available evidence (which we present later in this IA), shows that it is very likely that the Register is providing minimal, if any, health and safety or other benefits, while costing business (and HSE) more than was estimated prior to introduction. Removing the statutory duty to notify conventional tower cranes to the Register would require Government intervention, through the revocation of the Regulations: the Notification of Conventional Tower Cranes Regulations 2010 and the Notification of Conventional Tower Cranes (Amendment) Regulations 2010. This revocation will also require revoking the provisions in the Health and Safety (Fees) Regulations 2012, which set a fee for each notification.

Policy objectives and intended effects

7. The main objective of this revocation is to implement the Government's response to the Löfstedt Report, removing requirements which have not realised their expected benefits. This will, as a consequence, provide savings to business and HSE, without lowering health and safety standards.

8. This proposal is part of a larger deregulatory package, and we would also expect it to contribute to an improved perception of HSE's regulatory activity, showing it is sensible and proportionate.

Alternatives to regulation

9. No alternatives have been considered, as this is a deregulatory measure.

Options considered

10. Given the above, we have considered only the following 2 options:

11. Option 1: Do nothing: businesses would continue to have the statutory duty to notify conventional tower cranes to HSE.

12. Option 2: Revoke the Notification of Conventional Tower Cranes Regulations 2010 and the Notification of Conventional Tower Cranes (Amendment) Regulations 2010, thus removing the statutory duty to notify conventional tower cranes on construction sites to HSE, and make consequential amendments to the Health and Safety (Fees) Regulations 2012.

The Regulations

13. The Tower Crane Regulations require employers who have primary responsibility for the safety of cranes to notify certain information about conventional tower cranes used on construction sites to HSE. Notification is required after each thorough examination required under the Lifting Operations and Lifting Equipment Regulations 1998 (LOLER).

14. The information to be provided includes the name and address of the crane owner and of the site where the crane has been installed, as well as sufficient information to allow identification of the crane and the date of its last thorough examination. Other than the

[8] See the Government's response to the Löfstedt report: http://www.dwp.gov.uk/docs/lofstedt-report-response.pdf

crane owner details, this information can already be found on the thorough examination report currently required under LOLER.

15. In the case of 'conventional' cranes, under LOLER, following installation/re-installation, a crane cannot be put into use on the site until a thorough examination has been carried out and assessed to be safe to use. This requirement is independent of the Tower Crane Regulations, and would remain in place if the latter were revoked.

16. After the initial notification of a thorough examination, subsequent notifications are required if the crane is re-installed on site or its periodic thorough examination becomes due.

17. The Health and Safety (Fees) Regulations 2012 set out the value of the fee payable for each notification of a tower crane to the Register.

Public consultation

18. This IA takes account of the information gathered from public consultation. On April 3rd 2012, HSE published a consultation document[9] (CD) on proposals to remove 14 legislative measures, amongst them the Tower Cranes Regulations. This CD included a supporting consultation-stage IA for this measure, and invited interested parties to comment on the proposals, as well as some of the assumptions made in the IA.

19. Public consultation ran for a 12 weeks, ending on July 4th 2012. HSE received a total of 86 responses which answered some or all of the questions regarding the revocation of the Tower Cranes regulations. 53 of them came via the consultation questionnaire and the rest were narrative responses received through other channels. Responses were received from a range of stakeholders including industry, trade associations, trade unions, consultants, local government, and academics. A large number (30%) did not state the type of organisation they were from, mainly due to the large number of narrative responses which did not follow the questionnaire and therefore did not know to explicitly provide this information. Apart from that, the largest percentage of responses was from industry (22%) and trade unions, consultancies, and local government (8% each). Similarly, 33% of respondents did not state in what capacity they were answering, but slightly fewer (31%) responded as health and safety professionals, while employees and trade union officials comprised the next largest categories (10% each).

20. Responses were split almost equally between those who supported the proposal and those who did not[10]. Respondents who agreed with the proposal came mainly from four groups: those who categorised themselves as industry, local government, consultants and trade associations. Of those who disagreed, about two thirds were individuals whose narrative responses do not allow us to place them in a particular category, but this group also includes trade union responses from the TUC, UCATT, Unite, GMB and Unison, along with pressure groups that had lobbied for bringing in the Regulations.

Costs and benefits

Baseline: costs and benefits of the Register so far:

21. The original IA[11] analysed 4 different options in addition to a "do nothing" option. These options consisted of a combination of restricting the duty to notify to conventional tower

[9] See: http://consultations.hse.gov.uk/gf2.ti/f/16450/427653.1/pdf/-/CD239.pdf

[10] This analysis has had to rely on HSE's interpretation of how those who submitted narrative responses would have answered this question. A substantial majority of those who submitted their responses through the questionnaire agreed with the proposal, but according to our interpretation, all but one of those who submitted narrative responses through other channels did not support it.

[11] See: http://www.hse.gov.uk/ria/full2010/tower-cranes.pdf

cranes or also including "self-erecting" tower cranes[12] and of restricting it to cranes on construction sites or also including other sites (like offshore, docks, or those used for activities such as bungee-jumping).

22. After consultation, it was decided that the option to be taken forward should be the one identified as Option 2 in the original IA: a statutory register covering only conventional tower cranes, only on construction sites. This was the option analysed that covered the least number of tower cranes, and thus had the lowest estimated costs (other than the "do nothing" option).

23. It should be noted that the IA calculations were based on a two-month-long trial period (during which tower cranes could be registered for free) before the introduction of the statutory Register, but due to difficulties with the development of the Register itself, that trial period lasted only one month.

24. In April-June 2011, HSE collected feedback from users of the Register after one year in use, in order to evaluate its success.

25. This evaluation sought to reassess the costs and benefits estimated in the original IA in the light of one year's experience of the Register being in operation. It drew on data from the Register itself (such as the number of registrations actually received, as well as the number of different dutyholders registering tower cranes), internal HSE and Health and Safety Laboratory (HSL) data (for some of the costs to HSE), as well as a survey of dutyholders and a survey of HSE inspectors.

26. The survey of dutyholders was carried out in two stages. Firstly, all dutyholders recorded as having registered a tower crane and for whom an email address was available, were invited to take part in a short on-line survey. This was approximately 60% of the 255 different dutyholders registered at the time. The information requested in the survey included the managerial level at which registrations were undertaken by businesses and how long registration took. Of those contacted, approximately 40% responded, and we used their answers to inform our assumptions.

27. The survey also invited volunteers to participate in the second stage: a telephone interview which sought to gather information including the costs to industry of familiarisation with the requirements of the Regulations and the arrangements for registration. It also sought views about the benefits of the Register. Of the 20 participants in the first stage who left their contact details, 9 were interviewed.

28. HSE recognises that due to the opt-in nature of both stages of the survey these responses are not necessarily representative, but they provide the best information that is proportionate to obtain from these dutyholders.

29. The research with dutyholders also sought their views on the ease with which the Register could be used and the extent to which the guidance on the website (a downloadable leaflet and Frequently Asked Questions which were produced for the introduction of the Register) was clear and helpful.

30. Since the evaluation covered only the period until April 2011, wherever possible, we have updated the data to the end of May 2012, using information from the Register.

Costs to business

[12] Self-erecting' tower cranes are a complete unit which arrives on site and 'unfolds' to form a crane consisting essentially of a vertical tower and jib. They fall into two broad kinds: towed (i.e. towed behind the transporting vehicle) or lorry-mounted (i.e. mounted on top of the transporting vehicle)
Mobile cranes with mounted tower rigs could also be included in this category.

31. There were 2 types of costs to business identified in the original IA: familiarisation and registration.

Familiarisation

32. The one-off familiarisation cost was the time spent by dutyholders familiarising themselves with the new duties. This cost depended on:

- Number of dutyholders
- How long the process of familiarisation would take
- How many people per business would undertake familiarisation
- What category of employee would undertake familiarisation

33. By the end of May 2012, some 330 individual dutyholders had registered tower cranes (255 at the time the evaluation was carried out). We will take this to be the number of dutyholders, and we will assume all of this familiarisation took place during that first year. This is based on the fact that the vast majority of queries received by the Register's administration team and HSE's telephone enquiries line took place in the first few months of operation and queries declined to very low numbers thereafter.

34. The follow-up telephone interviews conducted by HSE suggested that the time taken for familiarisation with the new duties varied from roughly half an hour to 8 hours over a 5 week period (although in the latter case the dutyholder spent time "working out the best way of doing it and who was going to do it"). Although the responses provide only approximate figures, the median response suggested that a time of approximately one hour is appropriate for the familiarisation time.

35. The survey also considered the number of employees who would spend time on familiarisation in each business. Two out of the nine dutyholders surveyed stated that they had been the only people in their organisation to familiarise themselves, but for the remaining seven, the responses showed a wide range. This meant that it was not possible to estimate how many employees per business actually familiarised themselves with the guidance from the data that was gathered.

36. What the responses did suggest, however, was that those who did undertake familiarisation were typically people with managerial responsibility. We will therefore use a production manager's salary (approximately £30)[13] to account for the opportunity cost of spending time on familiarisation.

37. The results of the evaluation (with the number of dutyholders updated to May 2012) suggest that the one-off familiarisation cost would have been approximately £10,000 if only one person per firm had spent time on familiarisation, £30,000 if 3 had, and £50 ,000 if it had been 5.

38. Some of these assumptions (and therefore the numbers calculated as a result), were different to those used in the original IA. The IA was based on the assumption of one production manager per firm[14] spending 30 minutes familiarising themselves with the new duties. In terms of number of dutyholders, the IA assumed that since, in practice, the use of conventional tower cranes was likely to be limited to larger construction projects, dutyholders would be the approximately 3,750 construction firms with more than 13

[13] Mean hourly salary of a Production Manager (SOC code 112). Information from Annual Survey of Hours and Earnings (ASHE) 2011, uprated by 30% to account for non-wage labour costs.

[14] Hourly full economic cost of £28, from the mean hourly salary of a Production Manager (SOC code 112). Information from Annual Survey of Hours and Earnings (ASHE) 2008, uprated by 30% to account for non-wage labour costs

employees classified under the 'Main Trades' (i.e. 'non-residential building'; 'house building'; 'civil engineering')[15].

39. Based on this, the total, one-off cost of familiarisation was calculated as £52,500, in the first year.

40. In conclusion, the original IA overstated the number of dutyholders, but underestimated the cost per person undertaking familiarisation and possibly also the number of employees per firm doing so. Overall, it probably overestimated the one-off cost of familiarisation.

Registration costs

41. The cost of registering tower cranes is an annual, recurring one. It depends on:

- How many registrations take place per year
- Time taken to complete a registration
- What category of employee carries out the registration

42. The first full year of operation of the statutory Register (beginning of April 2010 – end of March 2011) saw 1,432 registrations. The number of registrations per month has varied, but leaving out the trial month and the first month of the statutory Register (where there would have been an artificially high number, due to the registration of tower cranes already in situ), the average number of registrations per month up to the end of May 2012 has been just over 120. That makes the average annual number of registrations per year approximately 1,470.

43. The online survey carried out for the evaluation found a wide range of time taken to complete a registration, from a minimum of 2 minutes to a maximum of 2 days (however, the latter response was an outlier, more than 10 times the 2nd longest time taken). 61 responses were gathered regarding the length of time it took to complete a registration. Due to the nature of the distribution of the data, which was quite asymmetrical, it was considered that the median would be the best approximation of reality. The median time to complete a registration was 30 minutes.

44. The telephone interviews indicated that most of those who had conducted the registrations were in managerial positions. The average full economic cost of a production manager's time (£30) was therefore used when calculating the burden on business. Based on this, the opportunity cost of the time taken to register a tower crane was estimated at £15 per tower crane.

45. These numbers would result in an annual opportunity cost to business of £22,000 for conducting the registrations.

46. Additionally, a fee of £20 was charged for each registration of a tower crane once the Register became statutory (no fee was charged during the trial period). The fee was applied to cover the costs incurred by HSE for the setting up and running of the Register. No profit was made as a result. Whilst the net cost to society of cost recovery is zero (as this simply reflects a transfer of funds to the taxpayer) this represents a real cost to business.

47. In total, therefore, the evaluation found a total cost per registration of £35. With 1,470 registrations per year, this would result in an annual cost to business of approximately £51,500.

[15] Data was sourced from the Department for Business, Innovation and Skills' Construction Annual Statistics 2007.

48. The original IA had anticipated different costs, due to having used different assumptions. Based on estimates of the number of conventional tower cranes expected to be in use at any one time on construction sites, as well as how often it would be expected that each of them would be thoroughly examined, the IA used the assumption that there would be 2,000 registrations in the first year and 2,600 a year thereafter, an overestimate[16]. It was also assumed that each registration would be done by an administrative worker or secretary (rather than a manager, as the evidence suggests actually happened) and would take 30 minutes to do, a cost of £6.70 per registration. The IA did not quantify the cost to business of a fee being charged for registrations, as it was not certain at the time of writing it whether a fee would be charged or how much it would be. The IA did note the possibility, however.

49. Calculations were done separately for the first year (in addition to lower-than-usual construction activity, the first year also included the voluntary trial period) and for the years thereafter. For the first year, the cost was estimated at £11,300 and was expected to rise to £17,300 per annum starting on the second year.

50. In conclusion, even though the IA somewhat overestimated the number of registrations per year, the assumption that a member of staff with a lower remuneration would carry out the registrations, and the omission of the £20 fee, meant that the per annum cost for registrations calculated was an underestimate.

Costs to HSE

51. The evaluation found several one-off costs to HSE. The development of the Register cost £135,000. A budget of £10,000 set aside for communication efforts was spent on activities such as producing guidance leaflets and posters, as well as online publicity on the HSE webpages and construction "Infonet" e-bulletin. Familiarisation cost for HSE inspectors (based on hours spent on this activity according to the survey of HSE inspectors) was £5,100.

52. The evaluation found that that there was a yearly hosting cost of £9,000, including £1,000 a year for a software license. The cost for day-to-day administration of the Register was £11,500 during the first year. Staff spent time inputting paper notifications, dealing with enquiries and reconciling payments against registrations.

53. Additionally, there was a cost to HSE for dealing with notifications where crane defects were discovered during the process of examination prior to notification. The cost of time dealing with these issues was £4,400 for the first year.

54. The original IA also identified several costs to HSE.

55. One-off costs incurred in the first year included:

- setting up the Register (estimated at £100,000),
- communication efforts (£10,000)
- familiarisation costs for HSE inspectors (£7,800).

56. Recurring costs included:

- hosting the database for the Register, including software license (£9,000 per annum)
- day-to-day administration of the Register, including entering paper registrations sent by post into the electronic Register (£3,600 per annum)

[16] The lower number in the first year was due to lower-than-usual construction sector activity expected during that year.

57. On the whole, the costs estimated in the original IA were an underestimate, as the set-up costs of the Register were considerably higher than anticipated, as were the costs of the day-to-day running of the Register.

Benefits:

58. The original IA identified public reassurance as being the main expected benefit of introducing the statutory Register, but did not attempt to quantify or monetise the value of this expected increase, as "the extensive research needed to determine this was not considered an appropriate use of resource given the issue at hand, or practicable given the timescales involved."

59. On health and safety benefits, it stated that it was not expected that a tower crane register would have direct health and safety benefits, in terms of reductions in injury or ill-health. However, the IA raised the possibility that the data from the register could conceivably allow HSE to better design and target its interventions related to the sector, thus leading indirectly to health and safety benefits. Again, it was not considered appropriate or practicable to quantify or monetise these potential benefits.

60. Any benefit of increased public reassurance was expected to materialise via members of the public being able to check (by contacting HSE) whether a particular tower crane they were concerned about had been registered, and thereby be reassured that it had undergone a thorough examination.

61. Data collected over the first 12-month period of operation of the Register shows that there were 60 enquiries for data held by HSE. Of these enquiries, almost all (58) were from construction professionals, of which a large majority were dutyholders with questions about whether or not to register a tower crane or identifying issues encountered while registering. Of the remaining two enquiries one was from a Trade Union. The final enquiry was from a member of the public, although it did not relate to a specific tower crane. In the period after the evaluation, up to the end of May 2012, there have been a further 2 enquiries from members of the public, and only one of them was regarding a particular crane (the other request was for a full list of cranes registered). There were also 18 more enquiries from dutyholders.

62. While it is not possible to quantify the benefits of public reassurance, the extremely low number of enquiries, especially from members of the public, suggests that if there has been any benefit at all, it was not significant.

63. The evidence that the Register had some benefit in terms of reassurance is anecdotal at best, and is not something that respondents to either the survey of dutyholders or HSE Inspectors have readily identified. However, there may have been some marginal benefits. Results from both the survey of HSE Inspectors, and of dutyholders, suggests that there may have been some level of increased reassurance to the public through the display of 'safe crane' posters. These posters were intended to help increase levels of public reassurance, and included the phrase "tower cranes on this site have been registered with HSE".

64. As far as health and safety is concerned, there was limited evidence from the survey of dutyholders that the registration process had resulted in some benefits, as the Register had helped them to become "more focused on the inspections" and more meticulous when dealing with tower cranes. Consequently, it is possible that the introduction of the Register could have had the impact of increasing compliance with existing safety requirements for tower cranes, increasing knowledge amongst dutyholders as to what was required of them.

65. However, the survey also showed that, on the whole dutyholders felt that the Regulations were not asking them to do anything new in terms of health and safety on-site. This suggests that there were no significant changes in their safety procedures, and the Register had few safety benefits.

66. This is supported by evidence from HSE inspectors. The survey of Inspectors sought views as to whether or not respondents believed dutyholder compliance had improved as a result of the Register. The responses to this question showed that Inspectors did not believe that it had, with 80% responding "no" and 20% responding "don't know".

67. As for the Register allowing HSE to better design and target its interventions, this survey also asked how useful Inspectors thought the information gained from the Register actually was, with responses being rated on a scale of 1-5 (with 1 being least useful and 5 being most useful). The average score was 1.44. This suggests that HSE's Inspectors did not find the Register useful and gained little benefit from its introduction.

68. There have been suggestions that the Register may have helped HSE staff to identify category A defects (serious defects with the tower crane discovered during the thorough examination), and indeed the data from the survey suggests that 13 such defects were identified. This may have had some benefit for HSE but this benefit is likely to be minimal. This is especially likely to be the case given that category A defects are discovered during the thorough examination and it is already – and will remain – a requirement under LOLER that these reports be sent to HSE. Additionally, if one is discovered then the crane may not to be used until the defect has been remedied. Because of the costs of using cranes, it is in the interest of users to ensure the defect is remedied quickly. As with the previous point, it would be incorrect to associate this with the Register, as the requirement to perform a thorough examination and not being able to use a tower cranes until any defects are also remedied are based on requirements in LOLER.

69. The Register was also useful dealing with one incident involving a particular part used in some tower cranes, which could result in problems with the crane. The Register enabled HSE to identify cranes of a relevant make/model and the sites where they were located. Although this information would have been available to HSE from tower crane suppliers, the Register was useful in verifying crane details. Any benefit therefore was in increased knowledge for HSE rather than actual improvements in safety standards.

70. We have also considered the issue of whether, in practice, the number of major safety incidents related to conventional tower cranes on construction sites has shown any changes since the introduction of the Register. However, these incidents are infrequent enough that no conclusions can be drawn, since, at the time of analysis, the Register has been in operation for a little over 2 years. If we consider fatal incidents, for instance, none have taken place since early 2007, and this period includes approximately 3 years prior to the introduction of the Register and just over 2 years after. The figures for major injuries were also very small and present the same issues. The average for the period 2007/2008-2009/2010 was 5, while provisional figures for 2010/2011 show 3 (2011/2012 figures are still being compiled).

71. Overall, it is likely that any safety benefits that have resulted from the introduction of the Register will only have been marginal. This is in line with what the original IA predicted.

Costs and benefits of Option 1: Do nothing

72. Option 1 would continue with the status quo, and therefore has no cost or benefit implications.

Costs and benefits of Option 2: Revoke the Regulations

Costs to business

73. The only cost that would be incurred by business if the Regulations were to be revoked would be the time spent familiarising themselves with the fact that they need not register tower cranes with HSE any longer. This would simply imply going back to how things were before April 2010, so it would not require much time to understand. Plans to communicate this to dutyholders are being considered by HSE, such as contacting the dutyholders for whom we have contact details through their entry in the Register, as well as a message on the front page of the on-line Register itself.

74. We will assume it would take each dutyholder 10 minutes to read and understand a communication from HSE and that 3 managers per business will need to undertake this familiarisation. We requested feedback on these assumptions in the public consultation, and for both estimates, a substantial majority of the approximately 50 respondents who answered the question felt they were reasonable. Also in both cases, those who answered 'No' were split between those who felt the estimate should be lower and those who felt it should be higher. Based on this, we will continue to use both estimates.

75. Based on these assumptions, and 330 dutyholders who have registered tower cranes since the Register was established, we estimate a total one-off familiarisation cost of approximately £5,000.

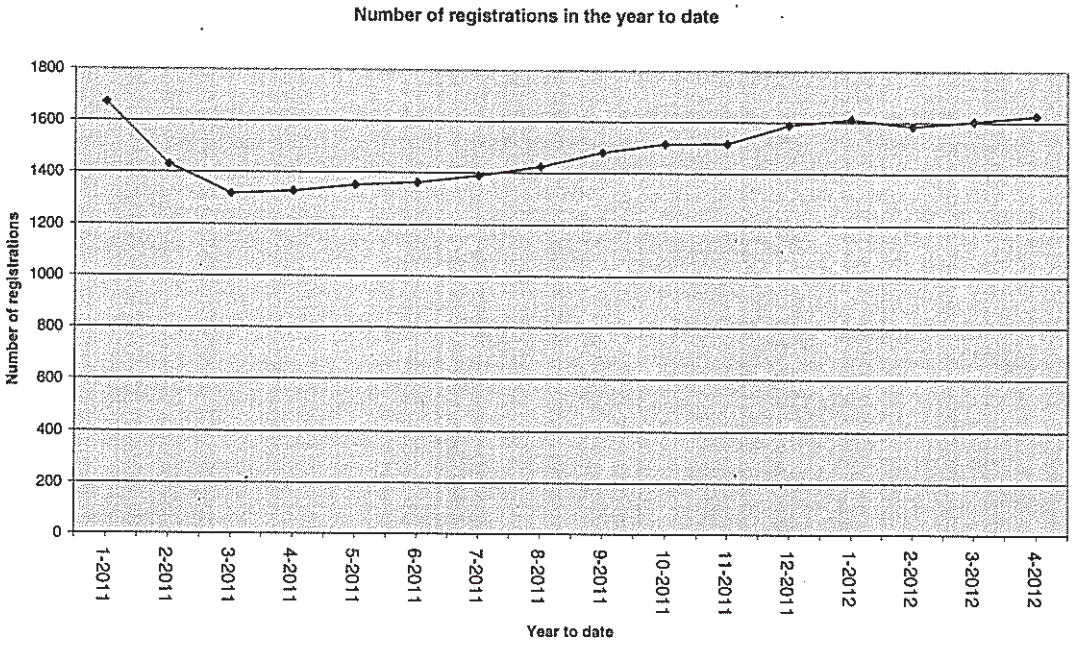
76. We also considered the possibility that some businesses might have altered their computer systems to deal with the need to register their tower cranes, but given how the Register works, we did not think that was likely. We requested feedback on this issue in the public consultation, and the great majority of respondents agreed no changes would be necessary.

Savings to business

77. Savings to business would arise from not having to send in tower crane registrations any longer, saving the time it takes to compile them, as well as the fee charged by HSE. Based on data from the evaluation, we calculated that the cost to business per registration was £35 (see paragraphs 43 to 49).

78. In paragraph 42 we also calculated that the average number of registrations per month for the entire period of operation of the register was just over 120, which would result in approximately 1,470 registrations per annum.

79. However, it should be noted that, even with month-to-month variations, the number of registrations seems to show an upward trend. The table below shows the number of registrations for the 12-month period before each date stated. After settling down following the quite high numbers of registrations in the first two months (due to the registration of tower cranes already in situ), the number of registrations in each 12-month period seems to be increasing as time progresses.



80. Additionally, Gross Value Added (GVA) output in construction industry in 2011 was still approximately 6% lower than it was in 2007, before the financial crisis[17]. Were output in this sector to recover in the next few years, the yearly number of registrations would be likely to increase as well.

81. Given current monthly registrations and the consistent trend the data has been showing, we think it is more appropriate to use the number of registrations in the last year as the basis for the cost savings calculation. The number of registrations was just over 1,600. This would result in savings to business of approximately £56,000 a year, with a 10-year present value of approximately £480,000.

Costs of amending the Health and Safety (Fees) Regulations 2012

82. We have considered any potential costs arising from amending the Health and Safety (Fees) Regulations 2012 to remove the references to the fee payable for each notification of a tower crane to the Register (this would involve removing Schedule 16, which sets out the fee and regulation 21, which defines what the fee is payable for). We have concluded that this amendment would have no cost implications for business. These Regulations change every year, and that particular regulation would have been consulted only by someone seeking to find out what the fee was.

Annual equivalent net savings to business and One-In, One-Out (OIOO)

83. The previous sections have identified a cost to business of £5,000 in the first year and savings to business of £56,000 per annum over the 10 year analysis period. This represents an annual equivalent net saving to business of £55,500. The price base for this figure is 2011. For OIOO, figures need to be expressed in 2009 prices. Deflating accordingly results in an annual equivalent net saving to business of £52,500.

84. The OIOO methodology[18] states that fees and charges are out of scope "except where they result from an expansion or reduction in the level of regulatory activity". Since the revocation of these Regulations results in a reduction in the level of regulatory activity, the part of the savings to business that arises from not having to pay the £20 fee per registration is in scope of OIOO, and is an 'Out'. The latest version of the OIOO Q&A also confirms that "changes to self-funding regulatory regimes, except where changes to fees

[17] Source: Preliminary Estimates of GDP- Series (updated 25 January 2012).
http://www.ons.gov.uk/ons/datasets-and-tables/data-selector.html?cdid=L2N8&dataset=pgdp&table-id=PREL

[18] See: http://www.bis.gov.uk/assets/biscore/better-regulation/docs/o/11-671-one-in-one-out-methodology

or licence costs are due to general inflation, exchange rate changes or a pre-determined level (that does not require legislation)" are within scope of OIOO.

85. We therefore conclude the whole of the annual equivalent net savings to business are in scope of OIOO, and **this measure would therefore result in a £52,500 'Out'.**

Costs and savings to HSE

86. In the first year of operation, the evaluation quantified several costs to HSE related to running the Register. This includes a monetary cost of £9,000 for hosting the Register, including £1,000 a year for a software license, as well as £4,400 for dealing with notifications including crane defects and £11,500 for inputting paper notifications, dealing with enquiries and reconciling payments against registrations. The part of the latter related to dealing with enquiries would be expected to decrease slightly as businesses become more experienced in registering tower cranes.

87. The fee per registration of £20 was set by HSE to recover both these annual costs and every year, a part of the original costs of setting up the Register (£135,000). It has been set so that the Register's setup costs would be fully recovered after 20 years, at which point the fee would be lowered to cover only running costs.

88. Assuming 1,600 registrations every year, HSE would expect to recover £32,000 in a typical year from registration fees. Analysis of the first year's running costs suggested that annual costs are likely to be in the region of £21,000, which means HSE would recover roughly £11,000 more than it spends in each calendar year.

89. If the Regulations were revoked, HSE would cease to recover the entirety of that amount. The £21,000 running costs would not be incurred any longer, as the Register would not be running.

90. The loss of the £11,000 recovered in excess of running costs every year would be the net annual impact on HSE's income. This would be a net cost to HSE and result in total costs with a 10-year present value of approximately £95,000. This would, however, not be a net cost to society, as it is, in essence, a transfer from HSE to business.

91. It should be noted that there might be issues in the first year with the £1,000 for the software license and the £8,000 for running the Register. The contracts for both are up for renewal in December 2012, and the initial arrangements were that they would be renewed for periods of one year. Should the Regulations be revoked HSE will seek to negotiate an extension of contract to cover the period from December 2012 to April 2013. Initial discussions have been positive. As negotiations cannot be completed until such time as a decision on revocation is made, this issue has not been incorporated in our calculations, and we have based them on the assumption that we would pay only for the period the services will be required.

Period of analysis for costs

92. We have chosen to analyse costs and cost savings of the proposal over a period of 10 years, following the Impact Assessment Toolkit's guidance to use a 10-year period when there is not a more appropriate appraisal period, relating to the life of the policy.

93. We have considered the possibility of extending this period, taking into account that after 20 years, the fee charged to business would be reduced (by approximately 25%, considering the current mix of running costs and setup costs). This would mean that after year 20, the annual savings to business from this proposal would be reduced from £56,000 a year to £48,000.

94. If we extended the period of analysis beyond these 20 years, this would reduce the equivalent annual net savings to business, and therefore the 'Out' we are claiming, but not by much. For instance, adding 5 years after the fee changes (a period of analysis of 25 years) would result in the 'Out' (in 2009 prices) changing from £52,500 to £51,500.

95. We are reluctant to extend the period of analysis in such a way, due to the nature of this policy and the increasing uncertainties regarding the assumptions we have made to calculate these costs, so far into the future. The annual number of registrations, for instance, could vary significantly due to changes in volume of construction, or technological changes regarding tower cranes themselves and how they are used, making our estimates more unreliable.

Potential loss of benefits

96. Our analysis of any benefits realised during the time of operation of the Register so far, presented earlier in this IA (see paragraphs 58 to 71), suggests that revoking the Register would not result in the loss of public reassurance or of health and safety benefits.

a) Public reassurance

97. As mentioned in that section, the main potential benefits identified in the IA carried out at the time of the introduction of the register related to increased public reassurance.

98. However, the extremely low number of enquiries from members of the public (3 enquiries in total, with only 1 relating to a particular tower crane), suggest that the general public are either not aware of the Register or do not find it useful. Either way, the evidence suggests it has not resulted in an increase in public reassurance, and its removal would therefore be expected to have a similar lack of effect.

99. Some respondents to the consultation have raised the issue that if HSE had publicised the Register more, there would have been more use of it. We have no way of knowing if this is correct. However, we are comparing option 2 to a "do nothing" option which continues the status quo, and this involves HSE continuing with current levels of promotion of the Register, which therefore implies no loss of benefits of public reassurance.

b) Health and safety benefits

100. The IA carried out at the time of the introduction of the register stated that it was "not expected that a tower crane register will have direct health and safety benefits, i.e. reductions in injury or ill-health arising directly from registration". This was because the Register places no new duties relating to health and safety on dutyholders. The requirement to undertake a thorough examination of the tower crane before it is used arises from LOLER, and is independent of the Register. The only additional requirement arising from the Tower Cranes Regulations is that dutyholders add the name and contact details of the crane owner to the information required to be provided in the thorough examination report, and enter this information into the Register. The information required over and above that required by LOLER has little significance in directly ensuring the safety of tower cranes.

101. In the evaluation, we explored the possibility that these actions might have translated into improvements in health and safety practice through channels we had not contemplated. As described in our analysis of any benefits realised during the time of operation of the Register so far (see paragraphs 24-30 and 58-71), this involved surveys of both dutyholders and inspectors. Respondents to these surveys were in agreement that on the whole, the Register had not led to dutyholders improving health and safety

standards. Dutyholders felt that the Regulations were not asking them to do anything new in terms of health and safety on-site, and inspectors had not noticed any improvements in dutyholder compliance.

102. The original IA did identify the possibility that "the data from the register could allow HSE to better design and target its interventions related to the sector, thus leading indirectly to health and safety benefits". This was because before the Register, HSE received only some thorough examinations (the 'Category A' adverse reports, indicating existing or imminent risk of serious personal injury). The Register would mean HSE would, in effect, have access to all thorough examinations (including also details of the crane owner, which is not information required to be recorded on thorough examination reports). However, discussions with inspectors made it clear that, in reality, the Register had not helped HSE to better target its interventions, as it had originally been thought it might.

103. We believe the substantial evidence we have been able to collect suggests that the removal of the Register would not be expected to have a detrimental effect. We acknowledge that the Register has been in operation for a period which is not long enough to allow health and safety final outcomes (i.e. injuries and fatalities prevented) before and after its introduction to be reliably compared. However, we have sought evidence relating to intermediate outcomes, the changes in behaviour which would be expected to, in turn, lead to better final outcomes. Our evaluation has found no real changes in those intermediate outcomes.

104. Several of the respondents to the public consultation who disagreed with the proposed revocation did so because in their opinion, the Register is generating positive health and safety impacts. In general, their arguments are that the Regulations have had a positive effect in that they have focused the minds of dutyholders on good management of tower cranes and the requirements of the LOLER regulations, and that HSE losing the ability to identify where tower cranes are located will also be detrimental. We have explained in the previous paragraphs why we believe the evidence does not support this view. It should also be mentioned that a few of the respondents who agreed with the proposal stated that they did so precisely because, in their opinion, the Tower Cranes Regulations had had no positive health and safety impacts.

Risks and Uncertainties:

105. Tower crane owners/hire companies that now offer the service of registering tower cranes when hiring them out as a package for a fee may see a small loss in income if the Regulations were revoked. However, this would be an indirect cost, so we have not considered it under OIOO.

106. There are a number of uncertainties in our assumptions, as we have indicated throughout this IA. However, we think these are relatively minor, and are confident in the results of our analysis.

Post-implementation review

107. There are currently no plans to conduct a formal review of the revocation. However, incidents involving tower cranes are closely monitored by HSE.

Regulatory Policy Committee	**OPINION**	
Impact Assessment (IA)	Revocation of the Notification of Conventional Tower Cranes Regulations 2010	
Lead Department/Agency	Health and Safety Executive	
Stage	Final	
Origin	Domestic	
IA number	Not provided	
Date submitted to RPC	12/09/2012	
RPC Opinion date and reference	15/11/2012	RPC-12-HSE-1285(2)
One-in, One-out (OIOO) Assessment	**GREEN**	

Overall comments on the robustness of the OIOO assessment.

The IA says that the proposal is a deregulatory measure that has a direct net benefit to business (an 'OUT') with an Equivalent Annual Net Cost to Business (EANCB) of (-)£0.053m. This is consistent with the current One-in, One-out Methodology (paragraph 18) and provides a reasonable assessment of the likely impacts.

Overall quality of the analysis and evidence presented in the IA

Evidence supporting revocation. We note that, while the IA says that "*...the substantial evidence we have been able to collect suggests the removal of the Register would not be expected to have a detrimental effect.*" They also accept that "*the Register has been in operation for a period which is not long enough to allow health and safety final outcomes (i.e. injuries and fatalities) before and after its introduction to be reliably compared*" (paragraph 103). Given the uncertainty and the concerns from respondents to the public consultation that the register might be generating positive health and safety impacts, the IA should discuss the potential scale of health and safety impacts if removing the regulations were to increase risks.

Monetisation of Costs and Benefits. The department has provided a single point estimate for the value of the costs and benefits but has not provided high or low estimates. While the figure appears to be a reasonable best estimate there is a degree of uncertainty around the actual costs and benefits. The IA would have benefited from presenting a range for the expected impacts to reflect this uncertainty.

Signed **Michael Gibbons,** Chairman