

<p>Title: Implementation of Professor Löfstedt's recommendation to exempt from health and safety law those self-employed whose work activities pose no potential risk of harm to others.</p> <p>IA No: HSE0071</p> <p>Lead department or agency: Health and Safety Executive Other departments or agencies: -</p>	Impact Assessment (IA)		
	Date: 06/02/13		
Stage: Final			
Source of intervention: Domestic			
Type of measure: Primary legislation			
Contact for enquiries: Sarah.Wadham@hse.gsi.gov.uk			
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
-£2.7 m	-£2.7 m	-£0.3 m	Yes	OUT
<p>What is the problem under consideration? Why is government intervention necessary?</p> <p>The UK regulatory framework for health and safety, in particular the Health and Safety at Work etc Act 1974 places general duties on everyone "at work" including the self-employed. Professor Ragnar Löfstedt, in his independent review of health and safety legislation recommended "exempting from health and safety law those self-employed whose work activities pose no potential risk of harm to others." The Government has accepted this recommendation and has committed to reducing the health and safety burden on those self employed whose workplace activities pose no potential risk of harm to others.</p>				

<p>What are the policy objectives and the intended effects?</p> <p>The policy objective is to exempt from health and safety law the self-employed who pose no potential risk of harm to others. The intended effect is to remove the burden of implementing health and safety legislation for those self-employed, and to remove the fear of inspections and possible prosecutions. This would remove unnecessary expenditure and contribute to an improved perception of HSE's regulatory activity, showing it to be sensible and proportionate, without lowering health and safety standards.</p>

<p>What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)</p> <p>A number of options were considered differing in the scope of the exemption, the prescriptiveness of the definitions and the use of home-workers to define options. Several were ruled out internally, and the following were analysed in detail:</p> <ol style="list-style-type: none"> 1) Exempting from health and safety law the self-employed who do not put others at risk at any point in the normal course of their work. 2) As option 1, but do not exempt those who work in certain high-risk industries. 3) As option 1, but only exempt those who do solely office-type work. 4) Do nothing. <p>Both options 2 and 3 exempt large numbers of self-employed people who do not put others at risk, while aiming to minimise the likelihood that individuals will mistakenly assume that they are exempt. The HSE Board have recommended option 2 as the best way forward, as it provides greater clarity to people in deciding whether they are exempt or not.</p>

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.	MicroYes	< 20 No	SmallNo	MediumNo	LargeNo
What is the CO2 equivalent change in greenhouse gas emissions? (Million tonnes CO2 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: Mark Hoban Date: 18/03/2013

Summary: Analysis & Evidence

Policy Option 1

Description: Exempting from health and safety law the self-employed who do not put others at risk at any point in the normal course of their work

FULL ECONOMIC ASSESSMENT

Price Base Year 2011	PV Base Year 2013	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: 2.5

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant)	Total Cost (Present Value)
Low	-	-	-
High	-	-	-
Best Estimate	2.1	0	2.1

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

In the first year there would be one-off familiarisation costs of £2.1 million to the self-employed. They would have to spend time becoming aware of and understanding the changes to Regulations, determining whether the exemption applies to them and, for those concluding that they are exempted, deciding what actions to take as a result.

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

As explained in the evidence base, we would not expect the exempted self-employed to reduce the precautions they are currently taking. Therefore there would be no adverse effects on health and safety.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant)	Total Benefit (Present Value)
Low	-	-	-
High	-	-	-
Best Estimate	0	0.54	4.6

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

There would be cost savings of £110 thousand a year for individuals newly setting up as self-employed, who might otherwise have spent time familiarising themselves with their obligations under health and safety law. There will also be cost savings of £425 thousand a year for established self-employed individuals from not having to keep up-to-date with health and safety requirements.

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

This is one of a number of deregulatory proposals taken forward by HSE. We would expect it to contribute to an improved perception of health and safety as proportionate and sensible.

Key assumptions/sensitivities/risks

Discount rate

3.5

We are assuming self-employed individuals will correctly assess the risk they pose to others. We intend to user-test the guidance to ensure it is clear and minimise the risk of confusion.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:	In scope of	Measure qualifies
Costs: 0.23	Yes	OUT
Benefits: 0.50		
Net: 0.27		

Summary: Analysis & Evidence

Policy Option 2

Description: Exempting from health and safety law the self-employed who do not put others at risk at any point in the normal course of their work, except if they work in certain industries

FULL ECONOMIC ASSESSMENT

Price Base Year 2011	PV Base Year 2013	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: 2.7

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	-	-	-
High	-	-	-
Best Estimate	1.7	0	1.7

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

In the first year there would be one-off familiarisation costs of £1.7 million to the self-employed. They would have to spend time becoming aware of and understanding the changes to Regulations, determining whether the exemption applies to them and, for those concluding that they are exempted, deciding what actions to take as a result. Because of the way this option is defined, those self-employed working in the prescribed industries would spend much less time on this than in option 1.

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

As explained in the evidence base, we would not expect the exempted self-employed to reduce the precautions they are currently taking. Therefore there would be no adverse effects on their health and safety.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	-	-	-
High	-	-	-
Best Estimate	0	0.52	4.4

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

There would be cost savings of £105 thousand a year for individuals newly setting up as self-employed, who might otherwise have spent time familiarising themselves with their obligations under health and safety law. There will also be cost savings of £410 thousand a year for established self-employed individuals from not having to keep up-to-date with health and safety requirements.

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

This is one of a number of deregulatory proposals taken forward by HSE. We would expect it to contribute to an improved perception of health and safety as proportionate and sensible.

Key assumptions/sensitivities/risks

We are assuming self-employed individuals will correctly assess the risk they pose to others. We intend to user-test the guidance to ensure it is clear and minimise the risk of confusion.

Discount rate (%)

3.5

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:	In scope of OIOO?	Measure qualifies as
Costs: 0.19	Yes	OUT
Benefits: 0.49		
Net: 0.30		

Summary: Analysis & Evidence

Policy Option 3

Description: Exempting from health and safety law the self-employed who do not put others at risk at any point in the normal course of their work and do solely office-type work

FULL ECONOMIC ASSESSMENT

Price Base Year 2011	PV Base Year 2013	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: 3
COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)		Total Cost (Present Value)
Low	-	1st	-	-	-
High	-		-	-	-
Best Estimate	0.75		0	0.75	0.75
Description and scale of key monetised costs by 'main affected groups'					
<p>In the first year there would be one-off familiarisation costs of £750 thousand to the self-employed. They would have to spend time becoming aware of and understanding the changes to Regulations, determining whether the exemption applies to them and, for those concluding that they are exempted, deciding what actions to take as a result. Because of the way this option is defined, those self-employed not solely undertaking office-type work would spend much less time on this than in option 1.</p>					
Other key non-monetised costs by 'main affected groups'					
<p>As explained in the evidence base, we would not expect the exempted self-employed to reduce the precautions they are currently taking. Therefore there would be no adverse effects on their health and safety (see paragraph 69). HSE judges that under this option there would still be some risk of self-employed people who pose only an occasional risk to others mistakenly believing that they are exempt.</p>					
BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)		Total Benefit (Present Value)
Low	-	0	-	-	-
High	-		-	-	-
Best Estimate	0		0.45	3.9	3.9
Description and scale of key monetised benefits by 'main affected groups'					
<p>There would be cost savings of £90 thousand a year for individuals newly setting up as self-employed, who might otherwise have spent time familiarising themselves with their obligations under health and safety law. There will also be cost savings of £345 thousand a year for established self-employed individuals from not having to keep up-to-date with health and safety requirements.</p>					
Other key non-monetised benefits by 'main affected groups'					
<p>This is one of a number of deregulatory proposals taken forward by HSE. We would expect it to contribute to an improved perception of health and safety as proportionate and sensible.</p>					
Key assumptions/sensitivities/risks					Discount rate (%)
<p>We are assuming self-employed individuals will correctly assess the risk they pose to others. We intend to user-test the guidance to ensure it is clear and minimise the risk of confusion.</p>					3.5

BUSINESS ASSESSMENT (Option 3)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 0.08	Benefits: 0.41	Net: 0.33	Yes	OUT

Summary: Analysis & Evidence

Policy Option 4

Description: Do nothing

FULL ECONOMIC ASSESSMENT

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

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

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

This option continues with the status quo and would lead to no additional costs or benefits

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

This option continues with the status quo and would lead to no additional costs or benefits

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

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

This option continues with the status quo and would lead to no additional costs or benefits

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

This option continues with the status quo and would lead to no additional costs or benefits

Key assumptions/sensitivities/risks	Discount rate (%)
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BUSINESS ASSESSMENT (Option 4)

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

Impact assessment of the proposals to exempt some self-employed from health and safety law

Introduction

1. The proposal is to exempt from health and safety law those self-employed whose work activities pose no potential risk of harm to others.

Background

2. The Health and Safety at Work etc Act 1974 (HSWA) currently imposes a general duty on self-employed people to conduct their work in such a way that they and other persons affected by their work are not exposed to risks to their health and safety, so far as is reasonably practicable¹. The Management of Health and Safety at Work Regulations 1999 requires the self-employed to make an assessment of the risks to their health and safety as well as the health and safety of others arising from their work.

3. In March 2011, the Rt Hon Chris Grayling MP, then Minister for Employment asked Professor Ragnar Löfstedt, Director of the King's Centre for Risk Management at King's College London, to conduct an independent review of health and safety regulations to identify opportunities to simplify the rules. Professor Löfstedt produced a report in November 2011 "Reclaiming health and safety for all: An independent review of health and safety legislation"². One of the key recommendations from his review was to exempt from health and safety law those self-employed people whose work activities pose no potential risk of harm to others.

4. The following extract from Professor Löfstedt's report explains the reasons for this recommendation.

"There is a case for following a similar approach to other countries and exempting from health and safety law those self-employed people (i.e. those who do not have any employees) whose workplace activities pose no potential risk of harm to others.

This would benefit approximately 1m people. The actual burden that the regulations currently place upon these self-employed may not be particularly significant due to existing exceptions in some regulations and the limited prospect of these being enforced but it will help reduce the perception that health and safety law is inappropriately applied. This will complement HSE's recently revised guidance on home-workers.

I therefore recommend exempting from health and safety law those self-employed whose work activities pose no potential risk of harm to others.

This change should not affect the duties that others have towards a self-employed person.

It is vital that this change is accompanied by clear guidance to ensure that the limited scope of the change is clearly understood and that not all the self-employed will be exempt."

¹ An explanation of what is meant by "so far as is reasonably practicable" is provided here: <http://www.hse.gov.uk/risk/theory/alarp glance.htm>

² See: <http://www.dwp.gov.uk/docs/lofstedt-report.pdf>

5. The Government accepted the recommendation in November 2011 and in the Government response to the report³ stated:

“The Government will ask HSE to take urgent action to draw up proposals for changing the law to remove health and safety burdens from the self-employed in low-risk occupations, whose activities represent no risk to other people. This will bring Britain in line with other European countries, who have taken a more proportionate approach when applying health and safety law to the self-employed, and will free around one million people from red tape without impacting on health and safety outcomes.

In practice, we do not expect enforcement agencies to carry out many visits to self employed people involved in low risk activities following the introduction of a new inspection regime announced in March 2011. However, it is clear that the fear of inspection and possible prosecution for minor transgressions of the law is a cause of unnecessary concern for the self-employed and –where the individual is carrying [out] low risk activity such as office-type work– delivers no real benefit to the wider population. Where the activities of self-employed people could pose a risk to themselves or others, for example in the building trades, the law will continue to apply.”

6. In addition to the Löfstedt Report, a previous report by Lord Davidson⁴, which had reviewed some areas of the health and safety system, had identified the extension of health and safety law to the self-employed as a particular example of gold-plating of EU directives that may not be justified in all cases. Lord Davidson concluded that HSE should consider exempting the self-employed in low-risk sectors from the legislation. At present, the law in the UK covers all occupations, including those where the workplace activities of the self-employed pose no potential harm to others.

Policy objectives and intended effects

7. The policy objective is to exempt from health and safety law the self-employed who pose no potential risk of harm to others. The intended effect is to remove the burden of implementing health and safety legislation for those self-employed who pose no risk to others, and to remove the fear of inspections and possible prosecutions. This would contribute to an improved perception of HSE's regulatory activity, showing it to be sensible and proportionate, without lowering health and safety standards.

Alternatives to Regulation

8. This is a deregulatory measure, and therefore, no alternatives to regulatory activity have been considered.

Current position

9. The UK regulatory framework for health and safety, in particular Section 3 of HSWA, places general duties on everyone “at work” including the self-employed. Section 3(2) states :

“It shall be the duty of every self-employed person to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that he and other

³ See: <http://www.dwp.gov.uk/docs/lofstedt-report-response.pdf>

⁴ Davidson Review, Final Report, 2006: www.bis.gov.uk/files/file44583.pdf

persons (not being his employees) who may be affected thereby are not thereby exposed to risks to their health and safety.”

10. Section 53 of HSWA gives a broad definition of a self-employed person. It states a “self-employed person means an individual who works for gain or reward otherwise than under a contract of employment, whether or not he himself employs others.” The meaning of a “contract of employment” (or contract of service) is not defined in HSWA.

11. The Section 3(2) duty applies to ensuring both the personal safety of the self-employed person and to the safety of other people who may be affected by the work of the self-employed person.

12. Health and safety legislation places duties on those who create risks and are best placed to control them whether as “employers,” “employees,” “self-employed persons” or “persons in control.” Some regulations apply to the self-employed as if they were both employer and employee, e.g. The Control of Lead at Work Regulations 2002. In some legislation, duties are placed on “any person” or phrased so that “no person” may carry out certain activities. There are over 50 sets of regulations that apply to the self-employed, either explicitly referring to self-employment or contained within a broader category of “person”. These include regulations designed to deal with specific risks to others from any person’s work activity, such as the Gas Safety (Installation and Use) Regulations 1998, that place restrictions on those who may carry out work on gas installations in domestic premises, as well as more general regulations such as the Reporting of Injuries Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR). The table in Annex 1 details the Regulations where duties apply to those who are self-employed.

13. The Framework Directive on Health and Safety (89/391/EC) was designed to put in place a consistent structure of Community law on health and safety for workers across all European Union (EU) Member States. Its “daughter directives” include the Display Screen Equipment Directive (90/270/EC) and the Temporary Work at Heights Directive (2001/45/EC). The self-employed are not within the scope of the directives due to the treaty base under which European health and safety legislation is made. A variety of different approaches are taken across EU Member States. For example, some Member States, such as Germany, do not apply health and safety law to the self-employed except where their work may affect the safety of employees. Other Member States, such as the Netherlands, choose to apply a limited number of health and safety regulations to the self-employed where activities are considered particularly hazardous or if they present risks to others. Other Member States, such as Ireland and Spain, have extended health and safety law to include the self-employed.

14. One exception to this general approach is Council Directive (92/57/EEC) on the implementation of minimum safety and health requirements at temporary or mobile construction sites, where Member States are required to impose duties on the self-employed for the protection of employees. This reflects the fact that construction is viewed as a high risk sector and the working arrangements common within this industry, where employees of different employers or self-employed contractors work alongside each other.

15. Health and safety law in Great Britain (GB) places duties on persons who create risks, including the self-employed. As a result, where that law transposes EU directives that do not include the self-employed, GB law has at times extended that scope to impose duties on the self-employed. Such extensions have been broadly risk-based: for example the Health and Safety (Display Screen Equipment) Regulations 1992 do not place any duties on the self-employed, on the grounds that there is no risk to third parties.

Proposed Changes – Options considered

16. A broad range of options were considered initially, but all except the 3 analysed in detail in this Impact Assessment (IA) were ruled out on practical grounds.

17. It is recognised that workers in some occupations pose a risk of harm to others only at certain times. They might put others at risk during the majority of their time, but also spend significant amounts of time engaged in work not expected to put others at risk (such as paperwork, or in some cases, working on their own, or in isolated locations). On practical grounds, however, it was decided that the exemption should cover only those who would not be expected to put others at risk at any point in the normal course of their work. All 3 options described below are based on this premise.

18. In addition to the issue above, we also considered different ways of defining the exemption. In terms of approach, we explored the possibility of being wholly prescriptive and making a comprehensive list of the occupations, industries, or combinations thereof that would be covered by the exemption. This would have had the advantage of being clear and easy for the self-employed to understand whether they were exempt, minimising negative health and safety impacts. However, discussion with sector experts within HSE made it clear that within occupations and industries there are many exceptions and atypical cases. Relying exclusively on such an approach would therefore risk unintended consequences of either exempting some self-employed who do pose a risk to others, or not exempting some who do not. Therefore, all the options analysed in detail rely on the self-employed themselves assessing the risk they pose to others, although in options 2 and 3 we add a more prescriptive element in terms of industries, sectors, sites or activities that would exclude them from the exemption.

19. We also considered and rejected the possibility of including options that limited the exemption to those self-employed home-workers who do not pose a risk to others. These options would have reduced the numbers included in the exemption significantly, and would have excluded workers who do not pose a risk to themselves or to others (such as, for instance, a self-employed solicitor who hires an office outside their home) for no good reason.

20. The options analysed in detail in this IA are:

- **Option 1:** Exempting from health and safety law the self-employed who do not put others at risk at any point in the normal course of their work.
- **Option 2:** Exempting from health and safety law the self-employed who do not put others at risk at any point in the normal course of their work, except if they work in certain industries. This is the preferred option, which delivers both a high number of exemptions and also provides greater clarity regard who is/is not exempt. Justification is provided in paragraphs 105 and 111.
- **Option 3:** Exempting from health and safety law the self-employed who do not put others at risk at any point in the normal course of their work and do solely office-type work.
- **Option 4:** Do nothing

21. Option 2 excludes workers in certain industries, sectors, sites or activities from the exemption. These (described as the “prescribed industries” in the consultation document), are all high hazard, high-risk sectors. They are:

- (i) construction;

- (ii) agricultural activities;
- (iii) quarries;
- (iv) mining;
- (v) diving;
- (vi) COMAH⁵ sites;
- (vii) offshore activities;
- (viii) nuclear installations
- (ix) explosives
- (x) gas fitting and installation
- (xi) railways

22. Option 3 limits the exemption to those whose work comprises solely office-type activities (which will be defined in the guidance in a clear, unambiguous way). This element was introduced because, while allowing us to exempt a number not much lower than the other options, it provides clarity, allowing a large number of workers to understand they are not included in the exemption without ambiguity and without spending much time assessing risks. Additionally, internal HSE analysis done in the context of implementing the recommendations from a previous review of health and safety⁶, has identified offices as low-risk environments, in terms of health and safety.

23. Options 1 to 3 would all require changes to HSWA and consequential amendments to a number of regulations which mention the self-employed, either explicitly or contained within a broader category of "person." These Regulations are listed in Annex 1.

24. Option 4 is the status quo option which sets out the baseline that we will compare other options against. Under option 4 there would be no exemptions for self-employed persons and as such, their current duties (as broadly described in Annex 3) would remain.

25. The HSE Board were presented with the evidence gathered, and after giving due consideration to the responses to the consultation, they agreed to recommend Option 2 as the best way forward. Given the acknowledged challenges involved in ensuring that the proposal does not generate confusion and is properly communicated, the Board asked for a full Communications Handling Plan to be brought back for discussion and scrutiny at a future Board meeting.

Consultation and qualitative research

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

Public consultation

27. On August 2nd 2012, HSE published a consultation document⁷ on the proposal to exempt some self-employed people from health and safety legislation. This consultation

⁵ This refers to sites covered by the Control of major accident hazards (COMAH) Regulations 1999. Please see: <http://www.hse.gov.uk/comah/>

⁶ Common Sense, Common Safety (2010): http://www.number10.gov.uk/wp-content/uploads/402906_CommonSense_acc.pdf

⁷ See: <http://www.hse.gov.uk/consult/condocs/cd242.htm>

document included a supporting consultation-stage IA for this measure, and invited interested parties to comment on the proposals, as well as on issues that would throw light on the assumptions made in the IA.

28. Public consultation ran for a 12-week period, ending on October 28th 2012. HSE received a total of 176 responses which answered some or all of the questions regarding the proposal. 151 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: industry (including a small number of self-employed persons), trade associations, trade unions, consultants, local government, and academics. Of the 176 responses received, the greatest percentage of responses was from health and safety professionals (approximately 30%), followed by consultants and businesses (some 15% each). Just under a quarter of respondents stated that they were themselves self-employed. Unless specifically stated in the following analysis, the views expressed showed no marked difference between different types of stakeholders.

29. Consultation focused on how best to implement Professor Löfstedt's recommendation to exempt some self-employed from health and safety law, with Option 2 being presented as HSE's preferred option. Respondents were split on whether Option 2 was the best option to implement the recommendation.

30. Those who agreed often had caveats about the proposal in general, thinking it would not make much of a difference and might cause confusion, but agreed that option 2 was the best way forward amongst the options proposed. Reasons given to support this option were that it would reduce unnecessary burdens that deter entrepreneurship,

31. The CD did not ask which option the respondents preferred, or request to rank them. However, analysing the comments provided by respondents, some conclusions can be drawn. Most of those who did not think Option 2 was the best way forward appeared to prefer that no change be made at all (in effect, our "Do nothing" Option 4). Few stated a preference for either of the other two options for change that were presented to them. They thought the proposed exemption would have a negative effect on health and safety standards, and that it would create confusion.

32. The consultation document also posed some specific questions referring to the consultation-stage IA. Those questions covered the assumptions used, and requested the respondents' comments on any other factors they thought the IA should have taken into account. The responses to these questions will be presented later on in this IA, in the sections containing the relevant analysis.

Qualitative research

33. As explained in the sections analysing the costs and benefits of the proposed options, we acknowledged at pre-consultation stage that HSE held very little information regarding the types of self-employed persons we expected would be exempted by these proposals (paragraphs 52 to 56 in this IA cover the sources of evidence we had then). The evidence then available suggested many of these individuals had very little awareness of health and safety requirements. Formal consultation therefore seemed unlikely to elicit many responses from the individuals themselves who would be exempted.

34. In fact, of the approximately 35 respondents to formal consultation who stated they were self-employed and had no employees, almost 2/3 were health and safety professionals. From what we could interpret from the information provided, only some 7 of the rest would probably qualify for the exemption, and the fact that they were answering a consultation on the HSE

website could indicate that they were more aware of health and safety than most such self employed people.

35. In order to gather more first-hand information about the views of the self-employed in question, we said in the consultation-stage IA that we would undertake supplementary qualitative research. This research was commissioned from the Health and Safety Laboratory, and involved 60 telephone interviews with self-employed individuals in occupations where we would expect them to be exempt⁸. Half of those interviews were with individuals in office-based occupations (for instance, writers, editors, graphic designers, accountants), and the remaining half with self-employed whose occupation involved manual work (such as dressmakers, and people who produced jewellery, furniture and beauty products).

36. The interviews explored their awareness of health and safety requirements, actions they currently took to comply and how these actions might change if they became exempt from health and safety law. The general conclusions from this research were that there was little or no awareness and understanding of health and safety regulations / requirements amongst those interviewed. Those who were not aware of existing requirements did not spend time complying with the law, and the few who were aware of any health and safety obligations spent small amounts of time on compliance.

37. While several interviewees reported taking actions related to health and safety, they stated their motivations to do so were to protect their own health and safety and their livelihood, or because it was “common sense”. In some cases, they also reported insurance / indemnity issues as driving them to take action. None thought being exempted from requirements would make a difference to them, although a very small number reported spending time every year on health and safety requirements and some thought the exemption would be positive.

38. More details on the results of this research are presented later on in this IA, in the section containing the relevant analysis.

Coverage: estimates of who would be exempted

39. According to the Office for National Statistics’ Annual Population Survey (APS) 2010, there are approximately 3.1 million self-employed individuals who have no employees in the UK. The numbers that we estimate would be exempted in each option are:

- *Option 1:* 875 thousand
- *Option 2:* 840 thousand
- *Option 3:* 710 thousand
- *Option 4:* None

40. Annex 2 describes the methodology used to arrive at the estimates of the numbers that would be covered by the exemption in each option, and identifies the main occupations where the self-employed would be expected to be exempt. These are all broadly unchanged from the consultation-stage IA⁹.

⁸ Contact details were obtained through a number of online databases of freelancers and small businesses. Researchers were instructed to confirm each individual was self-employed and did not have employees before proceeding with the interview.

⁹ Based on internal consultation, we have adjusted some of the occupations we expect would be exempted under the proposal, which generated a small change in the numbers.

41. In Option 1, at an aggregate level, approximately 40% of the 875 thousand were classified as being in associate professional and technical occupations, while 20% were managers and senior officials¹⁰, another 20% were in professional occupations and 10% were in administrative and secretarial occupations. The picture for option 2 is almost identical, and it is very similar for option 3 as well. Detailed breakdowns can be found in Annex 2.

42. The approximately 35 thousand workers who would have been exempt in option 1, but would not be exempt in option 2 are those working in the prescribed industries, but who are mainly in administrative and secretarial occupations (40%), or in managerial (25%) or professional (15%) posts.

43. The approximately 165 thousand self-employed who would have been exempt in option 1, but would not be exempt in option 3 are individuals in occupations which, although we judged would not put others at risk, are not mainly composed of office-type activities. Almost half of these are actors, entertainers, musicians and artists. The majority of the rest are either in skilled trades occupations (such as tailors and dressmakers, people working on computer installation and maintenance or chefs working from home) or in some sales and customer service occupations (such as rent collectors).

44. The annex also provides information at a more detailed occupation level. It should be noted, however, that the lists presented are NOT lists of occupations that would definitely be exempt, and are not meant to be used for this purpose. The self-employed would still be required to assess risks to others before being certain of whether they are exempt, even if they work in one of the occupations in the list.

Costs

(A) Cost savings to the self-employed

(i) New businesses

45. An exemption would generate cost savings to individuals newly setting up as self-employed, who might otherwise have spent time familiarising themselves with their obligations under health and safety law. Savings will depend on how many individuals who would be covered by the exemption set up as self-employed every year, what proportion of them actually spend time on familiarisation, and for those who do, how much time they spend on that activity.

46. According to 2010 data from ONS on business demography, approximately 260 thousand new businesses are established every year¹¹. The Department for Business, Innovation and Skills Business Population Estimates¹² for the same year show that some 75% of businesses have no employees, which would roughly correspond to the self-employed¹³. Applying this proportion, we estimate there are some 195 thousand new self-employed

¹⁰ We have considered the potential incongruity of someone being at the same time a manager and genuinely self-employed. It should be noted that in spite of its official title in SOC 2000, the category includes “working proprietors in small businesses” and, in fact, the most numerous occupation in this category is “Managers and proprietors in other services (not elsewhere classified)”. Additionally, the data relies on how people describe themselves, so people who say they are both self-employed and managers are probably not managers in the way it is often understood. Therefore, this category clearly includes self-employed people who are not in traditional management roles.

¹¹ See: <http://www.ons.gov.uk/ons/rel/bus-register/business-demography/2010/stb---business-demography-2010.html>. 260 thousand is the average of the last 5 years available.

¹² See: <http://www.bis.gov.uk/analysis/statistics/business-population-estimates>

¹³ The category is defined as comprising sole proprietorships and partnerships comprising only the self-employed owner-manager(s), and companies comprising only an employee director.

individuals starting business each year (although this is likely to be an underestimate, as new businesses are more likely to be smaller, so we might expect a higher proportion of self-employed amongst new businesses than amongst established ones).

47. Under option 1, approximately 30% of the self-employed with no employees would be exempt, which would mean some 55 thousand new self-employed per year need not familiarise themselves with health and safety law. For option 2, the exemption would affect a slightly smaller number of new businesses, but the exact number still rounds up to 55 thousand. Under option 3, it would affect 45 thousand new businesses.

48. We sought information, both at formal consultation and in the qualitative research carried out with self-employed individuals (described in paragraphs 33 to 37), on how much time an individual who would be covered by the exemption might spend on reading about and understanding health and safety requirements. This would involve seeking out and reading the different pieces of guidance available to determine whether they apply to them, as well as understanding them and planning how to implement them. It could also potentially involve them getting outside help (such as a health and safety consultant), which would have a financial cost to the self-employed.

49. Estimates varied widely. The 7 relevant individuals we identified amongst formal consultation respondents (see paragraph 34) provided estimates that ranged from very long (e.g. three months, 2 or 3 days) to much shorter (“an hour or so”, “almost none”). The small number of participants in the qualitative research who stated they were aware of requirements coincided in providing very low estimates: a few minutes, “very little time”. One of them, however, mentioned that they had found out about their obligations via a health and safety consultant, which would have had a cost.

50. In the consultation-stage IA we used an estimate of 2 hours per self-employed individual to understand their obligations under health and safety law. Since most individuals report not spending much time at all on this activity, we will lower that estimate. A small number of individuals are reporting spending significant amounts of time on this, however, so we will not reduce it to 0. Taking account of all the available evidence, we will use an estimate of 1 hour per individual.

51. Assuming an average opportunity cost per hour of £20, based on the average salary for the UK¹⁴, this would represent savings of £20 for every individual who would have undertaken familiarisation.

52. Before consultation, we examined a number of sources which could throw some light on the issue of current compliance of the self-employed with health and safety law, which would include familiarisation. Evidence from those sources suggested it is very low, as described in the next few paragraphs.

53. HSE undertook initial consultation with representatives from several Local Authorities (LAs) regarding this issue, as the vast majority of those who would be exempted under all the options we are considering work in areas where the enforcement of health and safety is carried out by LAs¹⁵. The experience of all the LA representatives we spoke to was that very few of the

¹⁴ Source: Annual Survey of Hours and Earnings, ONS, 2011. Includes an additional 30% to account for non-wage costs.

¹⁵ Health and safety interventions are undertaken by both HSE and Local Authorities. The Health and Safety (Enforcing Authority) Regulations 1998 allocate the enforcement of health and safety legislation at different premises between HSE and Local Authorities. Further guidance on how work activities are

self-employed in the mostly low-risk occupations we referred to would have much awareness of health and safety law, as many do not even know the law applies to them. They also confirmed that to their knowledge, LAs do not tend to proactively enforce in the types of areas we described, and the only reasons they would come into contact with the self-employed in these areas were in visits regarding other issues (e.g. complaints about drainage problems, or noise).

54. We also checked our own enforcement records starting in 2006/07, and confirmed that in those years, there has been no significant enforcement by HSE in these areas, either.

55. Additionally, we examined several on-line resources for the self-employed, and in all of them, the focus of the advice was on issues like tax, finance and insurance, with health and safety issues very much marginal, and often not even mentioned.

56. Finally, we also considered the possibility that the self-employed might comply with health and safety law due to demands arising from their insurance policies. We consulted with a representative from the Association of British Insurers (ABI) to explore this issue. The only common type of insurance policy relevant to health and safety that a self-employed person might buy would be personal accident and sickness insurance. These policies pay compensation when the self-employed person is unable to work due to an illness or injury. However, the ABI representative confirmed that premiums would depend solely on general factors like occupation and age, not on anything to do with risk management, or require any form of evidence from the self-employed to prove they were managing risks in a particular way. Furthermore, these policies would not make demands of the self-employed in terms of compliance with health and safety law.

57. Based on this, at consultation stage, we assumed a very low rate of compliance with health and safety, of 10%, and stated our intention to explore the issue with individuals who would be affected by the exemption in the qualitative research we planned to undertake.

58. One of the first questions asked during that research was whether the individual thought they had any legal obligations regarding their own health and safety. Only 5 out of the 60 people interviewed thought they had any health and safety obligations. The remaining 55 either said that they did not (the majority), or that they were not sure. While acknowledging that the sample interviewed are not perfectly representative of the relevant self-employed population, this result does suggest that our 10% assumption was not unreasonable, so we shall continue to use it.

59. For each option, this would result in the following savings to new businesses:

- *Option 1:* £110 thousand per annum, with a 10-year present value of £925 thousand.
- *Option 2:* £105 thousand per annum, with a 10-year present value of £885 thousand.
- *Option 3:* £90 thousand per annum, with a 10-year present value of £750 thousand.
- *Option 4:* No savings

(ii) Existing businesses

60. There would also be potential cost savings for any self-employed individuals currently complying with health and safety law and who would stop or decrease their compliance as a result of the exemption.

61. Regarding what the self-employed are currently required to do to comply with health and safety law, Annex 3 provides a broad summary of the regulations that would be expected to apply to the different groups of the self-employed. The main general duty they all have is to carry out an assessment of the risks to themselves and others that are relevant to their work, and to take action to control any risks based on the findings. Whether individual regulations apply depends on what risks are identified. The self-employed need not record their findings, being within the category of businesses with fewer than 5 employees, which are exempt from doing so. The assessment of risk (even if not recorded) needs to be kept up to date and updated if circumstances change.

62. It is very difficult to estimate the costs of this process to the average self-employed person. The process itself of carrying out a risk assessment (RA) could be estimated to take at most 15 minutes, based on user testing of a recently-released HSE tool¹⁶ which helps businesses which operate in an office environment carry out and record their RA (even in Option 1, which exempts the most people, a very large proportion of those potentially affected do solely office-type work). The reason we consider 15 minutes would be a maximum is that testing was for RAs involving offices with employees, which would almost certainly be larger and more complex than the environment and work that would be assessed by an average self-employed person, and involved recording the RA as it was undertaken, which the self-employed need not do.

63. A major difficulty in understanding what an average self-employed person's health and safety duties are is that the RAs of different individuals amongst the 900 thousand considered will have different findings, and will require them to do different things. Even in a similar office environment, one self-employed person might, for instance, have to deal with heavy boxes of paper, which might require a reorganisation of the office (e.g. moving heavy boxes from high shelves to a more appropriate height) or the purchase of a trolley to handle the boxes, while another self-employed individual might not have this issue in their office and would therefore not have to spend time and/or money dealing with it.

64. There is also the issue that many of the obligations, such as carrying out a RA, have a larger one-off cost when the self-employed first does them (carrying out the RA itself), and then smaller costs in subsequent years (when all that is required is updating the RA, mentally or in written form, if anything changes). For a self-employed person who is already established, an exemption from carrying out RAs would only remove the small burden of keeping their already existing RA up-to-date.

65. One current requirement that the self-employed might not comply with if they become exempt is carrying out a risk assessment considering risks to themselves. However, in order to know whether they qualify for the exemption they would still need to assess whether their work poses risk to others, and it is likely any risks to themselves would arise from the same factors.

66. Real savings generated by the exemption would be based on what the self-employed would actually stop doing as a result of the exemption, not on the removal of the regulatory requirement. It is not at all certain that they would stop taking all actions that happen to comply with health and safety law. By definition, since to be exempt they cannot pose a risk to anyone

¹⁶ The tool can be found at <http://www.hse.gov.uk/risk/office.htm>

but themselves, many of their actions will be done to protect their own health and safety. For instance, to use the same example as in paragraph 63, a self-employed individual who works in an office and has heavy boxes with files stored around the office might identify risks related to manual handling from manipulating those boxes. The individual might decide to store them at an appropriate height, instead of on high shelves, in order not to hurt their back when bringing them down. This would be the sort of thing that would be required to comply with health and safety law at the moment, but it is unclear that without the law requiring this individual to control risks, they would not have taken the same action, or that they would suddenly decide to start storing the boxes on high shelves just because they have become exempt and the regulatory requirement has been removed.

67. This is supported by the findings of the qualitative research we carried out. When asked what motivates them to take health and safety precautions, no respondents said that regulatory requirements were a factor. The most common motivations mentioned were that they wanted to protect themselves and their livelihood, and that precautions were “common sense”.

68. Some also mentioned issues of insurance and indemnity. As described in paragraph 56, it does not appear in fact that insurance companies are currently placing any requirements regarding health and safety on these self-employed persons. The ABI representative we spoke to confirmed that exempting them from complying with health and safety laws would therefore not lead to any changes in insurance companies’ requirements. However, a history of claims would increase a particular individual’s premiums, so this might be behind their quoting insurance issues as a motivation to take precautions (as lack of precautions might lead to having to claim on their insurance, thus increasing their premiums). This would not be affected by being exempted from regulatory requirements.

69. Interviewees were also asked directly whether they thought the removal of health and safety obligations would make any difference to them. The response was unanimous, with all 60 stating it would not. Many respondents indicated that they would just continue to work as they always did. Several said that they would not change their behaviour because they thought they did not have any obligations in the first place, and that the precautions they took were just “common sense practice”.

70. Feedback from the formal consultation was more varied. Respondents were asked if they thought exemption from health and safety law would cause the exempted self-employed to change their behaviour. The few individuals identified as those who would be covered by the exemption provided answers consistent with the results from the qualitative research. They spoke of the low risk attached to the occupations covered by the proposal and the fact that most individuals had no awareness of requirements, anyway, and characterised proposals as not making any difference (although a few spoke of easing paperwork requirements).

71. Other respondents were split, with approximately as many stating they thought exempted self-employed would not change their behaviour, as stating they thought they would.

72. Those who thought behaviour would not change made comments along very similar lines as those quoted above. They spoke of current compliance not being motivated by regulations, but by self-preservation, common sense or client requirements, and of many self-employed not being aware of requirements, as there was no enforcement in their areas. Several also mentioned that they thought regulations imposed very little burden on them.

73. Those who thought behaviour would change spoke of individuals cutting corners and taking more risks if they were exempted, mainly driven by cost issues, which would suggest they expected the exemption would result in savings to the self-employed. It is worth noting that when respondents gave examples of the types of occupations where they thought these

changes would occur, they tended to mention occupations where work activities would almost certainly put others at risk (such as electricians and window cleaners), and therefore the exemption would not apply.

74. On this issue, we believe that the most reliable evidence comes from the potentially-affected self-employed themselves, as they have first-hand experience of the matter. There is a general consensus in their views – both from the qualitative research and from the consultation – that the health and safety precautions they take are not motivated by regulations, and that the removal of legal requirements would not cause them to change their behaviour in terms of protecting their own health and safety. We therefore conclude that there would be no savings to existing businesses from changes in working practices, as we do not expect behaviour to change as a result of the exemption. This also affects our conclusions regarding the health and safety consequences of the proposals, and these will be explored further on in this document.

75. Our conclusion is consistent with the evidence that led to Professor Löfstedt making his recommendation, as he said in his report that “The actual burden that the regulations currently place upon these self-employed may not be particularly significant due to existing exceptions in some regulations and the limited prospect of these being enforced”.

76. That said, there is some evidence that there are actions some self-employed are taking regarding health and safety which are not directly related to taking precautions. Several respondents spoke of keeping up-to-date with requirements and changes in health and safety law, which suggests they regularly spend some time on this activity (this would include activities such as seeking out and reading HSE guidance or specialised publications). They also state that this would not be necessary any longer (and the evidence regarding motivations for taking precautions, described in paragraph 67 supports this).

77. One of the questions asked of interviewees in the qualitative research was how much time they spent each year ensuring they were compliant with health and safety law, which would include activities such as those described in the previous paragraph. The 5 respondents who were aware that legal requirements in this area applied to them provided estimates centred around 30 minutes. We will assume that those who are aware of and compliant with health and safety requirements (an estimated 10% of all the exempted self-employed, as explained in paragraph 58) would in future spend about half that time on keeping up-to-date with requirements. We are reluctant to assume they will spend no time on this activity, as even though they will now have no obligation to comply with legal requirements, they might still choose to keep up-to-date with best practice in their areas.

78. Assuming the same opportunity cost of their time as in paragraph 51 and that each of these self-employed individuals would save 15 minutes a year, that would result in the following savings to existing businesses:

- *Option 1:* £425 thousand per annum, with a 10-year present value of £3.7 million.
- *Option 2:* £410 thousand per annum, with a 10-year present value of £3.5 million.
- *Option 3:* £345 thousand per annum, with a 10-year present value of £3 million.
- *Option 4:* No savings

(B) Costs to the self-employed

79. In all the options considered, costs to the self-employed would arise from having to spend time becoming aware of and understanding the changes to Regulations, determining whether the exemption applies to them and, for those who have determined they are exempt, deciding what actions to take as a result.

80. Although all the options analysed would result in only a proportion of the self-employed becoming exempt, a larger number could potentially think the exemption might apply to them, and spend time understanding whether it does or not. In theory, all 3.1 million self-employed who have no employees in the UK might think the exemption could apply to them, if they hear about it casually.

81. However, as described in the previous section, initial evidence suggests that very few self-employed are aware of health and safety issues, so we would expect only a small proportion to spend time on this activity. We will use the same assumption as in paragraph 58, which is 10%.

82. This would result in an estimated 310 thousand individuals seeking to understand the exemption. This would involve reading the guidance that will be prepared, which will seek to be as clear and simple as possible, including examples / case studies. Because of the timescale to which this IA has to be prepared, this guidance is still a work in process, and estimates presented below of how long it would take individuals to use it are not definitive. HSE plans to do extensive user-testing to make sure the guidance is both clear and easy to apply, providing individuals who use it with enough certainty about their status, while not adding excessive burden in terms of time.

83. In option 1, every one of the 310 thousand individuals already aware of health and safety requirements would assess whether they pose a risk of harm to others at any point in the normal course of their work and decide whether the exemption applies to them. If they are currently complying with health and safety law, they would have covered risks to others when they carried out their general risk assessment, so this would not require a new risk assessment, simply considering their existing one. We would expect 220 thousand of them would reach the conclusion that they are not exempt. In most cases, this would be a very straightforward decision, and we expect that on average it would take approximately 20 minutes.

84. The remaining 88 thousand are those for whom the exemption would apply. Some 71 thousand¹⁷ of them do office-based work, and we estimate it would take them 15 minutes to assess risk to others and decide whether they want to change anything (based on user testing of how long it takes to use the HSE office risk assessment tool and on the fact that there would be specific and very simple guidance for them). The other 17 thousand do work that is not office-based, and we expect it would take them longer to conclude they are exempt and consider their current work practices. We estimate it would take them at most 1 hour.

85. Using these assumptions, as well as assuming the same opportunity cost of their time as in the previous section, would result in a one-off cost of familiarisation with the changes of £2.1 million for option 1.

86. Options 2 and 3 add a more prescriptive element in the definition of the exemption, which would lead to some self-employed needing to spend less time on familiarisation.

87. In option 2, individuals working in the prescribed industries would be able to determine in a matter of minutes that the exemption does not apply to them, just by looking at a list of the prescribed industries, without needing to assess risk to others.

¹⁷ These are 10% of those who would be exempted under option 3

88. According to data from the APS, approximately 875 thousand self-employed work in the prescribed industries. As before, we will assume that approximately 10% will be undertaking that activity, and we will also assume that it would take these 88 thousand self-employed some 5 minutes to realise they are not exempt.

89. Of the remaining 2.25 million self-employed working in other industries, we also assume that 10% will be spending time on familiarisation, a total of 225 thousand. 139 thousand of them would conclude that they are not exempt, and as for option 1, we have assumed it would take them an average of 20 minutes to reach that conclusion.

90. 85 thousand would conclude they are exempt, and have to decide what, if any, actions to take as a result. As for option 1, we will assume this process will take 15 minutes for the 68 thousand who do office-work and 1 hour for the remaining 17 thousand.

91. Using these assumptions would result in a one-off cost of familiarisation with the changes of £1.7 million for option 2.

92. Similarly to option 2, in option 3, individuals whose work does not involve solely office-type activities would be able to determine in a matter of minutes that the exemption does not apply to them, without needing to assess risk to others.

93. According to data from the APS, approximately 2.4 million self-employed undertake work that does not consist solely of office-type activities. We will assume that approximately 10% will be undertaking that activity and that it would also take these 240 thousand individuals some 5 minutes to realise they are not exempt.

94. As for previous options, we will assume that the remaining 71 thousand self-employed who would undertake familiarisation (whose work, by definition, solely consists of office-based activities, and the great majority of whom would be exempted) would spend an average of 15 minutes on that activity.

95. Using these assumptions would result in a one-off cost of familiarisation with the changes of £750 thousand for option 3.

96. As mentioned earlier, the main change in the HSWA would have to be accompanied by consequential amendments to a variety of regulations that refer to the self-employed either explicitly or contained within a broader category of "person." We have assumed that any familiarisation costs generated by these changes would be insignificant, as all the evidence about how the self-employed behave in relation to health and safety indicates that they would rely on the specific guidance that would be prepared to explain the exemption.

Summary and position under One-In, Two-Out (OITO)

97. Under current guidance for OITO, all three categories of costs and savings described in the previous sections are direct impacts on business and therefore in scope for OITO¹⁸. In each option, one-off costs need to be set against a flow of annual cost savings:

- Option 1: one-off costs to the self-employed of £2.1 million in the first year and yearly savings of £110 thousand to new businesses and £425 thousand to

¹⁸ Savings to new businesses, such as those considered here, have previously caused issues regarding whether they are direct or indirect. The latest OITO guidance is explicit about how they should be considered: "Impacts on existing businesses and new entrants need to be treated in exactly the same way. The analysis of which impacts are direct should be carried out with reference to the incumbent business, and the same categories of impacts (e.g. familiarisation costs) on new entrants should be considered direct."

existing businesses (with a total 10-year present value of £4.6 million). The 10 year net present value of these impacts is net savings of £2.5 million.

- Option 2: one-off costs to the self-employed of £1.7 million in the first year and yearly savings of £105 thousand to new businesses and £410 thousand to existing businesses (with a total 10-year present value of £4.4 million). The 10 year net present value of these impacts is net savings of £2.7 million.
- Option 3: one-off costs to the self-employed of £750 thousand in the first year and yearly savings of £90 thousand to new businesses and £345 thousand to existing businesses (with a total 10-year present value of £3.7 million). The 10 year net present value of these impacts is net savings of £3 million.
- Option 4: No impacts

98. At consultation-stage, savings to new businesses remained unquantified, as we lacked reliable evidence to allow us to do so. The qualitative research taken forward, as well as the responses to the formal consultation, have allowed us to fully quantify the proposal now.

Summary of coverage and costs (in £ thousands):

	Option 1	Option 2	Option 3	Option 4
Number exempted (thousands)	875	840	710	0
Savings to new businesses (£ thousands, 10-year present value)	925	885	750	0
Savings to existing businesses (£ thousands, 10-year present value)	3,700	3,500	3,000	0
Familiarisation costs (£ thousands)	2,100	1,700	750	0
TOTAL NET SAVINGS¹⁹	2.500	2,700	3.000	0

Health and safety effects and risks

99. The effects of the different options on health and safety would depend on whether and how the behaviour of those exempted would change as a result of the exemption. If the self-employed would stop taking actions that are currently protecting their health and safety, we would expect health and safety to deteriorate for that group.

¹⁹ Net totals do not add up exactly due to rounding up of the sum components.

100. As explained in the previous section (see paragraphs 66 to 75), we have been able to draw conclusions on this issue from analysis of the evidence gathered during the consultation period, both from bespoke qualitative research involving interviews with self-employed to whom the exemption would apply, and from formal consultation. This analysis has led us to conclude that we do not expect the exempted self-employed to reduce the precautions they are currently taking, as a result of the exemption. We would therefore expect no adverse health and safety impacts from this proposal.

101. Even though we are confident of this conclusion, we have performed sensitivity analysis and considered what could happen if the self-employed were to change their behaviour significantly. The majority of those who would be exempted under each option work in occupations and sectors where the risk to their own health and safety is very low. This is especially the case in option 3, which would limit the exemption to individuals whose work solely includes office-type activities. Options 1 and 2 also include a majority of office workers amongst those they exempt, but in these options, some of those who would be exempt could potentially pose greater risks to their own health and safety. This could be the case for some artists and artisans, for instance. Option 3 is therefore less risky in this respect than options 1 and 2.

102. The main economic rationale for intervention in the health and safety area is the existence of externalities (only a proportion of the costs of health and safety failures fall on the employer, with a great part falling on the employees and the taxpayer). However, in the case of the self-employed who do not pose any risks to others, a great part of these externalities disappear, as the majority of the costs and benefits of risky behaviour fall on the same party. In purely economic terms, therefore, as long as these individuals are informed about the risks they are taking, this removes a large part of the justification for the government intervening to regulate their behaviour. There are, however, ethical and moral issues surrounding this issue, which are beyond the scope of this IA, and would have to be taken into account by decision-makers.

103. The analysis in the previous paragraphs assumes that individuals would correctly assess the risk they pose to others, when determining whether they are exempt or not. There is a possibility, however, that some individuals might not assess these risks correctly. This would be an unintended consequence of the proposal, and is one that many respondents to the formal consultation raised as a risk. These respondents, who tended to consider no exemption should be introduced, thought the proposal would introduce confusion and suggested that many self-employed would find it difficult to accurately assess whether they posed risks to others, and therefore whether they should be exempt.

104. An incorrect assessment of the risks to others could lead to two potential types of error: individuals who do not pose a risk to others, but think they are not exempt, and individuals who do pose a risk to others, but think they are exempt. In terms of health and safety, it is the latter group of individuals that concerns us, as they might take actions that result in adverse effects on the health and safety of others. This is a risk identified by the participants in the Forum of Private Business' Health and Safety Panel. Their latest report²⁰ highlights the possibility that the exemption might "lead to [sic] some self employed people to mistake 'not posing a risk' as an excuse for implementing no health and safety requirements at all".

105. The options analysed which are partly prescriptive in defining who is not exempt minimise the potential for individuals to make that mistake. Option 2 minimises the likelihood that those working in high-risk industries (who would be expected to pose the highest risks of harm to others, as well as to themselves) mistakenly assume they are exempt. Similarly, option

²⁰ Forum of Private Business – Health and Safety Panel Report, May 2012. See: http://www.fpb.org/images/PDFs/research/HS_Panel_3_report.pdf

3 makes it very clear and unambiguous to those whose work does not consist solely of office type activities that they are not exempt, also reducing the risk of mistaken assessments. HSE have judged that the clarity in option 2 of ruling out the high-risk industries from the exemption makes it better at minimising risks. We therefore considered it our preferred option, and the HSE Board endorsed this, recommending it as the best way forward.

106. HSE believe that the best way to implement Professor Lofstedt's recommendation is option 2 as it provides clarity. The prescribed list would be kept under review by HSE to ensure that it remains appropriate. The purpose of this added qualification, which is not explicit in the Lofstedt report, is to recognise the pitfalls of allowing exemptions in sectors of high hazard or risk. Those who work in the prescribed sectors and pose only an occasional risk will nevertheless need to ensure that they meet their requirements under health and safety law. This approach would ensure those who work in the prescribed sectors but are office based would still fall within the scope of the law, eg an architect.

107. In order to minimise the possibility that self-employed individuals reach the wrong conclusion on whether the exemption applies to them, as mentioned earlier, HSE plans to user-test its new guidance extensively, to make sure its format and content are easy to use and very clear. This testing will take place as soon as guidance has been prepared, and could potentially compare different approaches, to confirm which one is more effective. We will also bring a detailed Communications Handling Plan to the HSE Board for scrutiny and approval. This plan will include details on how different groups would be targeted, especially those occupations where we would not expect individuals to be exempted, but where consultation has indicated that some might think they are.

108. Option 4 would not have any effects on health and safety, as it continues with the status quo.

Benefits

109. As quoted earlier in this document, Professor Lofstedt did not expect the exemption he proposed to lift a significant burden off the self-employed. The main benefit he identified from the exemption was that "it will help reduce the perception that health and safety law is inappropriately applied."

110. Our analysis of the benefits that would arise from the different options proposed concurs with Professor Lofstedt's conclusions. To possibly differing extents, options 1 to 3 would contribute to improve the perception of health and safety law as proportionate and reasonably applied. They would also remove the fear of inspections and potential prosecutions for a large group of self-employed.

111. Of the three options analysed, option 1 would contribute the most to these goals, as it is purely risk-based and exempts the most people. Option 2 reduces the risk of individuals working in high risk sectors wrongly assuming they are exempt, and since it does so while exempting almost as many individuals as option 1, it is our preferred option. Option 3 results in a substantial (18%) reduction in the number of people who would benefit from exemption.

112. Option 4 would not lead to any benefits, as it continues with the status quo.

Other risks and uncertainties

113. If the exemption does result in significant changes in behaviour amongst those exempted, and this leads to significant savings, this could create a disincentive for the self-

employed in these groups to take on an employee, if this means that they would then have to take on those burdens again. As mentioned earlier, however, we have concluded from the evidence gathered that this is not likely to happen.

114. Similarly, if the exemption led to significant savings, this would give the self-employed a competitive edge with respect to small businesses who are employers. This risk was noted by the Forum of Private Business' Health and Safety Panel in their latest report²⁰. Again, given the currently available evidence, we think this is unlikely.

115. When analysing costs, we assumed a very low level of compliance with health and safety law amongst some groups of self-employed (especially those who would be exempt under the options analysed). This assumption was supported by the evidence collected during the consultation period. It is possible that, if this proposal receives a significant amount of publicity, a larger number of self-employed than expected would spend time familiarising themselves with the proposals. This would lead to higher-than-estimated familiarisation costs, and, among those who would not be exempt under the final proposal, increased awareness of their health and safety duties could lead to increased compliance with them. This would potentially result in higher costs to themselves and higher benefits to themselves and others.

Annex 1

Regulations that apply to the self-employed

No	Regulations which refer expressly to the self-employed
1	Boreholes Sites and Operation Regulations 1995
2	Confined Spaces Regulations 1997
3	Construction (Head Protection) Regulations 1989 *
4	Construction Design and Management Regulations (CDM) 2007
5	Control of Asbestos Regulations 2012
6	Control of Lead at Work Regulations 2002
7	Control of Noise at Work Regulations 2005
8	Control of Substances Hazardous to Health Regulations (COSHH) 2002
9	Control of Vibration at Work Regulations 2005
10	Dangerous Substances and Explosive Atmospheres Regulations 2002
11	Diving at Work Regulations 1997
12	Docks Regulations 1988 *
13	Electricity at Work Regulations 1989
14	Gas Safety (Installation and Use) Regulations 1998
15	Health and Safety (Display Screen Equipment) Regulations 1992 (Reg 2 places a duty on a self-employed person employing others)
16	Health and Safety (First Aid) Regulations 1981
17	Ionising Radiation Regulations 1999
18	Lifting Operations and Lifting Equipment Regulations 1998
19	Loading and Unloading of Fishing Vessels Regulations 1988
20	Management and Administration of Safety and Health at Mines Regulations 1993
21	Management of Health and Safety at Work Regulations 1999
22	Manual Handling Operations Regulations 1992
23	Mines Miscellaneous Health and Safety Provisions Regulations 1995
24	Notification of Conventional Tower Cranes Regulations 2010 *

25	Personal Protective Equipment at Work Regulations 1992
26	Pressure Systems Safety Regulations 2000
27	Provision and Use of Work Equipment (PUWER) 1998
28	Quarries Regulations 1999
29	Radiation (Emergency Preparedness and Public Information) Regulations 2001
30	Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995
31	Work at Height Regulations 2005
32	Work in Compressed Air Regulations 1996
33	Workplace (Health, Safety and Welfare) Regulations 1992
	Regulations which refer to a broader category of people and pose a potential risk of harm to others
34	Agriculture (Tractor Cabs) Regulations 1974
35	Biocidal Products Regulations 2001
36	Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2007
37	Chemicals (Hazard information and Packaging for Supply) Regulations 2009
38	Classification and Labelling of Explosives Regulations 1983
39	Control of Explosives Regulations 1991
40	Control of Major Hazards Regulations 1999
41	Dangerous Substances in Harbour Area Regulations 1987
42	Dangerous Substances (Notification and Marking of Sites) Regulations 1990
43	Explosives Act 1875 (exemptions) Regulations 1979
44	Freight Containers (Safety Convention) Regulations 1984
45	Export and Import of Dangerous Chemicals Regulations 2008
46	Genetically Modified Organisms (Contained Use) Regulations 2000
47	Identification and Traceability of Explosives Regulations 2010
48	Manufacture and Storage of Explosives Regulations 2005
49	Marking of Plastic Explosives for Detection Regulations 1996
50	Notification of Cooling Towers and Evaporative Condensers Regulations 1992

51	Pipelines Safety Regulations 1996
52	Placing on the Market and Supervision of Transfers of Explosives Regulations 1993
53	Prevention of Accidents to Children in Agriculture Regulations 1998

* Proposed Revocation

Annex 2 – Numbers of self-employed workers to be exempt in the different options considered

116. This annex sets out the methodology used to estimate the number of self-employed workers that would be exempt from health and safety laws under each option. The categories of workers thus identified are then described.

117. The data used for this exercise come from the Office for National Statistics' Annual Population Survey (APS) 2010. The APS combines results from the Labour Force Survey (LFS) and the English, Welsh and Scottish LFS boosts²¹. This provided information on occupation, industry, and whether the individual was a home-worker for the approximately 3.1 million self-employed individuals who do not have employees.

118. The methodology involved going through the full list of different occupations, and in consultation with sector experts, making a judgment about whether, in the majority of cases, that category of self-employed workers would be expected to put others at risk at any point in the course of their work. We also considered data on the level of injuries and ill-health for the occupation / industry.

119. For some occupations, where risk to others would depend on whether there were others in the same physical location as the self-employed person, we made the assumption that home-workers would be exempt, while non-home-workers would not. We recognise that this is only an approximation, as a non-home-worker might work in a location inaccessible to others, but that information is not available.

120. **PLEASE NOTE:** The purpose of this exercise is purely to estimate the numbers involved and to have an idea of the types of workers who might be exempt. The lists presented below are therefore NOT lists of occupations that would definitely be exempt, and are not meant to be used as a guide.

121. Under many of the occupations in the lists, specific (albeit very uncommon) examples will exist of cases in which the self-employed person could put others at risk, and would therefore not be exempt. This means that even if the individual is self-employed and in an occupation included in the lists, they would still have to assess the risk their work activities pose to others. Only then would they be able to conclude they are exempt.

122. By the same token, self-employed individuals in occupations where we have judged the majority would not be exempt, could come to the conclusion that their work activities do not place others at risk, and they could therefore be exempt.

Option 1 – Exempting from health and safety law the self-employed who do not put others at risk at any point in the normal course of their work

123. In this option, our analysis shows that approximately 875 thousand self-employed individuals would be exempted from health and safety law. This would be approximately 30% of all self-employed with no employees.

²¹ Please note that the APS data is based on a sample survey, so all estimates are subject to sampling error.

124. The SOC (Standard Occupational Classification) allows us to classify workers by occupation at different levels of aggregation. Analysing the data at an aggregate level, we can see that of the self-employed expected to be exempt, approximately 40% were classified as being in “Associate professional and technical occupations”. This would include occupations such as authors and writers (which includes translators) and financial advisors.

125. A further 20% were part of the “Managers and senior officials” category. We have considered the potential incongruity of someone being at the same time a manager and genuinely self-employed. It should be noted that in spite of its official title in SOC 2000, the category includes “working proprietors in small businesses” and, in fact, the most numerous occupation in this category is “Managers and proprietors in other services (not elsewhere classified)”. Additionally, the data relies on how people describe themselves, so people who say they are both self-employed and managers are probably not managers in the way it is often understood. Therefore, this category clearly includes self-employed people who are not in traditional management roles.

126. Another 20% were in “Professional occupations”. This category includes occupations such as management consultants, actuaries, economists, statisticians, IT and software professionals and solicitors.

127. 10% were in “Administrative and secretarial occupations”, which would include occupations such as bookkeepers, personal assistants, different categories of clerks and assistants, typists and receptionists.

128. There were also a small minority (4%) in “Skilled trades occupations”. This includes some trades and crafts, such as tailors and dressmakers, some people working on computer maintenance and installation, goldsmiths and chefs. For many of these occupations, our assumption was that only those who are home-workers would qualify for the exemption, as working in an environment with other people might result in them posing a risk to others.

129. In total, approximately 35% of the self-employed who would be exempt in this option described themselves as home-workers.

130. Table 1 shows the detailed occupations with the largest numbers of self-employed expected to be exempt under option 1. It should be noted that we have used the official SOC categories, but this does not mean that we expect the exemption would cover all occupations listed in every category. For instance, in category “2411 Solicitors & lawyers, judges & coroners”, since judges and coroners will not be self-employed, our numbers would include only solicitors and lawyers.

Table 1 – Occupations where we would expect most self-employed would be exempted under Option 1

Occupation	Workers	%
3412 Authors, writers	38,500	4%
2423 Management consultants, actuaries, economists & statisticians	36,900	4%
1239 Managers ²³ and proprietors in other services n.e.c. ²²	34,300	4%
4122 Accounts wages clerk, bookkeeper	33,100	4%
3534 Financial & investment analyst &	30,700	3%

²² APS data on occupations is classified using the Standard Occupational Classification (SOC) 2000 . In that classification, “n.e.c.” stands for “not elsewhere classified”.

advisers		
1132 Marketing and sales managers ²³	30,600	3%
2131 IT strategy and planning professionals	29,800	3%
3421 Graphic designers	29,200	3%
3413 Actors, entertainers	27,700	3%
3415 Musicians	27,300	3%
2132 Software professionals	27,200	3%
1163 Retail and wholesale managers ²³	26,100	3%
2411 Solicitors & lawyers, judges & coroners	23,000	3%
3422 Product, clothing & related designers	22,300	2%
4150 General office assistants or clerks	20,400	2%
1136 Information & communication technology managers ²³	19,900	2%
1131 Financial managers ²³ & chartered secretaries	19,600	2%
3542 Sales representatives	19,500	2%
3411 Artists (includes only homeworkers)	19,400	2%
3431 Journalists, newspaper & periodical editors	19,300	2%
3432 Broadcasting associate professionals	17,300	2%
2421 Chartered and certified accountants	16,500	2%
3416 Arts officers, producers and directors	14,000	2%
4215 Personal assistants & other secretaries	13,600	2%
3539 Business & related associated professions n.e.c.	13,300	1%
7129 Sales-related occupations n.e.c.	11,100	1%
3543 Marketing associate professionals	10,800	1%
3532 Brokers	9,300	1%
3122 Draughtspersons	8,100	1%
9211 Postal worker, mail sorter, messenger, courier	7,900	1%
3544 Estate agents, auctioneers	7,800	1%
3562 Personnel & industrial relations officers	7,500	1%
1152 Office managers ²³	7,400	1%
1134 Advertising & public relations managers ²³	7,100	1%
3531 Estimators, valuers and assessors	6,400	1%
3433 Public relations officers	6,200	1%
Others ²⁴	175,900	19%
TOTAL	875,000	100%

²³ As mentioned in paragraph 114, the data relies on how people describe themselves. People in this category (and the other ones listed as “managers”) describe themselves as both self-employed and managers. Based on this and on the detailed descriptions of the tasks typically undertaken by each of these categories in SOC 2000, we expect that although these self-employed are calling themselves managers, they are not managers in the way it is often understood.

²⁴ Due to data and privacy protection issues, we cannot present the numbers for occupations with fewer than 6,000 self-employed workers. The numbers for any such occupations have been grouped under “Others”.

Option 2: Exempting from health and safety law the self-employed who do not put others at risk at any point in the normal course of their work, except if they work in certain industries

131. In this option, our analysis shows that approximately 840 thousand self-employed individuals would be exempted from health and safety law. This would be approximately 27% of all self-employed with no employees.

132. This option is very similar to Option 1 in terms of the occupations that would be expected to be exempt. The approximately 35 thousand workers who would have been exempt in option 1, but would not be exempt in option 2 are those working in prescribed industries, but who are mainly in administrative and secretarial occupations (40%), or in managerial (25%) or professional (15%) posts.

133. In terms of those who would be expected to be exempt in option 2, the types of occupations at an aggregate level are as in option 1: approximately 40% were in "Associate professional and technical" occupations, while 20% were "Managers and senior officials", another 20% were in "Professional occupations", 10% were in "Administrative and secretarial occupations" and 4% were in "Skilled trades occupations". The actual occupations included in these categories were the same as described for the previous option.

134. Approximately 35% of the self-employed who would be exempt in this option described themselves as home-workers.

135. Table 2 shows the detailed occupations with the largest numbers of self-employed expected to be exempt under option 2.

Table 2 – Occupations where we would expect most self-employed would be exempted under Option 2

(footnotes are below Table 1)

Occupation	Workers	%
3412 Authors, writers	38,500	4%
2423 Management consultants, actuaries, economists & statisticians	36,000	4%
1239 Managers ²³ and proprietors in other services n.e.c. ²²	31,700	4%
3534 Financial & investment analyst & advisers	30,400	3%
4122 Accounts wages clerk, bookkeeper	29,700	3%
2131 IT strategy and planning professionals	29,600	3%
3421 Graphic designers	29,200	3%
1132 Marketing and sales managers ²³	28,100	3%
3413 Actors, entertainers	27,700	3%
3415 Musicians	27,300	3%
2132 Software professionals	26,500	3%
1163 Retail and wholesale managers ²³	25,400	3%
2411 Solicitors & lawyers, judges & coroners	23,000	3%
3422 Product, clothing & related designers	21,600	2%
1136 Information & communication technology managers	19,500	2%
3411 Artists (includes only homeworkers)	19,400	2%
3431 Journalists, newspaper & periodical editors	19,300	2%

3542 Sales representatives	18,800	2%
1131 Financial managers ²³ & chartered secretaries	18,400	2%
3432 Broadcasting associate professionals	17,300	2%
4150 General office assistants or clerks	16,700	2%
2421 Chartered and certified accountants	16,100	2%
3416 Arts officers, producers and directors	14,000	2%
3539 Business & related associated professions n.e.c.	13,000	1%
7129 Sales related occupations n.e.c.	11,000	1%
3543 Marketing associate professionals	10,800	1%
4215 Personal assistants & other secretaries	9,400	1%
3532 Brokers	9,300	1%
3544 Estate agents, auctioneers	7,800	1%
9211 Postal worker, mail sorter, messenger, courier	7,700	1%
1152 Office managers ²³	7,400	1%
3122 Draughtspersons	7,300	1%
3562 Personnel & industrial relations officers	7,100	1%
1134 Advertising & public relations managers	7,100	1%
3433 Public relations officers	6,200	1%
3531 Estimators, valuers and assessors	6,100	1%
Others ²⁴	166,000	19%
TOTAL	840,000	100%

Option 3: Exempting from health and safety law the self-employed who do not put others at risk at any point in the normal course of their work and do solely office-type work

136. In this option, our analysis shows that approximately 710 thousand self-employed individuals would be exempted from health and safety law. This would be approximately 23% of all self-employed with no employees.

137. Comparing again with respect to option 1, there are 165 thousand self-employed individuals who would have been expected to be exempt under that option but who would not be under option 3. These are workers in occupations which, although we judged would not put others at risk, are not mainly composed of office-type activities.

138. Almost half of these 165 thousand workers are actors, entertainers, musicians and artists. The majority of the rest are either in skilled trades occupations (such as tailors and dressmakers, people working on computer installation and maintenance or chefs working from home) or in some sales and customer service occupations (such as rent collectors).

139. In terms of those who would expected to be exempt in option 3, the types of occupations at an aggregate level are similar to those in option 1: approximately 40% were in "Associate professional and technical occupations", while 25% were "Managers and senior officials", another 25% were in "Professional occupations" and 10% were in "Administrative and secretarial occupations".

140. Approximately 35% of the self-employed who would be exempt in this option described themselves as home-workers.

141. Table 3 shows the detailed occupations with the largest numbers of self-employed expected to be exempt under option 3.

Table 3 – Occupations where we would expect most self-employed would be exempted under Option 1

(footnotes are below Table 1)

Occupation	Workers	%
3412 Authors, writers	38,500	5%
2423 Management consultants, actuaries, economists & statisticians	36,900	5%
1239 Managers ²³ and proprietors in other services n.e.c. ²²	34,300	5%
4122 Accounts wages clerk, bookkeeper	33,100	4%
3534 Financial & investment analyst & advisers	30,700	4%
1132 Marketing and sales managers ²³	30,600	4%
2131 IT strategy and planning professionals	29,800	4%
3421 Graphic designers	29,200	4%
2132 Software professionals	27,200	4%
1163 Retail and wholesale managers ²³	26,100	4%
2411 Solicitors & lawyers, judges & coroners	23,000	3%
3422 Product, clothing & related designers	22,300	3%
4150 General office assistants or clerks	20,400	3%
1136 Information & communication technology managers ²³	19,900	3%
1131 Financial managers ²³ & chartered secretaries	19,600	3%
3542 Sales representatives	19,500	3%
3431 Journalists, newspaper & periodical editors	19,300	3%
3432 Broadcasting associate professionals	17,300	2%
2421 Chartered and certified accountants	16,500	2%
3416 Arts officers, producers and directors	14,000	2%
4215 Personal assistants & other secretaries	13,600	2%
3539 Business & related associated professions n.e.c.	13,300	2%
3543 Marketing associate professionals	10,800	1%
3532 Brokers	9,300	1%
3122 Draughtspersons	8,100	1%
3544 Estate agents, auctioneers	7,800	1%
3562 Personnel & industrial relations officers	7,500	1%
1152 Office managers ²³	7,400	1%
1134 Advertising & public relations managers ²³	7,100	1%
3531 Estimators, valuers and assessors	6,400	1%
3433 Public relations officers	6,200	1%
Others ²⁴	104,300	14%
TOTAL	710,000	100%

Option 4 – Do nothing

142. No self-employed would be affected in this option.

Annex 3 - Self-employed current duties

The following annex considers the current duties on self-employed dutyholders from the main cross-cutting health and safety regulations. It initially sets out the applicable regulations by their Standard Occupational Classification grouping as defined by ONS²⁵ then the current duties on the self-employed are discussed with reference to the relevant regulations.

The Standard Occupational Classification consists of the following major groups:

1. Major group 1: Managers and Senior Officials
2. Major group 2: Professional Occupations
3. Major group 3: Associate Professional and Technical Occupations
4. Major group 4: Administrative and Secretarial Occupations
5. Major group 5: Skilled Trades Occupations
6. Major group 6: Personal Service Occupations
7. Major group 7: Sales and Customer Service Occupations
8. Major group 8: Process, Plant and Machine Operatives
9. Major group 9: Elementary Occupations

1. Major group 1: Managers and Senior Officials

Dutyholders that fall within occupational group 1 are likely to have duties under the following regulations:

- The Management of Health and Safety at Work Regulations 1999
- Provision and Use of Work Equipment Regulations 1998.
- The Manual Handling Operations Regulations 1992
- Health and Safety (First-Aid) Regulations 1981
- The Control of Noise at Work Regulations 2005
- Electricity at Work Regulations 1989
- RIDDOR - Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995
- The Work at Height Regulations 2005

2. Major group 2: Professional Occupations

Major group 3: Associate Professional and Technical Occupations

Major group 4: Administrative and Secretarial Occupations

Major group 6: Personal Service Occupations

Major group 7: Sales and Customer Service Occupations

Major group 9: Elementary Occupations

²⁵ See: (link) Standard Occupational Classification 2000 (SOC2000)

Dutyholders that fall within occupational groups 2, 3, 4, 6, 7 and 9 are likely to have duties under the following regulations:

- The Management of Health and Safety at Work Regulations 1999
- Provision and Use of Work Equipment Regulations 1998.
- The Manual Handling Operations Regulations 1992
- Health and Safety (First-Aid) Regulations 1981
- The Control of Noise at Work Regulations 2005
- Electricity at Work Regulations 1989
- RIDDOR - Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995

3. Major group 5: Skilled Trades Occupations

Major group 8: Process, Plant and Machine Operatives

Dutyholders that fall within occupational group 5 and 8 are likely to have duties under the following regulations:

- The Management of Health and Safety at Work Regulations 1999
- Provision and Use of Work Equipment Regulations 1998.
Lifting Operations and Lifting Equipment Regulations 1998
- The Manual Handling Operations Regulations 1992
- Health and Safety (First-Aid) Regulations 1981
- The Control of Noise at Work Regulations 2005
- Electricity at Work Regulations 1989
- RIDDOR - Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995
- The Personal Protective Equipment at Work Regulations 1992
- Control of Substances Hazardous to Health (COSHH) Regulations 2002
- The Control of Vibration at Work Regulations 2005
- Pressure Systems Safety Regs 2000

The Management of Health and Safety at Work Regulations 1999

The Management of Health and Safety at Work Regulations 1999 (the Management Regulations) generally make more explicit what employers are required to do to manage health and safety under the Health and Safety at Work Act. The main requirement on employers is to carry out a risk assessment.

The legislation applies to self-employed in that:

- (2) Every self-employed person shall make a suitable and sufficient assessment of—*
(a) the risks to his own health and safety to which he is exposed whilst he is at work; and

(b) the risks to the health and safety of persons not in his employment arising out of or in connection with the conduct by him of his undertaking, for the purpose of identifying the measures he needs to take to comply with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions.

(3) Any assessment such as is referred to in paragraph (1) or (2) shall be reviewed by the employer or self-employed person who made it if—

(a) there is reason to suspect that it is no longer valid; or

(b) there has been a significant change in the matters to which it relates; and where as a result of any such review changes to an assessment are required, the employer or self-employed person concerned shall make them.

In terms of the Management of Health and Safety at Work Regulations, the self-employed have a duty to carry out a sufficient risk assessment with the purpose of identifying the steps they need to take to comply with duties in other regulations (some of which are covered within the paragraphs below). There is no explicit duty to document the assessment and in the majority of cases, it is not likely that self-employed dutyholders would do so.

Provision and Use of Work Equipment Regulations 1998

The Provision and Use of Work Equipment Regulations 1998 (PUWER) deal with the work equipment and machinery used every day in workplaces: factories, offices, shops, hospitals, construction sites, farms – wherever equipment and machinery is used at work.

Regulation 3(3)(a) expressly applies to the self-employed:

(3) The requirements imposed by these Regulations on an employer shall also apply (a) to a self-employed person, in respect of work equipment he uses at work;

Under PUWER self-employed dutyholders from all occupational groups are responsible for the safety of “equipment they control or use”. They would be expected to select equipment that is suitable for its use and ensure it is maintained and inspected as necessary. They would need to ensure that the risks created by the equipment are eliminated where possible or controlled. Maintenance may require a regular service and/or inspection of any work equipment used.

Office based work equipment such as filing and use of storage cabinets is generally low hazard. The self-employed are required to select equipment that conforms to relevant standards, familiarise themselves with instructions on how to use that equipment safely and ensure that they use that equipment properly. For example, when using filing cabinets, they must file material in cabinet drawers in a way that does not make the cabinet unstable when top drawers are opened, and that they follow instructions on how to use and maintain the cabinet so it continues to operate properly.

The Manual Handling Operations Regulations 1992 (MHOR)

MHOR requires a risk assessment on all manual handling tasks that pose an injury risk. It is also *advised* to document the assessment and to reduce risk to the lowest level that is ‘reasonably practicable’.

For self-employed dutyholders “Any duty imposed on an employer in respect of his employees shall also be imposed on a self-employed person in respect of himself”. Therefore, current

duties under MHOR would require a risk assessment and subsequent risk reduction that is deemed as reasonably practicable.

The self-employed within occupations such as estate agents, architects, surveyors etc may deal with unwieldy or awkward loads on a regular basis and would be expected to take any necessary precautions to reduce the risks associated with handling these.

It is expected that there is less of a burden with respect to manual handling for office based work, the self-employed would be expected to perform a mental risk assessment when moving heavy items, for example, lifting boxes of paper correctly to avoid injury to their back. Risk assessment would also be appropriate when setting up an office space (e.g. moving and unpacking new computer equipment)

The Control of Noise at Work Regulations 2005

By law, an employer, must assess and identify measures to eliminate or reduce risks from exposure to protect the hearing of their employees as far as is reasonably practicable. Assessment should take place at regular intervals. The Control of Noise at Work Regulations do not apply to members of the public exposed to noise from their non-work activities, or when they make an informed choice to go to noisy places or from nuisance noise.

The legislation applies to self-employed as it does to an employer and an employee *“as if [he were] both an employer and an employee”*

Self-employed who are involved in process which create noise would be expected to do a risk assessment and ensure that noise levels do not exceed the stated acceptable limits.

Electricity at Work Regulations 1989

The Electricity at Work Regulations set out the duties with respect to the use of electrical systems. The definition of ‘system’ includes equipment which, although not energised, may be electrically connected to a common source of electrical energy.

Self-employed dutyholders must ensure that electrical installations in their workplace are safe, electrical equipment they use is suitable for its purpose and standards of safety are maintained. If they use portable appliances, they should check these from time to time to ensure there are no faults, the legislation applies, for example the use of a maintained power washer by a self-employed person cleaning cars.

Assessment should also take place before disposal of electrical equipment and take effective steps to ensure that equipment is dead and cannot become inadvertently re-energised or charged by induction or capacitance effects (i.e. cannot become “live”). For example, in an office when repairing any office equipment, the self-employed person (who must be competent to work on the equipment) would need to make sure it was unplugged from the mains first and that no-one around is likely to plug it back in.

Work at Height Regulations 2005

Regulations apply to all work at height where there is a risk of a fall liable to cause personal injury.

They place duties on employers, the self-employed, and any person that controls the work of others (for example facilities managers or building owners who may contract others to work at height).

As part of the Regulations, dutyholders must ensure that; all work at height is properly planned and organised and those involved in work at height are competent. This could potentially take the form of formal training. Furthermore, dutyholders are responsible for ensuring that the risks from work at height are assessed and appropriate work equipment is selected and used, the risks from fragile surfaces are properly controlled; and equipment for work at height is properly inspected and maintained. This would require a risk assessment and appropriate measures resulting from the assessment to be taken, for example where a self-employed office worker uses a ladder to change the bulb in their security light outside their office.

The Personal Protective Equipment at Work Regulations 1992 (PPE)

The main requirement of the PPE at Work Regulations 1992 is that personal protective equipment is to be supplied and used at work wherever there are risks to health and safety that cannot be adequately controlled in other ways.

The Regulations also require that PPE is properly assessed before use to ensure it is suitable and is maintained and stored properly. Self-employed dutyholders would be required to do a risk assessment to determine whether PPE is appropriate and if so, ensure that it suitable used, stored and maintained.

Control of Substances Hazardous to Health (COSHH) Regulations 2002

COSHH requires employers to control substances that are hazardous to health. Self-employed dutyholders would be required to undertake a risk assessment, where necessary, provide suitable control measures to reduce harm to health and keep these controls in good working order.

Depending on risk assessment, dutyholders may be required to monitor risks and plan for emergencies.

The Control of Vibration at Work Regulations 2005

The Control of Vibration at Work Regulations aim to protect persons against risk to their health and safety arising from exposure to vibration at work. The duty on employers:

1) An employer who carries out work which is liable to expose any of his employees to risk from vibration shall make a suitable and sufficient assessment of the risk created by that work to the health and safety of those employees and the risk assessment shall identify the measures that need to be taken to meet the requirements of these Regulations.

(2) In conducting the risk assessment, the employer shall assess daily exposure to vibration by means of–

(a) observation of specific working practices;

(b) reference to relevant information on the probable magnitude of the vibration corresponding to the equipment used in the particular working conditions; and

(c) if necessary, measurement of the magnitude of vibration to which his employees are liable to be exposed

The Control of Vibration at Work Regulations apply to self-employed as it does to an employer and employee “*as if [he were] both an employer and an employee*”

Self-employed who are liable to exposure to risk from vibration would therefore need to assess exposure. Office activities are unlikely to expose the self-employed to any risk from exposure to vibration.

Pressure Systems Safety Regulations 2000

The Pressure Systems Safety Regulations place duties on an employer including the owner of a mobile system such as an air compressor taken from site to site or user of an installed system. Any requirement or prohibition imposed ‘*an employer in respect of the activities of his employees shall also extend to a self-employed person in respect of his own activities at work*’.

As a user of a pressure system, the self-employed are required to provide safe and suitable equipment, know the operating conditions, fit suitable protection devices and ensure they function properly, and arrange for suitable maintenance or examination by a competent person. Pressure systems include fixed and portable compressed air systems, for example, as may be used in graphic design offices.