

<p><b>Title:</b> Implementation of Professor Löfstedt's recommendation to exempt from Section 3(2) of the Health and Safety at Work etc Act 1974, those self-employed whose work activities pose no risk of harm to others.</p> <p><b>IA No:</b> HSE0071</p> <p><b>Lead department or agency:</b> Health and Safety Executive</p> <p><b>Other departments or agencies:</b></p>	<b>Impact Assessment (IA)</b>		
	Date: <b>22/05/15</b>		
	Stage: <b>Enactment</b>		
	Source of intervention: <b>Domestic</b>		
	Type of measure: <b>Primary legislation</b>		
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<b>Summary: Intervention and Options</b>		<b>RPC Opinion: GREEN</b>	

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
£4.65m	£4.65m	-£0.41m	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 self-employed individuals whose workplace activities pose no risk to the health and safety of others, excluding those undertaking specified high-risk activities.</p>				

<p>What are the policy objectives and the intended effects?</p> <p>The policy objective is to exempt from Section 3(2) of the Health and Safety at Work etc Act 1974 self-employed individuals whose work activities pose no risk to the health and safety of 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 reduce any unnecessary expenditure and contribute to an improved perception of HSE's regulatory activity, showing it to be sensible and proportionate.</p>
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<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 and consulted on at an earlier stage<sup>1</sup>. The present impact assessment (IA) reflects the position following parliamentary scrutiny.</p> <p>Option 1: Exempting from health and safety law the self-employed who pose no risk of to the health and safety of others, excluding those undertaking specified high-risk activities.</p> <p>Option 2: Do nothing</p> <p>Option 1 is the preferred option.</p>
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Will the policy be reviewed? **It will not be reviewed.** If applicable, set review date: **Month/Year**

Does implementation go beyond minimum EU requirements?			No		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro	< 20	Small	Medium	Large
	Yes	No	No	No	No
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

Justin Tomlinson

18/06/15

<sup>1</sup> See: <http://www.hse.gov.uk/consult/condocs/cd242.htm>

# Summary: Analysis & Evidence

# Policy Option 1

**Description:** Exempting from health and safety law the self-employed who do not undertake certain high-risk activities

## FULL ECONOMIC ASSESSMENT

Price Base Year 2014	PV Base Year 2015	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: 4.7

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant)	Total Cost (Present Value)
Low	-	1st	-	-
High	-		-	-
Best Estimate	3.4			

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

In the first year there would be one-off familiarisation costs of £3.4 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 do not expect that exempted self-employed would 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	-	1st	-	-
High	-		-	-
Best Estimate	0			0.9

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

There would be cost savings of £65 thousand a year in total 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 would also be cost savings of £870 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: (2009 prices)	In scope of	Measure qualifies
Costs: 0.3	Yes	OUT
Benefits: 0.7		
Net: 0.4		

# Summary: Analysis & Evidence

# Policy Option 2

Description: Do nothing

## FULL ECONOMIC ASSESSMENT

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

## BUSINESS ASSESSMENT (Option 2)

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

## **Impact assessment of the proposals to exempt some self-employed from Section 3(2) of the Health and Safety at Work etc. Act 1974**

### **Introduction**

1. Section 3(2) of the Health and Safety at Work etc Act 1974 (HSWA) currently imposes a general duty on all self-employed persons to protect themselves and others from risks to their health and safety, regardless of the type of activity they are undertaking. The proposal is to exempt from Section 3(2) HSWA those self-employed who pose no risk to the health and safety of others, excluding self-employed in specified high-risk activities.

### **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 practicable<sup>2</sup>. 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, commissioned 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. Professor Löfstedt produced a report in November 2011, *Reclaiming health and safety for all: An independent review of health and safety legislation*<sup>3</sup>. 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.

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

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

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.”

5. The Government accepted the recommendation in November 2011 and in the Government response to the report<sup>4</sup> 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 Davidson<sup>5</sup>, 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 self-employed persons in all occupations.

7. In 2012 HSE undertook a consultation<sup>6</sup> which focused on the general policy of exempting self-employed who posed no potential risk of harm to others. After considering the responses to the public consultation, HSE made recommendations to the Secretary of State for Work and Pensions and a clause was drafted for inclusion in the draft Deregulation Bill. The clause amended current duties in section 3(2) in order to remove from scope those self-employed who posed no potential risk of harm to others.

8. The Bill was subject to scrutiny by the Pre-legislative Joint Scrutiny Committee (JSC) in 2013. The Government took note of the evidence to the JSC (described in the subsequent report<sup>7</sup>), which highlighted concerns about the uncertainties and inconsistencies the amendment might create, such that self-employed persons may incorrectly assess whether or

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<sup>4</sup> See: <http://www.dwp.gov.uk/docs/lofstedt-report-response.pdf>

<sup>5</sup> Davidson Review, Final Report, 2006: [www.bis.gov.uk/files/file44583.pdf](http://www.bis.gov.uk/files/file44583.pdf)

<sup>6</sup> See here: <http://www.hse.gov.uk/consult/condocs/cd242-responses.pdf>

<sup>7</sup> See: <http://www.publications.parliament.uk/pa/jt201314/jtselect/jtdraftdereg/101/101.pdf>

not they had to comply with the law. The Clause was therefore amended so that all self-employed persons would be exempt from the law unless they conducted an “undertaking of a prescribed description”.

9. The list of prescribed undertakings to which the self-employed would continue to have duties under Section 3(2) HSWA was detailed in the draft Health and Safety at Work etc Act 1974 (General Duties of Self-employed Persons) (Prescribed Undertakings) Regulations 20\*\*. The clarity of the definitions of the prescribed undertakings was the subject of an eight week consultation during July and August 2014.<sup>8</sup> The undertakings were primarily those activities of the self-employed where, because of significant risk to themselves and others, they would not be exempt.

10. Although not specifically requested to do so, many respondents to the 2014 public consultation expressed concerns about the revised policy. Respondents highlighted gaps, anomalies, confusion and complexity regarding the way the prescribing Regulations had been drafted (in particular, that the definitions of many of ‘prescribed undertakings’ were neither clear nor comprehensive) and stated that the current proposals went way beyond Professor Löfstedt’s recommendation. One of the key concerns expressed by respondents was that the proposal would lead to some self-employed persons who do pose a risk to the health and safety of others falling exempt from the law.

11. The Government gave careful consideration to the consultation responses and an amendment was tabled in the House of Lords to address the concerns raised. The effect of the amendment was to enable the Secretary of State to make regulations which retain section 3(2) HSWA duties on all self-employed persons who may expose others to risks to their health and safety, as well as retain a duty on all those self-employed persons who conduct specified high risk work activities. Ministers agreed this amended approach.

12. The Deregulation Bill received Royal Assent on 26 March.

### **Policy objectives and intended effects**

13. The policy objective is to exempt from section 3(2) HSWA those self-employed individuals who pose no risk to the health and safety of others, excluding those undertaking specified high-risk activities. The intended effect is to remove the burden of implementing health and safety legislation for those self-employed persons, 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.

### **Alternatives to Regulation**

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

### **Current position**

15. 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 :

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<sup>8</sup> <http://www.hse.gov.uk/consult/condocs/cd273-responses.pdf>

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

16. 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.

17. 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.

18. 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 40 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 list in Annex 1 details the Regulations where duties apply to those who are self-employed.

19. 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.

20. 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.

21. 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**

22. A broad range of options were considered initially at the start of the policy development process. Some were ruled out on practical grounds but 3 (plus a ‘Do nothing’ option) were analysed in detail in the Impact Assessment (IA) prepared for the consultation that took place starting August 2012<sup>9</sup>.

23. The options analysed in detail in that IA were:

- Option 1 (2012): 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 (2012): 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 high-hazard, high-risk sectors or activities.
- Option 3 (2012): 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 (2012): Do nothing

24. Option 2 (2012), which was identified as the preferred option, excluded workers in certain high-hazard, high-risk industries, sectors, sites or activities from the exemption.

25. In 2013, HSE published both an analysis of the responses to that consultation<sup>10</sup> and an updated IA<sup>11</sup> taking them and further qualitative research conducted at the time into account. That updated IA was scrutinised by the Regulatory Policy Committee, which gave it a Green ‘fit for purpose’ rating in March 2013.<sup>12</sup>

26. In June 2014, HSE produced a further consultation-stage IA assessing a change to the preferred option, which emerged following concerns raised at the Pre-legislative Scrutiny Committee that confusion may arise because of the way the clause was drafted. The principle underlying the revised 2014 proposal was to exempt all self-employed, unless they conducted an “undertaking of a prescribed description”.<sup>13</sup> This proposal was subject to public consultation in 2014, which raised a number of concerns (see paragraph 10).<sup>14</sup>

27. As a result of the issues raised in the public consultation, in early 2015 the Government amended the policy to allow for a “catch-all” provision to be prescribed in Regulations i.e. to ensure those self-employed persons who may pose a risk to others are not exempt from health

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<sup>9</sup> See Annex A in: <http://consultations.hse.gov.uk/gf2.tif/16802/442789.1/PDF/-/CD242%20Complete.pdf>

<sup>10</sup> See here: <http://www.hse.gov.uk/consult/condocs/cd242-responses.pdf>

<sup>11</sup> See: <http://www.hse.gov.uk/consult/condocs/cd242-update.pdf>

<sup>12</sup> See: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/264943/2013-03-04-RPC13-HSE-1418\\_2\\_-\\_Loftstedt\\_exemptions\\_from\\_health\\_and\\_safety\\_for\\_self-employed\\_final.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/264943/2013-03-04-RPC13-HSE-1418_2_-_Loftstedt_exemptions_from_health_and_safety_for_self-employed_final.pdf)

<sup>13</sup> These high-risk work activities were identified on the basis that there were either i) high-numbers of self-employed with a high rate of injuries and/or fatalities; ii) significant risks to members of the public; iii) potential for mass fatalities; or a European obligation to retain the general duty on the self-employed.

<sup>14</sup> A full analysis of the consultation responses is available at <http://www.hse.gov.uk/consult/condocs/cd273-responses.pdf>



and safety law, as well as retain a duty on all those self-employed persons who conduct specified high- risk work activities. This is a similar position to HSE's original preferred option consulted on in 2012, with a shorter list of specified high-risk work activities.

28. Figure 1 on page 2 sets out the draft prescribed descriptions of undertakings. In brief, the specified high-risk work activities would include those:

- (i) where there is an EU requirement which imposes a specific duty on the self-employed person to protect themselves from risks to their own health and safety (ie those self-employed persons who work on construction sites); or
- (ii) where self-employed persons conduct higher risk activities where there should be no question over their exemption.

29. The activities captured in sub-paragraph 28(ii) above are intended to include those conducted by high numbers of self-employed persons who create risks to themselves or others and/or which statistically result in high numbers of injuries /fatalities to self-employed persons.

30. This proposal is similar in effect to Option 2 (2012) above, which was assessed in the final-stage impact assessment in February 2013. To address concerns regarding confusion highlighted in response to previous proposals, the present proposals contain a shorter, more clearly defined list of prescribed high-risk activities, and HSE plans to user-test its new guidance, to make sure its format and content are very clear and easy to use.

31. The options considered in this IA are, therefore, the following:

- Option 1 (preferred): Exempting from health and safety law those self-employed who do not pose a risk to the health and safety of others, excluding specific high-risk activities.
- Option 2: Do nothing

32. Option 1 requires changes to section 3(2) HSWA and may require 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.

- (i) Option 2 is the status quo option and forms the baseline that we will compare the preferred option against. Under option 2 there would be no exemptions for self-employed persons and as such, their current duties would remain.

## **Figure 1 – draft ‘prescribed description of undertakings’ under Option 1**

### **Prescribed descriptions of undertakings**

1. An undertaking is of a prescribed description for the purposes of section 3(2) of the Health and Safety at Work etc. Act 1974 if it involves the carrying out of any activity which—

- (a) is listed in the Schedule; or
- (b) where not listed in the Schedule, may pose a risk to the health and safety of another person (other than the self-employed person carrying it out or their employees).

### **Schedule of Activities**

#### **Agriculture (including Forestry)**

1. Any work which is an agricultural activity within the meaning of 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998(1).

#### **Asbestos**

2. —(2) Any work with asbestos.

Any work which—

- (a) involves a sampling activity; but
- (b) is not work with asbestos.

(3) Any activity giving rise to a duty under regulation 4 of the 2012 Regulations (duty to manage asbestos in non-domestic premises).

(4) In this paragraph—

- (a) “the 2012 Regulations” means the Control of Asbestos Regulations 2012(b) ;
- (b) “asbestos” and “ work with asbestos” have the meanings given in regulation 2 of the 2012 Regulations;
- (c) “sampling activity” means—
  - (i) air monitoring;
  - (ii) the collection of air samples; or
  - (iii) the analysis of air samples,

to ascertain whether asbestos fibres are, or to measure the concentration of such fibres, present in the air.

#### **Construction**

3. —(5) Any work which is carried out on a construction site or project by a designer, a client, a contractor, a principal contractor or a principal designer which gives rise to a duty under the Construction (Design and Management) Regulations 2015 (“ the 2015 Regulations”)

(6) In this paragraph, “construction site” and “project” have the meanings given in regulation 2(1) of the 2015 Regulations.

(3) In this paragraph, “designer”, “client”, “contractor”, “principal contractor” and “principal designer” have the meanings given in regulation 2(1) of the 2015 Regulations

#### **Gas**

4. Any work or activity to which the Gas Safety (Installation and Use) Regulations 1998(1) apply.

#### **Genetically Modified Organisms**

5. Contained use within the meaning given in regulation 2(1) of the Genetically Modified Organisms (Contained Use) Regulations 2014(1).

#### **Railways**

6. The operation of a railway within the meaning of regulation 2 of the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006(1).

## **Costs and savings**

### **(A) Sources of information used**

33. As discussed in paragraph 23 the present IA is similar in effect to that assessed in the February 2013 IA, in that the exemption applies to the self-employed *except* where they pose a risk to others or if they undertake specific high-risk activities. The main difference from the point of view of the impact assessment is that the list of activities under 'Schedule activities' in Figure 1 is shorter than the list of 'prescribed industries, sectors or activities' under the 2013 proposals.<sup>15</sup> This affects the number of self-employed who would be exempted.

34. The assumptions made in the February 2013 IA were tested at the public consultation held August-October 2012 and the IA received a Green 'fit-for-purpose' opinion from the RPC in March 2013. We have not received information since to suggest that the assumptions made in the IA were invalid. The public consultation of July-August 2014 sought views on a different policy option, and so the information received is of limited relevance to the present impact assessment. Therefore, the main source of information for the present IA is the 2013 IA. We have undertaken new analysis of the numbers of self-employed affected (with some changes to the methodology used, as described in Annex 2) and the costs / cost savings that arise, using the assumptions applied in the 2013 IA. Where different assumptions have been used, this is described and justified in the text.

35. A number of sources of statistical information have been used in this IA. These include the Office for National Statistics' Annual Population Survey and Annual Survey of Hours and Earnings, as well as their Business Demography statistics. We have also used the Department for Business, Innovation and Skills' Business Population Estimates. We have used the most recent versions of these statistics to update the IA.

36. The best information sources to understand the existing behaviour of self-employed individuals and estimate how this behaviour might change due to the proposed exemption, are those used for our analysis of the earlier proposals. This includes the responses to the public consultations, as well as from representatives from Local Authorities and the insurance industry. It also includes bespoke qualitative research commissioned by HSE in 2012 and, to a lesser extent (since it applied to a different proposal), further qualitative research commissioned in 2014.

37. This qualitative research was undertaken because the evidence available suggested many of the individuals we sought to exempt 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 (which turned out to be the case).

38. In order to gather more first-hand information about the views of the self-employed in question, we commissioned research from the Health and Safety Laboratory (HSL). This involved 60 telephone interviews with self-employed individuals in occupations where we would

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<sup>15</sup> There is no significant difference between the use of 'prescribed activities' in the current proposals and 'prescribed industries, sectors, activities etc' in previous proposals. All relate to the risks of the activities undertaken. This reflects an evolution in terminology since earlier proposals and is immaterial for the purposes of this impact assessment.

expect them to be exempt under the proposal then under consideration<sup>16</sup>. 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 people whose occupation involved manual work (such as dressmakers, and people who produced jewellery, furniture and beauty products). These would also be the kinds of occupations exempted under the current proposals.

39. 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. In October 2014, HSE commissioned further research to understand the possible behavioural response of those self-employed who would have become exempt under the 2014 proposals. The results of the research are of limited relevance to the preferred option assessed in this IA, although the findings of the research were consistent with the earlier qualitative study.

### **(B) General assumptions**

40. This analysis considers costs and benefits that extend into the future. Consequently, it is important for any monetised impacts to be expressed in present values to enable comparison between policies. The discount rate used to generate these present values is defined in the HM Treasury Green Book as 3.5% for any appraisal period of less than 30 years.<sup>17</sup>

41. As this policy has no identifiable end point, an appraisal period of ten years is used when considering the impact of costs and benefits in the future, with 2015 used as the first year of the appraisal period.

42. All costs and benefits are calculated for Great Britain. Estimates are given in 2014 prices. The analysis assumes an opportunity cost of self-employed labour time<sup>18</sup> of £20 per hour, based on the average salary for the UK.<sup>19</sup>

### **(C) Coverage: estimates of who would be exempted**

43. According to the ONS's Annual Population Survey (APS) 2013, there were approximately 3.8 million self-employed jobs in the labour market where the self-employed worker did not have employees. This estimate accounts for individuals self-employed in their main undertaking (3.4m) in addition to those self-employed in a second undertaking (0.4m). Analysis of the data suggests that around 90 thousand of these jobs are situations where an individual is self-employed in both a main and second job.

44. Based on the analysis described in Annex 2, we estimate that around 1.8 million self-employed jobs would fall out of scope of Section 3 (2) of the HSWA under Option 1, or just under half of self-employed jobs with no employees. We estimate that around 40 thousand of

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<sup>16</sup> 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.

<sup>17</sup> [http://www.hm-treasury.gov.uk/d/green\\_book\\_complete.pdf](http://www.hm-treasury.gov.uk/d/green_book_complete.pdf)

<sup>18</sup> i.e. the benefit that is forgone when the self-employed spend time familiarising with regulations, for example, rather than doing other business-related activities.

<sup>19</sup> Source: Annual Survey of Hours and Earnings, ONS, 2014 (provisional). 'All employee' mean wage of £15.11, uprated by 30% to account for non-wage costs.

these jobs are situations where an individual is self-employed in both a main and second job. No self-employed would be exempted under Option 2.

45. Although we have identified a number of instances in which an individual is self-employed in two separate undertakings in the data, we don't have sufficient data to determine whether the activities that these individuals are undertaking are generally similar or different in terms of the risks they pose. For example, a self-employed taxi driver may have a second occupation as a self-employed limousine driver, or the second occupation may instead be a market stall salesman. Even two ostensibly similar undertakings (such as the driving-related ones described above) are likely to face different risks in different contexts, meaning they are likely to need to carry out separate risk assessments and familiarise with different obligations. This has implications for our analysis of costs and cost savings to the self-employed. In the analysis that follows, we assume that because an individual who is self-employed in two separate occupations is likely to face different risks in each, the number of self-employed jobs is the main driver of costs and cost savings, rather than the number of self-employed individuals.

46. Annex 2 describes the methodology used to arrive at the estimate of the numbers that would be covered by the exemption, and identifies the main occupations where the self-employed would be expected to be exempt. This methodology has been revised since the previous impact assessments, to employ revised risk-based occupational groupings of APS data developed by HSE statisticians.

#### **(D) Current self-employed compliance with health and safety law**

47. When analysing the previous proposals, 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.

48. At the time, 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 were considering work in areas where the enforcement of health and safety is carried out by LAs<sup>20</sup>. The experience of all the LA representatives we spoke to was that very few of the 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).

49. 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 low risk areas, either.

50. 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.

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<sup>20</sup> 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 allocated between HSE and Local Authorities can be found on the HSE website: <http://www.hse.gov.uk/lau/lacs/23-15.htm>

51. 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.

52. One of the first questions asked during the 2012 qualitative research we commissioned 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.

53. Based on this, we will again assume that a very low proportion of individuals setting up as self-employed will seek to understand their health and safety duty, and we will use a compliance rate of 10% to calculate the estimates that follow.

### **(E) Cost and cost savings to the existing self-employed**

#### *(i) Cost savings to existing self-employed – health and safety precautions*

54. There would 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.

55. The main general duty that all self-employed 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.

56. 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 tool<sup>21</sup> which helps businesses which operate in an office environment carry out and record their RA (approximately 48% of those potentially exempted under Option 1 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.

57. 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 1.8 million jobs considered will have different findings, and will require them to do different things. Even in a similar office

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<sup>21</sup> The tool can be found at <http://www.hse.gov.uk/risk/office.htm>

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.

58. One current requirement that the self-employed might not comply with if they became exempt is carrying out a risk assessment considering risk 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 that any risks to themselves would arise from the same factors.

59. 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. Many of their actions will be done to protect their own health and safety. For instance, to use the same example as in paragraph 57, 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.

60. In both the qualitative research we carried out for the earlier proposals, and the most recent research, respondents were 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”.

61. Some also mentioned issues of insurance and indemnity. As described in paragraph 51, it does not appear in fact that insurance companies are currently placing any requirements regarding health and safety on the self-employed persons exempted by the previous proposals. 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.

62. Interviewees who took part in the qualitative research were asked directly whether they thought the removal of health and safety obligations would make any difference to their working practices. The response was unanimous, with all participants 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”.

63. Feedback from the previous (2012) public consultation from 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). A number of other respondents to the consultation, mainly health and safety consultants, did raise concerns regarding possible changes in the behaviour of self-employed individuals with regards to health and safety risks. However, this is not consistent with the evidence we have gathered from the self-employed themselves.<sup>22</sup>

64. We therefore conclude that there would be no savings to existing self-employed 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 (see paragraphs 89 to 95).

65. 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”.

*(ii) Cost savings to existing self-employed – keeping up-to-date with requirements*

66. 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 to the qualitative research 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 stated that this would not be necessary any longer (and the evidence regarding motivations for taking precautions, described in the previous section, supports this).

67. One of the questions asked of interviewees in the 2012 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.<sup>23</sup> 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 53) would in future spend about half that time (15 minutes) 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.

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<sup>22</sup> The most recent (2014) public consultation (on a different policy option to that assessed here, as discussed in paragraphs 22 to 32) did not elicit any responses from the self-employed in relation to working practices (only 2 comments were received from those identifying as self-employed in total). A total of 25 comments were received relating to behaviour change, 22 of which raised some concern that the proposed exemption would cause some self-employed to relax their attitudes and practices towards health and safety. However, these comments were a) relating to a different proposal to the one considered here, under which self-employed posing risk to others may have been exempt, and b) not consistent with the evidence we have gathered from the self-employed themselves.

<sup>23</sup> We also asked this question in the third wave of research; none of the 32 respondents interviewed said they spent any time checking they were compliant. Given that most of the self-employed interviewed in the research would not be exempt under the current proposals because they pose risk to others, we have not accounted for these results in the analysis.



68. Assuming the same opportunity cost of their time as in paragraph 42 (£20 per hour) and that 10% of 1.8 million exempted self-employed jobs (180 thousand) will spend 15 minutes less a year on keeping up-to-date with requirements, that would result in annual savings to business of £870 thousand for Option 1. This has a 10-year present value of £7.5 million. Option 2 would not generate any savings to business.

*(iii) Costs to existing self-employed*

69. In Option 1, 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.

70. Although Option 1 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, those in all 3.8 million self-employed jobs with no employees in the UK might think the exemption could apply to them, if they hear about it casually.

71. However, as described in the previous section, 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 53, which is 10%.

72. This would result in self-employed individuals in an estimated 380 thousand undertakings 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 where appropriate, and informed by user testing. Because of the timescale to which this IA has to be prepared (since the amendments to the policy were agreed by Parliament in March 2015), this guidance is still a work in progress, and estimates presented below of how long it would take individuals to use it are not definitive.

73. The amount of time taken for these self-employed to determine whether they are exempt will differ depending on how the exemption applies to them. We estimate that a total of 95,000 of these self-employed jobs will not be exempt (i.e. will remain in scope of the regulations) because they involve undertakings on the 'Schedule of Activities' in Figure 1.<sup>24</sup> Self-employed individuals in these occupations would be able to determine that they are not exempt very quickly just by checking the list in the HSE guidance; it will be immediately apparent to a self-employed builder, for example, that he is involved in construction activities and therefore remain in scope of health and safety law. Many are likely to find out via notification or news release from a trade association, or from others in the industry, without needing to check guidance. In such cases, the familiarisation time would be negligible. On average, we estimate that it will take individuals in these 95,000 self-employed jobs 15 minutes to determine that they are not

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<sup>24</sup> 10% of a total of 950,000 self-employed jobs that we estimate will be involved in undertakings on the 'Schedule of Activities'.

exempt, which accounts for some instances in which familiarisation may take a shorter time and some where it may take longer.<sup>25</sup>

74. Assuming the same opportunity cost of time of £20/hour (as per paragraph 42), this leads to a one-off familiarisation cost of £460,000.

75. Those in the remaining self-employed jobs will need to 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 assessed 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 110 thousand of them would reach the conclusion that they are not exempt.<sup>26</sup> In most cases, risks would be evident and this would be a very straightforward decision; we expect that on average it would take approximately 20 minutes. This leads to an additional one-off familiarisation cost of £720 thousand.

76. The remaining 180 thousand are those for whom the exemption would apply.<sup>27</sup> Around 86 thousand of them do office-based work,<sup>28</sup> 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). This leads to an additional familiarisation cost of £420 thousand.

77. The other 91 thousand do work that is not office-based,<sup>29</sup> and we expect it would take them longer to conclude they are exempt and consider their existing risk assessment and current work practices. We estimate it would take them at most 1 hour. This leads to an additional familiarisation cost of £1.8 million.

## **(F) Cost savings to the newly self-employed**

78. 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.

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<sup>25</sup> This estimate has been increased from the 5 minutes used in the February 2013 IA. This is to account for assumptions made in the June 2014 consultation-stage IA, which assumed that it would take individuals between 15 minutes and 1 hour to determine whether they were exempt according to a much longer list of prescribed activities. As described in paragraphs 229 to the list of prescribed activities, limiting to activities which are clearly high-risk, and reinstated a 'catch-all' provision for those who pose risk to others. We are confident that following these changes to a much shorter, clearer prescribed list ('Schedule of Activities'), an estimate of 15 minutes is a reasonable – if not high – average estimate for the amount of time it will take those self-employed whose activities are on it to determine whether they are exempt.

<sup>26</sup> 10% of a total of 1.1 million self-employed jobs that we expect would not be exempt because they pose a risk to others.

<sup>27</sup> 10% of the total of 1.8 million self-employed jobs to which we estimate that the exemption will apply.

<sup>28</sup> 10% of the total of 860 thousand self-employed jobs that we expect to be undertaking solely office-based work.

<sup>29</sup> 10% of the total of 910 thousand self-employed jobs that we estimate to be undertaking non-office based work.

*(i) Number of new businesses covered by the exemption*

79. According to 2013 data from ONS on business demography, approximately 266 thousand new businesses are established every year<sup>30</sup>. The Department for Business, Innovation and Skills' Business Population Estimates<sup>31</sup> for the past few years show that some 74% of businesses have no employees, which would roughly correspond to the self-employed<sup>32</sup>. Applying this proportion, we estimate there are some 200 thousand new self-employed 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).

80. Under option 1, approximately 46% of the self-employed with no employees would be exempt (see Annex 2), which would mean individuals in some 91 thousand new self-employed jobs per year need not familiarise themselves with health and safety law. As with the existing self-employed, we assume that only 10%, or 9,100, of these would be aware of and compliant with their health and safety duties in the absence of the exemption.

*(i) Amount of time the newly self-employed spend familiarising with health and safety legislation*

81. For the previous proposals, we sought information, both at formal consultation and in the qualitative research carried out with self-employed individuals (described in paragraphs 37 to 39), on how much time an individual who would be covered by the exemption might in the absence of the exemption (i.e. in the baseline scenario) 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.

82. Estimates varied widely. The small number of relevant individuals we identified amongst formal consultation respondents 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.

83. Taking account of all the available evidence, we estimate that individuals setting up as newly self-employed spend an average of 1 hour familiarising with their health and safety requirements. This is time that those who are exempt under the proposals would no longer need to spend. Set against this, newly self-employed will still need to spend some time determining whether they are exempt under the proposals. We have assumed that newly self-employed who are exempt under the proposals will spend roughly the same amount of time as existing self-employed who are exempt. Since we do not know what type of work these newly self-employed will be doing (e.g. whether or not it is office-based), we cannot make the same

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<sup>30</sup> See: <http://www.ons.gov.uk/ons/rel/bus-register/business-demography/2013/index.html>. 265 thousand is the average of the last 5 years available.

<sup>31</sup> See: <https://www.gov.uk/government/statistics/business-population-estimates-2014>

<sup>32</sup> 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.

level of assumptions we have for existing self-employed. Instead, we assume that they will follow the same distribution as existing self-employed and have applied a weighted average of the familiarisation time for the existing self-employed who are exempt (paragraphs 76 and 77), which is just under 40 minutes. This gives an average net familiarisation saving of just over 20 minutes per self-employed undertaking.

84. Assuming the same average opportunity cost per hour of £20, this gives an annual familiarisation saving of £65,000 across individuals in the 9,100 new self-employed jobs each year who would be aware of their health and safety duties. This equates to cost savings of £560,000 net present value over the 10-year appraisal period.

85. We have not assumed additional familiarisation time for the newly self-employed who would *not* be exempt under the proposals. On setting up their business, these individuals would still need to familiarise with their duties under health and safety law, including assessing whether they pose a risk to themselves and others. They would therefore already need to carry out the actions required to assess whether they are exempt, so we expect any additional time to be negligible.

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

86. The following summarises costs and savings for each option:

- (i) Option 1: One-off costs to the self-employed of £3.4 million in the first year and yearly savings of £65 thousand to new businesses and £870 thousand to existing businesses (with a total 10-year present value of savings of £8.0 million). The 10 year net present value of these impacts is net savings of £4.7 million.
- (ii) Option 2: No costs or savings to business.

87. Under current guidance for OITO, all costs and savings described in the previous sections are direct impacts on business and therefore in scope for OITO<sup>33</sup>.

88. Based on the methodology for described in the Better Regulation Framework Manual,<sup>34</sup> Option 1 results in Equivalent Annual Net Savings to Business (expressed in 2009 prices) of £0.41 million.

### **Health and safety effects and risks**

89. The effects of Option 1 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 and that of others, we would expect health and safety to deteriorate for those groups.

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<sup>33</sup> Savings to new businesses, such as those considered here, have previously caused issues regarding whether they are direct or indirect. The Better Regulation Framework Manual (paragraph 1.9.36) is explicit about how they should be considered: "Categorisation of direct and indirect impacts should be the same for existing business and new entrants. Direct and indirect impacts should be determined with reference to the existing business. Subsequently, the same categories of impacts (e.g. familiarisation costs) should be applied to new entrants"

<sup>34</sup> See [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/421078/bis-13-1038-Better-regulation-framework-manual.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/421078/bis-13-1038-Better-regulation-framework-manual.pdf)

90. As explained in the previous section, we have been able to draw conclusions on this issue from analysis of the evidence gathered for previous proposals, in particular for the February 2013 IA. This includes the 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, as with previous proposals, 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.

91. A deterioration in health and safety outcomes would require the self-employed to change their behaviour in terms of the precautions they take. However, the evidence we have gathered (in particular, the qualitative interviews) suggests that factors other than legal requirements (for instance, personal safety and fear of litigation / insurance concerns) are driving any actions taken with regards to health and safety risks.

92. 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.

93. 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.

94. 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 in a 2012 report<sup>35</sup>, which 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".

95. Option 1 contains explicit exceptions to the exemption for certain high-risk activities, which minimises the scope for individuals involved in these high-risk activities to incorrectly assess their exemption status. In order to further 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, to make sure its format and content are easy to use and very clear. Option 2 would not have any effects on health and safety, as it continues with the status quo.

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<sup>35</sup> Forum of Private Business – Health and Safety Panel Report, May 2012. See: [http://www.fpb.org/images/PDFs/research/HS\\_Panel\\_3\\_report.pdf](http://www.fpb.org/images/PDFs/research/HS_Panel_3_report.pdf)

## **Other benefits**

96. As quoted earlier in this document, Professor Löfstedt 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.”

97. Our analysis of the benefits that would arise concurs with Professor Löfstedt’s conclusions. In addition to the savings calculated earlier, Option 1 would potentially contribute to improve the perception of health and safety law as proportionate and reasonably applied. It would also remove the fear of inspections and potential prosecutions for a large group of self-employed, to the extent that such a fear exists.

98. Option 2 would not lead to any benefits, as it continues with the status quo.

## **Other risks and uncertainties**

99. 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, based on the evidence gathered for earlier proposals, we have concluded that this is not likely to happen.

100. 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 one of their reports.<sup>36</sup> Again, given the currently available evidence, we have assumed in this IA that this is very unlikely.

101. 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 available. 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.

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<sup>36</sup> Forum of Private Business – Health and Safety Panel Report, May 2012. See: [http://www.fpb.org/images/PDFs/research/HS\\_Panel\\_3\\_report.pdf](http://www.fpb.org/images/PDFs/research/HS_Panel_3_report.pdf)

## Annex 1

### Regulations that apply to the self-employed

1	Acetylene Safety (England and Wales and Scotland) Regulations 2014
2	Agriculture (Tractor Cabs) Regulations 1974
3	Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013
4	Boreholes Sites and Operation Regulations 1995
5	Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009
6	Chemicals (Hazard Information Packaging for Supply) Regulations 2009
7	Classification and Labelling of Explosives Regulations 1983
8	Confined Spaces Regulations 1997
9	Construction (Design and Management) Regulations (CDM) 2015
10	Control of Asbestos Regulations 2012
11	Control of Lead at Work Regulations 2002
12	Control of Major Accident Hazards Regulations 1999
13	Control of Noise at Work Regulations 2005
14	Control of Substances Hazardous to Health Regulations (COSHH) 2002
15	Control of Vibration at Work Regulations 2005
16	Dangerous Substances and Explosive Atmospheres Regulations 2002
17	Dangerous Substances in Harbour Area Regulations 1987
18	Dangerous Substances (Notification and Marking of Sites) Regulations 1990
19	Diving at Work Regulations 1997
20	Electricity at Work Regulations 1989
21	Explosives Act 1875 (Exemptions) Regulations 1979
22	Explosives Regulations 2014
23	Export and Import of Dangerous Chemicals Regulations 2008
24	Freight Containers (Safety Convention) Regulations 1984
25	Gas Safety (Installation and Use) Regulations 1998
26	Genetically Modified Organisms (Contained Use) Regulations 2014

27	Health and Safety (First Aid) Regulations 1981
28	Ionising Radiation Regulations 1999
29	Lifting Operations and Lifting Equipment Regulations 1998
30	Loading and Unloading of Fishing Vessels Regulations 1988
31	Management of Health and Safety at Work Regulations 1999
32	Manufacture and Storage of Explosives Regulations 2005
33	Manual Handling Operations Regulations 1992
34	Marking of Plastic Explosives for Detection Regulations 1996
35	Mines Regulations 2014
36	Notification of Cooling Towers and Evaporative Condensers Regulations 1992
37	Personal Protective Equipment at Work Regulations 1992
38	Pipelines Safety Regulations 1996
39	Placing on the Market and Supervision of Transfers of Explosives Regulations 1993
40	Pressure Systems Safety Regulations 2000
41	Prevention of Accidents to Children in Agriculture Regulations 1998
42	Provision and Use of Work Equipment Regulations 1998
43	Quarries Regulations 1999
44	Radiation (Emergency Preparedness and Public Information) Regulations 2001
45	Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995
46	Work at Height Regulations 2005
47	Work in Compressed Air Regulations 1996
48	Workplace (Health, Safety and Welfare) Regulations 1992



## Annex 2

This annex presents an estimate of the potential number of self-employed workers who will become exempt from Section 3(2) of the Health and Safety at Work etc. Act 1974<sup>37</sup> under Option 1.

### Method

It is not possible to precisely state the number of self-employed workers who will be exempt from Section 3(2) of HSWA under Option 1. This is because, for jobs other than those involved in any of the four explicitly defined prescribed activities, it would require us being able to assess for each job whether the way in which it is carried out may pose a risk to another person.

However, we can broadly estimate the number of self-employed workers that will be exempt using a probabilistic approach applied to risk-based occupational groupings i.e. an assessment of the likely proportion of jobs in each occupational group that will be exempt under the proposal. The following paragraphs outline the methodological approach taken:

1. Employment Data from the 2013 Annual Population Survey was used to provide an estimate of the number of self-employed workers in GB without employees. (For the purpose of HSWA, a person assessing themselves as self-employed with employees is considered to be an employer and thereby covered by S2(1) of the Act).
  - a. Both an individual's main job and second job were considered to ensure we best captured the number of jobs that would be exempt from S3(2))
  - b. Data was grouped by detailed occupation codes from the 2010 Standard Occupational Classification, and further by the industry in which they worked (based on the 2007 Standard Industrial Classification).
2. To make the process of judging whether an occupation was likely to pose risk to others more manageable, the 350 distinct occupations were grouped into 41 higher level groupings (see Appendix 1). This higher level grouping placed together similar occupations, in terms of the nature of work and risk posed.
3. The next step was to use a probabilistic approach to assign the 41 occupational groups as being in or out of scope of S3(2) of the HSWA. Six levels were considered, as set out in Table A 1.

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<sup>37</sup> Section 3(2): 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 persons (not being his employees) who may be affected thereby are not thereby exposed to risks to their health or safety.

**Table A 1 - Probabilistic weightings used to assign employment within an occupation grouping to being in or out of scope of S3(2) of HSWA**

<b>Descriptor</b>	<b>Assumed proportion out of scope</b>
No workers out of scope*	0%
Small minority of workers out of scope	10%
Minority of workers out of scope	25%
Some workers in scope, some out of scope but not possible to determine the balance of in-scope/out-of scope workers	50%
Majority of workers out of scope	75%
Vast majority of workers out of scope	90%

\* (This was applied to those occupation groups that came in scope of the activities explicitly listed as a prescribed undertakings)

4. In allocating occupational groups to one of the above categories, two separate teams made an independent assessment of the 41 occupations.<sup>38</sup> In making the assessment, the teams considered the detailed description for the occupations within each group. Where appropriate, they also considered the industry environments where these occupations typically worked. They also considered the available data from the 'main jobs' subset about the proportion of workers that were homeworkers (information on homeworking is only collected for a person's main job).
5. A moderation meeting was then held between the two teams to discuss areas of difference and reach a common agreement as to which probabilistic category to allocate individual occupational groups.
6. Applying the proportions to the self-employed jobs in each grouping, then gave the number of jobs that will potentially be out of scope of S3(2) HSWA.

## Results

**Potential for around 1.8m jobs to be out of scope of Section 3(2) of the Health and Safety at Work Act as a result of the draft proposals for defining self-employed prescribed undertakings**

7. The 2013 Annual Population Survey (APS) estimates that there were around 3.8m self-employed jobs in the labour market where the self-employed worker did not have employees.

<sup>38</sup> Team 1 consisted of analysts (a statistician and an economist) with a detailed understanding of the APS data. Team 2 consisted of policy officials with strong enforcement experience.

- This estimate accounts for both workers in their main job (3.4m) and second job (0.4m).
  - Under current legislation, all these jobs fall under scope of Section 3(2) of the HSWA.
  - **Around 1.8m jobs are likely to fall out of scope of Section 3(2) of the HSWA as a result of current proposals for defining self-employed undertakings.**
  - This number represents around half (46%) of the number of jobs that are currently in scope.
8. Table 2 below summarises the estimated number of jobs in each of the 41 occupational groups that are likely to fall out of scope of Section 3(2) of HSWA as a result of the current proposals for defining prescribed self-employed undertakings. The table also includes the assumed proportions of workers who will fall out of scope of S3(2) in each of the occupational groupings as a result of the proposals, along with a brief description for the rationale behind the assumption.
9. Of the 3.8m jobs currently in scope of S3(2) of HSWA, it is estimated that 1.8m (46%) will become exempt under the draft proposals to define prescribed undertakings. Of the 2 million who will remain in scope, it is estimated around 950 thousand fall into one of the four explicit prescribed undertakings, with the balance being an estimate of those undertakings (other than those explicitly defined) that pose a risk to others (1.1 million).

**Table A 2 - Occupation grouping by estimated number of self-employed (no employees) in and out of scope of regulations**

Grouped Occupation	Estimated number of jobs in Occupation Group	Assumed probabilistic weighting for jobs out of scope	Estimated number of jobs out of scope of S3(2)	Notes on rationale for assumed probabilistic weighting	Predominantly on list of prescribed activities (P) or risk to others (RTO)?	Predominantly office-based work?
2-10-Construction	530,600	0%	0	Explicit prescribed undertakings (mostly construction but also rail and gas)	P	N
3-70-Woodworking	144,700	10%	14,500	Most workers in construction activities, which is prescribed undertaking. However, a small minority in this group work in furniture making. These workers are likely to be working alone and pose a risk only to themselves. Hence we assume small minority of workers (10%) pose no risk to others.	P	N
3-26-Farmers	92,900	0%	0	Explicit prescribed undertakings (agriculture)	P	N
3-44-Planning and surveying	42,000	0%	0	Explicit prescribed undertakings (construction)	P	N
3-14-Construction planning/management	26,700	0%	0	Explicit prescribed undertakings (construction)	P	N
3-29-Forestry and conservation	26,300	0%	0	Forestry is an explicit prescribed undertakings, on balance conservation jobs deemed to pose risk to others	P	N
3-20-Electricians/telecommunication engineers	77,300	10%	7,700	Majority of this group involved in electrical 'construction' activities, which is a prescribed undertaking. The balance includes occupations which pose risk of harm to others. However, considering the industries that these occupations are based it appears that a minority working on electronic equipment (e.g. IT hardware), generally do not pose risk of harm to others. Hence we assume small minority of workers (10%) out of scope.	P	N
1-4-Shop	324,200	25%	81,000	Within this group, evidence that a significant proportion work from home (e.g. online retailers) and so unlikely to pose a risk to others. Others are likely to be working in low risk environments or environments where responsibility for controlling H&S risks falls to a landlord or building owner.	RTO	N

Grouped Occupation	Estimated number of jobs in Occupation Group	Assumed probabilistic weighting for jobs out of scope	Estimated number of jobs out of scope of S3(2)	Notes on rationale for assumed probabilistic weighting	Predominantly on list of prescribed activities (P) or risk to others (RTO)?	Predominantly office-based work?
1-1-Teaching	221,100	50%	110,500	Contracted teachers in schools, work in environment where risks are generally controlled at school level. Tutors visiting pupil's homes aren't responsible for H&S risks created in a domestic environment. Additionally, teaching most subjects does not pose risk to others e.g. maths lesson.	RTO	N
2-1-Drivers (passenger)	196,300	90%	176,700	Most transport-related risks on public roads are covered by DfT regulations. Retained 10% to cover bus drivers etc. as H&S legislation would apply to risks posed at depots.	RTO	N
2-16-Cargo and on site drivers	61,300	0%	0	These occupations pose a risk of 'on-site workplace transport accidents'.	RTO	N
3-32-Hotels, restaurants and bars	49,300	25%	12,300	The majority of undertakings in this group have potential to pose risk to others (e.g. hotel, restaurant and bar managers). For self-employed waitresses and bar staff, it was judged that many of these workers are likely to be 'agency' type staff working at one-off events. The responsibility for health and safety would rest with the event manager. Hence we assume a 25/75 split between those who pose no risk and those that do.	RTO	N
3-41-Mines and quarries	*	0%	0	High risk undertaking with potential to pose risk to others	RTO	N
2-15-Human healthcare	137,700	10%	13,800	Vast majority will pose risk to others, although there are exceptions (e.g. psychologists and speech and language therapists are unlikely to pose risk to others). Hence a 90/10 split between those who pose no risk and those that do is assumed.	RTO	N

Grouped Occupation	Estimated number of jobs in Occupation Group	Assumed probabilistic weighting for jobs out of scope	Estimated number of jobs out of scope of S3(2)	Notes on rationale for assumed probabilistic weighting	Predominantly on list of prescribed activities (P) or risk to others (RTO)?	Predominantly office-based work?
4-9231-Window cleaners	22,400	25%	5,600	Most pose risk to others (e.g. working at height, ladders, falling equipment). If using high pressurised water, becomes a 'construction' activity. However, if using long poles unpressurised (ladder-less), then no risk to others. Given that this appears to account for a growing proportion of work undertaken by window cleaners, we assume a minority of workers (25%) pose no risk to others.	RTO	N
3-58-Sport	66,100	50%	33,100	Some workers in this occupation group will pose risk to others, others won't, largely dependent on the sport activity. For example, some activities (e.g. yoga, aerobics, etc.) pose no risk of harm to others. Others (e.g. riding, adventure) or specialist sports using equipment (e.g. fencing)- do pose risk. Uncertain as to what percentage so take non-informative position (50%).	RTO	N
2-6-Carer	32,200	10%	3,200	Variations in working activities - not all will pose risk to others. For example some home carers will be providing service users with help with daily activities such as paying bills and collecting benefits and so pose no risk. We have assumed a small minority of workers in this group (10%) solely undertake such duties and therefore pose no risk to others.	RTO	N
2-27-Protective and security services	13,200	10%	1,300	Majority of workers in this group considered to pose risk to others, though not all (e.g. this group includes CCTV operators, who are generally office based and not interacting with the public). Therefore, assume a small minority (10%) pose no risk to others.	RTO	N
3-23-Engineering	52,300	10%	5,200	Most workers in this group will be site rather than office based and involved in construction activities, which are prescribed. However, given there will be variation in the type of undertakings have assumed that a small minority (10%) will pose no risk to others.	P	N

Grouped Occupation	Estimated number of jobs in Occupation Group	Assumed probabilistic weighting for jobs out of scope	Estimated number of jobs out of scope of S3(2)	Notes on rationale for assumed probabilistic weighting	Predominantly on list of prescribed activities (P) or risk to others (RTO)?	Predominantly office-based work?
2-29-Welfare work	49,000	75%	36,700	The majority of workers in this group will be home/office based and so pose no risk to others.	RTO	N
2-2-Animal care and emergency services	30,000	75%	22,500	Majority of workers in this category are in animal care and are assumed to pose no risk to others. Common undertakings would include for example dog grooming and canine grooming which poses no risk to others. The remaining workers are in emergency service occupations (e.g. vets and paramedics) and are judged to potentially pose risk to others.	RTO	N
1-12-Caretaking & cleaning	118,300	50%	59,200	The potential to pose risk to others will vary according to the extent of the undertaking. For example, the daily drop-in cleaners, working in domestic properties while the home owners are at work will pose no risk while those working in commercial properties may pose risk to others. Uncertain as to what the breakdown is between these different undertakings, so assume a 50/50 split.	RTO	N
3-31-Horticulture	103,200	50%	51,600	Some workers in this occupation group will pose risk to others, others won't. A lot of self-employed gardeners will be performing fairly low risk activities - weeding, mowing etc., which may pose some risk to the individual carrying out the task but no risk to others, whilst others may be using dangerous machinery in public places or harmful pesticides with the potential of harm to others. Uncertain as to what the breakdown is between these different undertakings, so assume a 50/50 split.	RTO	N

Grouped Occupation	Estimated number of jobs in Occupation Group	Assumed probabilistic weighting for jobs out of scope	Estimated number of jobs out of scope of S3(2)	Notes on rationale for assumed probabilistic weighting	Predominantly on list of prescribed activities (P) or risk to others (RTO)?	Predominantly office-based work?
2-3-Mechanics and warehouse labourers	67,300	25%	16,800	The majority of workers in this group are related to vehicle maintenance. There will be variation in the range of 'vehicle type' undertakings - from those specialising in superficial dent removal (no risk to others) to those with their own premises with hydraulic equipment (risk to others). Also including in this group are a range of other occupations and again represent a range of undertakings which may or may not pose risk to others. Given the range of potential undertakings, but erring on the side of caution, we have assumed only a minority of workers in this group (25%) pose no risk to others.	RTO	N
3-6-Business management (higher risk sites)	64,300	50%	32,100	It is difficult to determine the risk profile of undertakings in this occupational group, as it mostly comprises 'managers' in different industry settings. We have therefore assumed a 50/50 split between those who pose risk to others and those who don't.	RTO	N
2-20-Factory and plant workers	46,700	25%	11,700	We judge that most, but not all workers in this group pose risk to others. In particular we judge that the 'food, drink and tobacco process operatives' in this group and also 'precision instrument makers and repairers' would pose no risk to others. Accounting for this it is assumed that a minority of workers (25%) in this group pose no risk to others.	RTO	N
3-64-Textile and printing	35,500	90%	32,000	Vast majority of workers in this group will be self-employed craft workers working alone, and therefore posing no risk to others	RTO	N



Grouped Occupation	Estimated number of jobs in Occupation Group	Assumed probabilistic weighting for jobs out of scope	Estimated number of jobs out of scope of S3(2)	Notes on rationale for assumed probabilistic weighting	Predominantly on list of prescribed activities (P) or risk to others (RTO)?	Predominantly office-based work?
3-51-Sales - multiple sites	33,300	75%	25,000	Within this group, 'Market and street traders and assistants' potentially pose risk to public. However the other occupations within the group (e.g. 'debt, rent and other cash collectors', 'Collector salespersons and credit agents' and 'roundspersons and van sales persons are unlikely to pose risk to others. Accounting for the relativities of the different occupations in this group, we judge that, overall, the majority of workers pose no risk to others.	RTO	N
3-28-Food preparation	21,800	75%	16,400	It is estimated that around a quarter of workers in this group are homeworkers, thereby posing no risk to others. Many other workers in this group (e.g. kitchen and catering assistants) will pose no risk to others. However there is the potential for some within this group to pose risks to others (e.g. freelance chefs working in kitchens) so we have assumed a 75/25 split between those who pose no risk and those that do.	RTO	N
2-12-Transport support staff	8,300	90%	7,500	The vast majority of undertakings in this group pose no risk to others. The only exception is railway operatives, which forms only a small proportion of the overall group.	RTO	N
1-16-Occupation unknown	*	50%	*	With no occupational information have assumed an equal split between those who pose risk to others and those who don't.	RTO	N
3-40-Literary/media	170,800	90%	153,700	Most undertakings in this grouping are judged to pose little risk to others. A small minority working in programming and production could potentially pose some risk to others (trailing wires, setting up stages etc). Hence a 90/10 split between those who pose no risk and those that do is assumed.	RTO	Y

Grouped Occupation	Estimated number of jobs in Occupation Group	Assumed probabilistic weighting for jobs out of scope	Estimated number of jobs out of scope of S3(2)	Notes on rationale for assumed probabilistic weighting	Predominantly on list of prescribed activities (P) or risk to others (RTO)?	Predominantly office-based work?
3-36-Inspectors	16,300	50%	8,100	Health and safety inspectors account for about 40% of this grouping and remain in scope of S3(2) for providing H&S advice. Other inspectors within this group are unlikely to pose risks to others. Therefore a 50/50 split between those who pose no risk and those that do is assumed.	RTO	N
3-21-Electrical trades (other)	16,000	50%	8,000	This group includes a varied range of undertakings some of which are judged not to pose a risk to others (e.g. computer repairer) and some of which have the potential to pose risk to others (e.g. alarm engineer). Uncertain as to what the breakdown is between these different undertakings in terms of risk, so assume a 50/50 split, though this is erring on the side of caution.	RTO	N
3-54-Science and research	15,500	50%	7,700	This group includes a varied range of undertakings some of which are judged not to pose a risk to others (e.g. operational researchers) and some of which have the potential to pose risk to others (e.g. biological scientists). Uncertain as to what the breakdown is between these different undertakings in terms of risk, so assume a 50/50 split.	RTO	N
1-5-Admin, IT & policy	234,800	90%	211,300	Occupations within this group are judged to pose little risk to others (office based undertakings). Therefore we have assumed that the vast majority (90%) are out of scope of section 3(2).	RTO	Y
1-6-Business, finance & legal	270,300	90%	243,300	Occupations within this group are judged to pose little risk to others (office based undertakings). Therefore we have assumed that the vast majority (90%) are out of scope of section 3(2).	RTO	Y
2-13-Customer relations, sales and marketing	145,700	90%	131,200	Occupations within this group are judged to pose little risk to others (office based undertakings). Therefore we have assumed that the vast majority (90%) are out of scope of section 3(2).	RTO	Y

Grouped Occupation	Estimated number of jobs in Occupation Group	Assumed probabilistic weighting for jobs out of scope	Estimated number of jobs out of scope of S3(2)	Notes on rationale for assumed probabilistic weighting	Predominantly on list of prescribed activities (P) or risk to others (RTO)?	Predominantly office-based work?
3-24-Entertainment	97,200	90%	87,500	Occupations within this group are judged to pose little risk to others (in terms of posing risks to others, judged to have a similar risk profile to office based undertakings). Therefore we have assumed that the vast majority (90%) are out of scope of section 3(2).	RTO	N
3-38-Leisure	19,400	50%	9,700	It is difficult to determine the risk profile of undertakings in this occupational group, as it comprises a diverse range of undertakings (e.g. fairground operators, sports attendant, arcade assistant). We have therefore assumed a 50/50 split between those who pose risk to others and those who don't.	RTO	N
2-9-Postal and refuse workers	14,400	90%	12,900	Postal workers, mail sorters, messengers and couriers' form the vast majority of this occupational grouping and are judged not to pose a risk to others. However, there is the potential for refuse workers to pose risk to others. Therefore a 90/10 split between those who pose no risk and those that do is assumed.	RTO	N
3-17-Design	130,100	90%	117,100	Occupations within this group are judged to pose little risk to others. However, some potential risk from artists and their exhibitions. Hence a 90/10 split between those who pose no risk and those that do is assumed as a conservative assumption.	RTO	Y
<b>Total - all jobs</b>	<b>3,829,000</b>	<b>46%</b>	<b>1,767,800</b>			

