

# Removing forms and record keeping requirements

This consultative document is issued by the Health and Safety Executive in compliance with its duty to consult under section 16(2) of the Health and Safety at Work etc Act 1974.

Comments should be sent to:

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to reach there no later than **14 November 2008**

The Executive tries to make its consultation procedure as thorough and open as possible. Responses to this consultative document will be lodged with the Health and Safety Executive's Knowledge Centre after the close of the consultation period where they can be inspected by members of the public or be copied to them on payment of the appropriate fee to cover costs.

Responses to this consultative document are invited on the basis that anyone submitting them agrees to their response being dealt with in this way. Responses, or part of them, will be withheld from the Knowledge Centre only at the express request of the person making them. In such cases, a note will be put in the index to the responses identifying those who have commented and have asked that their views, or part of them, be treated as confidential.

Many business e-mail systems now automatically append a paragraph stating the message is confidential. If you are responding to this CD by e-mail and you are content for your responses to be made publicly available, please make clear in the body of your response that you do not wish any standard confidentiality statement to apply.

# Removing forms and record keeping requirements

## CONSULTATIVE DOCUMENT

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## **Removing forms and record keeping requirements**

### **Consultation by the Health and Safety Executive**

#### **About this document**

The Health and Safety Executive (HSE) has a statutory duty to consult to seek stakeholders' views on proposals. HSE believes that this enables an open and transparent approach to decision-making, which is essential if policies and decisions are to have widespread ownership and reflect the needs and aspirations of the people they will affect. **Annex D** provides a list of the organisations that we have alerted to this consultative document.

The Executive then decides on the best way forward based on an interpretation and analysis of the results of the exercise.

If you reply to this consultation document in a personal capacity, rather than as a post holder of an organisation, you should be aware that information you provide may constitute "personal data" in the terms of the Data Protection Act 1998. For the purposes of this Act, HSE is the 'data controller' and will process the data for health, safety and environmental purposes. HSE may disclose this data to any person or organisation for the purposes for which it was collected, or where the Act allows disclosure. You have the right to ask for a copy of the data and to ask for inaccurate data to be corrected. Please note that all replies will be made public unless you specifically state that you wish yours to be made confidential.

If you are reading this document on a computer screen and would prefer a printed version, it can be obtained on request. Furthermore, if you require a more accessible format **an Executive Summary is available in Braille, large print, disc, audiocassette or in other languages**. Please contact:

InfoLine  
HSE  
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#### **How to respond**

We welcome your comments on all the issues raised in this document (including the Impact Assessment), but we would particularly like you to answer the questions we have asked.

We would prefer you to reply using the electronic reply form, which can be accessed by following the links at **[www.hse.gov.uk/consult](http://www.hse.gov.uk/consult)**. You can go straight to this consultation by typing the following address in full (including the final ".htm"): <http://www.hse.gov.uk/consult/condocs/cd219.htm>

If this is not possible and you wish to respond in writing, please use the response form at **Annex E**. Please attach additional pages if necessary. Written replies should be sent to:

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to arrive **no later than 14 November 2008**.

We are allowing 14 weeks for this consultation, rather than the usual 12, to compensate for the summer holiday period.

### **What happens next?**

We will acknowledge all responses and give full consideration to the substance of arguments in the development of proposals; we may also contact you again if, for example, we have a query.

When HSE has decided upon its recommendation to Ministers, we will let you know how the work will proceed and how the decision reached reflects the results of the consultation. We will publish the results of this consultation on HSE's website in due course.

### **Code of Practice on Consultation**

HSE is committed to best practice in consultation and to the Government's Code of Practice on consultation, which sets out 6 criteria for consultation documents. These are:

- Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
- Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
- Ensure that your consultation is clear, concise and widely accessible.
- Give feedback regarding the responses received and how the consultation process influenced the policy.
- Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
- Ensure your consultation follows better regulation best practice, including carrying out an Impact Assessment if appropriate.

If you are not satisfied with the way in which this consultation exercise has been conducted we want to know, and we want to put things right. Please phone or write to the contact on the consultation document. We aim to reply to all complaints within 10 working days. If you are not satisfied with the response, you may ask for your complaint to be passed to a more senior member of staff. If you are still not satisfied with our further response, you can ask for your complaint to be referred to the Chief Executive.

You can also write and ask your MP to take up your case with us or with Ministers. Your MP may also ask the independent Parliamentary Commissioner for Administration (the Ombudsman) to review your complaint.

## **Executive summary**

This consultation covers proposals to remove several legislative form filling requirements which apply to most businesses operating from a factory, office or shop in Great Britain.

We are considering two areas:

- Premises notification - employers are currently required to fill out a form to notify HSE or their local authority of any factory, office or shop premises, and certain railway premises, where employees work.
- The general register - factory<sup>1</sup> employers are required to keep a set of records and forms called the general register.

### **Why review this legislation now?**

HSE regards the requirements discussed in this document as unnecessary. We have committed to considering their removal in our ‘simplification plan’<sup>2</sup>.

HSE and local authorities are between them responsible for enforcement in nearly all places of employment. They need data on business in order to target their interventions to those that present the greatest risks.

However, requirements to notify only certain types of premises – such as those in the scope of this proposal – are of only limited value to assessing risk. For some time now, business information has been obtained using a range of more reliable and efficient information sources and strategies. HSE and local authorities are currently working to develop these and to further improve the coverage and value of the business information they obtain.

HSE also has a responsibility to keep health and safety legislation under review and remove regulations which are no longer of practical use. We look to modernise and simplify the health and safety “statute book”, to reduce its size and save the time of those who use it. We also aim to identify and remove legislation which imposes unnecessary administrative burdens on business and non-profit organisations. This helps to avoid unnecessary costs and stops people being misled by obsolete laws. They can then better focus their resources and attention on managing health and safety.

### **What are we proposing?**

We are proposing to abolish the requirements because:

- it seems clear the general register is obsolete – modern legislation has overtaken the original purpose of this requirement; and
- the premises notification requirement is redundant. HSE obtains information on factory premises in other ways, as do many local authorities on offices and shops.

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<sup>1</sup> The term “factory” covers a wide range of premises, from the largest manufacturing enterprises to any workplace where goods are manufactured or persons are employed in “manual labour”, including packaging plants and printing works.

<sup>2</sup> HSE’s Simplification Plan will reduce administrative burdens on business. The plan can be found at: [www.hse.gov.uk/simplification/index.htm](http://www.hse.gov.uk/simplification/index.htm)

To achieve this we would repeal the notification and general register requirements contained in the Factories Act 1961(FA) and the notification requirements of the Offices, Shops and Railway Premises Act 1963 (OSRPA).

We are confident that this proposal would result in no loss of current health and safety protection.

We have prepared a consultation impact assessment for these proposals, which is attached at Annex A.

## Introduction

1. This document begins with information on who might be affected by the proposals, followed by a summary of the current legal framework. We then discuss our preferred option and give a brief overview of the other option we have considered.
2. More detailed information is provided in the annexes, including an Impact Assessment (Annex A) and the current legal framework (Annex B).

## Who will be affected by these proposals?

3. These proposals are relevant to:
  - Businesses in the broad manufacturing sector who employ staff in premises subject to the FA. This includes a wide range of industry sectors such as manufacture, repair and maintenance, extraction, waste and recycling etc.
  - Businesses operating from premises subject to the OSRPA, including not-for profit and charitable organisations. This includes any office or shop business employing staff (other than close family members) for more than a total of 21 hours per week.
  - Businesses whose premises are used for the storage of gas in a gasholder, having a storage capacity of not less than 140 cubic metres. We propose some minor changes to the existing record keeping obligations.
  - Railway operators employing staff in certain buildings next to the rail track, such as signal boxes.
  - Local authorities, responsible for enforcing health and safety in offices and shops.
  - HSE, responsible for enforcing health and safety in factory premises.

## Current Legal Framework

4. The paragraphs below provide a broad overview of the premises notification and general register requirements, and how they work in practice. For more detail, **Annex B** outlines the current legal framework and why the requirements were originally introduced.

## The main requirements

### *Premises Notification - Factories, offices and shops*

5. The notification requirements of both the FA and OSRPA were introduced so that enforcing authorities could create and maintain a register of premises for which they had health and safety responsibilities under the Acts. Factory notification also gave inspectors early notice of new factories so they could, if necessary, visit and check on compliance with factory legislation.
6. The FA and OSRPA both require employers to notify their premises. In practice, employers have to complete a form and send it to the relevant enforcing authority. This is HSE for a factory business, and for offices and

shops it is generally the local authority<sup>3</sup> where the premises are located. Failure to comply with the requirement is an offence.

7. The form for factories is known as the F9, which must be sent not less than one month before occupying the factory. For shops and offices the form used is the OSR1, which the employer must send before employing a person.
8. Where local authorities are concerned, these notification requirements are in addition to similar requirements under other legislation, such as business ratepayer registration and food standards regulations (which require food premises to register with their local authority). HSE enforces no other notification requirements in the areas covered by the F9.

#### ***Premises Notification - Railway premises***

9. Railway operators employing staff in premises (other than offices and shops), such as signal boxes or other buildings close to the rail track, are required to notify those premises under OSRPA using form OSR7.

#### ***General register***

10. The general register consists of five forms. The register's original purpose was to record important information about an employer's compliance with certain requirements of the FA. For example, records of employee accidents and "poisoning or disease" had to be recorded on special forms and attached to the register. A factory inspector could require an employer to provide the general register to demonstrate compliance with factory legislation.
11. Parts of the FA, including the general register requirement, also applied to certain non-factory premises. Therefore, docks, building operations and works of engineering construction also had to keep a general register.
12. However, as modern health and safety legislation replaced the old FA requirements, the relevance of the general register gradually declined.
13. Although some parts of the general register have been removed over the years as legislation changed, vestiges remain today and an employer is still technically obliged to keep it - failure to comply remains an offence.

### **Preferred option**

14. We propose to **repeal the general register requirement and the premises notification requirements** of the FA and OSRPA.
15. We envisage the **main benefits** of doing this would be:
  - Simplification of health and safety legislation by removing outdated and unnecessary paperwork requirements, without loss of health and safety protection.
  - Elimination of requirements which could delay the start-up of new businesses – currently a notice must be sent to HSE a month before any premises are used as a factory.
  - Fewer requests for similar data from the same businesses by central government and local authorities.

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<sup>3</sup> Offices belonging to Government have to register with HSE.

16. It has been estimated that this would reduce the administrative burden on business by about £21m per year<sup>4</sup>.
17. In proposing abolition of these requirements, HSE has considered its and English local authorities' obligations under the **Regulators' Compliance Code**<sup>5</sup> (the Code). The Code seeks to avoid or minimise duplicate requests for information from business. It requires regulators to consider varying data requests according to risk, obtaining data from other sources and requesting only data which is justified by risk assessment.
18. Although the Code does not directly apply to Scottish and Welsh local authorities, HSE's Enforcement Policy Statement<sup>6</sup> and other statutory guidance to local authorities are consistent with the Code's principles.

#### ***Premises notification***

19. The savings to business from removing the notification requirements appear clear. But what of the effect on health and safety?
20. The original purpose of premises notification was to ensure that the authorities responsible for enforcing the FA and OSRPA had an accurate and current list of premises for which they were responsible. Armed with this information, they could plan and prioritise their inspection and enforcement activities.
21. If businesses do not provide notification of their premises, HSE and local authorities still need to obtain reliable premises information so that interventions with duty holders can be targeted effectively.

#### ***HSE's position on premises notification***

22. HSE considers premises notification to no longer be a reliable or efficient method of obtaining information about new factory premises.
23. With advances in technology, manufacturing industry now includes a wide range of businesses and manufacturing processes carried on in diverse premises. HSE use a range of information sources and strategies to identify these premises. These include information from other government agencies and from local authorities, observation of new business developments in the local area, business directories, information from reports of accidents or injuries, and complaints.
24. In addition, HSE is currently investigating ways to further improve the collection of this data and to make better use of the intelligence we gather. This will include revising procedures for dealing with businesses which are 'new to HSE', so that resources can be consistently and appropriately targeted.

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<sup>4</sup> Based on the Administrative Burdens Measurement Exercise (ABME), a government-wide exercise designed to provide an indication of the administrative burden on business created by regulations. For more information on this see the Impact Assessment at Annex A.

<sup>5</sup> The Regulators' Compliance Code is a statutory code of practice for regulators, which came into effect on 6 April 2008. Further details: <http://www.berr.gov.uk/bre/inspection-enforcement/implementing-principles/regulatory-compliance-code/page44055.html>

<sup>6</sup> HSE's Enforcement Policy Statement directs local authorities and HSE on their policies for interaction with duty holders and taking enforcement decisions. Further details: <http://www.hse.gov.uk/enforce/>

25. Receipt of notification forms (ie F9s) by HSE is patchy and inconsistent. Essentially, HSE no longer relies on the F9 form.
26. Over the last five years, HSE has prosecuted three factory employers for failure to notify their premises, but such prosecutions were only taken in the context of more serious alleged breaches of health and safety legislation.
27. The OSRPA notification requirement for **railway premises** has fallen entirely into disuse and the form is no longer published. HSE and the Office of Rail Regulation believe the requirement no longer serves any purpose and that it should be removed.
28. The proposals to repeal these notification requirements do not affect any notification requirements under other legislation which applies to industries regulated by HSE, including major hazard industries and sectors.

#### *Local authorities*

29. The Local Authorities Coordinators of Regulatory Services (LACORS)<sup>7</sup> Health and Safety Policy Forum has accepted our proposal to remove the compulsory notification requirement for office and shop premises.
30. Initial consultations with local authorities found that many believe compulsory notification serves no purpose - noting that the requirement fell into “disuse many years ago”. Some told us they receive few office and shop notifications (ie form OSR1) each year – “15 to 20 per year out of 2500 to 4000 businesses”; “the vast majority of new businesses do not register”.
31. Some local authorities were against removing the notification requirement, reporting that it helps them keep an up to date list of premises and they find it a useful enforcement tool. Their experience was that, although few businesses knew of the requirement, most were happy to comply when asked and compulsory notification remained a “very good way of obtaining information”. However, they also noted that it was difficult to keep an up to date database of businesses in this way - some cited a 40% annual turnover of local businesses in larger cities.
32. On the other hand, one local authority described how it maintains its premises database without information from the compulsory notification process – “we use information from other departments in our organisation...we carry out surveys and targeted inspection of target premises” and use “business directories”. Other sources of information included “officers’ observations on other visits, complaints from the public and employees, accident records...”.
33. **Data sharing** - Local authorities also collect a wide range of information about local businesses for purposes other than health and safety, including data for business rates and food premises. Some authorities already share data on the location of premises and newly established businesses between departments, reducing the need to ask for the same information from business on multiple occasions. This seems good practice.
34. Some local authorities have told us they have difficulty getting access to the business data held by other functions within their authority. Many cite “data

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<sup>7</sup> LACORS is the local government central body responsible for overseeing local authority regulatory and related services (ie services which exist to protect the public) in the UK.

protection” as an obstacle - they are concerned that they may breach the law if they share information.

35. However, the Information Commissioner<sup>8</sup> has issued guidance<sup>9</sup> which indicates that a local authority can, with certain safeguards, lawfully share data about businesses between its departments for enforcement purposes. Therefore, scope exists for local authorities to emulate those that are already sharing information to track business developments and new premises.
36. Data sharing has the potential to make local authority health and safety premises databases more accurate. LACORS have made the Information Commissioner’s guidance available to local authorities and will seek to promote the sharing of good practice among local authorities.
37. **Enforcement** - HSE and many local authorities no longer rely on the notification forms as a source of information. It appears from the information we have so far that the premises notification requirements are rarely enforced. HSE and local authorities focus their resources on practical workplace health and safety issues which are of immediate concern to employers, employees and the public. Outdated requirements can detract from the effectiveness of other health and safety law.
38. **Health and safety awareness** – A small number of local authorities have expressed concern that removing the notification requirements may have a negative impact on general health and safety awareness. The F9 and OSR1 forms were not designed to raise awareness, and compliance with the requirements is poor. In a better regulation context, HSE could not justify retaining the forms on the grounds of awareness raising, as there are other ways of doing so that are non-legislative and more effective.

*Questions (please use the attached response form for your reply)*

*Do you agree with our proposal to abolish premises notification requirements?*

*If not, for what purpose/s should we keep the notification requirements?*

*How would keeping the notification requirements benefit health and safety?*

### **General register**

39. We propose to abolish the general register requirement. Our analysis indicates it has ceased to have any practical relevance to health and safety and there seems no purpose in maintaining the requirement.
40. The health and safety issues and record keeping obligations that the general register formerly covered are now addressed by contemporary health and

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<sup>8</sup> The Information Commissioner’s Office enforces and oversees the Data Protection Act.

<sup>9</sup> Data Protection Good Practice Note: The use and disclosure of information about business people, 22 June 2007 ([www.ico.gov.uk](http://www.ico.gov.uk))

safety legislation, including the Health and Safety at Work etc Act 1974 (HSWA) and its regulations, or by fire safety law.

41. If the requirement is not removed, businesses and their advisers will continue to spend time and money checking to see whether it applies to them and, if so, what they have to do to comply with it.
42. We think repealing the general register requirement will achieve clarity and certainty in the law and save business time and money without reducing health and safety standards.
43. The general register is still referred to in other parts of the FA and in other legislation - for example, owners of gasholders have to attach gasholder inspection records to it. This does not prevent abolition of the general register. We can make alternative arrangements for gasholder and other record keeping obligations which remain relevant for health and safety.

**Questions** (please use the attached response form for your reply)

*Do you agree with our proposal to abolish the general register?*

*If not, for what purpose/s should we keep the general register requirement?*

*How would keeping the general register requirement benefit health and safety?*

### **Impact of preferred option on small businesses**

44. We believe this option will have a beneficial impact on small business by reducing administrative burdens. FA and OSRPA requirements cover a wide range of employers and businesses across all industry groups. The ABME identified that small businesses are particularly affected in the growing services, food and hospitality sectors.
45. We are also aware that some small businesses have expressed concern at the number of times they are asked to provide the same information to government for various regulatory purposes<sup>10</sup>. Our preferred option will remove at least one form filling obligation for most businesses.

**Question** (please use the attached response form for your reply)

*Have we missed any adverse impacts that our proposals would have on small businesses? Please provide details.*

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<sup>10</sup> The Hampton review identified business concerns about “overlapping forms and data requirements”, particularly affecting small businesses. See report at: <http://www.berr.gov.uk/files/file22988.pdf>

### **Other option considered**

46. After early consideration of a range of options, we looked in detail at one other option - “doing nothing” and continuing with the existing legislative provisions. We have rejected this option as we think it is not feasible. In summary, the general register and premises notification requirements are considered redundant and good public administration and regulatory practice demand that outdated regulation or information obligations be repealed or updated. The option is detailed in the Impact Assessment at **Annex A**.

### **Legislative changes**

47. We would initiate our proposed changes by introducing regulations that amend the Factories Act 1961 and the Offices, Shops and Railway Premises Act 1963, and revoke two Orders made under these Acts. Specific details of these changes are set out at **Annex B**.
48. The draft statutory instrument incorporating the proposed regulations is at **Annex C**.

## **Annex A – Impact Assessment**

## Summary: Intervention & Options

<b>Department /Agency:</b> Health & Safety Executive	<b>Title:</b> Impact Assessment of repealing notification and record keeping requirements for factories, offices and shops	
<b>Stage:</b> Consultation	<b>Version:</b> 2.3	<b>Date:</b> 24 July 2008
<b>Related Publications:</b> HSE Simplification Plan		

Available to view or download at:

<http://www.hse.gov.uk/consult/condocs/cd219.htm>

Contact for enquiries: Peter McKerrow

Telephone: 020 7717 6977

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

Legislation requires businesses employing staff in factory, shop, office and in certain railway premises, to notify the Health and Safety Executive (HSE) or their local authority before they commence operations from those premises. Factory employers must also keep a record called a "general register". The requirements have been overtaken by modern health and safety intelligence gathering arrangements and legislation. In addition, they do not apply consistently to all work premises. HSE considers they have little current relevance to maintaining health and safety at work and impose unnecessary and burdensome form filling and notification requirements on business. HSE proposes to seek the abolition of these requirements.

### What are the policy objectives and the intended effects?

To repeal outdated legislation, remove unnecessary administrative burdens on business and to allow the resources of duty holders, HSE and of local authorities to be better focussed on important workplace health and safety issues. This is consistent with HSE's commitment to deliver better, smarter legislation that is easier to understand and apply.

### What policy options have been considered? Please justify any preferred option.

After early consideration of a range of options, the following have been considered in detail:

Option 1 – Do nothing – continue with the existing legislative provisions (ie, the status-quo, with no impact on costs or benefits).

Option 2 – Repeal the premises notification and general register requirements entirely. **This is our preferred option.** We believe the requirements are redundant - good public administration and regulatory practice demand that outdated regulation or information obligations be repealed or updated. Removing these requirements would not reduce health and safety standards.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? HSE will evaluate the effect 3 years after implementation.

### Health and Safety Executive Sign-off For consultation stage Impact Assessment:

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

Signed on behalf of the HSE Board:

.....Date: 24 July 2008

## Summary: Analysis & Evidence

<b>Policy Option: 2</b>	<b>Description:</b> Repeal the FA and OSRPA premises notification and general register requirements entirely.
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<b>COSTS</b>	<b>ANNUAL COSTS</b>		Description and scale of <b>key monetised costs</b> by 'main affected groups' There are no costs to business associated with this option.
	<b>One-off</b> (Transition)	<b>Yrs</b>	
	£ <b>0m</b>		
	<b>Average Annual Cost</b> (excluding one-off)		
	£ <b>0m</b>	<b>Total Cost (PV)</b>	<b>£ 0m</b>
Other <b>key non-monetised costs</b> by 'main affected groups'			

<b>BENEFITS</b>	<b>ANNUAL BENEFITS</b>		Description and scale of <b>key monetised benefits</b> by 'main affected groups' The abolition of the general register would result in a benefit to business of £8.3m. Removal of the current factory and other premises notification requirements would result in a benefit to business of £12.7m.
	<b>One-off</b>	<b>Yrs</b>	
	£ <b>21m</b>	1	
	<b>Average Annual Benefit</b> (excluding one-off)		
	£ <b>0m</b>	<b>Total Benefit (PV)</b>	<b>£ 21m</b>
Other <b>key non-monetised benefits</b> by 'main affected groups'			

### Key Assumptions/Sensitivities/Risks

This impact assessment uses figures from the Administrative Burdens Measurement Exercise (ABME), which are **indicative only** as they derive from small samples that are not statistically valid.

Price Base Year	Time Period Years	<b>Net Benefit Range (NPV)</b> £	<b>NET BENEFIT (NPV Best estimate)</b> £
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What is the geographic coverage of the policy/option?	Great Britain			
On what date will the policy be implemented?	06 April 2009			
Which organisation(s) will enforce the policy?	N/A			
What is the total annual cost of enforcement for these organisations?	£ N/A			
Does enforcement comply with Hampton principles?	N/A			
Will implementation go beyond minimum EU requirements?	N/A			
What is the value of the proposed offsetting measure per year?	£ N/A			
What is the value of changes in greenhouse gas emissions?	£ N/A			
Will the proposal have a significant impact on competition?	No			
Annual cost (£-£) per organisation (excluding one-off)	Micro <b>0</b>	Small <b>0</b>	Medium <b>0</b>	Large <b>0</b>
Are any of these organisations exempt?	N/A	N/A	N/A	N/A

<b>Impact on Admin Burdens Baseline</b> (2005 Prices)		(Increase - Decrease)	
Increase of £ 0	Decrease of £ 21m	<b>Net Impact</b>	<b>£- 21m</b>

Key: Annual costs and benefits: Constant Prices (Net) Present Value

## Evidence Base (for summary sheets)

### Introduction

1. This impact assessment considers proposals to remove the form filling and record keeping requirements of the Factories Act 1961 (the FA) and the Offices, Shops and Railway Premises Act 1963 (OSRPA).
2. We invite you to provide your views on the treatment of costs and benefits in the impact assessment and to provide any other comments. Your responses will help develop our final assessment of the proposals.

### Background

3. The FA and OSRPA impose certain notification and record keeping requirements on most businesses in Great Britain that employ people.
4. The FA requires the occupier, usually an employer, of factory premises to give not less than one month's notice to HSE before occupying or using the premises as a factory - HSE publishes the F9 form for this purpose. If already using the premises, the employer must give one month's notice before using any "mechanical power" in the premises.
5. A factory business can apply to HSE for permission to shorten the one-month notice period.
6. A factory must also keep a record of certain information called the "general register" - a set of forms is prescribed for the purpose. A factory employer must send an HSE inspector extracts from the register if requested.
7. Most of the legislation linked to the general register requirement has been replaced making the register obsolete in practice.
8. The OSRPA requires most businesses intending to employ staff in office or shop premises to notify the authority responsible for enforcing health and safety legislation in those premises (usually the local authority) before they employ staff in the premises. The notification must be given on a form prescribed under OSRPA known as the OSR1.
9. HSE and local authorities generally include the information from the F9 and OSR1 forms on their databases of premises for which they have health and safety enforcement responsibilities.
10. The OSRPA also requires railway operators employing staff in premises (other than offices and shops), such as signal boxes or other buildings close to the railway line, to notify those premises using form OSR7. This requirement has fallen entirely into disuse and the form is no longer published.
11. More detailed background on these requirements and the legislation can be found at Annex B of the Consultation Document.

### Rationale for Government Intervention

#### *Rationale for the legislation*

12. The key purpose of the factory, office and shop premises notification requirements is to provide authorities responsible for enforcing health and safety in those premises with information about the location and the number of premises. Authorities can then plan and prioritise their enforcement activities.
13. The general register requirements derived from 19<sup>th</sup> century factories legislation that required factory employers to record details of their compliance with factory health and safety legislation on forms kept in a register, and for the register to be available for inspection by a factory inspector. The general register has now effectively been superseded by modern legislation including the Health and Safety at Work etc Act 1974 (HSWA) and its

regulations.

### *Rationale for reviewing the legislation*

14. The Health and Safety Executive has committed to work towards a 25% target reduction in administrative burdens by May 2010 and has published a Simplification Plan<sup>11</sup> to help it meet this goal and report on progress. The plan includes reviewing some requirements on employers to provide information or keep records - looking at how we might reduce them without loss of health and safety protection.
15. The removal of forms which are outdated, unnecessary or which duplicate other requirements was also a recommendation of the Hampton review<sup>12</sup>.
16. The Regulators' Compliance Code<sup>13</sup> is also relevant. It incorporates principles drawn from the Hampton review. HSE and other regulators must have regard to the Code provisions, which include standards to be taken into account when placing information requirements on business.
17. The Code also includes strategies to reduce form filling and record keeping obligations by using better regulatory practices. If, for example, a regulator keeps the same information on businesses on several independent databases (ie each linked to a separate function of the regulator), they should consider sharing that data so that a business only need provide it once. Regulators should also only collect data when justified by impact assessment. These strategies can help regulators reduce the overall administrative burden on business.
18. HSE also has a responsibility to make sure its legislation is as clear, coherent and comprehensible as possible. If we can identify and remove laws that have become redundant or superseded, the law becomes less complex and it takes less time and money to understand it. Businesses should not have to wade through legislation which may no longer be relevant to find out what their obligations are.
19. We envisage the main benefits of reviewing the FA and OSRPA requirements to be:
  - a. Simplification of health and safety legislation by removing outdated and unnecessary paperwork requirements, without loss of health and safety protection.
  - b. Reduction of the frequency of requests for similar data from the same businesses by government authorities.
  - c. Elimination of requirements that could stop or delay new businesses from starting up and employing staff without prior notice to a government authority.
  - d. Enabling business and enforcing authorities to better focus health and safety resources on reducing risks at workplaces.
  - e. Stimulating discussion on how health and safety enforcing authorities can maintain effective databases of premises using technology and practical strategies so they can target enforcement resources most efficiently.
20. Any reduction of administrative burdens will particularly benefit small businesses, a high proportion of which are subject to the existing premises notification requirements.

## **Options**

21. In addition to Options 1 and 2, set out later in this impact assessment, we initially considered and **rejected** two further options: (A) abolishing the general register but updating the OSR1 and F9 forms to make them easier to complete; and (B) abolishing the general register but extending the premises notification requirements to all businesses.

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<sup>11</sup> <http://www.hse.gov.uk/simplification/>

<sup>12</sup> *Reducing administrative burdens: effective inspection and enforcement* HM Treasury, 2005

<sup>13</sup> *Regulators' Compliance Code*, Department for Business, Enterprise & Regulatory Reform, 2007.

22. Although option (A) would have made it less time consuming for businesses to complete the forms, resulting in some cost savings for business, it would of course have preserved the administrative burden for redundant requirements that serve no practical health and safety purpose.
23. Option (B) was based on the views of a small number of local authorities, obtained in our initial consultations. While conceding the problems of the current notification regime, they felt that a blanket obligation on all businesses would increase the accuracy and currency of premises databases.
24. They also argued that this would better align the notification requirements with the premises coverage of the more modern HSWA. While the HSWA applies to all employers, the FA and OSRPA notification requirements do not. The OSRPA excludes office or shop premises in which the proprietor employs close family members or where the total hours worked by all employees is normally not more than 21 hours per week. Self-employed people who operate from their own premises are also not covered by the FA and OSRPA requirements.
25. As mentioned earlier, HSE and local authorities must have regard to the Regulators' Compliance Code when placing information requirements on business; HSE is also committed to removing unnecessary administrative burdens. Option (B) would increase the existing administrative burden on business, with little or no justification - HSE and many local authorities already obtain premises data in other ways. For these reasons, HSE concluded that it would be inappropriate to develop this option further.
26. The two options that we considered in this Impact Assessment are outlined below.

### **Option 1 – Do nothing – continue with the existing legislative provisions**

27. Doing nothing would leave the notification, forms and record keeping requirements in place. We do not see this as a feasible option, but it serves as a base case against which the other option is compared.
28. Good public administration and regulatory practice demand that outdated regulation or information requirements be repealed or updated. Both the F9 and OSR1 forms do not appear to have been reviewed or substantially altered for many years. The OSR1 form dates from 1964 and includes references to superseded legislation.

### **Option 2 – Repeal the FA and OSRPA premises notification and general register requirements entirely.**

29. Under this option, the requirements to complete forms to notify new office, shop or factory premises would be removed. The requirement to keep the general register would be abolished. This would remove outdated legislation and unnecessary administrative burdens on business. It would also allow the resources of duty holders, HSE and of local authorities to be better focussed on important workplace health and safety issues. **This is our preferred option.**

### **Gasholders**

30. In option 2 we would have to make alternative provision for the keeping of records of inspection of gasholders, which currently have to be attached to the general register. We propose to simply provide for the records to be kept for the same period as currently required (ie 2 years) and to be available for inspection. This would be achieved by amending the FA. This proposal would not change the administrative burden for gasholders and is therefore not discussed under the cost and benefit headings.

## Costs and Benefits

### Data Sources and Assumptions

31. There are some uncertainties in our assessment of the costs and benefits.
32. This impact assessment uses figures from the Administrative Burdens Measurement Exercise (ABME)<sup>14</sup> for estimates of the number of businesses and other regulated entities subject to the information obligations and record keeping requirements. The ABME is also the source of the managerial time and the overall administrative burden which each requirement imposes.
33. The ABME estimates were obtained using the Standard Cost Model<sup>15</sup> (SCM), which provides a simplified, systematic, methodology for estimating the administrative costs<sup>16</sup> imposed by regulation.
34. The costs estimated by the ABME are **indicative only** as they are derived from small samples that are not statistically valid.
35. It is important to note that the ABME **assumes full compliance** with each of the regulatory requirements it analysed.
36. Some of the FA information requirements are closely related. For example, steps in a particular statutory process to enable a factory business to start. Rather than “double count” the number of businesses affected in what is essentially a one-off process, the ABME appears to give a single estimate for the number or “population” of businesses affected. Where no number of businesses is stated by the ABME for a specific information requirement, such as the F9 form, we have used the ABME population figure for the closest related information requirement, where we consider it reasonable to do so.
37. The ABME estimated the total of the various FA administrative burdens at £8.6m.
38. The FA figure includes an amount for three requirements related to gasholder safety totalling about £0.1m. No change to these administrative burdens is proposed.
39. The ABME estimated the administrative burden of the OSRPA notification requirement at £12.5m. This figure represents the annual costs to affected businesses of purchasing “goods and services” to comply with the obligation to notify office or shop premises. The ABME assumed that, rather than use internal resources to meet this requirement, business would buy-in services (eg a consultant) instead. Therefore the ABME included no specific assessment of the internal costs (time) or overheads for a business completing the OSR1 form.
40. The ABME did not provide a separate breakdown for the cost of the railway premises notification requirement, ie using form OSR7. The requirement has fallen entirely into disuse and the form is no longer published. The proposed removal of the OSR1 provides the opportunity to eliminate this form also. For the purpose of the options discussed in this impact assessment, we have treated the OSR7 as included in the proposals for the OSR1 form.
41. The total ABME estimate for the FA and OSRPA administrative burdens is approximately £21.1m. The total under consideration in our proposals is £21m (ie not including the

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<sup>14</sup> The ABME was a government-wide exercise, carried out to provide an indication of the administrative burden on business created by regulations. It estimated the cost associated with complying with administrative tasks (form filling, record keeping etc, including requirements under health and safety legislation) and the total annual administrative cost contained in all legislation in force as at May 2005.

<sup>15</sup> The Standard Cost Model is a pragmatic methodology invented by the Dutch to provide systematic measurement of administrative costs of regulation. More information on the SCM and the methodology can be found on the website of the Department for Business, Enterprise & Regulatory Reform at: <http://www.berr.gov.uk/bre/policy/simplifying-existing-regulation/administrative-burdens/page44061.html>

<sup>16</sup> Administrative costs are defined as “the recurring costs of administrative activities that businesses are required to conduct in order to comply with the information obligations that are imposed through central government regulation”.

gasholder requirements, as explained above).

### **Sectors and Groups Affected**

42. Most employers of staff in offices and shops in Great Britain are subject to the OSRPA OSR1 requirements and all factories to the FA F9 requirement. Every factory must keep the general register.
43. The term “factory” covers a wide range of premises - from the largest manufacturing enterprises to any workplace where goods are manufactured or persons are employed in “manual labour”, including packaging plants and printing works. The FA requirements also apply to places which are not generally regarded as a factory, such as places where gas is stored in gasholders.
44. The ABME noted that the requirement to notify an office or shop was particularly relevant for those in the micro (0 – 9 employees) business category. The ABME identified 91% of office and shop businesses in this category.

### **Annual Benefits for Business**

#### **Option 1 – Do nothing – continue with the existing legislative provisions**

45. There are no benefits from this option.

#### **Option 2 – Repeal the general register and the FA and OSRPA premises notification requirements entirely**

46. According to the ABME estimates, removing these requirements would reduce the administrative burden on business by **£21m** per annum.
47. This option also contributes to the overall simplification of health and safety legislation to which business is subject. It removes, for most businesses, any remaining administrative burden the FA or OSRPA would otherwise have on their operations and helps them to better focus their time and resources on important workplace health and safety issues.

### **Annual Costs for Business**

#### **Option 1 – Do nothing – continue with the existing legislative provisions**

48. There are **no changes to administrative burdens or costs** with this option, but without change the current premises notification and record keeping requirements face **several risks**. They include:
  - a. Continued inconsistency between the employers and premises subject to the OSR1 and F9 notification requirements and those subject to the Health and Safety at Work etc Act 1974 (HSWA). For example, not all shop employers have to notify premises but all shop employers are responsible for protecting the health and safety of their staff and other people, such as customers and members of the public, who may be affected by their work.
  - b. Unfairness and financial disadvantage for businesses that do comply with the law and incur compliance costs - those who fail to comply gain a financial and commercial advantage over their competitors.
  - c. Resources diverted to interpreting and communicating complex or outdated legislation. Whereas modern health and safety legislation, such as the HSWA, focuses on specified duties owed by employers and those “at work”, the FA and OSRPA only apply to employers if they employ staff in premises with particular

characteristics defined in legislation. Doubt and uncertainty may arise about whether particular premises are caught by the legislation, thereby necessitating legal advice at extra cost to the enforcing authority or business.

- d. Failure to remove the notification and record keeping requirements would give a further lease of life to legislation for which there is general consensus to repeal. Although total repeal of the remaining FA and OSRPA provisions is not currently proposed, it is important to continue to advance towards this aim and to further simplify the health and safety legislative regime of Great Britain. This was envisaged by the HSWA.
- e. Deterrence of, or impediments to, local small business start-ups, employment growth and difficulties for new migrants or businesses from EU member states in understanding or meeting requirements. Arcane legislation and associated form-filling requirements may inhibit or deter a small business from establishing itself or temporarily entering a market to provide goods or services. For example, the FA requirement to give one month's notice before occupying or using factory premises or the OSRPA requirement to give advance notice before employing staff in a shop or office may delay or frustrate the capacity of a business to take advantage of quickly emerging market opportunities. These barriers to entry may be particularly challenging to businesses run by newcomers to Great Britain for whom their own small business is a means to economic advancement and financial independence. The growth of the increasingly important services sector of the economy within Great Britain and the European Union generally may be constrained by unnecessary or disproportionate regulations on the provision of services.
- f. Duplication of paperwork. Many businesses are subject to multiple notification requirements in respect of their premises. Multiple information requirements raise business costs and create confusion and uncertainty for smaller businesses already coping with other government notification or record keeping requirements. The Regulators' Compliance Code requires regulators to explicitly consider how they can reduce costs to business by avoiding duplication of data requests and by sharing data.
- g. Inconsistent notice periods. Different legislation regulating the use of premises requires different notice periods. The FA requires one month and food standards legislation 28 days. The OSRPA does not stipulate a period but still requires prior notification of employment. Businesses must take into account these different periods before starting up in new premises.

### **Option 2 – Repeal the FA and OSRPA premises notification and the general register requirements entirely**

49. There would be some **minimal familiarisation costs** for businesses to take account of the abolition of these requirements.

### **Implementation (start-up) costs for national regulators and local authorities**

#### **Option 1 – Do nothing – continue with the existing legislative provisions**

50. There would be no implementation or start up costs for regulators under this option as it assumes no change to the current regulatory regime.

### **Option 2 – Repeal the FA and OSRPA premises notification and the general register requirements entirely**

51. Both HSE and local authorities would incur some minor costs in revising procedures and removing information from websites or other information services.

52. There would also be some additional costs in informing business of the abolition of the requirements. As information on the requirements is generally provided through regulators' websites, this cost would be relatively minor.
53. Some local authorities have indicated the requirement to notify office and shops remains an important source of information for their premises register. Abolition of the requirement may result in additional costs for them if they have to develop or refine other sources of information to maintain their premises registers.

### **Annual Benefits for national regulators and local authorities**

#### **Option 1 – Do nothing – continue with the existing legislative provisions**

54. There are no additional benefits for HSE or local authorities in maintaining the forms and general register requirements.

#### **Option 2 – Repeal the FA and OSRPA premises notification and the general register requirements entirely**

55. Information we have received from initial consultations suggests that enforcing authorities devote few, if any, resources to enforcing the premises notification requirement. Consequently, any savings from abolition are unlikely to be significant.

### **Annual Costs for national regulators and local authorities**

#### **Option 1 – Do nothing – continue with the existing legislative provisions**

56. There are no additional costs from maintaining the current legislative regime. However, absence of practical enforcement can lead to a loss of awareness and knowledge of a law and skills in its administration – information and advisory materials on the law may become out of date or irrelevant with consequent uncertainty thereby increasing the likelihood of non-enforcement and non-compliance.
57. Some enforcing authorities may become reliant on information gained through compulsory paper based notification requirements at the expense of more comprehensive, flexible, and efficient data sources. While the challenge of keeping an accurate and current premises database is substantial, dependence on traditional notification processes may deflect authorities from considering approaches more consistent with the principles of better regulation, including those in the Regulators' Compliance Code, such as data sharing within their authority and focussing on higher risk premises.
58. Non-enforcement, inconsistent enforcement and non-compliance can contribute to general disrespect and disregard for the law, making it more difficult for authorities to gain compliance with other legislation and creating loss of trust in authorities' enforcement regimes and policies.

#### **Option 2 – Repeal the FA and OSRPA premises notification and the general register requirements entirely**

59. There are unlikely to be any annual costs from abolition of these requirements.

### **Specific Impact Tests**

60. Below is a list of the specific impact tests we have considered.

### ***Competition Assessment***

61. We do not believe the proposal to remove the FA and OSRPA information requirements will have a significant impact on competition. The current requirements require factory employers to give one month's notice before using premises as a factory, and office and shop employers to give an unspecified period of prior notification of employment. There may be some slight positive impact on competition through removal of the prior notification requirement (ie one month's notice), which is a potential barrier to entry to the market.
62. We have considered the four key questions, namely, whether in any affected market the proposals would:
- a. Directly limit the number or range of suppliers – removal of the requirements will have no effect on the range of suppliers in any market.
  - b. Indirectly limit the number or range of suppliers – there is no evidence the proposals will have this effect.
  - c. Limit the ability of suppliers to compete – the proposal places no restrictions or limits on suppliers ability to compete.
  - d. Reduce suppliers' incentives to compete vigorously – there will be no disincentive to, or other inhibition on, vigorous competition.

### ***Small Firms Impact Test***

63. Our preferred option will have a beneficial impact on small business by reducing administrative burdens. As previously noted, the FA and OSRPA requirements cover a wide range of employers and businesses across all industry groups. The ABME noted the requirements particularly affected small businesses, which are represented in the growing services, food and hospitality sectors.
64. We are also aware some small businesses have expressed concern at the number of times they are asked to provide the same information to government for various regulatory purposes. Our preferred option will remove at least one form filling obligation for most businesses.
65. We will be seeking business views during our public consultation. Should any significant impact on small firms be identified during consultations, we will of course take that into account in our final proposals.

### ***Legal Aid***

66. There will be no impact on legal aid.

### ***Sustainable Development/Carbon Assessment/Other Environment***

67. We see no impact on these matters.

### ***Health Impact Assessment***

68. We have considered the guidance and the screening questions published by the Department of Health on whether the proposals will have an impact on health or health inequalities. We believe the proposals will have no impact on health.

### ***Impact on Equality and Human Rights***

69. The proposals will have no adverse impact on race equality, disability equality, gender equality or human rights.

### ***Rural Proofing***

70. We do not believe our proposals will have a different impact in rural areas from non-rural areas. As our consultations continue, we will reassess the impact of our proposals and if necessary adjust them to meet rural needs and circumstances.

## Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

**Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.**

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

## **Annex B – Current legal framework and how it would change**

1. This annex details the current legal framework and how we propose to amend the legislation. The draft Statutory Instrument is at Annex C.

### **Notice of employment of persons in an office or shop – Offices, Shops and Railway Premises Act 1963 - section 49**

2. The Offices, Shops and Railway Premises Act 1963 (OSRPA) comprehensively regulated health and safety in offices and shops in Great Britain. The Health and Safety at Work etc Act 1974 (HSWA) and its regulations have now almost entirely superseded it.
3. The OSRPA also applies to certain railway premises, but in practice modern railway legislation has also superseded it. This is discussed below.
4. Section 49(1) is one of the few remaining substantive provisions of the OSRPA. It requires anyone intending to employ people in office or shop premises to send a notice to the authority responsible for enforcing health and safety in those premises. Failure to comply with this requirement is an offence.
5. The original purpose of premises notification was to ensure health and safety enforcement authorities had an accurate and current list of premises for which they were responsible. Armed with this information, they could plan and prioritise their inspection and enforcement activities.
6. However, from the legislation’s inception, reports to Parliament noted that non-compliance with the premises notification requirements “was a widespread problem”. Reports also found premises notification “was seldom effected on an occupier’s own initiative but only after a visit by an inspector<sup>1</sup>”. After eight years operation of the Act’s notification provisions, the annual report continued to record “widespread failure of employers to register”. The report for 1972<sup>2</sup> suggested this failure had been “largely counteracted by the local knowledge of inspectors and liaison with the rating and planning departments of local authorities”. Local knowledge and, what we would now describe as, “data sharing” appear to have been just as significant in establishing an accurate premises register in the 1960s and 70s as they do today.
7. The form of the notice which the employer must use is set out in Schedule 2 of the Notification of Employment of Persons Order 1964 (SI 1964/533).
8. The form has not been revised to take account of legislative changes since it was first published. Many of the questions in Part III of the form are redundant as they relate to fire safety legislation no longer in force.
9. An employer has to complete two copies of the form and send them to their enforcing authority. Generally, local authorities are responsible for enforcing health and safety in offices and shops. However, HSE covers offices occupied by government departments (including the offices of local authorities).

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<sup>1</sup> The Offices, Shops and Railway Premises Act 1963, Report by the Secretary of State for Employment and Productivity, 31 December 1967, Chapter II, paragraph 1

<sup>2</sup> 31 December 1972, Chapter 1, paragraph 11

10. The second copy of the form was forwarded by the enforcing authority to the fire authority to enable it to determine if the premises required a fire certificate. This was a requirement of former fire safety legislation.
11. The OSRPA (and therefore the requirement to register an office or shop) does not apply to certain premises – these main exceptions are:
  - a. Premises where only self-employed persons work – there must be at least one person employed in the premises to trigger the notification requirement.
  - b. Businesses where the only people employed are close family members of the employer – the OSRPA specifies the categories of relatives. If however, the family shop adopted a corporate structure and family members were employed by a family company, the premises would be covered by the OSRPA.
  - c. Premises where the total hours worked by all employees is normally not more than 21 hours each week.
  - d. Premises used for transitory purposes in certain circumstances.
12. These exceptions reflect the original scope of the OSRPA - it was not intended to impose the detailed employee health, safety and welfare provisions on family or very small businesses. Consequently, as provided for above, those employers do not need to register their office or shop.
13. The Workplace (Health, Safety and Welfare) Regulations 1992 replaced many of the general provisions of the OSRPA. In contrast to the OSRPA, the regulations make no exceptions for businesses employing family members or for those employing for limited hours.

#### ***Railway premises***

14. Section 49(1) of the OSRPA also requires those who plan to employ staff in railway premises (for example, signal boxes) to notify the appropriate authority by completing a separate form known as an OSR7. Like the OSR1, this form is also set out in the Notification of Employment of Persons Order 1964.
15. This provision has fallen entirely into disuse and the form is no longer published.
16. The Office of Rail Regulation (ORR) has responsibility for health and safety in relation to the operation of railways, tramways and certain other systems of guided transport. ORR is the enforcing authority for stations including railway offices and ticket offices.
17. Local authorities have responsibility for those parts of stations occupied by separate businesses including offices and shops – these premises are subject to the OSR1 notification requirement.
18. HSE, which formerly regulated rail safety and from which ORR took responsibility for most rail safety matters under the Railways Act 2005, has no record of when it last received an OSR7 form. ORR has indicated it sees no need for the requirement.

*Proposed change to the legislation:*

19. Our amendments would remove these requirements by repealing section 49 of the OSRPA entirely and revoking the Notification of Employment of Persons Order 1964.

**Notice of occupation of a factory – Factories Act 1961 - section 137**

20. Not less than one month before any premises are used as a factory a notice must be sent to HSE. The notice must state the name of the occupier or the title of the firm, the postal address, the nature of the work to be carried on and the nature of any mechanical power to be used. Employers can request for HSE to shorten the one month period.
21. Not less than one month before the date on which mechanical power is first used in a factory, notice must be sent to HSE stating the nature of the mechanical power.
22. If the premises were already being used as a factory when the occupier took them over, and if the new occupier proposes to use them for the same purpose without interruption and without changing the nature of the work, the occupier need not give notice of one month in advance of taking over. But they must provide it as soon as possible and in any event not later than one month after taking over.
23. Failure to comply with this requirement is an offence.
24. The requirement to give notice of occupation of a factory dates from at least 1878. It originally ensured factory inspectors, responsible for monitoring the employment of women and children and basic machinery safety, received notice of new factories or the use of “mechanical power” in factories.

*Proposed change to the legislation:*

25. Our amendments would remove these requirements by repealing section 137 of the FA entirely.

**General register – Factories Act 1961 - section 140**

26. Every factory must keep a register known as the general register. The Factories Act (General Register) Order 1973 (SI 1973/8) sets out the detailed contents of the general register and the form on which the required information has to be recorded (ie form F31). There are different forms for building operations and works of engineering construction (ie form F36) and for docks, wharves and quays (ie form F35).
27. The general register must record:
  - a. name of occupier, address of factory, registered office address and nature of work;
  - b. details of persons employed under the age of 18 (HSE published this part of the register as form F32);
  - c. details of the periodical whitewashing, painting etc of the factory (HSE published this part of the register as form F34);
  - d. details of fire certificates; and
  - e. details of tests and examinations of fire alarms.

28. The general register must be kept in the factory or at a place approved by an HSE inspector. The factory occupier must send HSE details from the register if requested and keep the register for two years after the date of the last entry.
29. Failure to comply with this requirement is an offence.
30. The general register has ceased to be of relevance to health and safety in factories or other premises. For example, any requirement to wash and paint factory walls and surfaces was removed from the Act in 1992 but the reference in the general register remains. Fire safety in England and Wales is regulated by the Regulatory Reform (Fire Safety) Order 2005 and in Scotland, by the Fire (Scotland) Act 2005 and the Fire Safety (Scotland) Regulations 2006. The general register however still reflects requirements of earlier fire safety legislation.

*Proposed change to the legislation:*

31. Our amendments would remove the general register requirements by repealing sections 140 and 122(7) of the FA and revoking the Factories Act (General Register) Order 1973. They would also repeal the interpretation at section 176(1) and references to “general register” in certain other sections of the FA, as set out in the draft Statutory Instrument (Annex C).

***Gasholders and the general register – section 39***

32. Places where gasholders are located are treated as factories for the purposes of the FA. Section 39 of the FA requires those who operate or occupy gasholder premises to properly maintain any gasholder and arrange for a competent person to thoroughly examine it once in two years.
33. The Gasholders (Record of Examinations) Order 1938 (SI 1938/598) sets out the details and other information which must be included in each record of examination.
34. The FA requires the record of each examination be entered in or attached to the general register.
35. The proposed abolition of the general register will require some other provision for the retention of these records, which are still relevant for health and safety purposes.
36. In practice this will simply require the gasholder owner or occupier to keep the same record and make it available for inspection.

*Proposed change to the legislation:*

37. We would modify section 39(2), requiring the record of examination to simply be “kept available for inspection”.

***References to any other registers***

38. The Employment of Women, Young Persons and Children Act 1920 (EWYPCA) also contains a reference to the general register and requires an employer to keep a register of the name and age of any person under 16 employed in industrial premises. In practice this is likely to be a person who has passed school leaving age and is therefore no longer a “child”<sup>3</sup> but who

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<sup>3</sup> The EWYPCA Act provides that no child can be employed in any industrial undertaking (section 1(1)).

has not yet turned 16. The EWYPCA applies the FA's provisions on keeping registers to the register of persons under 16.

39. Although we propose to remove references to the general register in the FA, our amendment to section 141 of the FA will insert a reference to "any register kept for the purposes" of the EWYPCA. This will ensure the continuation of the existing obligation on employers under the EWYPCA, to keep and maintain the register of persons under 16 in the way the FA specifies.

## Annex C – Draft Statutory Instrument

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### DRAFT STATUTORY INSTRUMENTS

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2008 No.

## HEALTH AND SAFETY

### Factories Act 1961 and Offices, Shops and Railway Premises Act 1963 (Repeals and Modifications) Regulations [2009]

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	***

The Secretary of State makes these regulations in exercise of the powers conferred by section 15(1) and (3)(a) of the Health and Safety at Work etc Act 1974 <sup>(a)</sup>.

This regulations give effect without modifications to proposals submitted to the Secretary of State by the Health and Safety Executive under section 11(3) of that Act (after carrying out the consultation required by section 50(3) of that Act):

#### Citation and commencement

1. These Regulations may be cited as the Factories Act 1961 and Office, Shops and Railway Premises Act 1963 (Repeals and Modifications) Regulations 2009 and shall come into force on [ ] (*referred to in these regulations as “the commencement date”*).

#### Repeal of certain notification requirements

2. —(1) Section 137 (notice of occupation of factory and use of mechanical power) of the Factories Act 1961<sup>(b)</sup> and section 49 (notification of fact of employment of certain persons) of the Offices, Shops and Railway Premises Act 1963<sup>(c)</sup> (“the 1963 Act”) are repealed.

(2) The Notification of Employment of Persons Order 1964<sup>(d)</sup> (which relates to notices required by section 49 of the 1963 Act) is revoked.

(3) The repeal of section 137 of the 1963 Act by this regulation terminates the obligation of any person-

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<sup>(a)</sup> 1974 c.37; sections 15(1) and 50(3) were amended by the Employment Protection Act 1975 (c.71), section 116, schedule 15, paragraph 6 and 16(3) respectively; sections 11(3) and 50(3) were amended by S.I. 2008/960.

<sup>(b)</sup> 1961 c.34.

<sup>(c)</sup> 1963 c.41.

<sup>(d)</sup> S.I. 1964/533.

- (a) to wait for at least one month before doing anything mentioned in subsections (1) or (2) of that section after serving a notice under that section within the period of one month ending with the commencement date;
- (b) to serve a notice after taking over a factory as mentioned in subsection (3) of that section within the period of one month ending with the commencement date.

**Abolition of requirement to keep general registers**

3. —(1) Section 140 (duties to keep and to make entries in general registers and to provide extracts on request) of The Factories Act 1961(c) is repealed.

(2) In section 141 (preservation of registers and records) of that Act for “the general register and every other register” substitute “any register”.

(3) The repeal by this regulation of section 140 of that Act does not affect subsection (3) of that section in its application to a register required to be kept under the Employment of Women, Young Persons and Children’s Act 1920<sup>(a)</sup>.

(4) The reference to a register in section 141 of that Act as amended by paragraph (2) does not include a general register previously required by that section to be kept and preserved unless it contains a record that was entered in or attached to the register in pursuance of section 39(2) (record of gasholder examinations) within the period of two years ending with the commencement date.

(5) In the case of a general register containing such a record, section 141 of that Act is to be read as requiring the record to be preserved and kept available for inspection for at least two years after the date of the last record entered in or attached to the register.

**Amendment, repeals and revocation consequential on regulation 4**

4. — (1) In section 39(2) (precautions as to water-sealed gasholders) of the Factories Act 1961(c for “entered in or attached to the general register” substitute “kept available for inspection.”

(2) The following provisions of that Act are repealed-

- (a) section 122(7)(meaning of “general register” in relation to the application of the Act parts of buildings let off as separate factories);
- (b) in sections 125(2)(j), 126(2)(j) and 127(2)(j) (application of provisions relating to general registers to things other than factories), the words “general registers (so far as applicable)”;
- (c) in section 127(5) () the word “general”;
- (d) in section 176(1) (interpretation), the definition of “general register”.

(3) The Factories Act General Register Order 1973<sup>(b)</sup> (which relates to general registers kept under the Factories Act 1961) is revoked.

Name  
Parliamentary Under Secretary of State  
Department

Date

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Factories Act 1961 and the Offices, Shops and Railway Premises Act 1963. The principal purpose of these Regulations is to remove the requirement for notification of occupation of a factory and offices, shop and railway premises under the respective Acts. It also removes the requirement to keep a general register under the 1961 Act.

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<sup>(a)</sup> 1920 c.65.

<sup>(b)</sup> S.I. 1973/8.

## **Annex D – List of persons and organisations consulted**

### ***Government Departments and Non-Departmental Public Bodies***

Business Link  
Central Office of Information  
Civil Aviation Authority  
Department for Business, Enterprise and Regulatory Reform  
Department for Children, Schools and Families  
Department for Communities and Local Government  
Department for Constitutional Affairs  
Department for Culture, Media and Sport  
Department for Education and Skills  
Department for Environment, Food and Rural Affairs  
Department for International Development  
Department for Social Justice and Local Government  
Department for Transport  
Department for Work and Pensions  
Department of Health  
Food Standards Agency  
Foreign and Commonwealth Office  
HM Prison Service  
HM Revenue and Customs  
HM Treasury  
Home Office  
Information Commissioner  
Law Commission for England and Wales  
Ministry of Defence  
Northern Ireland Office  
Office of Government Commerce  
Office of Rail Regulation  
Office of the Children’s Commissioner  
Risk and Regulation Advisory Council  
Scotland Office  
Scottish Law Commission  
Wales Office

### ***Devolved and other Administrations***

Scottish Executive  
Welsh Assembly Government - Department for Social Justice and Local Government; Transport Wales  
Crown Dependencies (Channel Islands, Isle of Man) - *for information*  
Gibraltar - *for information*  
Northern Ireland Executive - Health and Safety Executive Northern Ireland - *for information*  
Health and Safety Authority, Republic of Ireland – *for information*

### ***Local Government Organisations***

Local authorities in England, Wales and Scotland  
Mayor of London  
Convention of Scottish Local Authorities  
Local Authorities Coordinators of Regulatory Services  
Local Government Association  
National Association of Local Councils  
Welsh Local Government Association

### ***Employers’ Organisations and Small Firms’ Representatives***

Alliance of Independent Retailers  
British Chambers of Commerce  
Confederation of British Industry  
EEF - The Manufacturers’ Organisation  
Federation of Small Businesses  
Institute of Directors

### ***Trade Unions, Employees’ Organisations and Professional Associations***

BACM-TEAM  
Chartered Society of Physiotherapy  
Council of Civil Service Unions  
Educational Institute of Scotland  
European Trade Union Institute for Research, Education and Health and Safety  
National Association of Head Teachers

Offshore Industry Liaison Committee  
Royal College of Nursing  
Scottish Trades Union Congress  
Trades Union Congress  
Union of Democratic Mineworkers

***Trade and Other Associations***

Agricultural Industries Confederation  
Airport Operators' Association (AOA)  
Association of British Insurers  
Association of Building Cleaning Direct Service Providers  
Association of Electricity Producers  
Association of School and College Leaders (ASCL)  
Association of the British Pharmaceutical Industry  
Automated Material Handling System Association  
Board of Airline Representatives in the UK Ltd  
British Aerosol Manufacturers' Association  
British Aggregates Association  
British Association of Chemical Specialities  
British Association of Leisure Parks, Piers and Attractions  
British Beer and Pub Association  
British Ceramic Confederation  
British Chemical Engineering Contractors Association  
British Cleaning Council  
British Coatings Federation  
British Compressed Gases Association  
British Drilling Association  
British Fireworks Association  
British Glass  
British Hospitality Association  
British Industrial Truck Association  
British Institute of Cleaning Science  
British Institute of Innkeeping  
British Pest Control Association  
British Pyrotechnicians Association  
British Retail Consortium

British Rig Owners' Association  
Cast Metal Federation  
Chemical and Industrial Consultants Association  
Chemical Business Association  
Chemical Industries Association  
CoalPro  
Confederation of Paper Industries  
Construction Confederation  
Cosmetic Toiletry & Perfumery Association Ltd  
Electrical Contractors' Association  
Energy Institute  
Energy Networks Association  
Engineering Construction Industry Association  
Engineering Employers Federation  
Engineering Equipment and Material Users Association  
Environmental Services Association  
Farmers Union of Wales  
Federation of Independent Mines  
Federation of Master Builders  
Federation of Petroleum Suppliers  
Food and Drink Federation  
Food Storage & Distribution Federation  
Fork Lift Truck Association  
Freight Transport Association  
Hotel and Catering International Management Association  
Industrial Packaging Association  
Institute of Explosives Engineers  
Institution of Chemical Engineers  
International Association of Drilling Contractors  
International Marine Contractors' Association  
Law Society of England and Wales  
Law Society of Scotland  
Bar Council  
Liquid Petroleum Gas Association  
Mining Association of the UK (MAUK)  
National Association for Safety and Health in Care Services

National Association of Care Catering  
National Farmers' Union  
National Farmers' Union of Scotland  
National Federation of Demolition Contractors  
National Specialist Contractors' Council  
NHS Support Federation  
Offshore Contractors' Association  
Paper Federation of Great Britain  
Pipeline Industries Guild  
Port Skills and Safety Ltd.  
Production Services Association (PSA)  
Professional Lighting and Sound Association (PLASA)  
Quarry Products Association  
Road Haulage Association  
Royal Agricultural Society of England  
Royal Highland and Agricultural Society of Scotland  
Showmen's Guild of Great Britain  
Society of British Aerospace Companies  
Society of British Gas Industries  
Society of Chemical Industry  
Solvents Industry Association  
Tank Storage Association  
Timber Trade Federation  
UK Flight Safety Committee  
UK Lubricants Association  
UK Offshore Operators' Association  
UK Onshore Pipeline Operators Association  
UK Petroleum Industry Association  
UK Warehousing Association  
Water UK  
Well Services Contractors' Association

#### ***Police and Emergency Services Bodies***

Association of Chief Police Officers of England, Wales and Northern Ireland  
Association of Chief Police Officers in Scotland  
Association of Scottish Police Superintendents

Chief and Assistant Chief Fire Officers' Association

Police Federation of England and Wales

Police Superintendents' Association of England and Wales

Scottish Police Federation

British Transport Police

#### ***Health and Safety Specialists***

Association of Port Health Authorities

Association of Occupational Health Nurse Practitioners (UK)

British Occupational Hygiene Society

British Safety Council

Chartered Institute of Environmental Health

Faculty of Occupational Medicine

Institute of Risk Management

Institution of Occupational Safety and Health

International Institute of Risk and Safety Management

Royal Environmental Health Institute of Scotland

Royal Institute of Public Health and Hygiene

Royal Society for the Prevention of Accidents

Royal Society for the Promotion of Health

Safety Assessment Federation

Society of Occupational Medicine

The Ergonomics Society

#### ***Academic Institutions***

University of Birmingham – Institute of Occupational and Environmental Medicine

University of Manchester – Centre for Occupational and Environmental Health

University of Newcastle-upon-Tyne – School of Population and Health Sciences

University of Sheffield – Institute of Work Psychology

University of Warwick Business School

#### ***People Management and Related Organisations***

Chartered Institute of Personnel and Development

Chartered Management Institute  
Involvement and Participation Association  
The Work Foundation

***Gas industry***

National Grid Gas PLC  
Northern Gas Networks Ltd  
Scotia Gas Networks PLC  
Wales & West Utilities Ltd

***Rail and associated organisations***

Angel Trains Ltd  
Arriva plc  
Arriva Trains Cross Country Ltd  
Arriva Trains Wales Ltd  
Associated British Ports  
Association of Train Operating Companies (ATOC)  
Association of Transport Co-ordinating Officers  
Bombardier Transportation UK Ltd  
British International Freight Association  
c2c Rail Ltd  
Cambridgeshire Guided Busway  
Carillion Plc  
Centro  
Chiltern Railways Company Ltd  
Cholsey and Wallingford Railway Preservation Society  
Civil Engineering Contractors Association  
Confederation of Passenger Transport UK  
Cotswold Rail Engineering Ltd  
Cross London Rail Links Limited  
Direct Rail Services Ltd  
Disabled Persons Transport Advisory Committee  
Docklands Light Railway Limited  
East London Line Project  
East Midlands Trains Limited  
English Welsh & Scottish Railway Limited  
English Welsh & Scottish Railway Limited  
ERM Risk

Eurostar (UK) Ltd  
Eurotunnel PLC  
Fairgrounds Association of Great Britain  
Fastline Limited  
First Capital Connect Ltd  
First GBRf  
First Group Plc  
First ScotRail Limited  
First TransPennine Express  
Freight Europe (UK) Limited  
Freight Transport Association  
Freightliner Heavy Haul Limited  
Freightliner Ltd  
Grand Central Railway Company Ltd  
Greater Manchester Passenger Transport Executive  
Heathrow Express  
Heritage Railway Association  
Hitachi Europe Ltd  
Hull Trains Company Ltd  
Hutchison Ports (UK) Limited  
Infrastructure Safety Liaison Group  
Institution of Civil Engineers  
The Institution of Engineering and Technology  
Institution of Mechanical Engineers  
Institution of Railway Operators  
Island Line Limited  
Jarvis Rail  
JPM Parry & Associates Ltd  
Laing Rail Limited  
Light Rail Transit Association  
Light Rapid Transit Forum  
London & Continental Railways Limited  
London Midland  
London Overground Rail Operations Ltd  
London Underground Ltd  
Merseyrail  
Merseytravel  
Metro  
National Express East Anglia  
National Express East Coast

National Express Group PLC  
National Piers Society  
NedRailways (UK)  
Network Rail Infrastructure Limited  
Network Rail  
ALSTOM Transport UK  
Nexus  
Northern Rail Limited  
Nottingham Tram Consortium  
PACTS  
Passenger Focus  
Porterbrook Leasing Company Ltd  
Ports Skills and Safety  
Pre Metro Operations Limited  
Rail Freight Group  
Rail Plant Association  
Rail Safety & Standards Board  
Railway Industry Association  
Schofield Lothian  
Siemens Transportation Systems Ltd  
South West Trains  
South Yorkshire PTE  
Southeastern  
Southern  
Stagecoach Group plc  
Stagecoach Rail Division

Strathclyde Partnership for Transport  
The Chartered Institute of Logistics & Transport  
The Go-Ahead Group plc  
Transport for London, London Rail  
Transport Salaried Staffs' Association  
Travel Midland Metro  
Tyne & Wear Metro  
UK Major Ports Group Limited  
UKTram Limited  
Union Railways (North) Limited  
Venice Simplon Orient Express Ltd  
Virgin Trains Limited  
Wensleydale Railway Plc  
West Coast Railway Company Ltd

***Other Organisations***

British Medical Association  
British Standards Institute  
Greater Manchester Hazards Centre  
London Hazards Centre  
People 1st  
The Consumers Association  
Trading Standards Institute  
Centre for Corporate Accountability

*We have tried to make this list comprehensive and relevant, whilst focussing on the organisations that we believe will have an active interest in the issues explored in this Consultative Document. If there is an organisation that you think we have overlooked and would like us to consult directly please let us know by contacting us at [enforcementpolicy@hse.gsi.gov.uk](mailto:enforcementpolicy@hse.gsi.gov.uk) or using the address on the front of this Consultative Document.*

## Annex E – Response form

### Removing forms and record keeping requirements

#### Completing this Response Form

The easiest and quickest way to complete this form is on line by following the links at [www.hse.gov.uk/consult](http://www.hse.gov.uk/consult). You can move between questions by pressing the 'Tab' / 'Shift-Tab' or 'Page Up' / 'Page Down' keys or by clicking on the grey boxes with a mouse. Please type your replies within the rectangular grey boxes, or click on the square grey boxes to select an answer (e.g. 'Yes' or 'No').

#### Part 1: Your details:

**Name:**

**Job title:**

**Organisation:**

**Street address:**

**Town / City:**

**Postcode:**

**Telephone:**

**Fax:**

**Email:**

**Number of employees in your organisation:**

Choose one option:

Not Applicable	<input type="checkbox"/>
1 to 9	<input type="checkbox"/>
10 to 49	<input type="checkbox"/>
50 to 249	<input type="checkbox"/>

250 to 1000	<input type="checkbox"/>
1000+	<input type="checkbox"/>
Self employed	<input type="checkbox"/>

**Business sector:**

Choose one option:

Agriculture Hunting and Forestry	<input type="checkbox"/>
Charity	<input type="checkbox"/>
Computer Software; Hardware and Consultancy	<input type="checkbox"/>
Construction	<input type="checkbox"/>
Education	<input type="checkbox"/>
Electricity, Gas and Water supply	<input type="checkbox"/>
Finance	<input type="checkbox"/>
Fishing	<input type="checkbox"/>
Health and Social Work	<input type="checkbox"/>
Hotels and Restaurants	<input type="checkbox"/>
Manufacturing	<input type="checkbox"/>
Mining and Quarrying	<input type="checkbox"/>

Property	<input type="checkbox"/>
Public Administration and Defence	<input type="checkbox"/>
Research and Development	<input type="checkbox"/>
Refuse; Sewage and Sanitation	<input type="checkbox"/>
Transport, Storage and Communication	<input type="checkbox"/>
Wholesale and Retail Trade	<input type="checkbox"/>
Leisure Sport and Recreation	<input type="checkbox"/>
Other Business Activities	<input type="checkbox"/>
Other Service Activities	<input type="checkbox"/>
Other	<input type="checkbox"/>
Not Applicable	<input type="checkbox"/>

**Representation - Are you responding as:**

Choose one option:

A member of the public

A representative of an industry association

An employer

A representative of a trade union

A local authority employee / councillor

A representative of a charitable / voluntary organisation

Other (please specify)

**If you chose 'Other' please specify:**

**Confidentiality**

Please put a cross in the box if you do **not** wish details of your comments to be available to the public. (NB if you do not put a cross in the box they will be made public. This takes precedence over any automatic notes on e-mails that indicate that the contents are confidential.)

**Part 2: Your response** – *Note that you can give additional comments at Question 14 if you would like to enlarge or clarify any of your responses to the following questions.*

<b>Q1</b>	Do you agree with our proposal to abolish the <b>factories</b> notification requirement?
-----------	--

**Yes** *Please go to **Question 4***

**No** *Please answer **Questions 2 and 3***

<b>Q2</b>	For what purpose/s should we keep the <b>factories</b> notification requirement?
-----------	--

<b>Q3</b>	How would keeping the <b>factories</b> notification requirement benefit health and safety?
-----------	--

<b>Q4</b>	Do you agree with our proposal to abolish the <b>offices and shops</b> notification requirement?
-----------	--

**Yes** *Please go to **Question 7***

**No** *Please answer **Questions 5 and 6***

<b>Q5</b>	For what purpose/s should we keep the <b>offices and shops</b> notification requirement?
-----------	--

<b>Q6</b>	How would keeping the <b>offices and shops</b> notification requirement benefit health and safety?
-----------	--

<b>Q7</b>	Do you agree with our proposal to abolish the <b>railway premises</b> notification requirement?
-----------	---

**Yes** Please go to *Question 10*

**No** Please go to *Question 8 and 9*

<b>Q8</b>	For what purpose/s should we keep the <b>railway premises</b> notification requirement?
-----------	---

<b>Q9</b>	How would keeping the <b>railway premises</b> notification requirement benefit health and safety?
-----------	---

<b>Q10</b>	Do you agree with our proposal to abolish the <b>general register</b> requirement?
------------	--

**Yes** Please go to *Question 13*

**No** Please go to *Questions 11 and 12*

<b>Q11</b>	For what purpose/s should we keep the <b>general register</b> requirement?
<b>Q12</b>	How would keeping the <b>general register</b> requirement benefit health and safety?

<b>Q13</b>	Have we missed any impacts that our proposals would have on <b>small businesses</b> ? Please provide details.
------------	--

<b>Q14</b>	Please provide any <b>additional comments</b> that you may have on these proposals.
------------	---

**Part 3: Impact assessment**

<b>Q15</b>	HSE would welcome comments on the assumptions made in compiling the Impact Assessment and on its conclusions. For example, are there any costs or benefits we have not identified?
------------	--

**Part 4: This consultation exercise**

<b>Q16</b>	In your view, how well does this Consultative Document represent the policy issues involved in this matter? <input type="checkbox"/> Well <input type="checkbox"/> Adequately <input type="checkbox"/> Poorly
------------	---

<b>Q17</b>	Is there anything you particularly liked or disliked about this consultation exercise?
------------	--

You can find the electronic version of the form by following the links at:  
<http://www.hse.gov.uk/consult/condocs/cd219.htm>

If you don't wish to complete this form on line, please detach and complete it in block capitals and send it to:

Peter McKerrow  
Legislative Framework Team  
Health and Safety Executive  
2 Southwark Bridge  
London SE1 9HS  
Tel: 020 7717 6977 / Fax: 020 7717 6394

# Removing forms and record keeping requirements

The full text of this and other  
Consultative Documents can be viewed  
and downloaded from the  
Health and Safety Executive web site on the  
internet: [www.hse.gov.uk/consult/index.htm](http://www.hse.gov.uk/consult/index.htm)

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