

Title: Amendment to the Personal Protective Equipment at Work Regulations 1992 IA No: RPC Reference No: Lead department or agency: Health and Safety Executive Other departments or agencies: N/A	Impact Assessment (IA)
	Date: June 2021
	Stage: Development/Options
	Source of intervention: Domestic
	Type of measure: Secondary legislation
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Summary: Intervention and Options	RPC Opinion: RPC Opinion Status
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Cost of Preferred (or more likely) Option (in 2019 prices)

Total Net Present Social Value	Business Net Present Value	Net cost to business per year	Business Impact Target Status
£m	£m	£m	Non-qualifying regulatory provision

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

In November 2020, a judgment was handed down in the judicial review action in the High Court brought by the Independent Workers Union of Great Britain (IWGB) against the Secretaries of State for Department for Business, Energy and Industrial Strategy (BEIS) and the Department for Work and Pension (DWP). IWGB claimed that the government had failed to properly transpose the EU Directive 89/391/EEC¹ (“the Framework Directive”) and EU Directive 89/656/EEC² of 30 November 1989 (“the Personal Protective Equipment Directive”) into UK law.

The Framework Directive sets out the minimum standards for health and safety through a series of general principles, and the Personal Protective Equipment Directive (“PPE Directive”) sets out the minimum health and safety requirements for the use of personal protective equipment in the workplace for workers.

The UK implemented the PPE Directive through the Personal Protective Equipment at Work Regulations 1992³ (“PPER”) which places duties on employers to their employees in regard to PPE. IWGB argued that the PPE Directive required these duties to be extended to ‘workers’, who were a majority of IWGB’s membership, not just ‘employees’.

In consultation with the Secretary of State for BEIS, the Secretary of State for DWP chose not to appeal the judgment. Therefore, the Health and Safety Executive (HSE) is making amendments to the PPER in order to ensure the PPE Directive is adequately transposed. This means employers will have a duty to provide limb (b) workers with the same health and safety protections in terms of PPE as they do currently for employees.

¹ Directive 89/391/EEC - OSH "Framework Directive" - Safety and health at work - EU-OSHA (europa.eu)

² Directive 89/656/EEC - use of personal protective equipment - Safety and health at work - EU-OSHA (europa.eu)

³ The Personal Protective Equipment at Work Regulations 1992 (legislation.gov.uk)

What are the policy objectives of the action or intervention and the intended effects?

The court judgment found the UK Government had failed to fully transpose the PPE Directive in PPER as they did not extend PPE protections to workers. By amending the PPER to provide limb (b) workers with rights to PPE, where it is necessary, the government will ensure that the PPE Directive has been transposed to align with the judgment. Employers' duties include the assessment and provision of equipment, ensuring PPE is compatible, the maintenance and replacement of PPE and duties around the information, instruction, training and use of PPE.

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

Option 1 – Do nothing. The 'do nothing' option is the baseline. This option is not preferred as the requirement to amend the PPER arises from a judicial review.

Option 2 – Amend the PPER, such that they extend the duties on employers by the regulations to limb (b) workers, as well as employees. This is the preferred option as it aligns with the High Court judgment and ensures the PPE Directive is adequately transposed.

Is this measure likely to impact on international trade and investment?	No			
Are any of these organisations in scope?	Micro Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded:		Non-traded:	
Will the policy be reviewed? Yes If applicable, set review date: Month/2026				

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

Signed by

HSE Chief Economist: Kyran Donald

Date: 9th June 2021

Summary: Analysis & Evidence

Policy Option 1

Description: Do Nothing

FULL ECONOMIC ASSESSMENT

Price Base Year 2020	PV Base Year 2021	Time Period 10 Years	Net Benefit (Present Value (PV)) (£m)			
			Low: Optional	High: Optional	Best Estimate:	
COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)		Total Cost (Present Value)	
Low	Optional		Optional		Optional	
High	Optional		Optional		Optional	
Best Estimate						
Description and scale of key monetised costs by 'main affected groups'						
Not applicable. This is the baseline case against which all other options are compared.						
Other key non-monetised costs by 'main affected groups'						
Not applicable. This is the baseline case against which all other options are compared.						
BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)		Total Benefit (Present Value)	
Low	Optional		Optional		Optional	
High	Optional		Optional		Optional	
Best Estimate						
Description and scale of key monetised benefits by 'main affected groups'						
Not applicable. This is the baseline case against which all other options are compared.						
Other key non-monetised benefits by 'main affected groups'						
Not applicable. This is the baseline case against which all other options are compared.						
Key assumptions/sensitivities/risks					Discount rate	3.5%
Not applicable						

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual)			Score for Business Impact Target
Costs: Not applicable	Benefits: Not applicable	Net:	

Summary: Analysis & Evidence

Policy Option 2

Description: Amend the Personal Protective Equipment at Work Regulations 1992 to extend PPE protections to workers.

FULL ECONOMIC ASSESSMENT

Price Base Year 2020	PV Base Year 2021	Time Period 10 Years	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate:

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

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

Costs have not been quantified or monetised in this consultation stage IA. Further evidence will be collected during consultation and the IA will be finalised.

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

Not applicable

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

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

Benefits have not been fully explored in this consultation stage IA. Further evidence will be collected during consultation and the IA will be finalised.

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

Not applicable

Key assumptions/sensitivities/risks	Discount rate
Further evidence will be sought during consultation, including: the sectors where workers are found and the size of businesses; the types of PPE that workers require and how often it is replaced; cleaning, maintenance and storage costs; and the costs of training.	

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual)			Score for Business Impact Target
Costs: Not quantified	Benefits: Not quantified	Net:	

Evidence Base for Cost Benefit analysis of amendments to the Personal Protective Equipment at Work Regulations 1992

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A. Problem under consideration and rationale for intervention

1. The Personal Protective Equipment at Work Regulations 1992¹ (“the PPER”) transposed the EU Directive 89/656/EEC of 30 November 1989² (“the PPE Directive”) into UK law. At that time, the regulations were made to provide Personal Protective Equipment (PPE) protections to employees as the majority of people were employed under employment contracts. The nature of the workforce has considerably changed since with the rise of limb (b) workers.
2. Limb (b) workers tend to carry out temporary or project-based work and are hired to complete a particular task or for a certain period of time. These types of arrangements are often called alternative or non-standard work arrangements. Limb (b) workers can sometimes work in the gig economy and examples include certain couriers and taxi drivers, or construction workers³.
3. In 2020, a judicial review was brought by the Independent Workers of Great Britain Union (IWGB) against the UK government. IWGB claimed that by not including workers in scope of the PPER, the government had not adequately implemented the PPE Directive in UK law. The PPER place duties on employers in relation to the provision of personal protective equipment, along with associated duties, such as storage, maintenance and training. PPE includes equipment such as safety boots, goggles, earplugs and gloves.
4. The court found in favour of IWGB on this point and concluded that the PPE Directive had not been adequately transposed by the UK Government as the obligations in relation to PPE only applied to employers with respect to their employees and not limb (b) workers. HSE is therefore making amendments to the PPER in order to align with the court’s judgment and extend the scope of the current regulations so that they apply employers’ duties towards limb (b) workers as well as employees.
5. Worker is not currently defined in the PPER, and so the amending regulations will adopt the definition of worker from s230(3) of the Employment Rights Act 1996 (ERA 1996)⁴;
“..an individual who has entered into or works under– (a) a contract of employment; or (b) any other contract, whether express or implied and (if it is express) whether oral or in writing, whereby the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer or any profession or business undertaking carried on by the individual”
6. This ensures the PPER, as amended, will be consistent with references to workers in employment legislation. In particular it will be aligned with the ERA 1996 (as above) and with regulations such as the Working Time Regulations 1998 in the definition of worker.
7. Generally, limb (b) workers:
 - carry out casual or irregular work for a one or a number of organisation(s),
 - receive holiday pay, but not other employment rights such as the minimum period of statutory notice, after one month of continuous service
 - only carry out work if they choose to

¹ [The Personal Protective Equipment at Work Regulations 1992 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

² [Directive 89/656/EEC - use of personal protective equipment - Safety and health at work - EU-OSHA \(europa.eu\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A89656EEC)

³ provided they do not work under an employment contract but work under any other contract whereby they undertake to personally perform work or services for the other party to the contract and satisfy the requirements of the limb (b) worker status.

⁴ [Employment Rights Act 1996 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

- have a contract or other arrangement to do work or services personally for a reward (the contract doesn't have to be written) and they only have a limited right to send someone else to do the work, for example, swapping shifts with someone on a pre-approved list (subcontract)
 - are not in business for themselves (they do not advertise services directly to customers who can then also book their services directly)
8. In ERA 1996, an 'employee' is classed as a worker, under limb a, as they work under an employment contract. They also have additional rights and responsibilities as an employee that do not apply to limb (b) workers such as Statutory Sick Pay.
 9. The regulations will ensure that those captured by the definition are provided the same PPE protections as those in contracted employment, and that employers fulfil their obligations which are described in paragraphs 15-24 below. The amendments to the PPER will potentially affect every industry sector in which employers engage limb (b) workers rather than employees only. This might include the transport sector, construction, health and social care, agriculture and manufacturing.

B. Rationale and evidence to justify the level of analysis used in the IA (proportionality approach)

10. The UK government made the decision not to appeal the court judgment and is aligning with the judgment by amending the PPER to bring limb (b) workers into scope. Therefore, this analysis is not required to choose between different options, but to place an indicative estimate on the cost of amending the PPER to include limb (b) workers. This has been taken into account when determining the proportionality of the evidence collection as a decision to amend the PPER has been made and is not for consideration for the purposes of this IA.
11. In order to understand the costs associated with the amendment to the PPER, HSE commissioned a survey of over 4000 adults in Great Britain. Despite the large response rate, limb (b) workers make up only a small proportion of the total workforce, and so there are only a small number of limb (b) workers who have been identified in the survey for further analysis. This creates uncertainties in the data and work is required during consultation to verify data and to gather new data. Given the purpose of this IA discussed in paragraph 10, this level of analysis thought to be sufficient and proportionate.

C. Description of options considered

12. **Option 1 – Do nothing.** The 'do nothing' option is the baseline, with zero costs and benefits. This is not a valid option as the requirement to amend the PPER arises from a judicial review and doing nothing will result in non-alignment with a High Court judgment.
13. **Option 2 – Amend the PPER,** such that they extend the duties placed on employers by the regulations to limb (b) workers, as well as employees. This is the preferred option as it aligns with the High Court judgment in adequately transposing the PPE Directive.

HSE's preferred Option

14. Option 2 is HSE's preferred option, as it enables the adequate transposition of the PPE Directive and ensures the government aligns with the court judgment.

D. Policy objective

15. The objective is to amend the PPER to place duties on employers in respect to limb (b) workers as well as employees and ensure limb (b) workers have the same rights in respect to PPE as employees. This will comply with the court judgment and ensure that the PPE Directive is adequately transposed. The amendments will result in limb (b) workers being provided specific health and safety protection in respect of the following requirements of the PPER:
16. Regulation 4 relates to the provision of suitable PPE to an employee by their employer. This will be extended to include limb (b) workers.
17. Regulation 5 is in relation to ensuring that where two (or more) pieces of PPE are worn simultaneously, they are compatible with each other. This duty is currently placed on the employer to their employees and will be extended to include limb (b) workers.
18. Regulation 6 specifies that before choosing any personal protective equipment an employer or self employed person shall ensure an assessment is made to determine whether the PPE he intends will be provided is suitable. The Management of Health and Safety at Work Regulations 1999⁵ (“the MHSW Regulations”), provision 3 (1) requires every employer to make a suitable and sufficient assessment of the risks to health and safety of his (a) employees and (b) persons not in his employment arising out of or in connection with the conduct of his undertaking (which captures limb (b) workers). Whilst the MHSW Regulations already require employers to assess risk and identify what type of PPE limb (b) workers require, the assessment required under PPER adds a level of detail by requiring information about the suitability of that PPE for the task. An example of suitability could be whether the PPE complies with a particular British / International standard. Employers will now have to ensure the suitability assessment is performed for their limb (b) workers’ PPE.
19. Regulation 7 requires that employers shall ensure that any PPE provided to their employees is maintained, or cleaned/replaced, as needed. Employers will now have this duty for their limb (b) workers’ PPE.
20. Regulation 8 refers to accommodation for PPE, where it can be damaged or affected by, for example, chemicals, sunlight, humidity etc. Employers will now have to provide accommodation for their limb (b) workers’ PPE.
21. Regulation 9 requires that the employer ensures that suitable information, instruction and training is provided to their employees who are required to wear PPE. This duty will be extended, such that employers will now need to do this for their limb (b) workers also.
22. Regulation 10 relates to employers ensuring that PPE that is provided to their employees is properly used. This duty will be extended to ensure that PPE provided to limb (b) workers will be properly used.
23. Regulation 11 places a duty on employees to report the loss or defect of PPE that has been provided to them. This will now extend to a duty being placed on persons who are limb (b) workers.
24. Section 9 of the Health and Safety at Work Act 1974 is the general duty not to charge employees for things done in pursuance of specific requirements of the relevant statutory provisions. This applies to requirements under the PPER as it is a relevant statutory provision. The amendments to PPER will modify how this duty applies to the PPER ensure PPE provided to limb (b) workers is also free of charge.

⁵ [The Management of Health and Safety at Work Regulations 1999 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

E. Summary and preferred option with description of implementation plan

25. The preferred option will be given effect via secondary legislation, by amending the existing PPER. This will widen the scope of the legislation so that employers' duties to employees will also extend to limb (b) workers, achieving the policy objective and aligning with the court judgment.
26. HSE and Local Authorities (via Environmental Health Officers) are the current enforcing authorities for the PPER in the premises allocated to them by the Health & Safety (Enforcing Authority) Regulations 1998. Typically, this means that HSE are the enforcing authority for the perceived higher risk premises, such as manufacturing, construction, agriculture and food processing whilst Local Authorities have responsibility for offices, shops and warehouses, for example. This is simplified in the A-Z on the HSE website: <https://www.hse.gov.uk/foi/internalops/og/og-00073-appendix1.htm>.
27. Enforcement decisions relating to the application of the amending legislation will continue to be made according to HSE's enforcement management model, enforcement policy statement, regulators guide and the code for crown prosecutors.
28. HSE Inspectors are responsible for enforcing the PPER during inspections and make sure employers are complying with the regulations. Once the scope of the regulations is extended to limb (b) workers, Inspectors will need to ensure that PPE is provided, stored and maintained for limb (b) workers where appropriate. They will also need to ensure limb (b) workers are given instructions and training for any PPE that is provided.
29. A significant increase in enforcement activity is not expected as a result of the widening of the scope of the legislation. HSE's internal discussions with the various sector leads have identified that the vast majority of limb (b) workers who fall into scope of the amendments will be working in areas where PPE may not be required in any case.
30. Piloting or trialling these amendments to the PPER is not appropriate as they are being made to align with a court judgment and achieve the original policy intent. Guidance will be provided to industry and stakeholders to ensure they are aware of the changes to the PPER and when they will come into effect.

F. Research undertaken to inform this IA

31. The information and evidence used to inform this impact assessment has been collected from a number of different sources:
 - A YouGov⁶ omnibus survey, with over 4000 adult respondents. A number of different questions were asked to both workers and employees to try to understand their worker status (see Appendix 1 for the questions asked to workers). These questions were designed to determine whether respondents identify with some common characteristics of limb(b) workers, including some key legal characteristics.
 - Data was collected from the British Safety Industry Federation (BSIF). The BSIF asked members to provide data on their retail pricing for PPE. These prices do not include any discounting that may take place for bulk purchases and could likely include distortions that have resulted from the COVID-19 pandemic.
 - Discussions with HSE specialists from the sectors likely to be affected about the sorts of PPE that is most commonly worn in these sectors.

⁶ You Gov is an international research data and analytics group, see [YouGov | About YouGov Company](#) for more information.

32. At the time of writing this IA, despite the efforts to gather information via the methods described above, gaps remain in our understanding of the cost impacts that the proposed changes will produce. The total estimated Net Present Value (NPV) and Equivalent Annual Net Cost to Business (EANCB) of the proposal have not been provided at this stage to avoid misleading the reader due to the uncertainties that remain. However, HSE will use the public consultation to gather further evidence and to verify the data already collected to update this IA and to provide monetary estimates of the NPV and EANCB of extending the PPER to include limb (b) workers.

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

G.1 Option 1 - Do nothing

33. This is the status quo, in other words that the PPER are not amended to extend employers duties in regards to PPE protections for their limb (b) workers. If changes are not made to the PPER, a claim could be bought by a citizen against the UK government for failure to implement EU law. Although low, there is also a potential risk of infraction proceedings being brought by the European Commission for the UK's failure to properly implement the PPE Directive. 'Do nothing' is not a valid option as the judgment forms part of UK law and is how the PPER will be interpreted by courts.
34. HSE have received Counsel advice that legislative change would be advisable for certainty for business and to ensure that health and safety rights are not litigated and interpreted on a case by case basis. Legislative change also aligns with changes made by BEIS to their legislation as a result of another aspect of the IWGB challenge. The 'Do nothing' option is included here as the baseline against which costs and benefits of the preferred option are compared.

G.2 Option 2 – amend the PPER

35. The preferred option is to bring forward amending legislation to widen the scope of the PPER to include limb (b) workers. Additional costs as a result of the changes will fall to employers who have to comply with the PPER for limb (b) workers who previously would not have been in scope of the PPER. A number of variables influence the total additional cost that will be estimated:
- a. The total number of limb (b) workers who will now fall under the PPER;
 - b. The sectors that these limb (b) workers are found in and what types of PPE they require;
 - c. Additional PPER duties for the employers that will now be applied to their limb (b) workers.
36. N.B it is assumed that there will be 100% compliance with the new requirements for employers to include limb (b) workers in the PPER. While there may be some workers who continue to have to provide their own PPE because their employer is not compliant with the law, it is not possible to predict this compliance rate with any accuracy. We therefore assume 100% compliance with the new requirements under Option 2, which will ensure costs are not underestimated. Similarly, we assume that there is 100% compliance with current legal requirements. In other words, we assume that employers currently undertake a risk assessment for limb (b) workers which would identify the PPE required and so we assume that limb (b) workers are wearing that PPE. The effect of the proposal is to shift the costs of that PPE from the limb (b) workers themselves to the employers.

37. Each of the variables a–c are analysed below in further detail.

G.2.1.a – the number of limb (b) workers in Great Britain

38. The number of limb (b) workers has been estimated using the YouGov survey which has asked a number of questions to over 4000 adults in order to determine their employment status. Appendix 1 contains the questions that have been asked to respondents and how we have used the answers to determine employment status. A total of 30% of the 4181 respondents said they were not in work before the COVID-19 lockdown measures, and a further 2% said that they didn't know whether they were in work before COVID-19.

39. Therefore, 100 % - 32% =68% of the 4,181 respondents, or around 2,800 respondents to the survey can be deduced to be in work (because they didn't say they weren't/ didn't know).⁷ Initial analysis of the survey results indicates that about 40 of these respondents answered the screening questions in Appendix 1 in the manner which would define them as limb (b) workers.⁸ This is equivalent to 1.4%. Extrapolating these results over the 31.6 million people in paid employment as of April 2021⁹, gives an estimated number of limb (b) workers in GB of around 450 thousand.¹⁰

G.2.1.b Sectors where limb (b) workers are found

40. The YouGov survey has collected data about which sectors the identified limb (b) workers are found in. A range of sectors was offered to the respondents as follows: transport, health, construction, waste and recycling, agriculture, manufacturing, other.

The sectors identified by the respondents are shown in Table 1 below.

Table 1 – Summary of sectors identified by limb (b) workers

Sector ¹¹	Percentage respondents (%)
Other	70
Health	20
Manufacturing	5
Don't Know	5

*Percentages are indicative only as based on low base size of 40 responses

41. Respondents were also asked about what type of work they do. The results of those questions are shown in

42. Table 2 below.

⁷ The total sample (4,181) was nationally representative of "All GB adults" (with quotas/ weights matching the total GB population). Therefore, the 30% of respondents 'not in work' will include adults who are not seeking work (e.g. retirees) as well as the unemployed.

⁸ While the screening questions in Appendix 1 indicate some common characteristics of limb(b) workers, including some key legal characteristics, some workers may not know their own legal status, or their legal status may not translate into what they experience. For example, some workers may consider themselves to be 'in business for themselves', but if they answered our screening question in such a way they would not be counted as a limb(b) worker. This possibility will be explored further during consultation. In this consultation stage IA, we assume that respondents accurately indicate their legal characteristics.

⁹ Data obtained from the Office of National Statistics, Regional analysis for GB estimates : Available at: [KS1 Key statistics for all regions - Office for National Statistics \(Jan – March\)](#)

¹⁰ As mentioned in footnote 7, the total sample is representative of "All GB adults". This does not mean that our sample of around 2,800 pre-COVID workers is representative of all people in work pre-COVID. We therefore acknowledge the potential for some sample selection bias in our estimates.

¹¹ The sectors reported by survey respondents are not wholly in line with those that HSE anticipated would contain limb(b) workers, see paragraph 2 . The sectors where limb (b) workers are found and the type of work they do will be explored further at consultation.

Table 2 – Summary of work type by limb (b) workers

Type of work	Percentage respondents (%)
Other	48
Professional work (e.g. consultancy, legal advice, accounting services etc.)	20
Administrative work (e.g. data entry, 'click work', transcription etc.)	10
Skilled manual work (e.g. plumbing, building, electrics, carpentry etc.)	7.5
Personal services (e.g. cleaning, moving, DIY tasks etc.)	5
Creative or IT work (e.g. writing, graphic design, web development etc.)	5
Delivery or courier services	2.5
Don't know/ can't recall	2.5
Driving or taxi services (e.g. Uber etc.)	0

*Percentages are indicative only as based on low base size of 40 responses

43. The sectors where limb (b) workers are found is important because it may help estimate the types of PPE that those limb (b) workers will need and which employers will have to start providing it. The vast majority of limb (b) worker respondents have said they work in 'other' sectors not specified in the survey (70%) and that the type of work they do is 'other' (48%). The sector analysis relates to a small sample of 40 respondents (see paragraph 39) which is a very small sample and so introduces uncertainty to our analysis.

G.2.1.c – additional PPER duties for the employer

44. The duties that are placed on employers by the PPER are as follows:

- I. Employers must ensure suitable PPE is provided to their employees and limb (b) workers who may be exposed to a risk to their health and safety while at work, unless that risk is already controlled by other means;
- II. Employers should provide PPE free of charge to employees and limb (b) workers¹²

¹² This duty is placed on employers in the Health and Safety at Work Act 1974 rather than the PPER

- III. Before providing the PPE, the employer needs to make an assessment of whether the PPE is suitable and that this assessment is reviewed as appropriate¹³;
- IV. Employers need to ensure the PPE is maintained (including replaced and cleaned);
- V. Employers must provide storage for that PPE when it is not being used;
- VI. Employer must ensure that appropriate information, instruction and training is provided to employees and limb (b) workers to ensure they know about the risks the PPE will limit or avoid, the purpose for which and the manner in which the PPE is to be used, and action to be taken by the user to ensure the PPE remains in an efficient state.
- VII. Employers should also ensure the PPE is properly used.

45. Each of these duties is analysed below and costs will be estimated once more information is analysed and collected during consultation.

G.2.1.c (i) and (ii) – provision of PPE, free of charge

- 46. Under option 2, employers will be required to provide limb (b) workers with suitable PPE free of charge. The total cost of the additional PPE provided by employers to limb (b) workers will depend on: the additional number of limb (b) workers who require PPE that is not already provided free of charge; the types of PPE the workers need; and the unit costs of that PPE.
- 47. It should be noted that PPE should only be provided once all other options to prevent exposure to the hazard have been taken, and to control the residual risk. These other options could include eliminating the task completely, choosing a less hazardous option for the work, or the introduction of engineering controls to manage the risk. It is not possible to estimate how many employers may look to control risk by other means rather than pay for PPE following the amendments. However, for the purposes of this assessment, in order to avoid under estimating costs, it is assumed that where PPE was previously used to control risk for limb (b) workers, it will continue to be used following the amendments.

How many limb (b) workers require PPE

- 48. As well as the estimate of limb (b) workers in the GB economy, we need an estimate of what proportion of these limb (b) workers identify as requiring PPE at work. The YouGov survey asked limb (b) workers if they need PPE to carry out any of their working duties. Of the 40 respondents who identified as limb (b) workers in the survey, 16 responded to say that they need PPE to do their jobs (40%). As explained in paragraphs 38 and 39, we estimate that there are around 450 thousand limb (b) workers in GB, 40% of which is 180 thousand limb (b) workers. Therefore, we estimate there are around 180 thousand limb (b) workers who are required to wear PPE to complete their duties at work.

The additional number of limb (b) workers not currently provided with PPE free of charge

- 49. It is necessary to consider whether there might already be some employers who are providing PPE to limb (b) workers free of charge before the proposed amendments come into force. If so, there will not be any additional costs of providing PPE free of charge for these employers as they are already doing it. Employers might be providing PPE free of charge to limb (b) workers for a variety of reasons, which might include because

¹³ This duty is placed on employers in regulation 3 of the Management of Health and Safety at Work Regulations 1999 and so is not an additional cost of the changes proposed here.

employers struggle to differentiate limb (b) workers from other workers and/or employees, or because employers are keen to do the right thing and don't want to leave some workers on their sites unprotected.

50. Initial analysis of the YouGov survey shows that approximately 44% of the limb (b) workers identified in the survey as requiring PPE report that their employer provides them with all the PPE that they need. Therefore, it can be inferred that 56% (100%- 44%) of limb (b) workers that need PPE are not provided with it by their employer. 56% of 180 thousand estimated limb (b) workers that require PPE (see paragraph 48) is about 100 thousand limb (b) workers.
51. Employers will need to provide suitable PPE for these limb (b) workers free of charge, constituting an additional cost to business. It is important to note, however, that this may be a transfer of costs from limb (b) workers to employers – this is, limb (b) workers who previously paid for their own PPE will no longer have to pay for it. While there will be a direct cost to business of the proposal, for the employers who have to pay for PPE that are not currently doing so, it is assumed the NPV will net to zero because this cost to employers is a transfer from the limb(b) workers who are assumed to be currently purchasing their own PPE, see paragraph 36. In practise, it is possible that the changes proposed to PPER could lead to limb (b) workers who are currently under protected being provided with more and more-appropriate PPE. However, this effect is not possible to quantify, see paragraph 77.

Summary of the estimated number of additional limb (b) workers provided with PPE free of charge

52. Estimated number of limb (b) workers in GB = 450 thousand (see paragraphs 38 and 39)
53. Estimated number of limb (b) workers in GB that require PPE = 180 thousand (see paragraph 48)
54. Estimated number of additional limb (b) workers in GB that will be provided with PPE free of charge under the amendments = 100 thousand (see paragraph 50)

Types of PPE Required

55. The YouGov survey asked limb (b) workers who said they require PPE, what type of PPE they require, by providing a free text box. Analysis has focussed on those responses that represent the 100 thousand limb (b) workers who require PPE but don't currently have this provided free of charge by their employer. There were 8 such responses in the YouGov survey¹⁴. This is a very small sample and therefore introduces considerable uncertainty to the analysis. For these limb (b) workers, we have analysed the items of PPE which they say they require and compared this to the items of PPE which they say their employer provides them with. Of these 8 responses, 16 items of PPE were reported to be required but not reported to be provided by the employer. In Table 3 below, we summarise the items required.

¹⁴ One respondent said that they required PPE, did not specify what types, but said their employer provided them with some items of PPE. As the respondent did not specify what PPE they need we are unable to deduce which items of PPE (if any) their employer currently doesn't provide and so have excluded them from this sample.

Table 3 - Types of PPE reported to be required by limb (b) workers¹⁵

Type of PPE	Limb(b) respondents who require this PPE but aren't provided with it	As a % of all limb (b) respondents who need PPE but aren't provided with it (sample of 8)
Safety boots / shoes	3	38%
Gloves (general handling)	2	25%
Disposable gloves	2	25%
Apron	2	25%
Disposable face mask	1	13%
Filtering facepiece	1	13%
Goggles	1	13%
Ear muffs	1	13%
Earplugs	1	13%
Chef protective uniform	1	13%
Healthcare PPE for all parts of body	1	13%

*The above figures are based on analysis and calculations from survey data, and are not the survey data itself

56. As can be seen, the estimates are based on a small sample size and are subject to uncertainty. To gain further assurance around the list of commonly worn PPE, HSE sector specialists suggested likely average PPE outfits for the main sectors affected. HSE sector leads agree that the sort of PPE that would be commonly worn by limb (b) workers could be roughly split between industrial sectors (such as manufacturing, waste and recycling, construction) and health sectors. Although all activities in these sectors might vary greatly and the risks posed be very different, it has been assumed that if the work is very high risk and requires complex PPE, the workers in that sector are unlikely to be classified as limb (b) workers, who by definition are casual workers who are less likely to possess high skill levels needed for high risk work. So, HSE specialists have suggested common types of PPE that fit into the two main overall areas found in the YouGov survey: 'Industrial' sectors and the healthcare sector, see Table 4 below.

Table 4 - Suggested PPE 'outfits' for 'other' and 'health' sectors.

Industrial work (assumed to cover 'other' sectors)	Healthcare work
Safety footwear	Mask
High visibility jacket	Gloves
Eye protection	Apron
Ear protection	Eye protection
Gloves	

¹⁵ We acknowledge that, particularly due to the small sample size, these items and percentages may not be representative of the main items and amounts of these items required by all limb(b) workers who require PPE but don't receive it from their employer. We will seek to verify this information at consultation.

57. The suggested outfits from HSE specialists contain very similar PPE to that mentioned in the survey. In order for us to estimate a cost of this PPE, it is necessary to know the approximate retail price and also the frequency with which the PPE is replaced.
58. In terms of the costs of the PPE, we have sought information from the British Safety Industry Federation¹⁶ (BSIF), who have provided a range of costs for some common types of PPE, based on a quick poll of their members. Table 5 below summarises the suggested cost range from BSIF for some of the common types of PPE.

Table 5 – summary of average costs for common types of PPE

Type of PPE	Estimated cost low (£)	Estimated cost High (£)	Estimated mid range of cost (£)
Ear plugs	0.09	0.25	0.17
Ear muffs	5.75	40.00	22.88
Semi insert / canal caps	1.80	3.00	2.40
Safety Spectacles	3.00	12.00	7.50
Goggles	2.50	14.00	8.25
Safety footwear	19.50	140.00	80.00
High Vis vest ¹⁷	2.00	10.00	6.00
Mask ¹⁸	0.09	1.60	0.85
Apron (disposable)	0.05	0.56	0.31
Gloves (general handling)	3.00	15.00	9.00
Gloves (disposable) ¹⁹	0.10	0.72	0.41

59. If we apply these unit costs to the information obtained from the YouGov survey, then this is how unit costs would be applied to that data, see Table 6 below.

Table 6 - Type of PPE reported to be worn by workers with unit costs included ²⁰

Type of PPE	Limb (b) respondents who need this PPE but aren't provided with it	As a % of all limb (b) respondents who need PPE but aren't provided with it (sample of 8)	Unit cost

¹⁶ BSIF | British Safety Industry Federation

¹⁷ v BSIF did not provide an estimate of the cost of a high vis vest, so this cost has come from a google search, see. [Amazon.co.uk : High Vis Jackets](https://www.amazon.co.uk/s?k=high+vis+vest) which shows a range of costs, focussing on vests rather than jackets. The prices were valid in May 2021

¹⁸ BSIF did not provide an estimate of the cost of a mask, so this cost has come from a google search see [Amazon.co.uk : face masks](https://www.amazon.co.uk/s?k=face+masks), which shows a range of prices for disposable masks.. The prices were valid in May 2021

¹⁹ BSIF did not provide an estimate of the cost of disposable gloves and so this cost has come from a google search, see [Amazon.co.uk : disposable gloves](https://www.amazon.co.uk/s?k=disposable+gloves) which shows a range of prices for disposable gloves. The prices were valid in May 2021

²⁰ We acknowledge that, particularly due to the small sample size, these items and percentages may not be representative of the main items and amounts of these items required by all limb (b) workers who require PPE but don't receive it from their employer. We will seek to verify this information at consultation.

Safety boots / shoes	3	38%	£	79.75
Gloves (general handling)	2	25%	£	9.00
Disposable gloves	2	25%	£	0.41
Apron	2	25%	£	0.31
Disposable face mask	1	13%	£	0.85
Filtering facepiece	1	13%	£	7.85
Goggles	1	13%	£	8.25
Ear muffs	1	13%	£	22.88
Earplugs	1	13%	£	0.17
Chef protective uniform ²¹	1	13%	£	35.00
Healthcare PPE for all parts of body	1	13%	Combination of items	

*The above figures are based on analysis and calculations from survey data, and are not the survey data itself

60. If we can collect information about the replacement rate for each item of PPE then this analysis could be used to estimate the total costs of each type of PPE per annum. This would be then combined with the estimated number of limb (b) workers wearing that PPE per annum, using the percentage estimates in Table 6 above. This would give a total cost per annum for each piece of PPE equipment. More robust evidence is required about replacement rates before this analysis can be completed
61. Alternatively, if we apply the cost information from Table 5 to the PPE outfits suggested by HSE specialists, most common types of PPE for industrial work and health work (see Table 4) then we are able to estimate the cost of a typical outfit of PPE for these two broad areas of work, see Table 7.

Table 7 – Estimated cost of one outfit of PPE for industrial and healthcare jobs

Industrial work (assumed to cover 'other' sectors)	Estimated cost of PPE , £ (mid point from Table 5)	Healthcare work	Estimated cost of PPE , £ (mid point from Table 5)
Safety footwear	79.75	Mask	0.85
High visibility jacket	6	Gloves	0.41
Eye protection	7.50	Apron	0.31
Ear protection	0.17	Eye protection	7.50
Gloves	9.00		
Total	102.00	Total	9.06

62. As can be noticed, the average PPE outfit for industrial work is estimated to cost around £102 and the healthcare PPE outfit around £9.06. These costs do not include any estimation about how many times the PPE can be used / how often it is replaced. It is highly likely that most of the healthcare outfit might be replaced multiple times per day. We are working during consultation to estimate how many times this type of PPE could be used so that we can estimate a total cost of that PPE over the 10 year appraisal period. This will then be compared to the estimated costs of PPE using the analysis from the survey and ideally a range of costs will be provided.

²¹ Unit cost is a rough estimate from the internet [Chef Clothing, Chefswear, Catering & Kitchen Uniforms & Outfits UK | Nisbets](#) – Jacket plus trousers plus hat (shoes counted for elsewhere)

63. These tables of potential costs of PPE are shown for illustrative purposes and further work is required during consultation to ascertain replacement rates for the equipment in order that aggregate costs can be estimated.
64. Employers should also be reviewing the task and hierarchy of control, as PPE is the last resort, therefore trying to eliminate or reduce the risk at source, so that PPE is no longer required. However, for the purpose of these costings, it will be assumed that PPE is continued to be purchased over the 10 year appraisal period as the costs of alternative controls are not possible to quantify due to uncertainty about what those alternative approaches could be.

G.2.1.c (ii) – assessment of suitability

65. As already explained in paragraph 18, there will be additional costs to employers of conducting a suitability assessment for limb (b) workers. It is possible that if an employer has both employees and limb (b) workers in his business, that the costs of the suitability assessment would be lower compared to an employer who only employs limb (b) workers. This is because the employer who also has employees will already be performing suitability assessments for those employees and so there could be lower costs of understanding what they are required to do (this point also applies to familiarisation costs in general, see paragraph 70). Further work will be performed during consultation to understand the costs associated with the assessment of suitability for limb (b) workers.

G.2.1.c (iii) – maintenance and cleaning

66. This duty will create additional costs for employers if their limb (b) workers are wearing PPE that requires maintenance and cleaning. The costs associated with maintenance and cleaning will depend on the type of PPE the limb (b) workers are wearing, whether it is disposable and how long it lasts for. Questions were asked in the YouGov survey about maintenance and cleaning, so this data will be analysed during consultation and verification of that data will be attempted via the consultation.

G.2.1.c (iv) – storage of PPE

67. The PPER require employers to store any PPE they have provided when it is not being used. The storage costs will depend on how big the items of PPE are, whether any are disposable and whether there is any other PPE being stored for employees, because the marginal cost of adding that PPE to storage could be lower if there are other items being stored. The YouGov survey has asked some questions about storage of PPE and these will be analysed during consultation and further research undertaken to understand how much storage might cost.

G.2.1.c (v) – employers should provide information, instruction and training in the use of the PPE

68. The costs of employers providing training on how to use the PPE will depend on the type of PPE used and how complicated it is. Further information is being sought during consultation about the type of PPE that limb (b) workers will be wearing and how employers might train limb (b) workers to use it.

G.2.1.c (vi) – employers should ensure the PPE is properly used

69. The potential costs of this requirement will be explored further at consultation. It is anticipated that employers will have a differing system for checking that PPE is being used

appropriately and it may require some illustrative assumptions about how long an employer might take checking PPE and how often, per business.

G.2.2 Familiarisation costs

70. There will be costs to all employers who employ limb (b) workers in reading through the changes to the PPER and understanding what it means for them. There could be a difference in familiarisation costs for employers who currently have both employees and limb (b) workers in their business compared with those who just use limb (b) workers. The former should already be complying with PPER for their employees and so it will be easier and quicker for them to understand the changes proposed. Dutyholders will be asked at consultation about how long it will take them to become familiar with the proposed changes.

G.2.3 Enforcement costs

71. HSE operates a 'Fee For Intervention' (FFI) system (currently at £160ph) in relation to legislative breaches identified during inspections, or as a result of incident investigation. This means that where an HSE Inspector identifies circumstances in which a dutyholder has not complied with the law, HSE seeks to recover the time spent bringing the dutyholder back into compliance.
72. Post implementation, where a dutyholder was identified not to have complied with the PPER, in relation to its application to limb (b) workers, they would be subject to costs in accordance with this scheme.
73. For example, if an HSE Inspector undertook a health and safety inspection at an engineering premises and identified that they employed limb (b) workers – who did not have a contract of employment - on a casual basis, the Inspector would take action if they identified that the employer was not complying with PPER in respect of its application to limb (b) workers and the employer would be subject to the FFI costs.

G.2.4 Benefits

74. The proposed amendment to the PPER has come about following a judicial review. It is possible that the provision of PPE to a larger group of workers, free of charge, will have some effect on improving health and safety outcomes. Furthermore, limb (b) workers who currently pay for their own PPE may benefit financially as the cost of PPE is transferred to their employer. More research will be done with stakeholders during consultation to gain a better understanding of potential benefits of the amendment.

G.2.5 Summary of potential costs and benefits

75. The total NPV of the proposed amendments to the PPER has not been quantified in this consultation stage IA due to uncertainties and gaps in the evidence base. More evidence will be gathered during consultation which will enable the NPV and EANDCB to be estimated in the final stage IA.

G.5 Direct costs and benefits to business

76. This consultation stage IA does not estimate monetary costs or benefits to business. The equivalent annual net direct cost to business will be estimated in the final stage IA following further collection and analysis of data about the effects of the proposed changes to PPER.

G.6 Risks and assumptions

77. It is assumed that there will be 100% compliance with the new requirements for employers to include limb (b) workers in the PPER. While there may be some limb (b) workers who

continue to have to provide their own PPE because their employer is not compliant with the law, it is not possible to predict this compliance rate with any accuracy. We therefore assume 100% compliance with the new requirements under Option 2, which will ensure costs are not underestimated.

- 78. We also assume full compliance with current legal requirements and so the additional costs of the proposed amendments are compared to employers currently being fully compliant with health and safety law.
- 79. Following further analysis during consultation and the estimation of total costs and benefits, the risks and assumptions will be documented for this IA.

G.7 Summary of questions to explore during consultation

- 80. During consultation further analysis of the YouGov survey will be undertaken, plus further exploration of the following areas:
 - a. Exploration of sectors where limb (b) workers are found and the types of work they do;
 - b. Validation of types of PPE worn and replacement rate;
 - c. Cleaning, maintenance and storage costs of that PPE;
 - d. Whether limb (b) workers tend to supplement work done by other employees or do limb (b) workers tend to do different types of work;
 - e. Costs of training employees to use the PPE;
 - f. Costs of ensuring the PPE is properly used;
 - g. Costs of familiarisation.

H. Impact on small and micro businesses

- 81. The YouGov survey has been used to estimate the size of business where limb (b) workers are present and who also state that they require PPE and this is not provided free of charge.
- 82. The following distribution of limb (b) workers has been observed:

Table 8 – Distribution of limb (b) workers across different business sizes.

<i>Size of business for limb(b) workers who need PPE and don't get it provided</i>	<i>%</i>
<i>Micro (<10)</i>	29%
<i>Small (10-49)</i>	14%
<i>Medium (50-249)</i>	0%
<i>Large (250+)</i>	57%

*The above figures are calculations based on survey data, not the survey data itself

- 83.
- 84. Table 8 shows that the majority of limb (b) workers in the survey were found in large businesses. More work will be done during consultation to understand why limb (b) workers that require PPE and it is not already provided free of charge are more likely to be found in large businesses. To re-emphasise, the YouGov survey had so few respondents in scope of the proposed changes that there is a lot of uncertainty in this data.

I. Wider impacts

- 85. Wider impacts will be considered during consultation and this section will be completed for the final stage IA.

J. Summary of the potential trade implications of measure

86. It is not anticipated that there will be any trade implications of the measure.

K. Monitoring and Evaluation

87. A post implementation review (PIR) will be carried out on the amending PPER to monitor and evaluate the impact of the change. Whilst the regulations will be subject to a formal statutory review five years from when the regulations come into force, HSE will be continually monitoring and evaluating the effectiveness and impact of the changes to PPER.
88. HSE's current recording systems and recording database will be used to assess the impact of the amending regulations.
89. HSE will monitor the numbers of enforcement actions taken in relation to the amended PPER, and also analyse the number of concerns raised with HSE in relation to workers, who feel their employers are not complying with the amending regulations.
90. HSE also engages on a regular basis with a number of relevant stakeholders. HSE expects to get feedback on the changes via these channels. The ability and willingness of industries and organisations who will be required to put in additional measures as a result of new obligations placed on them, will be significant external factors in relation to compliance with the amended PPER.

Appendix 1 – You Gov Survey questions to ascertain employment status

Workers (<https://start.yougov.com/refer/v5mdBhXv7qsCgb>)

1. For the following questions, please think about your work before the Coronavirus (COVID-19) lockdown measures began in the UK (i.e. before March 2020).
Did you do casual or irregular work for a specific organisation? (If you weren't working before the Coronavirus (COVID-19) lockdown measures began in the UK, please select the 'Not applicable' option)
 - Yes, I did
 - No, I didn't
 - Don't know/ can't recall
 - Not applicable - I wasn't working before the Coronavirus (COVID-19) lockdown measures began in the UK

2. Did you get paid holiday for this work?
 - Yes, I did
 - No, I didn't
 - Don't know/ can't recall

3. Did you only do this work if you wanted to (i.e. the organisation didn't have to offer you work and you don't have to accept it)?
 - Yes, I did (i.e. I was able to decline work)
 - No, I didn't (i.e. I wasn't able to decline work)
 - Don't know/ can't recall

4. Were you the only person who could complete the work (i.e. you couldn't hire someone else to do it for you; sub-contract the work)?
 - Yes, I was
 - No, I wasn't
 - Don't know/ can't recall

5. Were you in business for yourself (i.e. you advertised your services directly to clients and customers, and they could book your services directly)?
 - Yes, I was
 - No, wasn't
 - Don't know

Limb (b) worker answers = Yes, Yes, Yes, Yes, No