

HEALTH AND SAFETY (EMPLOYEE CONSULTATION AND REPRESENTATION) REGULATIONS

DRAFT REGULATORY IMPACT ASSESSMENT (PARTIAL)

PURPOSE AND INTENDED EFFECT

Issue

1. Currently onshore employee health and safety consultation and representation is regulated by the:
Safety Representatives and Safety Committees Regulations 1977 (hereafter known as the 1977 Regulations), and
Health and Safety (Consultation with Employees) Regulations 1996 (hereafter known as the 1996 Regulations).

2. The 1977 Regulations:
 - Prescribe the cases in which recognised trade unions may appoint safety representatives;
 - Specify the functions of appointed safety representatives;
 - Set out the obligations of employers towards safety representatives.

The 1977 Regulations have proved satisfactory in ensuring that employees are consulted and represented regarding their health and safety in workplaces where trade unions are recognised.

3. The 1996 Regulations:
 - Require employers to consult either their employees or representatives elected by their employees;
 - Place a duty on employers to provide information to employees or representatives elected by their employees;
 - Specify the functions of representatives elected by their employees.

The 1996 Regulations have proved unsatisfactory in ensuring that employees are consulted regarding their health and safety in workplaces where unions are not recognised. The Institute for Employment Studies research on Workplace Consultation on Health and Safety found little evidence to suggest that the 1996 Regulations had any impact and most employers and employee representatives felt that they made little difference to their workplace. Employers did agree that legislation was needed in this area to try to ensure consistent use of good practice. To be clear, the 1996 Regulations were not ensuring that employees were consulted on the risks to their health and safety and a new framework is needed to put this right.

Objectives

4. The objective is to put in place a new framework for employee consultation that will enable employers and employees to create health and safety partnerships. Where employers consult and value contributions their employees make to health and safety, HSE believes workplaces are a safer and more healthy environment.

Risk assessment

5. Achieving the objective is essential if we are to reduce accidents, ill health and time off from work. In 2001/02 there were 204 fatal injuries, 27,477 reported major injuries and 127,084 reported over-3-day injuries to employees. Also in 2001/02 it was estimated that 2.3 million individuals in Great Britain were suffering from an illness that they believed was caused or made worse by their current or past work. Employees know the dangers they face at work and by communicating these dangers and ideas for combating them to their employer and their employer taking action, the workplace will be a safer environment.

Options considered

6. Option 1 consists of harmonising the 1977 and 1996 Regulations to achieve the objective:
 - In workplaces where trade unions are recognised, they will be able to appoint safety representatives to represent their members. Trade union appointed safety representatives will have the same rights and functions as per the 1977 Regulations.
 - In workplaces where trade unions are not recognised and where there are more than twenty employees, the employees will now be given the right to choose either be consulted by their employer or via a safety representative. Those employers who employ 20 or fewer employees will not be obliged to draw up constituencies so that employee safety representatives can be elected but consultation must still take place. If employees opt for consultation via safety representatives then in workplaces with between 21 and 30 employees, one safety representative may be elected, a second safety representative may be elected for the next 31 to 50 employees, and for each additional 50 employees after that, an extra safety representative may be elected.
 - Elected safety representatives will be given additional functions to bring them into line with trade union appointed safety representatives. These functions will include investigating

potential hazards, inspecting workplace hazards and investigating complaints.

- Any two safety representatives provided that there are fifty and more employees will be able to write to the employer to ask him to set up a safety committee. The functions of the safety committee will be clearly laid out in the harmonised Regulations.

7. Variations on option 1 are:

- Option 2) To decrease the number of safety representatives.
- Option 3) To decrease the time burdens of safety representatives.

8. The following are specific options on how to decrease the number of safety representatives needed:

Option 2 a) Workplaces where trade unions are not recognised and have less than 50 employees these are exempt from having to elect safety representatives. One safety representative may be elected for every additional 50 employees.

Option 2 b) In workplaces where trade unions are not recognised, a safety committee will decide on the number of safety representatives needed. Those workplaces with 20 employees are exempt. It is assumed that in those workplaces with less than 50 employees, 1 safety representative covers on average 22 employees, workplaces with between 50 and 199 employees, 1 safety representative covers on average 55 employees, and in workplaces with between 200 and 500+ employees, 1 safety representative covers on average 140 employees (IES).

9. The following table shows the estimated costs and benefits of variations on the proposed option 1. The cost estimate for option 1 is described in detail in the RIA, and the costs for option 2 (a) and 2(b) are estimated using the same assumptions as option 1, varying only where differences between option 1 and options 2 (a) and (b) are mentioned explicitly. The benefits column describes the likely effect on benefits from varying the option from option 1. The benefits are highly uncertain, and it is more accurate to present the figures in terms of a balancing percentage. The balancing percentage is the percentage reduction in accidents and ill health needed to realise the level of benefits that makes costs balance with the benefits. All costs are in millions, and are net present values over the appraisal period.

	Cost	Benefits	Balancing percentage
Option 1	£2,500 million	Uncertain, but estimated in the RIA as being between £3460 and £3890.	6.2% - 7%

Option 2 (a)	£1,065 Million	Lower than option 1 as fewer workplaces are covered, but taken into account in the balancing percentage.	2.7% - 3%
Option 2 (b)	£1,400 Million	Likely to be lower than option 1 as there are more employees per safety representative. Unlikely to be a proportional reduction as the same number of workplaces are covered, but there is a large difference in the number of employees per safety representative.	3.5-3.9% (Higher if effect on benefits taken into account)

10. Option 3 is to reduce the time burdens on safety representatives to carry out their health and safety functions. Reducing the time burdens of safety representatives by 30% would decrease the costs by approximately 25%. This is not an equivalent reduction due to the fixed costs involved in selecting and training the safety representatives. The percentage reduction in accidents and ill health in workplaces with new safety representatives needed in order to balance costs and benefits would now have to be between 4.7 and 5.3 percent, as opposed to between 6.2 and 7 percent in option 1. This change in balancing percentage does not take into account the reduction in benefits that may occur from reducing the amount of time the safety representatives spend on their duties.
11. Option 4 is to consider doing nothing. However, as the status quo is unacceptable due to the failing of the 1996 Regulations to ensure employees are consulted on health and safety in non-unionised workplaces, this is not a practical option. We can delay the Regulations but this would only prolong the status quo and ensure that employees continue to receive inadequate health and safety consultation and representation.
12. We are recommending that Option 1 be under consideration in the RIA because the other options either exclude significant numbers of employees from consultation over their health and safety arrangements or do not ensure adequate representation by safety representatives. Although Option 2 (a) looks attractive in terms of the costs, it should be noted that this option exempts all workplaces with less than 50 employees. Option 2(b) lets the safety committee decide, in workplaces with fifty and more employees, the number of safety representatives needed but this may not ensure an adequate number if the safety committee, which is made up of nominations by the employer, takes into account other considerations which may be detrimental to deciding safety representative numbers. Option 3 would reduce the time safety representatives spent on their functions and this may reduce the benefits that safety representatives can bring to their employees. Option 4 will simply continue the status quo.

Information sources and assumptions

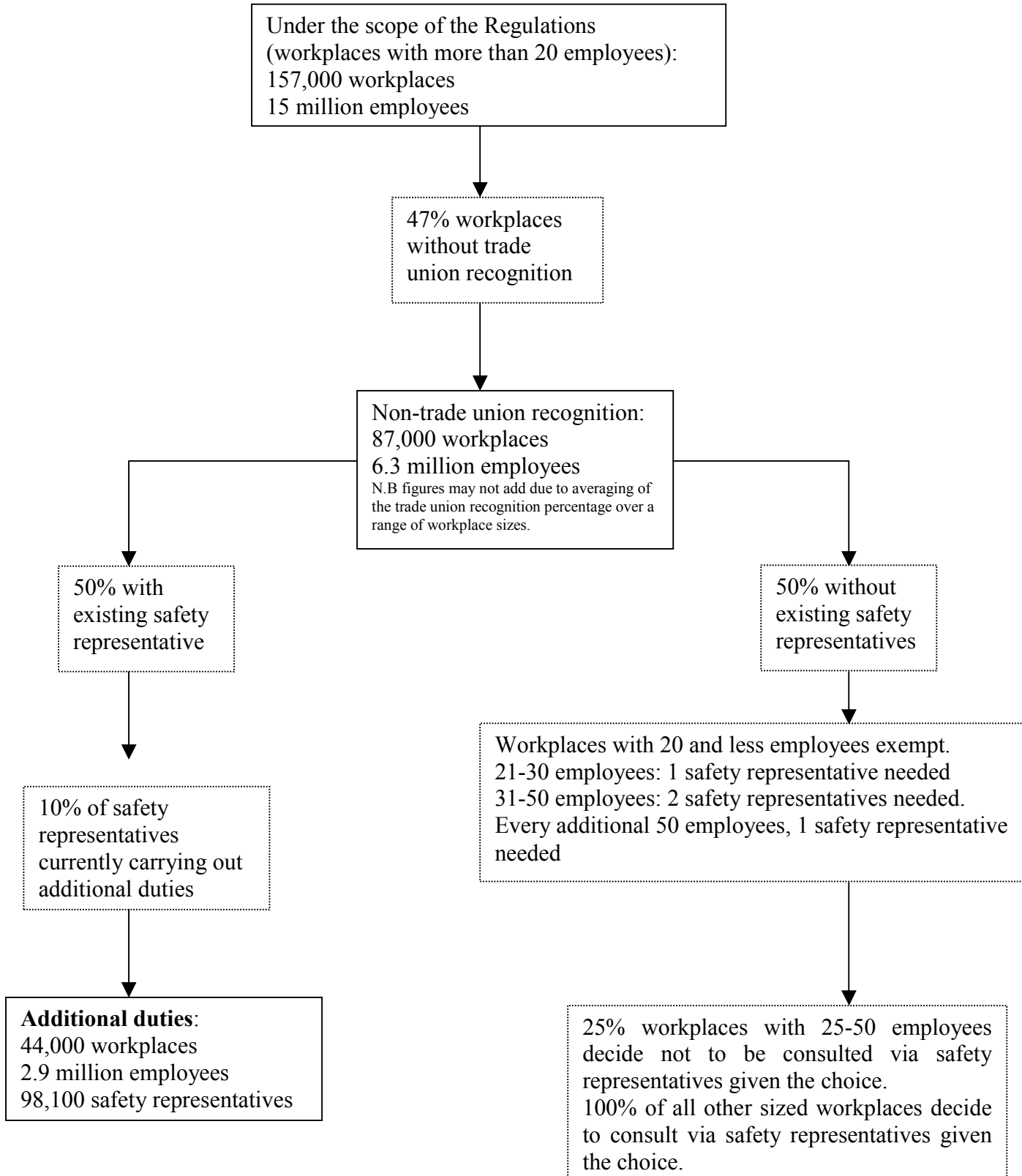
13. The Workplace Employee Relations Survey (WERS 1998) has been used for information on trade union recognition. The Institute of Employment Studies (IES 2000)¹ research and the TUC “Focus on Union Safety Reps” (2003) research has been used for information about safety representatives. All other information has come from internal HSE sources.
14. The costs and the benefits have been discounted at 3.5% over a ten-year appraisal period. However before discounting the health benefits were uprated at 2%. The price year used is 2003/04 and all prices quoted (unless explicitly stated otherwise) are 2003/04 prices.

Business sectors affected

15. The harmonised Regulations should impact across all onshore employment sectors.
16. There is likely to be a small difference in practice for employers who recognise trade unions and already implement the 1977 Regulations in adjusting to the harmonised Regulations. This would be setting up and maintaining employee constituencies and responding to representations made by safety representatives.
17. Employers who do not recognise trade unions are likely to do the most to comply with the harmonised Regulations, as they currently have to comply with the 1996 Regulations. Provided the employer has more than twenty employees:
 - the employees, rather than the employer, will have the choice as to whether they want to be consulted directly by their employer or through safety representatives regarding their health and safety.
 - duties will be placed on employers regarding placing employees in constituencies, the election of safety representatives, who to consult and the setting up of safety committees.
 - a new duty will be placed on employers to respond in writing to representations made by safety representatives.
 - elected safety representatives will have the same functions as trade union appointed safety representatives.

¹J Hillage, B Kersley, P Bates and J Rick “Workplace Consultation on health and safety” prepared by The Institute of Employment Studies (2000)

This diagram is a summary of the information following it.





Additional safety representatives: 44,000 workplaces 2.5 million employees 80,100 safety representatives
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18. Information from the WERS² 1998 indicates that 47% of workplaces do not recognise trade unions. Research estimates that approximately half of those workplaces already have some form of safety representative in place⁴.

Workplaces with no safety representative in place

19. In workplaces where trade unions are not recognised and with no safety representative in place, employees, provided that there are more than twenty, will now be entitled to decide if they want to be consulted via a safety representative.
20. Based on the above assumptions that 47% of workplaces do not recognise trade unions, but approximately half of the non-union workplaces already have some form of safety representative in place⁵, just over 3 million workers will now be entitled to consultations via a safety representative.
21. Workplaces where there is no recognised trade union and with 20 and employees or fewer will be exempt from having to elect safety representatives at the request of their employees. In addition, this RIA assumes that in only 25% of workplaces with between 25 and 50 employees will employees now decide to be consulted via a safety representative when given the choice, whereas all employees in all other sized workplaces will decide to be consulted via a safety representative when given the choice. The reasoning behind this is that in smaller workplaces, consultation on health and safety matters presently occurs in a manner such that employees believe little would be gained from appointing a safety representative⁶.
22. Based on these assumptions, 2.5 million workers will now consult via a safety representative, as opposed to direct consultation. This is equivalent to 11% of the workforce. It was estimated that around 80,100 new representatives would be required. In terms of workplace numbers approximately, 44,000 workplaces will be affected by the election of new safety representatives.

² Workplace Employee Relations Survey

³ This figure excludes workplaces with less than 25 employees

⁴ J Hillage, B Kersley, P Bates and J Rick "Workplace Consultation on health and safety" prepared by The Institute of Employment Studies (2000)

⁵ Figure from IES research 2000

⁶ These views were obtained from the businesses that took part in the small firms impact test.

Workplaces with existing elected safety representatives

23. In the proportion of workplaces that do not have trade union recognition but do have elected safety representatives, the safety representatives will now have greater functions.
24. The indication of those sectors affected is based on the above assumptions that 47% of workplaces do not recognise trade unions, but approximately half of the non-union workplaces already have some form of safety representative in place⁷. It also assumes, based on anecdotal evidence from industry, that a nominal 10% of non-trade union elected safety representatives already carry out the additional functions proposed in the new Regulations.
25. It is estimated that 98,100 existing safety representatives would have to extend their functions in order to comply with the Regulations. 2.9 million employees will be affected by the additional powers of existing safety representatives, this is equivalent to 12.7% of the workforce. In terms workplace numbers, approximately 44,000 workplaces will be affected by the additional functions of existing safety representatives.

BENEFITS

Health and safety benefits

Benefits from additional safety representatives

26. Research by Reilly et al (1995)⁸ has found that the presence of a health and safety representative is *associated* with lower rates of workplace injury rates. Workplace injury rates are around one third lower in firms with formal safety representation than in workplaces without formal safety representation.
27. However, this could be because firms with better health and safety management are more likely to have safety representatives. Due to this, the fact that the injury rate is a third lower is likely to be a combination of better health and safety management and the presence of a safety representative, rather than just the presence of a safety representative. We can also assume that there are benefits of a similar magnitude in the case of reductions in work place ill health.
28. Taking into account the fact that the lower injury rates could be partly due to better health and safety management as opposed to purely the presence of a safety representative, we assume reductions in cases of

⁷ Figure from IES research 2000

⁸ Reilly B, Paci P, Holl P (1995), 'Unions, safety committees and workplace injuries' British Journal of Industrial Relations, 33 (2), June

workplace injuries and ill health of around 15% are more likely than reductions of a third.

29. In 1995/96 workplace accidents and work related ill health cost Britain between £13 and £13.7 billion⁹. If the harmonised Regulations succeeded in eliminating all the workplace accidents and cases of ill health of the people now entitled to representation via a safety representative, the annual benefit would be between £1.4 and £1.6 billion in 2003/04 prices¹⁰. The net present value of these benefits over the 10-year appraisal period would be between £16.7 and £18.8 billion.
30. Supposing, as explained above, that the harmonised Regulations brought about a 15% reduction in workplace accidents and cases of ill health in the workplaces now entitled to consultation via a safety representative. This would lead to benefits over the ten-year appraisal period of between £2.5 and £2.8 billion.

Benefits from existing safety representatives carrying out additional functions

31. There would also be health and safety benefits arising from the additional functions of elected safety representatives. If the additional functions of the safety representatives succeeded in eliminating all the workplace accidents and cases of ill health of the employees covered by a safety representative with the additional functions, the annual benefit would be between £1.6 and £1.8 billion¹¹. The net present value of these benefits over the 10-year appraisal period would be between £19 and £21.4 billion.
32. However, it is extremely unlikely that the additional functions for the safety representative will have such a large impact on the cases of workplace accidents and ill health. Assuming that giving the safety representatives additional functions brought about a 5% reduction in workplace accidents and ill health in the workplaces they operated in, the benefits over the ten-year appraisal period would be around £1 to £1.1 billion.

Total benefits

33. The total possible benefits of the harmonised Regulations are between £3.1 and £3.4 billion per year. Benefits of this magnitude would only accrue if the appointment of safety representatives and the additional functions of existing representatives resulted in the elimination of all the workplace accidents and cases of ill health among the employees they represented.

⁹ *The Costs to Britain of workplace accidents and work-related ill health in 1995/96* HSE 1999

¹⁰ Cost of accidents occurring in workplaces now entitled to a SR, uprated to current prices

¹¹ Cost of accidents occurring in workplaces where SR have additional duties, uprated to current prices

34. As discussed earlier, this is extremely unlikely. Rather we have assumed, again as discussed earlier, that the appointment of a safety representative will bring about a 15% reduction in the number of accidents and cases of ill health, where as the additional functions for existing safety representatives will bring about a 5% reduction. If this were the case, the benefits from the harmonised Regulations would amount to £300 million annually, with a net present value over the ten-year appraisal period of between £3.5 and £3.9 billion.

Other Benefits

35. There would be additional benefits from preventing the non-injury cost element of accidents, such as the damage or loss to property, plant, materials or the environment or a loss of business opportunity. This is because the outcome of an accident is a matter of chance, so in preventing an accident, both injury, and non-injury costs are avoided. However, these benefits would be difficult to quantify.

COSTS

Compliance costs to business, charities and voluntary organisation

Familiarisation costs

36. This is small. We assume that this requires 2 hours of management time. Familiarisation leads to a one-off cost of around £900,000¹². This is an implementation cost.

Selection of additional safety representatives

37. This calculation assumes that the time spent on the selection process varies according to the size of the workplace. In workplaces with no recognised trade union, 25-49 workers are assumed to rely on more informal methods of selection (mix of appointment and informal elections) whereas larger workplaces with no recognised trade union are assumed to employ formal processes (e.g. sealed ballots), which involve greater time commitment.
38. The total initial cost includes all management and employee time involved in the selection process. The employer will be responsible for the selection process and we have assumed that employees will turn up to select their particular candidate and then return to their employment:

No. of employees in workplace	Management time	Employee time
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¹² **Adjusted managers pay*management time*no. companies involved**

Adjusted managers pay: average pay for General Managers/Administrators (NES 2003)

adjusted by a third for non-wage costs-£24.02

management time: 2 hours

number of companies involved: 19,000

25-49	10 mins	2 mins
50-99	1 hr	2 mins
100-199	1 hr	3 mins
200-499	1 hr 30 mins	4 mins
500+	2 hrs	5 mins

It is equivalent to approximately £1.9 million¹³

39. Further, it is assumed that 10% of the costs recur in each year of the appraisal period – around £0.19 million. The net present value of the cost of selecting safety representatives is £3.4 million over the ten-year appraisal period. This is a policy cost.

Training for additional safety representatives

40. We allow £1,620 for the full economic cost of one week’s training which is the sum of the cost of the training and the working time foregone¹⁴. It is assumed that all the safety representatives undergo training, so this cost is incurred for all the 80,100 new representatives. Total initial cost is £130 million.
41. The recurring cost assumes that 10% of the initial training cost will repeat each year - £13 million.
42. The net present value of the costs of training are £228 million over the ten-year appraisal period. This is a policy cost.

Cost of additional safety representatives carrying out functions

43. This is by far the most significant cost.
44. We have based our estimate of the time involvements of safety representatives on the TUC’s 2003 research “Focus on union safety reps”. This stated that, of their respondents, the following time was spent on safety rep duty in the previous week:
- Just over a half (54%) spent up to one hour
 - Just over one in three (34%) had spent between one and five hours.
 - 6% had spent between five and ten hours; and

¹³ **(management time*adjusted managers pay*no. SR needed)+(employee time*adjusted average pay*no. employees consulting)**

Adjusted managers pay: £24.02

no. SR needed: 80,100

Adjusted average pay: average pay for all occupations (NES 2003) adjusted by a third for non-wage costs-£15.53

No. Employees consulting: 2.5m

¹⁴ **Cost of training course + Economic cost of forgone work time**

*Cost of training course (from industry sources): 5 days * 200 = £1000*

*Cost of forgone working time: 5 days * 8 hours * adjusted wage for all occupations £15.53 = £620*

- 6% had spent over ten hours

Taking a weighted average of the above produces an average time spent per week of just under 2½ hours. This is the figure we shall use throughout the RIA.

45. Assuming a 48-week year to take account of annual leave and public holidays, the total cost per year for the 80,100 safety representatives is £148 million:

No. SR * Time spent * Cost per hour
 $80,100 * (2 \frac{1}{2} * 48) * 15.53$

This occurs in every year of the appraisal period. The net present value of the costs of safety representative time spent carrying out duties over the ten-year period is around £1,280 million. This is a policy cost.

46. However, as stated in the research, over a half of safety representatives spent up to an hour carrying out their functions. If it were the case that the average time spent was an hour, the cost of new safety representatives carrying out their functions would be £60 million. This would recur annually over the appraisal period to generate a net present value of £514 million over the ten-year appraisal period. We shall use the costs generated from the weighted average time estimate (just under 2½ hours) for use within the RIA.

Cost of existing safety representatives carrying out new functions

47. Five of the nine functions in draft Regulation 11(1) of the harmonised Regulations will be new to elected safety representatives. Because of this, we assume that the time needed by the elected safety representative to carry out these new duties will be half of the time estimate taken from the TUC report; approximately 1¼ hours.
48. If again we assume a 48-week year, and apply this cost to the 98,100 existing safety representatives that will now have new functions, the cost that recurs in each year of the appraisal period will be £91 million. The net present value of the costs over the ten-year appraisal period is £784 million. This is a policy cost.
49. As before, if we suppose that the average time estimates an hour, the existing safety representatives will spend approximately 30 minutes carrying out new functions. This would result in an annually recurring cost of £36 million, and a net present value of £315 million. Again we shall use the costs generated by the time weighted average for use within the RIA.

Management time

50. It was assumed that the majority of consultation between management and employees (via safety representatives) would be undertaken on safety committees. It is assumed that there will be one manager for

every safety representative, and that the manager will spend 15 minutes a week consulting with the safety representative.

51. For the 80,100 new safety representatives, this gives a yearly cost of £23.1 million that recurs in each year of the appraisal period. The net present value of the cost of management time on safety committees will be equivalent to around £199 million over the ten-year appraisal period. This is a policy cost.

Compliance costs to a 'typical' business

52. The following computes the cost to a 'typical' business in terms of costs per workplace as opposed to costs per firm. This is significant as firms may well have more than one workplace. This section calculates the costs for two categories of workplaces; small workplaces (classified as having under 50 employees) and larger workplaces (classified as having 50 or more employees). The costs are calculated for non-unionised workplaces only, as it is assumed the costs to a unionised workplace will be negligible.
53. As stated earlier in the RIA, the time estimates for safety representatives carrying out their functions are uncertain. This may mean that they do not represent the position of a given company, as there is likely to be large variation between individual cases. This makes the cost to a 'typical' business (or in this case, workplace) particularly hard to estimate.

Workplace with no safety representative

Familiarisation costs

54. This is similar for both small and large workplaces, and consists of an initial cost of around £48¹⁵. This is an implementation cost.

Selection of additional safety representatives

55. The initial cost of management and employee time in the selection of safety reps was around £19 for small workplaces and £448¹⁶ for large workplaces. Assuming, as was previously stated, that the annually recurring costs are 10% of the total costs, the net present value over the ten-year appraisal period of selecting safety reps is around £35 for small workplaces and £790 for large workplaces. This is a policy cost.

¹⁵ **Adjusted managers pay*management time**

see footnote 5 for further details

¹⁶ **(Management time*adjusted managers pay*no. SR needed)+(employee time*adjusted average pay*no. employees consulting)**

No. SR needed: under 100 employees 2, over 100 employees 15

See footnote 6 for further details

Training of additional safety representatives

56. The initial cost of training the new safety representatives will be around £2,400 for small workplaces and £15,900¹⁷ for large workplaces. Assuming 10% of the initial training cost will repeat each year, the net present value over the ten-year appraisal period of training will be £4,255 for small workplaces and £28,000 for large workplaces. This is a policy cost.

Cost of additional safety representatives carrying out functions

57. Assuming the same time involvement of safety representatives as before, taking account of the above caveat, the recurring cost per year of safety representatives carrying out functions would be £2,770 in small workplaces and £18,210¹⁸ in large workplaces. As this cost would recur in each year of the appraisal period, the net present value would be £23,800 for small workplaces and £156,750 for large workplaces. This is a policy cost.

Management time

58. Consultation time between management and employees would be an annual recurring cost of around £430 to small workplaces, and £2,800¹⁹ to large workplaces. The ten-year costs are just over £3,700 for small workplaces and £24,350 for large workplaces. This is a policy cost.

Total costs

59. For small workplaces, the cost of the regulations would consist of an initial cost of around £5,680, with a recurring cost of just over £3,440 per year. This gives a net present value over the ten-year appraisal period of £31,860. Only £45 are implementation costs, the remainder are policy costs. Assuming a small firm has only one workplace, this will be the cost to a small firm.
60. For large workplaces, the cost of the regulations would consist of an initial cost of around £37,440, with an annual recurring cost of £22,680. This gives a net present value over the ten-year appraisal period of around £210,000. Only £45 are implementation costs, the remainder are policy costs. Assuming a large firm had four large workplaces, the total cost to them would be around £2 million.

¹⁷ **(Cost of training course + Economic cost of forgone work time) * No SR needed**

See footnote 7 and 10 for further details

¹⁸ **Time involvement * Adjusted wage * no. SR needed**

For further details see time tables and footnotes 8 and 6

¹⁹ **15mins * one manager * no. SR needed * adjusted Management wage * 48 weeks**

For further details see footnotes 5 and 8

Workplace with existing safety representatives

Familiarisation costs

61. This is similar for both small and large workplaces, and consists of an initial cost of around £45. This is a implementation cost.

Cost of existing safety representative carrying out new functions

62. Assuming the same time involvement as before, taking into account the above caveat, the annual cost of existing elected safety representatives carrying out their new duties is £1,380 in small workplace and £9,100²⁰ in large workplaces. This cost recurs over the ten-year appraisal period, giving a net present value of £11,900 for small workplaces and £78,380 for large workplaces. This is a policy cost.

Total costs

63. For a small workplace, the costs of complying with the harmonised Regulations consists of an initial cost of £1,430 and an annually recurring cost of £1,380. This gives a net present value over the ten-year appraisal period of £78,500. Only £45 are implementation costs, the remainder are policy costs. Assuming a small firms has only one workplace, this will be the cost to a small firm.
64. For a large workplace, the costs of complying with this Regulation consist of an initial cost of £9,150, and an annually recurring cost of £9,100. This gives a net present value over the ten-year appraisal period of £78,500. Only £45 are implementation costs, the remainder are policy costs. Assuming a large firm has four large workplaces, the total cost to them would be £313,700.

Total compliance costs

Cost	Annualised costs (£m)	Total NPV Cost (ten years, £m)
Familiarisation	0.077	0.90
Selection of SRs	0.288	3.38
Training SRs	19.493	229.7
Additional SRs carrying out duties	109.120	1,280
Existing SRs carrying out additional duties	66.821	784
Management time	16.940	199
Total	212.738	2,496

Note: the totals may not add up due to rounding

²⁰ **Time involvement * Adjusted wage * no. SR needed**

For further details see time tables and footnotes 8 and 6

65. Only £0.9 million are implementation costs, £2,495 million are policy costs.

Costs to HSE

66. There are no additional costs to HSE.

Other costs

67. There are no other additional costs.

Total costs to society

68. The total net present value of the costs over the ten-year appraisal period is £2,496 million. Although costs to society are high, the harmonised Regulations impact across a large amount of firms, making the cost to individual firms much less remarkable.

BALANCE OF COSTS AND BENEFITS

69. The expected benefits of the project, between £3,460 and £3,890 million, outweigh the expected costs of £2,496 million. So put another way; the proposals would need to prevent between 6.2 and 7% of all accidents and new incidence of ill health in the workplaces affected by the introduction of additional safety representatives and the extension of existing safety representatives powers over the appraisal period in order for benefits to balance costs. Given our assumptions of a 15% reduction in workplaces now having a safety representative, and 5% in workplaces where safety representatives will have additional functions, this reduction in accidents seems very achievable. This conclusion holds when looking at both the additional safety representatives and the additional functions separately.
70. The cost of electing additional safety representatives is estimated at £1,712 million over the ten-year appraisal period, whereas the benefits are estimated at between £2,510 and £2,820 million. The introduction of a safety representative would have to prevent between 9.1 and 10.2% of all accidents and new incidence of ill health in the workplaces affected by the introduction of additional safety representatives over the ten-year appraisal period in order for benefits to balance costs. This is well below the 15% reduction that we predicted.
71. The cost of a safety representative carrying out additional functions is estimated at £784 million and the benefits at between £950 million and £1,007 million. The provision of additional functions would have to prevent between 3.7 and 4.12% of all accidents and new incidence of ill health in the workplaces affected by the extension of existing safety representatives powers over the appraisal period in order for benefits to balance costs. This again is below the predicted level of 5%.

72. It should be noted that if safety representatives do not facilitate the large-scale changes in health and safety behaviour needed to realise the benefits, it is likely to be because they are not fulfilling the role to the greatest extent possible, and so the costs will be lower. In particular this applies to the time costs which are a large component.

Equity and fairness

73. The harmonisation will facilitate greater employee involvement in the workplace:
- a. Entitling all employees in their workplace to be consulted on their health and safety arrangements;
 - b. Empowering all safety representatives with the same powers and functions to enable them to act effectively on behalf of their fellow workers;
- This will enable all employees to be treated equally in the context of consultation over their health and safety arrangements.

Impact on small sized businesses

74. These proposals could be more likely to have an impact on small non-unionised workplaces, as these workplaces are more likely to be consulting directly with employees. However, the small businesses consulted indicated that their employees, given the choice, would not decide to consult via safety representatives. Even if the employees did decide to consult via safety representatives, the costs involved are unlikely to be of a disproportionate nature.
75. Five small firms were contacted via telephone. One was in the motor trade and had 21 employees, one was a youth association and had around 50 employees, one was a building contractor and had 25 employees, one was an events caterer and had 25 employees and one was a residential care home with 30 employees.
76. Three of the firms indicated that they currently consulted about health and safety matters directly with employees, as opposed to via a safety representative. However, they indicated that their employees, if given the choice would choose to continue consulting in a similar manner. The main reason that they gave for this was that being a small employer, everything was done informally, on a one to one basis, which the employees appreciated. Therefore, none of the small firms believed that the harmonised Regulations would have a significant impact on their business.
77. Two of the firms indicated that they currently consulted via safety representatives, but their safety representatives were already carrying out the additional duties that would be required of them by the harmonised Regulations. As a consequence of this, the harmonised Regulations are unlikely to have a significant impact on their firms.

Competition assessment

78. The harmonised Regulations impact across all the markets in the economy. However, it is likely to have the greatest impact in markets with a high concentration of small firms. From the SME statistics, “Hotels and Restaurants” is identified as the sector having the highest concentration of firms with between 1 and 50 employees.
79. The market for both hotels and restaurants are relatively local markets, which have negligible degree of import penetration. It is unlikely that any one firm will have more than a 10% market share, or that the three largest firms will have at least a 50% market share.
80. The harmonised Regulations are more likely to impact on small businesses, as discussed earlier in the RIA. However, only 1.6%²¹ of firms in the hotel and restaurants sector have more than 50 employees, so as the majority of firms are small, the costs will spread fairly evenly. As the majority of firms will face the higher impact, this is unlikely to alter market structure.
81. It is not the case that the harmonised Regulations will lead to higher start up or on-going costs for new or potential firms that existing firms would not have to meet. The market is not characterised by rapid technological change, nor will the harmonised Regulations restrict the ability of firms to choose the price, quality, range or location of their products.
82. In conclusion, the risk of a significant detrimental effect on competition is low and there are no anticipated significant benefits from competition.

Environmental Impacts

83. The proposals do not constitute any environmental impacts.

Enforcement and Compliance

84. Clear duties are placed on employers to enable them to understand their statutory obligations under the regulations and this should aid compliance. Enforcement of the regulations will be the responsibility of the Health and Safety Executive and Local Authorities.

Uncertainties

85. One uncertainty is exactly how many workplaces will be affected by the harmonised Regulations. The estimate of how many workplaces will now come under the scope of the Regulations is based on the WERS

²¹ SME statistics 2001

1998 research that states that 47%²² of workplaces do not recognise trade unions, and the IES 2000 research figure which states that half of these workplaces will already have safety representatives in place.

86. The estimate of the number of additional safety representatives needed (80,100) is based the assumption that only 25% of workplaces with 25-49 employees will decide to be consulted via safety representatives when given the choice, but all other sized workplaces will decide to be consulted via safety representatives when given the choice. The following table shows how the number of safety representatives and costs vary in line with the assumption.

% of small (25-50 employees) workplaces deciding to be consulted via a safety representative	No. safety representatives needed	Cost (million)
0%	70,400	£2,290
25%	80,100	£2,500
50%	89,700	£2,700
75%	99,400	£2,910
100%	109,100	£3,115

N.B Figures have been rounded.

87. The estimate of the number of existing safety representatives having to take up additional duties is based the assumption that 10% of existing safety representatives will already be carrying out the additional duties required of them. The following table shows how costs vary in line with this assumption.

Percentage of existing safety representatives already carrying out additional duties	Cost (million)
0%	£2,580
10%	£2,500
50%	£2,150
100%	£1,710

N.B Figures have been rounded.

88. Another uncertainty is the degree of health and safety benefits arising from these proposals. Research shows that the presence of a health and safety representative is associated with lower rates of accidents, but stating the exact degree of reduction is difficult. It is also difficult to quantify the health and safety benefits arising from new duties the existing non-trade union recognised safety representatives will have. This RIA has assumed that the presence of a new safety representative will reduce the accident rate in affected workplaces by

²² This figure excludes workplaces with less than 25 employees.

15%, and the new duties of existing safety representatives will bring about a 5% reduction in affected workplaces.

89. A major uncertainty which has a large impact on the costs, is the amount of time safety representatives spend carrying out their duties. We have attempted to estimate the average times based on the IES research. As stated throughout the RIA these times are averaged across a wide range of sectors and there is likely to be a high degree of individual variation.
90. Another uncertainty associated with these costs is the difficulty in estimating the amount of employee time involved in being consulted by the safety representatives. This cost was omitted as it may simply balance with the time spent consulting directly with managers under the previous system. Thus, most of the emphasis of this analysis has been placed on the costs of the safety representatives. The costs calculated seem reasonable given the scale of the proposed harmonised Regulations.
91. The calculations of costs for a typical firm are extremely difficult to estimate as all the current research is in terms of workplaces and the number of workplaces a firm has will vary substantially between firms. In addition to this, the time estimates used in the costing are averaged across a wide range of workplaces and sectors. Due to the large variation in individual cases, these estimates are unlikely to reflect the position of a given firm.

Arrangements for monitoring and evaluation

92. HSE will have to undertake research at an appropriate time in the future to monitor and evaluate the implementation of the harmonised Regulations.