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HEALTH AND SAFETY EXECUTIVE

Senior Management Team

HSE Simplification Plan 2008 –

Removal of a docks form (a requirement of the Docks Regulations 1988)

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Issue

1. The Docks Regulations 1988 (Regulation 8 (2)(f)) requires that a certificate (the docks form) confirming the suitability of a vessel used to transfer workers around docks premises be completed. The Administrative Burdens Measurement Exercise (ABME) identified that this requirement is an unnecessary burden on businesses. HSE's 2008 Simplification Plan proposes that this certificate be removed from the legislation by April 2010.

Recommendation

2. That the SMT:
 - a) Be aware of this project and that it is as a result of a recommendation from HSE's 2008 Simplification Plan
 - b) Agrees with the recommendations of the Simplification Plan that the docks form should be removed
 - c) Confirms that the project can now proceed to the consultation stage (Consultation Document attached)

Background

3. The Docks Regulations 1988 (DR) apply to 'dock premises' which means any dock, wharf, quay, jetty or other place at which ships load or unload goods, or embark or disembark passengers, together with neighbouring land or water which is used or occupied, or intended to be used for those or incidental activities, and any part of a ship when used for these or incidental activities.
4. The associated ACoP ('COP25') for the DR says that vessels "should be subject to a system of thorough examination and certification by a competent person". The certificate is to contain certain particulars and must be kept by the owner, who may need to make it available for inspection.
5. Since the DR came into effect docks' working practices have changed significantly. The requirements of Reg 8 (2)(f) were intended to cover the practice of transferring large numbers of dock workers to and from vessels moored in the harbour, a practice which rarely happens now. This applies to land-based workers in ports.

6. Initial informal consultation suggests that the docks form is rarely used.
7. It is HSE's view that safety standards will not be lowered as a result of this change.

Argument

8. HSE officials have approached this work from the premise that as this is a requirement of the HSE's 2008 Simplification Plan, and it removes an administrative burden from business without compromising standards of risk control and management, then it should proceed. Additionally, early in the planning phase HSE sought the advice of the Maritime and Coastguard Agency (MCA). Their opinion was that there is plenty of legislation and guidance available, and as such the removal of the docks form would not lead to a lowering of safety standards.
9. There have been many changes in marine legislation and standards since the DR were introduced, and in the agencies responsible for enforcing marine safety. There is significantly more legislation and guidance on general marine and boat safety now than there was in 1988. Although much of this legislation applies specifically to large ships, or to specialised workboats such as pilot boats and tugs over which MCA have jurisdiction, the general guidance and standards for construction and use are equally applicable to small vessels.
10. As with any other aspect of health and safety, HSE would expect dutyholders to comply with relevant statutory requirements such as those covering design and construction of vessels, though HSE does not enforce such legislation. Some legislation does not apply to boats carrying less than 12 passengers used in non-seagoing waters. However, the Port Marine Safety Code says that only vessels built to MCA Code vessel standards should be used as workboats.
11. As use of a wide range of small boats and vessels is commonplace within ports and harbours for a wide range of activities (from ease of access across a site, to maintenance and repair work), port authorities and users now generally incorporate these work activities into their routine risk assessment systems and procedures. Safety issues include use of life jackets and harnesses, and lone working, as well as the basic elements of vessel safety.
12. It is our view that the use of risk assessment principles, with reference to the wide range of industry and MCA guidance now available, and recording of significant findings of risk assessments, linked to safe systems of work, training requirements etc makes the use of the docks form redundant.
13. It is also our view that safety standards for use of vessels used to transport workers are likely to be better addressed by the application of risk assessment to all aspects of this activity rather than by simply filling in the few details required by this form.
14. Preliminary discussions have been held with the ports industry and they have confirmed that the removal of the docks form would not present any issues for them. Informal consultations are continuing with internal and external stakeholders prior to entering the formal consultation procedure.
15. HSE is working with the ports industry to produce comprehensive new industry guidance. Any issues presented because of the removal of the docks form will be included in these discussions.

Consultation

16. We have included a broad cross-section of industry representatives during our informal consultation exercise as well as appropriate HSE stakeholders. The industry is of the firm opinion that removal of the docks form would not lower health and safety standards, as is the MCA.
17. HSE has excellent links with the industry via Ports Skills and Safety (PSS), the ports industry's organisation for health, safety, skills and standards. PSS is an industry-funded body which co-ordinates sector work on skills and health and safety. They facilitate other groups, including the tripartite Ports and Shipping Partnership which includes representatives from HSE, MCA, trade unions, the ports, etc. The intention to remove the docks form has been discussed at several Partnership meetings. Neither Nautilus nor UNITE have raised any concerns so far. We intend to have further informal discussions with UNITE, Nautilus and RMT on the draft consultation document.

Presentation

18. This proposal is about reducing the administrative burden on businesses with the aim of reducing costs, according to the ABME, by £3.4m per year. The target audience is the ports industry, and it is expected that publicity will be via the websites of HSE and PSS. There will also be a press release.

Costs and Benefits

19. Having consulted Economic Analysis Unit the impact assessment shows a net benefit to industry of around £3.4m per year, which represents a present value of £29.6 million over 10 years.

Financial/Resource Implications for HSE

20. The cost of preparation, development and implementation of this project (mainly staff costs) is estimated at £41k. These include the preparation of the consultation document and are affordable within the 2009/10 budget allocations.
21. Having consulted informally there are few resources devoted to enforcing the requirement to certify these vessels so regulatory savings are considered insignificant in resource terms.

Environmental implications

22. It is considered that there are no environmental implications attached to this proposal.

Action

23. That the SMT approves the project and confirms that it can proceed to the consultation stage.

Removing the requirement for a Docks Form

CONSULTATIVE DOCUMENT

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Consultation by the Health and Safety Executive

About this document

The Health and Safety Executive has a statutory duty to consult to seek stakeholders’ views on proposals. HSE believes that this enables an open and transparent approach to decision-making, which is essential if policies and decisions are to have widespread ownership and reflect the needs and aspirations of the people they will affect.

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

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

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

Infoline
Health and Safety Executive
5N1
Redgrave Court
Merton Road
Bootle
Merseyside
L20 7HS
0151 951 4057

How to respond

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

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

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

Mike McGrath
Policy and Delivery Adviser
Health and Safety Executive
5 S.G Redgrave Court
Merton Road
Bootle
Merseyside
L20 7HS
Tel: 0151 951 3407

Email:

to arrive no later than

We are allowing 12 weeks for this consultation.

What happens next?

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

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

Code of Practice on Consultation

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

These are:

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

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

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

Executive summary

This consultation covers proposals to remove the requirement of Docks Regulations 1988, Reg 8(2)(f), to complete a 'certificate of thorough examination of certain vessels used for transporting persons by water' (also known as 'the docks form'). The associated ACoP ('COP25') for the DR says that the certificate is to contain certain particulars and must be kept by the owner, who may need to make it available for inspection. This part of the ACoP will also change as a result.

Why review the legislation now?

HSE regards the requirement discussed in this document as unnecessary. We have committed to considering their removal in our '2008 Simplification Plan' (details of the plan can be found at <http://www.hse.gov.uk/simplification/simplification08.pdf>).

The main purpose of the Docks Regulations is to ensure that those parties who carry out docks operations are aware that they have specific duties under the Regulations, and to outline how some key activities should be approached.

The main rationale for the form-filling component of Reg 8(2)(f) was that in 1988 when the Docks Regs were written the Maritime and Coastguard Agency (MCA) did not exist in its current form, and it was considered that the completion of this certificate was required to ensure employers were specifically responsible for the safety of their vessels.

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

What are we proposing?

We are proposing to abolish the requirement to complete a docks form because it seems the requirement to complete the form is obsolete, other more relevant legislation having overtaken the original purpose of this requirement.

To achieve this we would repeal Regulations 8(2)(f) and, as a consequence, Regulations 8(3) and 8(4). In addition Appendix 12 of The Docks Regulations Approved Code of Practice (COP25, Safety in Docks) would also be no longer required.

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

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

Introduction

1. This document begins with information on who might be affected by the proposals, followed by a summary of the current legal framework. We then discuss our preferred option, and give a give a very brief comment on the other option we have considered.
2. More detailed information is provided in the Impact Assessment (Annex A) and the current legal framework (paragraphs 5 to 11).

Who will be affected by these proposals?

3. These proposals relate to the Docks Regulations 1988, specifically the requirements of Reg 8(2)(f). They are relevant for dutyholders responsible for the safety of vessels used to carry persons from one part of docks premises to another (including ships loading or unloading) specifically to enable them to take part directly in dock operations, or to return them from undertaking such work.
4. The regulation does not include vessels not used for such purposes, such as tugs and pilot boats.

Current legal framework

5. The Docks Regulations 1988 (DR) is the pertinent piece of legislation affected by this proposal.
6. In addition the Docks Regulations 1988 Guidance ACOP, Safety in docks (COP25), is also affected.
7. The main purpose of the DR is to set out a framework to ensure dutyholders identify risks and put in place appropriate controls
8. The main rationale for the form-filling component of Reg 8(2)(f) was that in 1988 the Maritime and Coastguard Agency did not exist in its current form, and it was considered that completion of this certificate was required to ensure employers were specifically responsible for the safety of their vessels.
9. The DR defines “dock operations” in detail and includes, amongst others, the loading or unloading of goods on or from a ship at dock premises, embarking or disembarking of passengers on or from a ship at dock premises, and a number of incidental activities carried out on docks premises.

The main requirements of Reg 8(2)(f)

10. Regulation 8(2) states that vessels should meet a number of safety-related criteria, i.e. they should be of sound and suitable construction, they should be properly equipped and maintained, they should be in the charge of a competent person, and they should be neither overloaded nor overcrowded (these conditions constitute Reg 8 (2)(a) to (e) inclusive).

11. Reg 8(2)(f) requires the completion of a certificate by a competent person declaring that the vessel satisfies certain criteria determined by the HSE which reflect the requirements of paragraph 10 above. Appendix 12 of COP25 (Safety in docks) lists the approved criteria required by this Reg., and the certificate (F2525) is obtainable from HMSO and the HSE website.

Preferred option

12. We propose to remove the requirement in Reg 8(2)(f) of the Docks Regulations 1988 for the completion of a certificate confirming the safety of a vessel used to transport a person at work in dock operations to or from any working place in docks premises. N.B. it is only the requirement to complete the certificate that is being removed.

13. We envisage the main benefits of doing this would be:

- Simplification of health and safety legislation by removing outdated and unnecessary paperwork requirements, without loss of health and safety protection.
- Reduction of the costs to business associated with this requirement (estimated in the cross-government Administrative Burdens Measurement Exercise in 2005 as £3.4 million p.a.).
- Businesses and enforcing authorities will be better able to focus health and safety resources on reducing risks in the workplace.

14. HSE is of the opinion that, as the Maritime and Coastguard Agency has indicated the existence of relevant merchant shipping legislation and guidance, the levels of health and safety protection will not be reduced as a result of removing this requirement.

15. There will be an expectation that dutyholders will follow the general requirements of the Health and Safety at Work etc Act 1974 and the Management of Health and Safety at Work Regulations 1999, including the need to complete a suitable and sufficient risk assessment drawing on the merchant shipping legislation and guidance available.

16. The working practices relating to the use of vessels for which Regulation 8 was intended have changed considerably since the Regs were introduced. The practice of using vessels in this way rarely happens today.

17. HSE has a duty to ensure its legislation is as clear, coherent and comprehensible as possible. If legislation identified as redundant or superseded can be removed without compromising standards of risk control and management, the law becomes less complex and takes less time and money to understand it.

Other option considered

18. The other option considered in any detail was to “do nothing” and continue with the existing legislation. We have rejected this option as we think it is not feasible

to leave in place a requirement to complete a certificate that is outdated and unnecessary. Good public administration and regulatory practice demand that outdated regulations be repealed or updated.

Legislative changes

19. We would initiate our proposed changes by introducing regulations that amend the Docks Regulations 1988. These have not yet been drafted though will only comprise one small revocation. It is proposed that these will be known as the Docks (Amendment and Revocation) Regulations 2010.

Summary: Intervention & Options

| | | |
|--|---|---------------------------|
| Department /Agency: Health and Safety Executive | Title: Impact Assessment of the removal of a form certifying the safety of a vessel to transport a person by water | |
| Stage: Development | Version: 1 | Date: 21 July 2009 |
| Related Publications: HSE's 2008 Simplification Plan | | |

Available to view or download at:

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

Contact for enquiries: Mike McGrath

Telephone: 0151 951 3407

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

The Docks Regulations 1988 (Reg 8(2)(f)) requires a competent person to fill in a form certifying the suitability of a vessel used to carry people from one part of docks premises to another to undertake dock operations or to return from this work. Following the government-wide Administrative Burdens Measurement Exercise (ABME), the HSE's 2008 Simplification Plan identified this as an unnecessary burden on business and recommended the removal of this form through amending legislation. The ABME estimated that the saving to business would be £3.4m per year.

What are the policy objectives and the intended effects?

To amend outdated legislation, remove unnecessary administrative burdens on business, and to allow the resources of duty holders and HSE to be better focussed on important health and safety issues. This is consistent with HSE's commitment to deliver better, smarter legislation that is easier to understand and apply. The Maritime and Coastguard Agency (MCA) has confirmed that there is merchant shipping legislation and guidance in existence on this matter which would mean that removal of the docks form will not lead to a lowering of health and safety standards

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

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

Option 1 - Do nothing - continue with the existing legislative requirements (i.e. the status quo, with no impact on costs or benefits).

Option 2 - Remove the requirement from the Docks Regulations for this form to be filled in. This is our preferred option. We believe that the requirements are redundant - good public administration and regulatory practice demand that outdated regulation be repealed or updated. Removing this requirement would not reduce H&S standards

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

Ministerial Sign-off For SELECT STAGE Impact Assessments:

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 the responsible Minister:

.....Date:

Summary: Analysis & Evidence

Policy Option: 2

Description: Repeal the certification requirements of IO 1572 Docks Regulations 8(2) (f) entirely.





Average Annual Cost
(excluding one-off)



£ -3,437,760.92

Total Cost (PV)

£ -29,591,168.29

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

HSE will incur some minor costs in revising procedures and removing information from websites or other information services. In addition there will be some minimal familiarisation costs for businesses to take account of the abolition of these requirements





One-off

Yrs

£ 0



Average Annual Benefit
(excluding one-off)



| | | | |
|--|-----|--|------------------------|
| | £ 0 | | Total Benefit (PV) £ 0 |
|--|-----|--|------------------------|

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

Key Assumptions/Sensitivities/Risks

This impact assessment uses figures from the Administrative Burdens Measurement Exercise (ABME), which are indicative only as they derive from small samples that are not statistically valid. In addition, the ABME assumed full compliance with each regulatory requirement..

| | | | |
|-------------------------|-------------------------|-------------------------------------|---|
| Price Base Year 2008 | Time Period Years 10 | Net Benefit Range (NPV) £ | NET BENEFIT (NPV Best estimate) £ 29,591,168.29 |
|-------------------------|-------------------------|-------------------------------------|---|

| | | | | |
|---|------------|---------------|-------------|------------|
| What is the geographic coverage of the policy/option? | | Great Britain | | |
| On what date will the policy be implemented? | | April 2010 | | |
| Which organisation(s) will enforce the policy? | | N/A | | |
| What is the total annual cost of enforcement for these organisations? | | £ N/A | | |
| Does enforcement comply with Hampton principles? | | Yes | | |
| Will implementation go beyond minimum EU requirements? | | N/A | | |
| What is the value of the proposed offsetting measure per year? | | £ N/A | | |
| What is the value of changes in greenhouse gas emissions? | | £ N/A | | |
| Will the proposal have a significant impact on competition? | | No | | |
| Annual cost (£-£) per organisation (excluding one-off) | Micro 0 | Small 0 | Medium 0 | Large 0 |
| Are any of these organisations exempt? | Yes/No | Yes/No | N/A | N/A |

Impact on Admin Burdens Baseline (2005 Prices)

(Increase - Decrease)

Increase £ 0 Decrease £ 29,591,168 **Net** £ -29,591,168.29

Key:

Annual costs and benefits: Constant Prices

(Net) Present Value

Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Introduction

1. This impact assessment considers proposals to remove the form-filling requirement of Reg 8(2)(f) of the Docks Regulations 1988. As a result of the removal of Reg 8(2)(f), Regs 8(3), 8(4) and Appendix 12 will also be removed as they directly relate to the requirement detailed in Reg 8(2)(f) (Appendix 12 forms part of COP25, The Docks Regulations ACOP).
2. Consultation update: Whilst formal consultation is yet to commence there have been opportunities to obtain informal opinion from key stakeholders. There is a clear message that removal of this form would not cause any difficulty and would not adversely affect health and safety because there is already in existence merchant shipping legislation and guidance covering the safety of vessels. There is also an expectation that dutyholders will follow the general requirements of the Health and Safety at Work etc Act 1974 and of the Management Regulations (e.g. risk assessments).

Background

3. The Docks Regulations 1988 (DR) apply to 'dock premises' which means any dock, wharf, quay, jetty or other place at which ships load or unload goods, or embark or disembark passengers, together with neighbouring land or water which is used or occupied, or intended to be used for those or incidental activities, and any part of a ship when used for these or incidental activities.
4. The DR (and the associated ACoP 'COP25') require that a "certificate of thorough examination of certain vessels used for transporting persons by water" ('the docks form') be completed by a competent person confirming that the vessel meets certain criteria, and that the certificate (F2525) be kept by the owner of the vessel and be made available for inspection.

Rationale for Government intervention

Rationale for the legislation

5. The main purpose of the DR is to ensure that those parties who carry out docks operations are aware that they have specific duties under the Regulations, and to outline how some key activities should be approached.
6. The main rationale for the form-filling component of the Reg 8(2)(f) part of the Dock's Regs 1988 was that in 1988 when the DR were written the Maritime and Coastguard Agency (MCA) did not exist in its current form, and it was considered that the completion of this certificate was required to ensure employers were specifically responsible for the safety of their vessels.

Rationale for reviewing the legislation

7. HSE has committed to work towards a 25% target reduction in administrative burdens by May 2010 and has published a Simplification Plan to help it meet this goal and report on progress. The Plan includes reviewing some requirements on employers to provide information or keep records, and looking at how we might reduce them without loss of health and safety protection.
8. The form-filling component of the Reg 8(2)(f) part of the Dock's Regs 1988 has been identified in the ABME as being an unnecessary burden on industry. This is because merchant shipping legislation covers the safety of vessels, and the MCA produce codes of practice and guidance such as 'The Code of Practice for the Safety of Small Workboats and Pilot Boats' (known as 'The Brown Code').
9. The removal of forms which are outdated, unnecessary or which duplicate other requirements was also a recommendation of the Hampton Review.
10. The Regulators' Compliance Code is also relevant. It incorporates principles drawn from the Hampton Review. HSE and other regulators must have regard to the Code provisions, which includes standards to be taken into account when placing information requirements on business.

11. The Code includes strategies to reduce form filling and record keeping obligations by using better regulatory practices. If, for example, a regulator keeps the same information on businesses on several independent databases (i.e. each linked to a separate function of the regulator), they should consider sharing that data so that a business only need to provide it once. Regulators should also only collect data when justified by impact assessment. These strategies can help regulators reduce the overall administrative burden on business.
12. HSE also has a responsibility to make sure its legislation is as clear, coherent and comprehensible as possible. If we can identify and remove laws that have become redundant or superseded, the law becomes less complex and it takes less time and money to understand it. Businesses should not have to wade through legislation which may no longer be relevant to find out what their obligations are.
13. Removing the docks form will represent a simplification of health and safety legislation, by removing outdated and unnecessary paperwork requirements, without loss of health and safety protection as there is already merchant shipping legislation covering the safety of vessels. We envisage the main benefits to be as follows:
 - a. It will be easier and less time-consuming for businesses to understand what their obligations are.
 - b. Businesses will save time and money in not having to complete this form.
 - c. Businesses and enforcing authorities will be better able to focus health and safety resources on reducing risks in workplaces.

Options

Option 1 – Do Nothing – continue with the existing legislative provisions

14. Doing nothing would leave the requirement to complete these outdated and unnecessary forms in place. Good public administration and regulatory practice demand that outdated regulations be repealed or updated.

Option 2 – Repeal the certification requirements of IO 1572 Docks Regulations 8(2) (f) entirely

15. Under this option, the requirement to complete the Docks Form would be removed.
16. As mentioned previously, having consulted the MCA and having received their confirmation, there is merchant shipping legislation and guidance to demonstrate that removal of the Docks Form will not lead to the lowering of safety standards. For this reason and due to the fact that the removal of the requirements will remove the unnecessary costs associated with it, this option is our preferred choice.

Examples of legislation which supersede Reg 8(2) (f), whilst covering its remit and therefore rendering it redundant, include:

- MCA Codes of Safety for Small Commercial Vessels
- Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997
- Port Marine Safety Code and Guide to Good Practice on Port Marine Operations.

There will be an expectation that dutyholders will follow the general requirements of the Health and Safety at Work etc Act 1974 and the Management of Health and Safety at Work Regulations 1999, including the need to complete a suitable and sufficient risk assessment drawing on the merchant shipping legislation and guidance available.

Costs and Benefits

Data Sources and Assumptions

17. There are some uncertainties in our assessment of the costs and benefits.
18. This impact assessment uses figures from the Administrative Burdens Measurement Exercise (ABME)¹ for estimates of the number of regulated entities that are subject to the IO 1572 Docks Regulations 8(2)(f) requirement to gain a certificate for Vessels used to transport a person at work to or from any working place, from a competent person. The ABME appears to estimate the total number of certified vessels by using the total number of vessels that were registered on the UK Shipping Registry in 2002 which includes trading, non-trading and Crown dependencies.
19. The ABME is also the source of the managerial time and the overall administrative burden which the requirement imposes.
20. The ABME estimates were obtained using the Standard Cost Model⁵ (SCM), which provides a simplified, systematic, methodology for estimating the administrative costs² imposed by regulation.
21. The costs estimated by the ABME were **indicative only** as they derived from small samples that were not statistically valid.
22. It is important to note that the ABME **assumed full compliance** with each of the regulatory requirements it analysed.
23. The ABME estimated the total administrative burden of the IO 1572 Docks Regulations 8(2)(f) at £3,437,760.92
24. The ABME is part of HSE's commitment to work towards a 25% target reduction in Administrative burdens by May 2010.
25. There is a distinction between **administrative costs** and **administrative burdens**: the latter designate costs specifically linked to information that businesses would not collect and provide in the absence of a legal obligation.
26. The administrative costs of the IO 1572 Docks Regulations 8(2)(f) are £6,250,474.40
27. *During informal discussions with the industry it is apparent that working practices in ports have changed over time, and there has been the suggestion that the use of these forms is rare.*

In response to this, it may be useful to restate that the ABME cost estimates are indicative only, drawn from small samples and should not be seen as statistically representative. The ABME also assumed full compliance by those subject to a particular information obligation.

Estimates of savings to the private sector were therefore based on this assumption.

¹ The ABME was a government-wide exercise, carried out to provide an indication of the administrative burden on business created by regulations. It estimated the cost associated with complying with administrative tasks (form filling, record keeping etc, including requirements under health and safety legislation) and the total annual administrative cost contained in all legislation in force as at May 2005.

² The Standard Cost Model is a pragmatic methodology invented by the Dutch to provide systematic measurement of administrative costs of regulation. More information on the SCM and the methodology can be found on the website of the Department for Business, Enterprise & Regulatory Reform at: <http://www.berr.gov.uk/bre/policy/simplifying-existing-regulation/administrative-burdens/page44061.html>

The ABME exercise delivered a reasonably consistent estimate of the administrative costs on the private sector, providing regulators with a baseline from which to measure the effect of initiatives to reduce unnecessary burdens.

Sectors and Groups Affected

28. The *IO 1572 Docks Regulations 8(2)(f)* is a regulation for "dock operations" relating to the transportation of a person at work to or from any working place. This includes the loading/unloading goods, embarking/disembarking of passengers/crew and any incidental activity as defined in section 2(1) (a) to (g) in Great Britain. (This description is an extract from the Admin Burdens Calculator.)
29. The ABME noted that the requirement to certify the use of vessels used to transport a person at work to or from any working place is particularly relevant for those in the micro (0 – 9 employees) business category. The ABME identified 88% of businesses in this category.

Annual Benefits for Business

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

30. There are no benefits from this option.

Option 2 – Repeal the certification requirements of IO 1572 Docks Regulations 8(2) (f) entirely

31. *By removing the requirements of IO 1572 Docks Regulations 8(2)(f), HSE will remove any costs associated with it and these have been estimated in the ABME to be £3,437,760.92 per annum.*

Over a ten year appraisal period, the present value of this benefit is £29,591,168.29.

Because the requirements detailed in IO 1572 Docks Regulations 8(2)(f) have been superseded by other legislation, we are of the opinion that there are now no associated health and safety benefits associated with its existence, and therefore there will be no increase in risk to industry as a result of its removal.

There remains an expectation that dutyholders will follow the general requirements of the Health and Safety at Work etc Act 1974 and the Management of Health and Safety at Work Regulations 1999, including the need to complete a suitable and sufficient risk assessment drawing on the merchant shipping legislation and guidance available.

32. This option also contributes to the overall simplification of health and safety legislation to which business is subject. Removing the administrative burden of completing this certificate would allow businesses to focus their time and resources on important workplace health and safety issues.

Annual Costs for Business

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

33. There are **no changes to administrative burdens or costs** with this option, but without change the current requirements face the risk of duplicating paperwork which raise business costs.

Option 2 – Repeal the certification requirements of IO 1572 Docks Regulations 8(2) (f) entirely

34. There would be some **minimal familiarisation costs** for businesses to take account of the abolition of these requirements but we feel it is not practicable to try to quantify these.

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

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

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

Option 2 – Repeal the certification requirements of IO 1572 Docks Regulations 8(2) (f) entirely

36. HSE would incur some minor costs in revising procedures and removing information from websites or other information services.

37. There would also be some additional costs in informing business of the abolition of the requirements. As information on the requirements is generally provided through regulators' websites, this cost would be relatively minor.

Annual Benefits for national regulators and local authorities

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

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

Option 2 – Repeal the certification requirements of IO 1572 Docks Regulations 8(2) (f) entirely

39. Information received from initial consultations suggested that enforcing authorities devote few, if any, resources to enforcing the certification requirements. Consequently, any savings from abolition are unlikely to be significant.

Specific Impact Tests

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

Competition Assessment

40. We do not believe the proposal to remove the certification requirements of *IO 1572 Docks Regulations 8(2) (f)* will have a significant impact on competition.

41. We have considered the four key questions, namely, whether in any affected market the proposals would:

a. Directly limit the number or range of suppliers – removal of the requirements will have no effect on the range of suppliers in any market.

b. Indirectly limit the number or range of suppliers – there is no evidence the proposals will have this effect.

c. Limit the ability of suppliers to compete – the proposal places no restrictions or limits on suppliers ability to compete.

d. Reduce suppliers' incentives to compete vigorously – there will be no disincentive to, or other inhibition on, vigorous competition.

Small Firms Impact Test

42. Our preferred option will have a beneficial impact on small business by reducing administrative burdens. The certification requirements of *IO 1572 Docks Regulations 8(2) (f)* cover a wide range of employers and businesses across all industry groups. The ABME noted the requirements particularly affected micro businesses.

Legal Aid

43. There will be no impact on legal aid.

Sustainable Development/Carbon Assessment/Other Environment

44. We see no impact on these matters.

Health Impact Assessment

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

Rural Proofing

46. We do not believe our proposals will have a different impact in rural areas from non-rural areas.

Specific Impact Tests: Checklist

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

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

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

Annexes

Equality Impact assessment

Job title for lead assessor

Head of Transportation Section, STSU

Unit name for lead assessor

Mike McGrath

Contact details for lead assessor

Chris Barringer 01342 334261

Date of assessment

| |
|----------------|
| 21.7.09 |
|----------------|

Name of proposal

**Removal of form certifying safety of a vessel to transport a person
by water**



Impact screen



Full impact assessment

Purpose / aim of proposal *[Provide outline of the purpose of the policy/process/service]*

To remove from the Docks Regulations 1988, Reg 8(2)(f), the requirement for a dock transport vessel to be certified as safe

Who will benefit from the proposal? *[Stakeholders/employees, specific groups?]*

Ports operators will be the main beneficiary of this proposal

Information and data (evidence) used *[List key sources, eg Labour Force Survey, Focus Groups, etc]*

Emailed responses from industry advise that this form is rarely used.

Anecdotal evidence suggests this form is rarely used.

Emails received from industry advise that workboats and pilot vessels follow codes of practice as published by the Maritime and Coastguard Agency (MCA). There is an expectation that duty holders will follow the general requirements of the Health and Safety at Work etc Act 1974 and the Management of Health and Safety at Work Regulations 1999, including the need to complete suitable and sufficient risk assessment drawing on the relevant merchant shipping legislation and guidance available.

Consultation details *[Information on any consultation of focus group work and outcomes]*

A formal consultation will be held in line with standards laid down by the BRE. The Consultation Document is in course of being prepared.

What is the likely impact identified for any group? *[State whether the projected impact is positive, negative or neutral, the extent and severity of the impact, and on which group(s) it will impact. Impact assessments must be undertaken for race, disability and gender but it is recommended that all equality strands be assessed, including age, religion or belief and sexual orientation]*

The projected impact for ports operators is positive due to the reduced administrative burden. It has been calculated in the PWC Administrative Burdens Measurements Exercise, and subsequently declared in the HSE's 2008 Simplification Plan, that savings to industry will be £3.4 million. There is no impact on any equality issues.

Summary of impact on equality:

Negative impact on:

Race

Yes

No

Disability

Yes

No

Gender

Yes

No

Age

Yes

No

Religion, beliefs

Yes

No

Sexual orientation

Yes

No

Could the impact be reduced or removed? *[Explain both how it could be minimised or removed, or why neither option is feasible]*

N/A

Does the proposal have a positive impact on any group? *[Include the reason for the positive impact and outline how and why this will be positive. If there is no evidence that the proposal promotes equality and diversity or improved relations, could it be adapted to do so?] [If the policy, process or service does not have a positive impact, state any changes that could be made to incorporate this]*

There are no positive or negative impact on any equality issues

Are there any noteworthy points or observations arising from the screening/assessment? *[If so, please record them. You are invited to make recommendations, in which case you should identify by whom they will be actioned]*

None

What additional information is required to assess that there might be a negative impact in relation to a particular group?

None

You should have a monitoring/evaluation review process to check the successful implementation of the proposal.
What will this consist of and how will this monitoring continue to evaluate the policy/strategy to ensure non-discrimination?

HSE will evaluate the effect within 3 years after implementation as part of its overall evaluation.

Conclusion: *[Summarise the outcome of the screening/assessment process, including decisions made about whether more information is required fully to assess the equality impact. Note that if you have indicated there is a significant negative impact on any group, you may/will need to recommend or make a **full impact assessment**]*

This project has already been identified as having a positive impact on operators in the ports industry and is principally designed to reduce the administrative burden on them. There is not expected to be any impact on equality issues.

Review

Signed

Date

Annex B – Response Form – Part 1

Removing the requirement for a Docks Form

Completing this Response Form

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

Part 1: Your details

Name:

Job title:

Organisation:

Street address:

Town/City:

Postcode:

Telephone:

Fax:

Email:

Number of employees in your organisation

Choose one option and tick:

| | |
|----------------|---------------|
| Not applicable | 250 to 1000 |
| 1 to 9 | 1000+ |
| 10 to 49 | Self-employed |
| 50 to 249 | |

Business sector:

Choose one option and tick:

| | |
|-----------------------------------|--------------------------------------|
| Agriculture, hunting and forestry | Refuse, sewage and sanitation |
| Charity | Trade Unions |
| Construction | Transport, storage and communication |
| Electricity, gas and water supply | Wholesale and retail trade |
| Fishing | Other business activities |
| Manufacturing | Other |
| Mining and quarrying | Not applicable |
| Ports and harbours | |

Representation – Are you responding as:

Choose one option and tick:

| | |
|---------------------------------------|---|
| A member of the public | A representative of an industry association |
| An employer | A representative of a trade union |
| A local authority employee/councillor | A representative of a charitable/voluntary organisation |
| Other (please specify below) | |

If you choose 'Other' please specify

Confidentiality

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

Response Form – Part 2

This part of the form will contain the questions to be answered. The following questions are the type that will be asked. If you believe that any other questions would add to the information base that we are gathering, please include the question you believe should be asked and (preferably) a short sentence on why you think it should be asked.

Q1 Do you agree with our proposal to remove the docks form?

Please provide some comments in support of your answer.

Yes

No

Yes

No

**Q2 Do you believe that removal of the docks form
would have an adverse effect on health and
safety?**

**Please provide some comments in support of
your answer.**

Yes

No

**Q3 Do you believe that removal of the docks form
would create any problems or difficulties
(operationally or otherwise)?**

**Please provide some comments in support of
your answer.**

Yes

No

Q4 Are you aware of any health and safety issues around workboats in general that are not covered by MCA legislation and guidance?

Please provide some comments in support of your answer.

Yes

No

Q5 Are there any further comments you would like to make on the issues raised in this consultation document that you have not already responded to in this questionnaire?

Q6

Is there anything you particularly liked or disliked about this questionnaire?

You can find the electronic version of this form by following the links at:

<http://www.hse.gov.uk/>

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

Mike McGrath

Policy and Delivery Adviser
Health and Safety Executive
5 S.G Redgrave Court
Merton Road
Bootle
Merseyside
L20 7HS
Tel: 0151 951 3407

Email:

to reach there no later than: