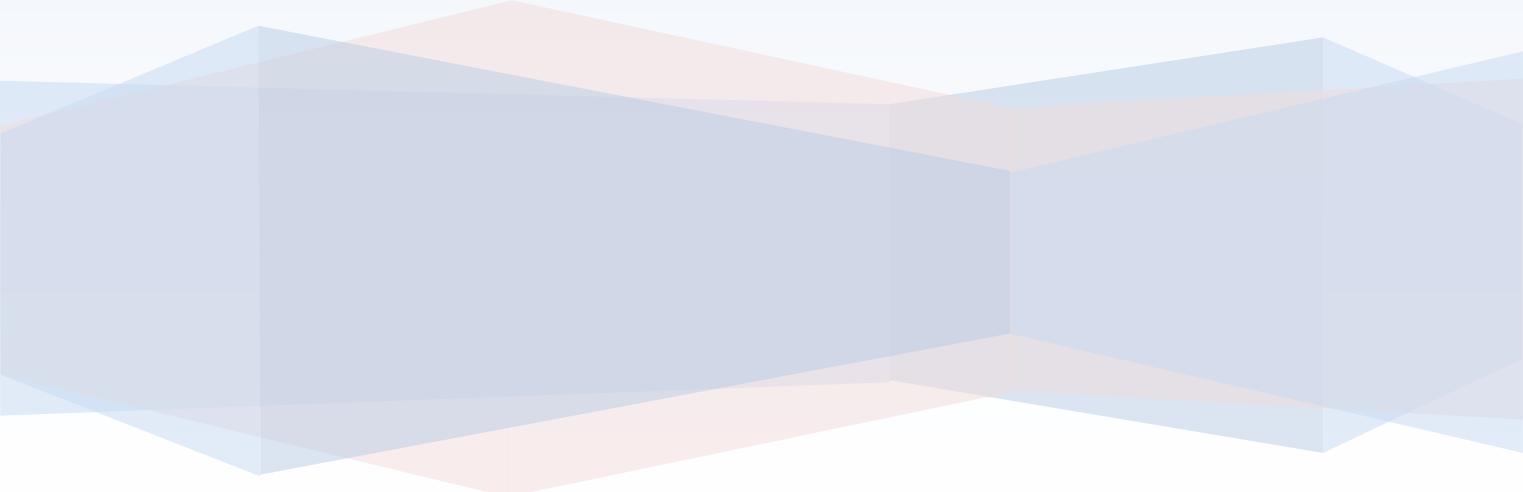


CONSOLIDATION: THE PRACTICABILITY AND EFFECTS OF THE OPTIONS FOR CONSOLIDATING HEALTH AND SAFETY REGULATIONS

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I. EXECUTIVE SUMMARY

The Löfstedt recommendations

ES 1 Under the heading of *Consolidation of regulations that apply to all businesses*, Professor Löfstedt identified, *‘four broad options that could be considered.*

These are to:

- a. consolidate all the regulations into one overarching regulation;*
- b. bring together those regulations that contain common provisions (for example the requirement to do a risk assessment or provide information and training);*
- c. consolidate the regulations into a smaller number according to theme (for example those that relate to general management issues or by hazard); and*
- d. merge sets of regulations that cover related topics*

ES 2 I have been instructed to research and report upon the legal practicability and effects of adopting any and each of the four options; and to what extent each or any of them could be achieved in such a way as to provide clarity and “*help businesses, particularly new ones, understand their duties better and reduce apparent duplication by having all related requirements ... in one place.*”¹

EU Directives and SFAIRP

ES 3 Elsewhere in his report, Professor Löfstedt recommended that, “*the UK focuses its attention*” towards using the proposed review of health and safety regulation by the EU as a “*great opportunity*” to make new and existing EU legislation risk-based and evidence-based. He identified “*an overwhelming view from those who responded to the call for evidence that SFAIRP (‘so far as*

¹ Löfstedt, Chapter 7, para 25

is reasonably practicable') should remain at the centre of health and safety regulation"

- ES 4 It is the need to, and the practice of, faithfully transposing the requirements of EU Directives into regulatory provisions that both provides a hurdle to the reduction of perceived duplication through consolidation of provisions and leads to a preponderance of absolute duties in Regulations that are not qualified by SFAIRP. The solution to keeping SFAIRP at the centre of health and safety regulation may well lie with the fulfilment of Professor Löfstedt recommendation of using the '*great opportunity*' of the proposed review of health and safety regulation by the EU in the manner he suggests.

Consolidation of existing sets of Regulations

- ES 5 The first of the four options of *Consolidation of regulations that apply to all businesses*, (option a), is some form of overarching consolidation. I have analysed this option as taking one of three forms, namely:
- Consolidation A: consolidation of all those UK regulations implementing EU occupational health and safety directives and other occupational health and safety regulations (i.e. not solely those falling within the remit of the HSE);
 - Consolidation B: consolidation of only those UK regulations implementing EU occupational health and safety directives and other health and safety regulations falling within the remit of the HSE;
 - Consolidation C: consolidation of only those UK regulations implementing EU occupational health and safety directives of general application and other necessary general health and safety regulations or a smaller subset that relate to general management. (Consolidation C embraces one of the possible ways of adopting the third option, [option c above])

Consolidation A

- ES 6 It would appear wholly unfeasible to undertake Consolidation A: any resulting set of regulations would require printing in a multiple volume work; would require myriad and labyrinthine subsidiary Orders or other secondary legislation dealing with enforcement powers and responsibilities; and would appear to make the task of and responsibility for enforcement and issuing guidance to explain the duties more challenging rather than easier. It does not appear that such an option could achieve the stated aim of helping businesses understand their duties better.

Consolidation B

- ES 7 In regard to Consolidation B, there are myriad examples of health and safety provisions (*'relevant statutory provisions'*) that are entirely focused upon specialist parts of particular sectors, where the consolidation of these with other health and safety regulations, even if separated under parts or chapters, could do nothing to achieve an aim of improving the ease of understanding of businesses as to their health and safety duties.
- ES 8 Furthermore, the absence of the provisions of Consolidation A from Consolidation B would mean that, despite its scope and size, Consolidation B would not be the only source of health and safety related regulations that some businesses would be affected by: absent would be some substantial and significant regimes. Consolidation B would not produce any of the potential benefits nor succeed as a source for helping businesses understand their duties better.

Consolidation C: regulations of general application

- ES 9 Consolidation C, involving only those UK regulations implementing general EU occupational health and safety directives and other necessary general occupational health and safety regulations, could be achieved by the creation of what would be a lengthy document, but nonetheless of a far more manageable size than would be the position with either Consolidation A or Consolidation B
- ES 10 A difficulty lies in the identification or definition of those sets of regulations that apply to all businesses, and distinguishing those that are not of such general application. In reality, not only does an arbitrary line have to be drawn but also there are a number of sets of Regulations that contain provisions that fall across different sides of the dividing line.
- ES 11 The Republic of Ireland recently consolidated health and safety Regulations of general application into the *Safety, Health and Welfare at Work (General Application) Regulations*. The Regulations are comprised of 175 provisions, arranged into eight Parts and with 10 Schedules following thereafter. It does not appear that the Arrangement of Regulations, or the detailed legislative provisions themselves, are the best source to arrive at an easy understanding of the duties; nor do the Regulations succeed (if that was their intent) in providing a single source of provisions concerned with what could be unarguably termed general health and safety matters.
- ES 12 Furthermore, many seemingly similar duties are scattered about the Regulations, with each appearing to use different words to deal with the same (or very similar) activities.

Consolidation C: regulations relating to general management of health and safety

- ES 13 In Annex 1 to this report, I have attempted to group health and safety Regulations by subject matter/ theme and have included as the first group *general/ management*, which includes some 14 sets of Regulations.
- ES 14 It is difficult to envisage what benefit would arise from consolidation of all these provisions; in no case would the legislative provisions provide either the easiest source or a necessary first place to look for an understanding of an employer's duties.
- ES 15 A consolidated set of Regulations that included all these provisions would be voluminous; and, a consolidated Regulation said to be of matters concerned with general management of health and safety that excluded any of the matters would be capable of misleading those whom relied upon it to be fully informed of their duties.

Consolidation C: Conclusion

- ES 16 It does not appear to me that Consolidation C, in any form, would produce the potential benefits nor succeed as a source for helping businesses understand their duties better. A Consolidated set of Regulations, by the nature of the language employed, the range of specifics covered and their scope and size, could not by itself be a source capable of delivering an easy understanding for businesses of their duties nor could it succeed in being the sole legislative source of such duties. Wherever the dividing line was drawn (to widely encompass 'general' provisions or to narrowly define 'general' to be those most directly concerned with the management of health and safety) considerable disadvantages would result.

Consolidation of common provisions

ES 17 Professor Löfstedt's second consolidation option is to bring together those regulations that contain common provisions. I have approached this option by a consideration of the various provisions that touch upon risk assessment.

Risk assessment

ES 18 The current obligation to undertake a risk assessment in Regulation 3 of MHSWR 1999, whilst contained in secondary legislation, nonetheless lies at the heart of health and safety. As currently drafted, it is undoubtedly a model of clarity and simplicity.

ES 19 A consideration of the relevant statutory provisions² reveals that they impact upon '*risk assessment*' and the duty in Regulation 3 MHSWR in the following ways (which I have styled as 'classes of duty').

Class of Duty:

- I. By making specific provision requiring an assessment directed at a particular class of persons, specifically 'young persons' and 'expectant mothers'. The former provided for in Regulation 3(4) and 3(5) of the MHSWR 1999 and the latter in Regulation 16 of the same provisions.
- II. By making specific provision for a risk assessment that addresses a particular substance, hazard or activity
- III. By making specific provision for an assessment that addresses a particular substance, hazard or activity and including an express reference to the duty under Regulation 3(1) MHSWR 1999.

ES 20 At Annex 4 is a tabular summary of the provisions³, arranged as three classes.

² i.e. health and safety regulations, excluding those concerned with Merchant Shipping, Mines and Quarries

- ES 21 Whilst the ‘special classes’ of people expressly provided for by health and safety provisions are contained with MHSWR 1999 such consolidation does not make the task of identifying the exhaustive list of all such classes of person any easier nor would, further consolidation into one mammoth regulation do so..
- ES 22 In none of what I have described as the class I, class II or class III provisions is there a legal requirement to conduct a specific, separate risk assessment to one being undertaken under regulation 3(1) MHSWR 1999.
- ES 23 Each of the Class II risk assessment duties⁴ is currently contained within a statute making detailed provision in respect of a particular substance, hazard or activity; and, by and large, each follows the express provisions of a European Directive. Whilst the Class II UK statutory provisions may be silent on the point, the various relevant EU Directives expressly provide that the various risk assessment relating to specific hazards are part of the duty to assess risk that is transposed in the duty created by regulation 3(1) MHSWR 1999.
- ES 24 In short, notwithstanding the apparent perception of a significant number of those that responded to Professor Löfstedt’s consultation, none of the various provisions that touch upon the employer’s duty to undertake a risk assessment mandate the creation of a separate risk assessment from that conducted in pursuance of the duty under Regulation 3(1) MHSWR 1999 and none involves any real element of duplication.

³ Which may not be exhaustive

⁴ Other than the Supply of Machinery (Safety) Regulations 2008, which is concerned with a wholly separate issue from workplace or worker safety, namely the safety of a machine by the person responsible for its manufacture

The mechanics of consolidating risk assessment provisions

ES 25 The only way in which each of the specific hazard provisions could be consolidated would be to amend, or create anew, Regulation 3(1) of MHSWR or to add them to MHSWR in a geographically proximate position (3A, 3B etc.). This would not aid the ease of understanding of Regulation 3(1) or necessarily achieve anything in terms of making it easier for a business to understand its duties.

ES 26 The detailed position in respect of each of these substances, hazards or activities would still need to be set out in Regulations in a different place to the words of Regulation 3(1) of MHSWR 1999 or any recast risk assessment duty. Arguably, by removing risk assessment provision from these specific Regulations, the task of a business in understanding its duties would be made more difficult.

Other hazards not captured by consolidation

ES 27 The further difficulty with consolidating Regulation 3 MHSWR 1999 in a way to contain specific reference to any hazard, substance or activity for which there is specific statutory provisions (and a reference to that specific set of Regulations) is that such consolidation necessarily would have to be expressed as “*without prejudice to the general duty to assess risks*” because the Class II and III duties are not an exhaustive list of substances, hazards or activities merely those in respect of which specific Regulations have been enacted.

Conclusion on consolidation of risk assessment related provisions

ES 28 It does not appear that consolidation of every UK health and safety provision where risk assessment is referred to would achieve anything other than create, at best, a misleading list of non-exhaustive hazards that may have to be considered by an employer; at worst, a non-exhaustive but voluminous provision: neither would appear to provide a means for businesses to better understand their duties. Furthermore, such consolidation would remove no duplication of provisions and the many and varied hazard specific duties to assess would still need to be in terms that transposed the detailed provisions of the various European Directives.

Consolidate regulations by theme or merge sets of regulations that cover related topics

ES 29 In Annex 1 I have arranged the 208 health and safety Regulations owned and enforced by the HSE by grouping them into subject matter or theme. I have earlier identified how the application of such subject matter labels to the Regulations is both highly subjective and, to a significant degree, arbitrary.

ES 30 The sector consolidations being undertaken are in areas where there has been an accumulation of regulatory provisions and where there is an identifiable potential for simplification and merger. Beyond such sectors, consolidation of Regulations by each subject matter or theme identified in Annex 1 would not produce any benefit in terms of simplification, ease of understanding or the bringing in one place of all the relevant duties to a particular business/ hazard.

Enforcement/ regulatory amendment/ procedure

ES 31 Grouped in blue in Annex 1 are those Regulations (some 28 sets⁵) that I have identified under the broad heading of ‘*Enforcement/ regulatory amendment/ procedure*’. None of these Regulations provide health and safety requirements that are a necessary source from which businesses can gain an understanding of their duties. However, as Professor Löfstedt notes, consolidation or merging these regulations would neither reduce costs to businesses nor significantly lower the overall number of SIs and thus such consolidation would result in no identifiable benefit.

Consolidation by theme: conclusion

ES 32 Rather than consolidation of any Regulations by theme or hazard, the fulfilment of Professor Löfstedt’s recommendation by clearly demarking those Regulations that do create positive health and safety duties from the group of ‘administrative’ Regulations may be a more effective part of providing a source to help businesses to easily understand the extent of their duties.

Merge sets of regulations that cover related topics

ES 33 The last option, of merging sets of related Regulations was dealt with in Professor Löfstedt’s report with an express suggestion that the Lifting Operations and Lifting Equipment Regulations 1998 (LOLER) and the Provision and Use of Work Equipment Regulations 1998 (PUWER) be considered

PUWER and LOLER

ES 34 The HSE publication *Safe use of lifting equipment - Lifting Operations and Lifting Equipment Regulations 1998, ACOP and Guidance* extends to 110 pages,

⁵ There are others, such as the various amendment Regulations that I have grouped with the original provisions e.g. COSHH

covering, as it does the detail of all aspects of lifting equipment from basic to the very complex. Simply consolidating LOLER with PUWER to put the Regulations in the same place would only achieve a vast increase in the size of any ACOP or Guidance document published in support of such consolidated Regulations.

- ES 35 Any apparent duplication of provisions between PUWER and LOLER is the result of the need to implement the terms of the Directives and any improvement in the position could only come following Professor Löfstedt's recommendation of engaging with the EU in the 2013 review of health and safety legislation.

Conclusion regarding merging LOLER and PUWER

- ES 36 Merging LOLER with PUWER would not result in any reduction in the number of provisions but would impact upon the volume of any consolidated ACOP and Guidance. Businesses would remain best served by specific guidance being available concerning lifting equipment. In the absence of any evidence that industry affected by LOLER and PUWER believes that it would benefit in any way from such merger, there could only be the negative consequence of duty holders incurring familiarisation costs.

II. SCOPE OF RESEARCH AND REPORT

1 I have been instructed to research and report upon the legal practicability and effects of adopting any and each of the four options; and to what extent each or any of them could be achieved in such a way as to provide clarity and (in the words of Professor Löfstedt's Report):

“help businesses, particularly new one, understand their duties better and reduce apparent duplication by having all related requirements (such as the risk assessment duties) in one place.”⁶

2 Professor Ragnor Löfstedt's report, *Reclaiming health and safety for all: an independent review of health and safety legislation*, included a Chapter 7 entitled *Simplifying the regulatory framework*. Chapter 7 covered:

- Business concerns over the volume of regulation, as opposed to any particular set of regulations.
- Proposals for sector-specific regulation, and the case for and against consolidation of regulations that apply to all businesses.

3 Professor Löfstedt broadly categorised health and safety regulations into three sections: general management regulations that apply to the majority of workplaces, hazard-specific regulations that also apply to most workplaces and others that apply only to specific, complex activities. Included was a table (Professor Löfstedt's Figure 4) said to illustrate this approach, which is reproduced below.

⁶ *Reclaiming health and safety for all: an independent review of health and safety legislation* (hereafter *Löfstedt*), Chapter 7, para 25

Figure 4 Overview of health and safety legislative framework

Health and Safety at Work etc. Act 1974

Management regulations	Hazard specific regulations	Activity or process specific regulations
Generic requirements for good health and safety management. e.g. Management of Health and Safety at Work Regulations (competence, information and training, co-operation with and relationships between duty holders); Workplace (Health, Safety and Welfare) Regulations; first-aid.	Generic application to all work environments. e.g. work at heights, confined spaces, provision and use of work equipment, electricity, manual handling, chemical and biological agents regulations, noise & vibration.	Applies to specific processes or complex activities. Often includes prescriptive or ‘permissioning’ elements. e.g. asbestos licensing: construction design & management; gas safety and management; offshore safety cases – oil & gas; control of major hazard accidents; pressure systems; pipelines safety; borehole operations; etc.

Approved Codes of Practice, Standards and Guidance etc.

Information, Advice, Inspection and Enforcement

- Chapter 7 recommended that various “sector-specific” regulations be consolidated into single sets of Regulations pertaining to those sectors. In this regard, Professor Löfstedt’s report specifically recommended that explosives, mining, genetically modified organisms, petroleum, and biocides as sectors that should form part of sector-specific regulatory consolidation. He suggested that there may be further areas which could be considered.

Löfstedt's four consolidation options

5 Under the heading of Consolidation of regulations that apply to all businesses, Professor Löfstedt stated:

21. *Some have argued that the complexity of the regulations and the apparent duplication of some specific duties create an undue burden, or at least the perception of a burden, and that further simplification is required. It follows that if businesses view the regime as virtually impossible to understand and this leads them to 'contract out' the responsibility for health and safety to third parties, then the issue will be seen as an administrative burden.*

22. *Another approach to reducing the stock of existing legislation is to undertake a further consolidation of the core set of (non-sector-specific) regulations that apply to the majority of workplaces. Many respondents offered a wide range of possible regulations that could be merged.*

23. *There are four broad options that could be considered. These are to:*

. consolidate all the regulations into one overarching regulation;

a. bring together those regulations that contain common provisions (for example the requirement to do a risk assessment or provide information and training);

b. consolidate the regulations into a smaller number according to theme (for example those that relate to general management issues or by hazard); and

c. merge sets of regulations that cover related topics.

6 Thus he recommended that the:

“HSE commission research to help decide if the core set of health and safety regulations could be consolidated in such a way that would provide clarity and savings for business....but any changes should not impose excessive costs or reduce the protections offered by the legislation”

Other relevant Löfstedt recommendations

- 7 There are other relevant Löfstedt recommendation and considerations that impact upon the consolidation issue.

The EU review of health and safety legislation

- 8 Within Chapter 7, and just preceding the above set out recommendation, Professor Löfstedt states:

“The clear priority is to progress the sector-specific consolidation in parallel with working with the EU to ensure a risk based approach is taken to the review of occupational health and safety legislation.”⁷

- 9 The reference to engagement with the EU relates back to Chapter 6 of the Report and Professor Löfstedt’s critique of the approach to drafting in EU Directives concerned with occupational health and safety, with the key recommendation being, in this regard, that, *“the UK focuses its attention”* towards using the proposed review of health and safety regulation by the EU as a *“great opportunity”* to make new and existing EU legislation risk-based and evidence-based⁸.

⁷ **Löfstedt**, Chapter 6, para 28

⁸ **Löfstedt**, Chapter 6, para 35

So far as is reasonably practicable (SFAIRP)

10 In Chapter 2 of Professor Löfstedt's Report he describes how:

"There is an overwhelming view from those who responded to the call for evidence that SFAIRP ('so far as is reasonably practicable') should remain at the centre of health and safety regulation. It ensures a level playing field for businesses to compete with those in other EU countries whose legal systems are different"

Gold plating

11 In Chapter 6, as part of his consideration of ***Engaging with the EU***, Professor Loftsted described:

45. *As part of my considerations, I was asked to consider where in health and safety legislation there were examples of gold-plating: that is the UK enhancing the requirements of EU Directives.*

46. *Previous studies I have looked into the extent of gold-plating and found little hard robust evidence suggesting it is a widespread problem. Lord Davidson carried out probably the most comprehensive review of gold-plating in 2006, and found that it was not as big a problem as often suggested.*

47. *My review was not principally focused on the issue of gold-plating, and I did not have the time or resource to carry out the analysis that would be necessary to expand upon the studies previously done on this issue, but I found little evidence to significantly challenge the conclusions of these previous studies.*

48. *There were some instances that I have identified and already touched on but in many ways consideration of whether or not the UK has tended to enhance the requirements of EU Directives detracts from the more fundamental question of whether the underlying Directive is fit for*

purpose and poses justifiable requirements on business. My findings suggest that in certain cases the answer to this is no, and the consequences can be significant. In such cases, gold-plating is not the main driver of regulatory costs.

The impact of EU Directives on UK health and safety Regulations

- 12 For the purposes of preparing this report I too have considered both the previous studies⁹ and the issue itself and am of the opinion that there is no real evidence of ‘gold plating’ in UK health and safety regulations from the EU Directives which they seek to transpose.
- 13 Instead, in a real sense, it is the need to, and the practice of, faithfully transposing the requirements of such EU Directives into regulatory provisions that both provides a hurdle to the reduction of perceived duplication through consolidation of provisions (explained below) and results in a preponderance duties in Regulations that are not qualified by SFAIRP.
- 14 The question of whether UK Regulations are required to transpose such provisions so faithfully (and whether instead, the resulting regulatory duties could be lawfully qualified with SFAIRP) is a vexed one. The answer is partly reliant upon an opinion as to the impact and import of the decision of the European Court in ***Commission v United Kingdom*** (Case C-127/05).

Keeping SFAIRP at the heart of health and safety regulation

⁹ Davidson Review, Final report, 2006. www.bis.gov.uk/files/file44583.pdf ; Persson M with Booth S and Gaskell S, *Out of Control? Measuring a decade of EU regulation*, Open Europe, 2009. www.openeurope.org.uk/research/outofcontrol.pdf

- 15 The solution to keeping SFAIRP at the centre of health and safety regulation may well lie with the fulfilment of Professor Löfstedt's recommendation of using the proposed review of health and safety regulation by the EU as a "great opportunity" to make new and existing EU legislation risk-based and evidence-based.

A consideration of the four Löfstedt options

- 16 In order to report upon each of the four options suggested by Professor Löfstedt I have found it necessary to approach in the following way, which are considered in detail in section III, IV and V of this report.

Section III: Consolidation of sets of existing Regulations:

Löfstedt option a. consolidate all the regulations into one overarching regulation:

Consolidation A: Consolidate all occupational health and safety regulations into one overarching set of regulations

Consolidation B: Consolidate all occupational health and safety regulations (that are owned and enforced by HSE) into one overarching set of regulations

Consolidation C: Consolidate all occupational health and safety regulations of general application (that are owned and enforced by HSE) or a smaller subset that relate to general management [i.e. **Löfstedt option c.** consolidate the regulations into a smaller number according to theme (for example those that relate to general management issues....)]

Section IV: Consolidation of common provisions

Löfstedt option b. bring together those regulations that contain common provisions (for example the requirement to do a risk assessment or provide information and training).

Section IV: Consolidation by theme, hazard or merger of related topics:

Löfstedt option c. consolidate the regulations into a smaller number according to theme (for example by hazard):

Löfstedt option d. merge sets of regulations that cover related topics.

III. Consolidation of sets of existing Regulations

17 Professor Löfstedt, in his report¹⁰, notes how Lord Young's report, **Common Sense, Common Safety**, had recommended that, *'The current raft of health and safety regulations should be consolidated into a single set of accessible regulations.'*

18 Professor Löfstedt¹¹ described how the stakeholder responses in the consultation he undertook:

'gave a mixed picture on this issue with a number commenting that they would not be in favour of a major consolidation. There would certainly be one-off familiarisation costs for those businesses that chose to read the new regulations (though this might have less impact on SMEs who tend to rely on guidance rather than the regulations themselves) and there would also be a risk that combining a large number of regulations may lead some businesses to consider duties that don't apply to them. Furthermore, any consolidation would take considerable time and resources to ensure that there were no unintended consequences'

19 Nonetheless, the first of the four options for consideration is some form of overarching consolidation.

20 The possible permutations of such an overarching consolidation are complex. I have analysed this option as taking one of three forms, namely:

- Consolidation A: consolidation of all those UK regulations implementing EU occupational health and safety directives and other occupational

¹⁰ Löfstedt, p 75, footnote 195

¹¹

health and safety regulations (i.e. not solely those falling within the remit of the HSE) but excluding those sector specific Regulations that are to be themselves consolidated following the Loftsted recommendations;

- Consolidation B: consolidation of only those UK regulations implementing EU occupational health and safety directives and other health and safety regulations (all being relevant statutory provisions within the meaning of s.51¹² Health and Safety at Work etc. Act 1974 [HSWA]) but excluding those sector specific Regulations that are to be consolidated into sector specific Regulations following the Loftsted recommendations;
- Consolidation C: consolidation of only those UK regulations implementing EU occupational health and safety directives of general application and other necessary general health and safety regulations (all being relevant statutory provisions within the meaning of s.51 HSWA 1974) or a smaller subset that relate to general management.

21 Attempting to apply these to Professor Löfstedt’s four broad options for consolidation of regulations that apply to all businesses, his first was:

- a. consolidate all the regulations into one overarching regulation:**
Consolidation A and Consolidation B would appear to be two possible ways of adopting this option.

22 Professor Löfstedt’s third option was:

- c consolidate the regulations into a smaller number according to theme (for example those that relate to general management issues or by hazard):**

Consolidation C includes one of the possible ways of adopting this option.

¹² Section 51 HSWA provides:

“the relevant statutory provisions” means—

- (a) the provisions of this Part and of any health and safety regulations . . .; and
- (b) the existing statutory provisions;

health and safety regulations are those made pursuant to Regulation 15 HSWA.

- 23 I invite reference to the following annexes to this report:
- Annex 1 is a list of UK health and safety regulations owned and enforced by HSE and grouped by subject matter/ theme
 - Annex 2 is a list of EU Directives that primarily concern the protection of workers and concerning which any UK regulations have been enacted pursuant to s 15 HSWA 1974 i.e. such regulations are relevant health and safety regulations falling within the remit of the HSE.

Consolidation A and conclusion

- 24 There are over 100 EU Directives concerned with wider occupational health and safety, which, in the UK, are within the remit of various different Government Departments. It would appear wholly unfeasible to undertake Consolidation A: any resulting set of regulations (encompassing all the EU Directives and any non Directive derived relevant provisions in Annex 1, but presumably excluding all Regulations consolidated in sector consolidations) would require printing in a multiple volume work; would require myriad and labyrinthine subsidiary Orders or other secondary legislation dealing with enforcement powers and responsibilities; and would appear to make the task of and responsibility for enforcement and issuing guidance to explain the duties more challenging rather than easier.
- 25 It does not appear that such an option could achieve the stated aim of helping businesses understand their duties better. In addition, the matters set out below which are relevant to Consolidation B and Consolidation C would equally apply.

Consolidation B

- 26 Consolidation B would involve the consolidation of every Regulation falling with the definition of relevant statutory provision in HSWA 1974 (excluding those relating to sectors that are themselves the subject of separate consolidation and some which are owned and enforced by HSE through powers other than those derived from HSWA 1974). It could be achieved as a voluminous document with the Regulations separated into multiple Parts and Chapters.

The arrangement of the regulations

- 27 However, the traditional arrangement of Regulations, with each one sequentially numbered followed by the various schedules poses immediate obstacles to fulfilling the aim of the creation of accessible regulations that are easy to understand:
- there are many schedules to various health and safety Regulations and these would be arranged numerically at the end of what would be a very substantial set of Regulations (and not after each Part of the Regulations);
 - furthermore, the effect of amendment of any such consolidated regulations (or Part or Chapter of the Regulations) on the numbering of all provisions would be that should amendment of a chapter or part result in a change in the number of Regulations in that Part or Chapter, then the numbering of all sequential Regulations would have to be amended (unless resort is made to using capital lettering e.g. to create Regulation 3A, 3B etc.). Thus, what may become known as the “Regulation 310 duty” may soon have to be renamed the ‘Regulation 313 duty’ should any of the parts making up the first 309 regulations be amended

The inclusion of distinct regulatory regimes

- 28 Notwithstanding the sector specific consolidation, the inclusion of all relevant statutory provisions would result in the inclusion of Regulations concerned with distinct regulatory schemes that amount to regimes in themselves, such as the Control of Major Accident Hazards Regulations 1999 (COMAH).
- 29 While COMAH is a set of Regulations made pursuant to s 15 HSWA (thus part of the relevant statutory provisions), the Competent Authority for the COMAH Regulations and regime is the HSE and Environment Agency acting jointly. The COMAH Regulations themselves amount to only 25 provisions and 8 schedules, and are most relevant to what is a highly regulated and closely managed set of industries. However, the guidance issued by the Competent Authority relating to COMAH is truly voluminous, particularly that relating to Safety Reports for what are known as top-tier major accident hazard sites (mostly comprised of the oil, gas and chemical sectors) and within the HSE, it is the Hazardous Installations Directorate (HID) that is responsible for regulation of major hazard industries.
- 30 COMAH is an example of an area or sector the inclusion of which in any consolidation would benefit no one: those businesses that fall within the COMAH regime are, by their very nature, closely involved in the accessing and exchange of information from and with the HSE, and would have no resort to published consolidated Regulations to gain an understanding of their COMAH responsibilities; the vast majority of businesses unaffected by COMAH responsibilities would be confronted by a heading “Control of Major Accident Hazards” as one of a great number of Parts to the voluminous consolidated Regulations without any immediate insight into the relevance (or irrelevance) to them of these duties.

- 31 There are myriad examples of other such ‘relevant statutory provisions’ that are entirely focused upon specialist parts of particular sectors, where again, the consolidation of these provisions with other health and safety regulations, even if separated under Parts or Chapters could do nothing to achieve an aim of improving the ease of understanding of businesses as to their health and safety duties.

Not a resultant ‘single source’ for all health and safety related regulation

- 32 Furthermore, the absence of the provisions of Consolidation A from Consolidation B would mean that, despite its scope and size, Consolidation B would not be the only source of health and safety related regulations that some businesses would be affected by: absent would be some substantial and significant regimes e.g. the EU Regulations known as REACH - Registration, Evaluation, Authorisation and restriction of Chemicals, or at least those parts of REACH that are not regulated by HSE.

Conclusions on Consolidation B

- 33 For all these reasons, it does not appear to me that Consolidation B would produce any of the potential benefits nor succeed as a source for helping businesses understand their duties better.

Consolidation C: regulations of general application

- 34 It does not appear to me that Professor Löfstedt’s option “***a. consolidate all the regulations into one overarching regulation***”, was intended to envisage consolidation of every health and safety regulation, bearing in mind how it is

in his report under the heading of “**Consolidation of regulations that apply to all businesses**” and how not every set of regulations does so apply to all businesses.

- 35 Thus Consolidation C involves consolidation of only those UK regulations implementing EU occupational health and safety directives of general application and other necessary general health and safety regulations (all being relevant statutory provisions within the meaning of s.51 HSWA 1974) or a smaller subset that relate to general management
- 36 Consolidation of only those UK regulations implementing general EU occupational health and safety directives and other necessary general occupational health and safety regulations could be achieved by the creation of what would be a lengthy document, but nonetheless of a far more manageable size than would be the position with either Consolidation A or Consolidation B.

Regulations of general application

- 37 Professor Löfstedt¹³, in his introduction to Chapter 7, sets out the table reproduced above after paragraph 3, from which, it appears that the first two columns are considered to give examples of the regulations of general application, which he describes as:

“general management regulations that apply to the majority of workplaces” and “hazard-specific regulations that also apply to most workplaces”.

¹³ Löfstedt, Chapter 7, para 1

38 Professor Löfstedt¹⁴ then goes on to cite how:

‘The publication ‘Health and safety regulation... a short guide’ outlines 13 regulations that apply generally to all workplaces, along with a further five that cover particular hazards, such as asbestos and lead’

39 However, in fact that (somewhat out-of-date guidance document) lists 13 Regulations that apply across all workplaces then states, *‘in addition, specific regulations cover particular areas, for example asbestos and lead, and’* then another five examples in addition to (not including) asbestos and lead.

40 Furthermore, the guidance, being last updated in 2003, does not refer to the Work At Height Regulations 2005; but it does include both COMAH and the Gas Safety (Installation and Use) Regulations (hereafter GSIUR) as two of the five examples.

41 Thus, therein lies a problem, namely: how to identify or define those sets of regulations that apply to all businesses, and distinguish those are not of such general application. In reality, not only does an arbitrary line have to be drawn but also there are a number of sets of Regulations that contain provisions that fall across different sides of the dividing line.

The Irish example.

42 The Republic of Ireland recently consolidated health and safety Regulations of general application into the *Safety, Health and Welfare at Work (General Application) Regulations 2007*, (See annex 3 to this report). The Regulations are comprised of 175 provisions, arranged into eight Parts and with 10 Schedules following thereafter.

¹⁴ Löfstedt, Chapter 7, para 2

- 43 The immediate difficulty with the Irish consolidation stems from the absolute nature of the dividing line that such a consolidation brings: what is not included may be treated by businesses as not being of general application and thus not something to be considered. One example, in the Irish regulations, being the hazard of potential entry into confined spaces, which is met across a range of industries and businesses. The Irish Safety, Health and Welfare At Work (Confined Spaces) Regulations 2001 provide for this hazard and have an associated code of practice; both are referred to on the Irish Health and Safety Authority's (HSA) website in the guidance pages for confined spaces.
- 44 In terms of the Irish Regulations as a source of easy understanding by businesses of their duties, it must be the position that by looking at the Arrangement of Regulations (see Annex 3) such a dutyholder can achieve both a good idea of the different areas and topics that may be relevant (although, as noted above, there is a danger that a misleading impression may be so gained) and where to find the detailed legislative provisions relating to the various topics. However, it does not appear that the Arrangement of Regulations, or the detailed legislative provisions themselves are the best source to arrive at an easy understanding of the duties.
- 45 For example, Part 2 is entitled '*Workplace and work equipment*' and Chapter 2 of that Part is entitled '*Use of Work Equipment*'. The first Regulation in that Chapter, Regulation 27, is wholly concerned with interpretation of the Chapter with the second, Regulation 28, entitled, '*Duties of employer, use of work equipment*'.
- 46 Such a title would suggest that Regulation 28 would be the source from which businesses could get an easy understanding of their duties. However, Regulation 28 begins by referring the employer to the very seemingly broad

category “*of any relevant enactment implementing any relevant Directive of the European Communities relating to work equipment with respect to safety and health*” and, whilst it then lists another 17 fairly specific requirements, a glance at the following three Regulations reveals that each of those creates another specific duty upon an employer in relation to the provision of work equipment for use at work.

- 47 The above paragraph is not intended as a criticism of the draughtsmen responsible for the Irish provision, who have had to transpose the provisions of numerous amendments to the original Directive, which were only finally consolidated ‘*in the interests of clarity and rationality*’ into a ‘*new Directive on the use of work equipment ... and the previous directives 89/655/EEC and its amendments were repealed*’¹⁵ in 2009. Rather, it is intended as a demonstration that Regulations drafted to achieve compliance with EU Directives on occupational health and safety will, by their very nature only reveal what the requirements are, not in anyway how to comply with those requirements. Furthermore, it will frequently prove impossible to place every relevant requirement in the same Regulation or even the same Chapter in such Regulations.

Workplace transport and the Irish Regulations

- 48 This latter matter is demonstrated by consideration of workplace transport as an issue: in the same Chapter and Part of the Irish Regulations (Chapter 2, Part 2) is found Regulation 41, entitled ‘*Traffic rules for mobile work equipment*’ with three absolute duties cast upon an employer, including how he shall ensure that, ‘*if work equipment is moving around in a work area, appropriate traffic rules are drawn up and followed*’.

¹⁵ Preamble to Directive 2009/104/EC – use of work equipment

- 49 The definition of '*work equipment*' is not within Regulation 27 but back at Regulation 2, in the definition section applicable to the whole Regulations, it provides:

“work equipment’ means any machinery, appliance, apparatus, tool or installation for use at work’.

- 50 Regulation 14 is located in Chapter 1, "*Workplace*", with the Regulation entitled '*Movement of pedestrians and vehicles in danger areas*'. This provision, following the terms of EU Directive 89/654/EEC, creates a set of seven absolute duties on an employer to ensure the organization of traffic and pedestrians so as to ensure safety.

- 51 Without guidance, an employer trying to understand the nature of his duties in relation to workplace transport may feel confused: many seemingly similar duties are scattered about the Regulations, with each appearing to use different words to deal with the same (or very similar) activities.

- 52 The apparent duplication of duties concerned with the same hazard is a result of the transposition of different European Directives that each include Articles dealing with safety touching upon vehicles and mobile work equipment. The more closely the draughtsman follows the words of the Directives, then the more abundant the absolute duties are, coupled with the more apparent duplication of duties.

The UK position: workplace transport

- 53 Common sense suggests that for any particular workplace there needs to be consideration of the interface between moving equipment and pedestrians, particularly in areas where the two may share the same space. Such

consideration and the taking of resultant control measures will be part of the employer's fulfilment of the duty to undertake a risk assessment and to comply with the various duties concerned with the hazards from workplace transport.

- 54 The issue of whether all vehicles that are provided by an employer for use at work are workplace equipment and/or whether every piece of moving workplace equipment is a vehicle may be best left to philosophers rather than lawyers but certainly should not be an issue that a business should spend any time engaged in answering in an effort to understand its duties.
- 55 There is widely available and easily accessed guidance that does address the whole issue of workplace transport. The HSE website page, <http://www.hse.gov.uk/workplacetransport/about.htm> looks like this:

Getting started

Vehicles at work continue to be a major cause of fatal and major injuries. Since 1998/99 there has been an average of 61 fatalities each year as well as over 2150 major injuries and over 4270 injuries requiring the injured person to be off work for more than 3 days. Work related road deaths are estimated to be around 1000 each year.

What to do first?

- Download our free leaflet [Workplace transport safety - An overview - INDG199 \(rev 1\)](#)
- Have a look at [Workplace transport safety - An employer's guide - HSG136](#) HSE Books 2005 ISBN 0 7176 6154 7
- Have a look at the site inspection checklist [Site Inspection Checklist](#)  (Web only)

Some Dos and Don'ts

DO

- Keep people and vehicles apart
- Anchor loads securely to the vehicle chassis
- Avoid the need to work at height on vehicles
- Have clear site rules and enforce them

- 56 The links above provide access to download the two guidance documents, with Workplace transport safety providing guidance over 22 pages, and **Workplace transport safety – An employer’s guide** being a book:

“suitable for medium and large industrial and commercial sites, but should also be useful for places such as construction sites, quarries, farms and forestry operations and most other workplaces where transport is used, including smaller businesses.”

- 57 Part III of the UK Provision and Use of Work Equipment Regulations 1998 is entitled ‘*Mobile Work Equipment*’ and is contained in five Regulations which transpose the specific requirements of the EU Directive. In terms of a detailed understanding of what the duties involve, the HSE Guidance document, *Safe Use of Work Equipment*, which includes an Approved Code of Practice (ACOP) and Guidance, attempts to take away the mystery surrounding what the specific requirements are concerned with and how to comply with them:

“309 The regulations in Part III of PUWER 98 implement additional requirements for mobile work equipment, which relate to the equipment when it is travelling. Except for the specific requirements of regulation 30, which deals with drive shafts, they are not intended to apply to moving parts of mobile work equipment which is carrying out work in a static position, for example an excavator involved in digging operations.

310 Some of these requirements build on the requirements of the Health and Safety at Work etc. Act 1974 (HSW Act) and its supporting ACOP and guidance material that appears at paragraphs 31 to 54 of this publication.

311 Where vehicles are designed primarily for travel on public roads, compliance with the Road Vehicles (Construction and Use) Regulations 1986 will normally be sufficient to comply with the Regulations in Part III of PUWER 98.”

58 The guidance goes on to explain what is meant by mobile work equipment and then gives specific guidance concerning the application of each of the requirements set out in the five Regulations.

59 Paragraph 31 of the Guidance, which is referred to in the quote above, states:

Links with other legislation and other health and safety principles

30 The requirements of ACOP and guidance material which follows link with other health and safety legislation, for example the Workplace Regulations. These aspects are described, where relevant, in the following guidance. You may need to obtain further information on specific points and there is a list of useful references at the end of this publication.

Comparison of the UK Guidance to the Irish consolidated Regulations

60 I have set out the current position in respect of workplace transport guidance in the UK by way of comparison with the consolidated Irish Regulations in order to consider both as a source of an easy understanding of a business's duties. However, a search of the Irish HSA website reveals that there is similar (although less extensive) varied guidance of differing complexity aimed at businesses concerning workplace transport as there is in the UK: it does not appear to me that the Irish Regulations are themselves the likely source for businesses to get an understanding of the scope and extent of their duties in respect of workplace transport.

61 Were the provisions in the first two columns of Professor Löfstedt's Figure 4 (the table reproduced after paragraph 3 above) to be consolidated, then workplace transport provisions in the UK would be scattered in various Parts in just the same way as with the Irish Regulations but, in addition, a part of the relevant provisions would remain in section 2(2) HSWA.

Problems caused by any UK “general” dividing line

- 62 Unlike the Irish Regulations, Confined Spaces would fall within the general provisions if the Figure 4 (the table reproduced after paragraph 3 above) first two columns were taken as defining where that line is drawn.
- 63 Those two columns include electricity at work as general regulations but gas safety falls without, being in the third column, (notwithstanding GSIUR is one of the five examples of general regulations in *Health and Safety Regulation..... a brief guide.*)
- 64 *Electrical safety and you: a brief guide*, is the HSE guidance aimed at small businesses. It makes no explicit reference to the Electricity at Work Regulations 1989 but does ¹⁶ to the *British Standard 7671 Requirements for electrical installations*. The Guidance is intended to be easy to comprehend and follow.
- 65 The Electricity at Work Regulations 1989 contain a Part III applicable only to Mines which, presumably, will be consolidated into mines and quarries regulation leaving only the parts of general application in the Regulations. However, reference to the Regulations, or that Part of any consolidated regulation dealing with electricity at work, could not by itself enable a business to understand how to comply with its duties. Hence the need for basic guidance, which refers to a number of matters that fall outside the Regulations and the enforcement responsibility of the HSE.

¹⁶ IND(G)231(rev1) 04/12 <http://www.hse.gov.uk/pubns/indg231.pdf>

Gas Safety: a mix of regulations of general and particular application

- 66 'Gas', is a sector or topic that illustrates a different difficulty with consolidation of general regulations, (I have set out above how GSIUR falls different sides of the dividing line in the two sources Professor Löfstedt quotes for consideration of which are Regulations of general application).
- 67 Gas covers a variety of matters. By way of example:
- The GSIUR 1998 cover much general and some very specific detail concerning gas safety installation and maintenance in both a domestic and commercial setting. The Regulations also include the provisions concerning competent persons working in gas and residential landlord's annual gas safety checks and certificates. Again, the Approved Code of Practice and Guidance to these Regulations are detailed. Particular guidance on the landlord's responsibilities (jointly published by the HSE and other interested bodies) is widely available from a great variety of sources. The Regulations have been the subject of extensive consultation¹⁷ and, as stated, much guidance has been generated on all aspects covered by the Regulations. The Regulations undoubtedly cover not only the general duties in relation to gas supply, fitting and maintenance but also the very specific requirements in relation to safety of gas fittings and pipework.
 - The Gas Safety (Management) Regulations 1996 apply to the conveyance of natural gas through pipes to domestic and other consumers and make provisions concerning the safe management of gas flow through a network, arrangements for dealing with supply emergencies and for dealing with reported gas escapes and gas incidents. The HSE has published a freely downloadable 57 page Guidance document (L80, second edition, published 2007) which is aimed at providers, transporters,

¹⁷ See <http://www.hse.gov.uk/consult/disdocs/dde14a.pdf>

installers, managers and perhaps some large commercial consumers.

- 68 It does not appear that any of the various businesses and dutyholders touched by the different 'gas' Regulations would benefit from all such Regulations being consolidated in a Part or Chapter entitled 'gas' of a consolidated set of health and safety regulations; numerous Chapters would have to be created with sub-headings such as 'Domestic gas', 'Gas supply', 'Competent persons for gas work' etc.; consolidation of the GSIUR into such a larger set of Regulations would do nothing to assist landlords in identifying the two or three individual Regulations that directly touch upon them as residential landlords.
- 69 On the other hand, removal of any part of the Regulations to be incorporated into a consolidated set of regulations of general application would have the real disadvantage of splitting up such provisions (and the detailed ACOP that accompanies each of them) from other duties – all of which together represent the comprehensive detail of what is or may be required from a gas fitter.
- 70 The needs of different businesses in relation to GSIUR is well demonstrated by the guidance – it is diverse, different in nature and, depending upon whom it is aimed, selective in the parts of GSIUR it deals with. Without duplicating parts of the Regulation in more than one instrument (a legislative impossibility even if it did not offend against the very point of consolidation), consolidation would have the effect of either removing a vital part of the picture from gas safety regulations to rightly place such provisions in the 'general' category or make such consolidated general regulations unnecessarily voluminous with specialized requirements relevant to one class of persons alone, namely gas fitters.

Consolidation C: regulations concerned with general management

71 The first column of Figure 4 sets out the “*Generic requirements for good health and safety management*” and gives as examples:

“Management of Health and Safety at Work Regulations (competence, information and training, co-operation with and relationships between duty holders); Workplace (Health, Safety and Welfare) Regulations; first-aid (which must refer to The Health and Safety (First Aid) Regulations 1981).”

72 It appears to me that the following (listed in *Health and Safety Regulation.... a short guide*) should also be considered as Regulations concerned with general requirements for good health and safety management:

- *The Health and Safety Information for Employees Regulations 1989*: require employers to display a poster telling employees what they need to know about health and safety.
- *Employers’ Liability (Compulsory Insurance) Act 1969*: require employers to take out insurance against accidents and ill health to their employees.
- *Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR)*: require employers to notify certain occupational injuries, diseases and dangerous events.

73 In Annex 1 to this report, I have attempted to group health and safety Regulations by subject matter/ theme and have included as the first group *general/ management*, which includes some 14 sets of Regulations.

74 It is difficult to envisage what benefit would arise from consolidation of all

these provisions: even the detail that is included within the last two of the three additional sets of Regulations cited above at paragraph 72 is voluminous, and, for an understanding of his duties in respect of Employer's Liability (Compulsory Insurance) Act 1969 and RIDDOR, an employer or business requires to know very little of the detail.

- 75 In no case would the legislative provisions provide either the easiest source or a necessary first place to look for an understanding of an employer's duties.
- 76 A consolidated Regulation that included these provisions would be voluminous; and, a consolidated Regulation said to be of matters concerned with general management of health and safety that excluded these matters would be capable of misleading those whom relied upon it to be fully informed of their duties.

Workplace transport in general management provisions

- 77 Again a consideration of workplace transport reveals that the *Workplace (Health, Safety and Welfare) Regulations 1992* include Regulation 17, the provision concerned with traffic routes. Whilst this provision would be consolidated in these general management regulations under this option, that would still leave Section 2(2) of HSWA (which expressly provides for part of the employer's duty to ensure, so far as is reasonably practicable, employee safety in respect of "storage and transport of articles"...."the provision and maintenance of means of access to and egress from" places of work) and the provisions concerned with mobile work equipment in PUWER 1998 (see above, at paragraph 57) in two other legislative sources: it appears to me that a business trying to understand the extent of its duties would not be assisted by such a misleading consolidation were it to rely upon the regulations as the sole source of its information

Conclusions on Consolidation C

- 78 For all these reasons, it does not appear to me that Consolidation C, in any form, would produce the potential benefits nor succeed as a source for helping businesses understand their duties better. A Consolidated set of Regulations, by the nature of the language employed, the range of specifics covered and their scope and size, could not by itself be a source capable of delivering an easy understanding for businesses of their duties nor could it succeed in being the sole legislative source of such duties. Wherever the dividing line was drawn (to widely encompass 'general' provisions or to narrowly define 'general' to be those most directly concerned with the management of health and safety) the considerable disadvantages identified above would result.

IV. Consolidation of common provisions

- 79 Professor Löfstedt's second consolidation option is to bring together those regulations that contain common provisions (for example the requirement to do a risk assessment or provide information and training).
- 80 I have approached this option by a consideration of the various provisions that touch upon risk assessment in the relevant statutory provisions. Very many of the same statutory instruments contain provisions that touch upon information and training.

Risk assessment

- 81 At the core of health and safety management and regulation in the United Kingdom is the concept of risk assessment.
- 82 The notion of an assessment of the risks arising from an activity was no express part of HSWA but had always been a necessary step to complying with an employer's health and safety duties, so that as long ago as 1949 Lord Justice Asquith described how, in the context of the duty created by s 49 of the Coal Mines Act 1911:

'a computation must be made by the owner in which the quantum of risk is placed on one scale and the sacrifice involved in the measures necessary for averting the risk (whether in money, time or trouble) is placed in the other..¹⁸

¹⁸ **Edwards v National Coal Board** [1949] 1 All ER 749, at 747

83 ‘Risk assessment’ has now passed into the English language as a noun that is employed in every risk management context far and beyond health and safety; however, it was the Management of Health and Safety at Work Regulations (MHSWR) 1992 (now MHSWR 1999) that first created the specific statutory obligation upon an employer to undertake an assessment of the risks arising to employees and others affected by the conduct of his undertaking, from which the noun was born.

84 That provision had followed the 1989 EC Framework Health and Safety Directive (89/391/EEC)¹⁹ which had provided in Article 9, under the heading of ‘Various Obligations on Employers’, how:

(1) *The employer shall:*

- a. be in possession of an assessment of the risks to safety and health at work, including those facing groups of workers exposed to particular risks;*
- b. decide on the protective measures to be taken and, if necessary, the protective equipment to be used;*

85 Thus the current obligation in Regulation 3 of MHSWR 1999, whilst contained in secondary legislation, nonetheless lies at the heart of health and safety.

86 As currently drafted, it is undoubtedly a model of clarity and simplicity (which may not be the position in respect of some of the relevant provisions):

3 (1) Every employer shall make a suitable and sufficient assessment of--

- (a) the risks to the health and safety of his employees to which they are exposed whilst they are at work; and*

¹⁹ Full title: Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work (hereafter “the Framework Directive”)

(b) the risks to the health and safety of persons not in his employment arising out of or in connection with the conduct by him of his undertaking,

for the purpose of identifying the measures he needs to take to comply with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions.

87 Article 6(3) of the Framework Directive provided

3. Without prejudice to the other provisions of this Directive, the employer shall, taking into account the nature of the activities of the enterprise and/ or establishment:

evaluate the risks to the safety and health of workers, inter alia in the choice of work equipment, the chemical substances or preparations used, and the fitting-out of work places.

Subsequent to this evaluation and as necessary, the preventive measures and the working and production methods implemented by the employer must:

— assure an improvement in the level of protection afforded to workers with regard to safety and health,

Risk assessment: the extent and nature of “common provisions”

88 A consideration of the relevant statutory provisions²⁰ reveals that they impact upon ‘risk assessment’ and the duty in Regulation 3 MHSWR in the following ways (which I have styled as ‘classes of duty’).

Class of Duty:

- I. By making specific provision requiring an assessment directed at a particular class of persons, specifically ‘young persons’ and ‘expectant mothers’. The former provided for in Regulation 3(4) and 3(5) of the MHSWR 1999 and the latter in Regulation 16 of the same provisions;

²⁰ i.e. health and safety regulations, excluding those concerned with Merchant Shipping, Mines and Quarries

- II. By making specific provision for a risk assessment that addresses a particular substance, hazard or activity;
- III. By making specific provision for an assessment that addresses a particular substance, hazard or activity and including an express reference to the duty under Regulation 3(1) MHSWR 1999.

89 At Annex 4 is a tabular summary of the provisions²¹, arranged as three classes.

Risk assessment and the consideration of particular classes of person

90 Consideration of the table at Annex 4 leads to the following observations in respect of Class I duties and particular classes of person:

- The only duties to consider certain matters in respect of particular classes of person (young persons and expectant mothers) are already within MHSWR and do not appear capable of being further consolidated without doing considerable violence to the simple language of Regulation 3(1) and making it more difficult for businesses to understand their duties better;
- Regulation 16 (expectant mothers) is geographically placed some 13 regulations away from Regulation 3; its presence in the same set of Regulations as the duty to risk assess does not of itself do anything to make those Regulations a user-friendly source from which an uninitiated business can understand its duties better.

91 The broadest HSE guidance on the Risk Assessment, namely *Five Steps to Risk Assessment*²², explains the position:

“Remember:

²¹ Which may not be exhaustive

²² <http://www.hse.gov.uk/risk/fivesteps.htm>

- *some workers have particular requirements, eg new and young workers, migrant workers, new or expectant mothers and people with disabilities may be at particular risk. Extra thought will be needed for some hazards;*
- *cleaners, visitors, contractors, maintenance workers etc., who may not be in the workplace all the time;*
- *members of the public, if they could be hurt by your activities;*
- *if you share your workplace, you will need to think about how your work affects others present, as well as how their work affects your staff – talk to them; and*
- *ask your staff if they can think of anyone you may have missed.*

92 The web link from *Five steps to Risk Assessment* to “people with disabilities” provides further information and details how the Equality Act impacts upon risk assessment; each of the other links provides guidance

93 All of the above demonstrates how:

- whilst the ‘special classes’ of people expressly provided for by health and safety provisions are contained with MHSWR 1999 such consolidation does not make the task of identifying the exhaustive list of all such classes any easier nor would, further consolidation into one mammoth regulation do so.
- The two special classes of person provided for expressly in MHSWR 1999 are not the only special classes: people with disabilities are a special class for which express provision derives from statutory provisions that are not health and safety provisions; migrant workers, are a special class of worker which are dealt with in guidance issued by the HSE jointly with others.

94 While young people and expectant mothers are expressly provided for by statute (following the relevant Articles in the European Framework Directive),

without such express provision the general duty under section 2(1) of HSWA and the plain words of Regulation 3(1) of MHSWR 1999 would operate to create a need and thus a duty to consider particular requirements of such employees (as they do in the case of migrant workers).

A separate Risk Assessment?

- 95 The above link to [expectant mothers](#) provides demonstration of another matter, stating:

“Your workplace risk assessment should already consider any risks to female employees of childbearing age and, in particular, risks to new and expectant mothers (for example, from working conditions, or the use of physical, chemical or biological agents). Any risks identified must be included and managed as part of the general workplace risk assessment.

If you are notified that an employee is pregnant, breastfeeding or has given birth within the last six months, you should check your workplace risk assessment to see if any new risks have arisen. If risks are identified during the pregnancy, in the first six months after birth or while the employee is still breastfeeding, you must take appropriate, sensible action to reduce, remove or control them.

While it is a legal obligation for employers to regularly review general workplace risks, there is actually no legal requirement to conduct a specific, separate risk assessment for new and expectant mothers. However, if you choose to do so, this may help you decide if any additional action needs to be taken.”

- 96 In none of what I have described as the class I, class II or class III provisions is there a legal requirement to conduct a specific, separate risk assessment to one being undertaken in pursuance of the duty under regulation 3(1) MHSWR 1999 (save for the Supply of Machinery (Safety) Regulations 2008, which is

concerned with a wholly separate issue from workplace or worker safety, namely the safety of a machine by the person responsible for its manufacture).

- 97 Each of the Class II risk assessment duties²³ is currently contained within a statute making detailed provision in respect of a particular substance, hazard or activity; and, by and large, each follows the express provisions of a European Directive.
- 98 The Control of Noise at Work Regulations 2005 (SI 2005/1643) provide a good example of the detail contained in such Class II regulations and the extent to which that detail is prescribed by the terms of European Directive.
- 99 Regulation 5, Control of Noise at Work Regulations 2005 is derived from Article 4 of the Control of Noise Directive (2003/10/EC)²⁴. Regulation 5(1) provides:

Assessment of the risk to health and safety created by exposure to noise at the workplace

5.—(1) An employer who carries out work which is liable to expose any employees to noise at or above a lower exposure action value shall make a suitable and sufficient assessment of the risk from that noise to the health and safety of those employees, and the risk assessment shall identify the measures which need to be taken to meet the requirements of these Regulations.

²³ Other than the Supply of Machinery (Safety) Regulations 2008, which is concerned with a wholly separate issue from workplace or worker safety, namely the safety of a machine by the person responsible for its manufacture

²⁴ The full title of which is:

Directive 2003/10/EC of the European Parliament and of the Council of 6 February 2003 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (noise) (Seventeenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC

100 In summary, the Article in the Directive expressly refers to both Articles 6(3) and 9(1) of the Framework Directive (quoted above, at paragraphs 87 and 84) being the provisions dealing with the employer’s duty to assess risks and then provides that, *‘Pursuant to Article 6(3) of Directive 89/391/EEC, the employer shall give particular attention, when carrying out the risk assessment’* to what is a list of detailed factors that are then faithfully reproduced in Regulation 5(2) – (3) of the UK Regulations.

101 Thus, whilst the Class II UK statutory provisions may be silent on the point, the various relevant EU Directives expressly provide that the various risk assessment relating to specific hazards are part of the duty to assess risk that is transposed in the duty created by regulation 3(1) MHSWR 1999

102 In short, notwithstanding the apparent perception of a significant number of those that responded to Professor Löfstedt’s consultation, none of the various provisions that touch upon the employer’s duty to undertake a risk assessment mandate the creation of a separate risk assessment from that conducted in pursuance of the duty under Regulation 3(1) MHSWR 1999 and none involves any real element of duplication.

The mechanics of consolidating risk assessment provisions

103 The only way in which each of these specific hazard provisions could be consolidated would be to amend, or create anew, Regulation 3(1) of MHSWR or to add them to MHSWR in a geographically proximate position (3A, 3B etc.). As with the provisions dealing with Young Persons and Expectant Mothers, this would not aid the ease of understanding of Regulation 3(1) or necessarily achieve anything in terms of making it easier for a business to understand its duties.

- 104 The detailed position in respect of each of these substances, hazards or activities would still need to be set out in Regulations in another place than Regulation 3 of MHSWR 1999 or any recast risk assessment duty. Arguably, by removing risk assessment provision from these specific Regulations to place them proximate to the Regulation 3(1) duty, the task of a business in understanding its duties would be made more difficult.

Other hazards not captured by consolidation

- 105 The further difficulty with consolidating Regulation 3 MHSWR 1999 in a way to contain specific reference to any hazard, substance or activity for which there is specific statutory provisions (and a reference to that specific set of Regulations) is that such consolidation necessarily would have to be expressed as “*without prejudice to the general duty to assess risks*” because the Class II and III duties are not an exhaustive list of substances, hazards or activities merely those in respect of which specific Regulations have been enacted.
- 106 Two example hazards that illustrate the range of approach, both of which would be left to the ‘without prejudice’ part of any consolidated Regulation 3 MHSWR²⁵, are workplace transport and confined spaces

Risk assessment and workplace transport

- 107 Again, Workplace Transport provides a good illustration of the issue. Workplace transport is responsible for about ¼ of workplace deaths in the

²⁵ The Lifting Operations and Equipment Regulations 1998 (LOLER) is another example, with the HSE guidance stating “Because of the general risk assessment requirements in the Management Regulations, there is no specific regulation requiring a risk assessment in LOLER.”

UK²⁶ ; the HSWA provisions expressly provide for part of the employer’s duty to ensure, so far as is reasonably practicable, employee safety in respect of “storage and transport of articles”...“the provision and maintenance of means of access to and egress from” places of work; and Regulation 17 of the Workplace Health Safety and Welfare Regulations 1992 requires that, ‘Every workplace shall be organised in such a way that pedestrians and vehicles can circulate in a safe manner’ and the taking of suitable measures to achieve this. However, nowhere is there any reference or requirement to encompass consideration of this hazard in any risk assessment.

Risk assessment and confined spaces

108 Confined Spaces are a hazard met across a range of industries. The Confined Spaces Regulation 1997 make no reference to either risk assessment or to Regulation 3(1) MHSWR 1999.

109 Regulation 4 of the Confined Spaces Regulation provides:

Work in confined spaces

4.—(1) *No person at work shall enter a confined space to carry out work for any purpose unless it is not reasonably practicable to achieve that purpose without such entry.*

(2) Without prejudice to paragraph (1) above, so far as is reasonably practicable, no person at work shall enter or carry out any work in or (other than as a result of an emergency) leave a confined space otherwise than in accordance with a system of work which, in relation to any relevant specified risks, renders that work safe and without risks to health.

110 *Safe Work in Confined Spaces*²⁷ is the free to download 46-page publication by the HSE which contains the Regulations, Approved Code of Practice and

²⁶ <http://www.hse.gov.uk/statistics/causinj/kinds-of-accident.pdf>

²⁷ <http://www.hse.gov.uk/pubns/priced/l101.pdf>

guidance. There are links to the document from various of the industry pages on the HSE website

111 Under the heading Risk Assessment, the document states:

20 The Management of Health and Safety at Work Regulations 1999 apply across all industries and all work activities. The principal duty, regulation 3 (see Appendix 1), requires all employers and self-employed persons to identify the measures they need to take by means of a suitable and sufficient assessment of all risks to workers and any others who may be affected by their work activities (insignificant risks can be ignored). Employers with five or more employees are required to record the significant findings of the assessment. The Approved Code of Practice Management of health and safety at work provides further details (see Appendix 3).

21 In accordance with regulation 4(1) of the Confined Spaces Regulations 1997, the priority when carrying out a risk assessment is to identify the measures needed so that work in confined spaces can be avoided. If, in the light of the risks identified, it cannot be considered reasonably practicable to carry out the work without entering the confined space, then it is necessary to determine what measures need to be taken to secure a safe system for working within the confined space in accordance with regulation 4(2). The risk assessment will help identify the necessary precautions to be included in the safe system of work, and is described in more detail in paragraph 36”

Risk assessment and the Irish Example

112 The Safety, Health and Welfare at Work Act 2005 of Eire makes provision in respect of risk assessment in section 19 in similar terms to Regulation 3(1), (4) and (5) MHSWR 1999 i.e. it makes no reference to the various specific hazard

and assessment requirements in other provisions

113 The consolidated set of Irish Regulations are the *Safety, Health and Welfare at Work (General Application) Regulations 2007*, which are arranged over eight parts containing some 175 individual regulations and 10 detailed schedules (see Annex 3.) Those provisions contain 44 references to risk assessment that are spread amongst the eight parts, with the first reference at Regulation 95 and the last at regulation 172; Part 6 is headed ‘*Sensitive Risk Groups*’ and each of Regulations 144, 149 and 155 is entitled ‘*risk assessment*’ under sub-heading for the various special classes of person for which express consideration is required pursuant to EU Directives.

114 The Health and Safety Authority (HSA) of Eire has a website that provides detailed information that is organized in a similar fashion to the more extensive HSE website. The HSA website includes a page aimed at small businesses²⁸ and gives guidance on risk assessment. It states:

“Risk assessment is fundamental to good health and safety management. All employers regardless of the size of business are required by law to carry out a risk assessment at their place of work and to keep a written record of that risk assessment.

People are often put off by the idea of Risk Assessment because they think it is over complicated, difficult to complete and unnecessary.

Risk Assessment is simply looking closely at what in your place of work or about your work activities could cause harm to your employees and visitors to your workplace (e.g. customers, suppliers, sales representatives etc.) and determining the control measures you can implement to minimise the risk.”

- 115 Thereafter it advocates a similar approach to that set out in *Five Steps*. It does not refer businesses to either the Safety, Health and Welfare at Work Act 2005 or the Safety, Health and Welfare at Work (General Application) Regulations 2007.
- 116 The Safety, Health and Welfare at Work (General Application) Regulations 2007 make no provision in respect of confined spaces. The relevant Irish Regulations are the Safety, Health and Welfare at Work (Confined Spaces) Regulations 2001 which provide, in Regulation 5, that a person shall not carry out work in Confined Spaces if it is reasonably practical that it could be avoided; furthermore that if the work must be carried out Hazard Identification and Risk Assessment must be carried out prior to the work commencing.
- 117 It does not appear that the consolidated Irish Safety, Health and Welfare at Work (General Application) Regulations 2007 have succeeded (if this was intended) in consolidating all references and requirements of workplace risk assessment in one place or in the creation of a set of regulation that can, by themselves, make it easier for business to understand their duties.

Conclusion on consolidation of risk assessment related provisions

- 118 Upon analysis, it does not appear that consolidation of every UK health and safety provision where risk assessment is referred to would achieve anything other than create, at best, a misleading list of non-exhaustive hazards that may have to be considered by an employer; at worst, a non-exhaustive but voluminous provision: neither would appear to provide a means for businesses to better understand their duties. Furthermore, such consolidation

would remove no duplication of provisions and the many and varied hazard specific duties to assess would still need to be in terms that transposed the detailed provisions of the various European Directives

- 119 Lastly, the pace with which such provision could be updated (by amendment) would be far slower than is possible with the guidance pages on the HSE website and the guidance publications of the HSE and associated bodies; the latter have far more scope for keeping close in step to the ever changing nature of employment and work, with its associated hazards, than do statutory provisions and scope to provide guidance geared to less complex and smaller businesses, without recourse to the detail of Regulations.

V. CONSOLIDATE REGULATIONS BY THEME OR MERGE SETS OF REGULATIONS THAT COVER RELATED TOPICS.

The Regulations arranged by subject matter or theme

- 120 In Annex 1 I have arranged the 208 health and safety Regulations that I have identified as owned and enforced by the HSE by grouping them into subject matter or theme. I have earlier identified how the application of such subject matter labels to the Regulations is both highly subjective and, to a significant degree, arbitrary. Nonetheless, Annex 1 represents my attempt to arrange the Regulations by theme.
- 121 I have highlighted and grouped the likely Regulations to be consolidated/merged as a result of the sector-based consolidations recommended by Professor Löfstedt. Consolidation of these sectors into single sets of Regulations may reduce the total number of sets of Regulations from 208 to about 150.
- 122 The first grouping of Regulations in Annex 1 is what I have styled as *General/management*, being a potential consolidation considered in section III of this report (at paragraphs 71 - 77).

Consolidation by theme or hazard

- 123 Part of Professor Löfstedt's third option for consolidation was to:

‘Consolidate the regulations into a smaller number according to theme (for example ...by hazard); ‘

The sector consolidation

- 124 The sector consolidations being undertaken following Professor Löfstedt’s recommendations are in areas where there has been an accumulation of regulatory provisions and where there is an identifiable potential for simplification and merger.
- 125 In addition to those set out by Professor Löfstedt, there may be other sectors where such potential has been identified but beyond such sectors which have this potential, consolidation of each subject matter or theme identified in Annex 1 would not produce any benefit in terms of simplification, ease of understanding or the bringing in one place of all the relevant duties to a particular business/ in respect of a particular hazard.

The ‘fire’ Regulations

- 126 I have examined the example of ‘gas’ in paragraphs 66 - 70 above which demonstrates the limitations offered by consolidation of Regulations concerned with this theme, but another example is provided by the various regulations concerned with the HSE’s role and responsibility with ‘fire’ (those HSE owned and enforced Regulations being highlighted in orange in Annex 1).
- 127 The principal fire enforcing authorities are the various area Fire and Rescue Authorities and they have principal responsibility for enforcing the Regulatory Reform (Fire Safety) Order 2005 (with HSE being the enforcing authority under the Order in respect of certain workers and workplaces, notably construction

sites in regard to construction workers). HSE has various enforcement responsibilities in respect of particular areas or activities. Thus, each of the ‘fire’ provisions listed in Annex 1 is concerned with such a particular activity or area and, absent from the table is the Regulatory Reform (Fire Safety) Order 2005 (it not being an HSE ‘owned’ statutory instrument).

- 128 A number of the Regulations highlighted in orange might more properly be placed in the blue ‘*Enforcement/ regulatory amendment/ procedure*’ theme but in any event, no consolidation benefit would arise from merging the HSE ‘fire’ theme Regulations other than a reduction in the total number of sets of health and safety Regulations: the HSE ‘fire’ Regulations are not a source for businesses to understand their duties, merely a collection of provisions dealing with disparate and discrete aspects of the hazard of ‘fire’.

Enforcement/ regulatory amendment/ procedure

- 129 Grouped in blue in Annex 1 are those Regulations (some 28 sets²⁹) that I have identified under the broad heading of ‘*Enforcement/ regulatory amendment/*’. In Chapter 7 of his report, under the heading, *Clarifying the regulations that apply to businesses*, Professor Löfstedt stated³⁰:

17. *Some regulations do not impose specific duties on businesses but define ‘administrative requirements’ or revoke/amend earlier regulations. Many that responded to the call for evidence suggested consolidating these to reduce the overall number of Statutory Instruments (SIs) whilst others called for old legislation to be reviewed or removed.*

18. *A number of amendments do, in one sense, demonstrate that*

²⁹ There are others, such as the various amendment Regulations that I have grouped with the original provisions e.g. COSHH

³⁰ Löfstedt, Chapter 7, para 17

regulations are kept under review and updated if necessary but they may also contribute to the impression of a complex and piecemeal framework. Merging this type of regulation would, however, take resource and neither reduce costs to businesses nor significantly lower the overall number of SIs.

19. *But I agree that businesses should be able to see clearly the regulations that apply to them.*

I therefore recommend that HSE should redesign the information on its website to distinguish between the regulations that impose specific duties on businesses and those that define administrative requirements or revoke/amend earlier regulations

130 The group that I have identified under ‘*Enforcement/ regulatory amendment/ procedure*’ may be wider than Professor Löfstedt’s because it includes also those Regulations concerned with procedure, charging/fees and the territorial extent of HSWA, but none of these Regulations provide health and safety requirements that are a necessary source from which businesses can gain an understanding of their duties.

131 However, as Professor Löfstedt notes, consolidation or merging these regulations would neither reduce costs to businesses nor significantly lower the overall number of SIs and thus such consolidation would result in no identifiable benefit.

Conclusion

- 132 It appears to me that, rather than any consolidation of any Regulations by theme or hazard, the fulfilment of Professor Löfstedt's recommendation by clearly marking those Regulations that do create positive health and safety duties and separating the group of 'administrative' Regulations may be an effective part of providing a source to best help businesses to easily understand the extent of their duties.

Merge sets of regulations that cover related topics

- 133 The last option, of merging sets of related Regulations was dealt with in Professor Löfstedt's report in the following way³¹:

"Merging sets of related regulations (such as the Lifting Operations and Lifting Equipment Regulations 1998 (LOLER) with the Provision and Use of Work Equipment Regulations 1998 (PUWER) may help some, but would not reduce the number of SIs to any significant extent, would still take time and duty holders would still incur familiarisation costs."

PUWER and LOLER

- 134 I have not identified any other sets of Regulations, in addition to LOLER and PUWER, that could be considered as potential candidates for merger. PUWER and LOLER are categorised in Annex 1 as concerning work equipment.
- 135 PUWER is a provision both identified in Figure 4 (set out after paragraph 3, above) and in *Health and safety regulation... a short guide* as a provision of general application but LOLER is not. Additionally, the Personal Protective Equipment at Work Regulations 1992 could be so grouped as relating to work

³¹ Löfstedt, Chapter 7, para 25

equipment but in Annex 1 has been grouped as having the theme of *General/management*.

The scope of PUWER and LOLER

136 Undoubtedly, both PUWER and LOLER apply to and across a very wide range of businesses, but the scope of PUWER is wider: in short, all lifting equipment provided by an employer is within the scope of LOLER and also will be work equipment within the scope of PUWER, but, obviously, not all work equipment will be lifting equipment.

137 The Guidance to LOLER³² puts the matter thus:

8 *There is ... an important link with PUWER which applies to all work equipment, including lifting equipment. For example, PUWER places requirements on duty holders to provide suitable work equipment for the task (regulation 4), information and instructions (regulation 8) and training (regulation 9) to the people who use it. PUWER also requires measures to be taken concerning dangerous parts of machinery (regulation 11), controls and control systems (regulations 14 to 18), stability (regulation 20) and mobility (regulations 25 to 29).*

9 *It is therefore important to remember that duty holders who provide lifting equipment, in addition to complying with LOLER, will also need to comply with all relevant aspects of PUWER and any other applicable health and safety law.*

The effect of merging PUWER and LOLER

138 The HSE publication *Safe use of lifting equipment - Lifting Operations and Lifting Equipment Regulations 1998, ACOP and Guidance* extends to 110 pages,

³² (L113) *Safe use of lifting equipment - Lifting Operations and Lifting Equipment Regulations 1998, ACOP and Guidance*, Introduction, Guidance para 8

covering, as it does the detail of all aspects of lifting equipment from basic to the very complex. Simply consolidating LOLER with PUWER to put the Regulations in the same place would only achieve a vast increase in the size of any ACOP or Guidance document published in support of such consolidated Regulations.

- 139 The hurdles to merging the Regulations in a way such as to subsume as many of the specific LOLER requirements into similar general requirements of PUWER are the same identified in the risk assessment section (Section IV, above).
- 140 Thus, any apparent duplication of provisions between PUWER and LOLER is the result of the need to implement the terms of the Directives and any improvement in the position could only come following Professor Löfstedt's recommendation of engaging with the EU in the 2013 review of health and safety legislation.

The current position of PUWER and LOLER

- 141 Both LOLER and PUWER 1998 together implemented the Amending Directive to the Use of Work Equipment Directive³³ (AUWED, 95/63/EC), with LOLER transposing the very specific requirements relating to lifting equipment and PUWER 1998 replacing the previous 1992 Regulations.
- 142 The two sets of Regulations further rationalised a raft of other legislation, particularly a plethora of requirements for lifting equipment and actually marked a significant reduction in the amount and number of sources of

³³ Council Directive 95/63/EC of 5 December 1995 amending Directive 89/655/EEC concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)

regulation in these areas.

143 In 2003, HSE commissioned research by Greenstreet Berman Ltd³⁴ to evaluate the implementation of the use of work equipment directive and the amending directive in the UK. The resultant 148-page report is relevant to any consideration of potential merger of these sets of Regulations. Significantly, the *Executive Summary* of the Report reveals:

Awareness and compliance

- *A wide spectrum of duty holders have carried out a range of actions to comply with the 1998 regulations (such as equipment modifications), and there is evidence that this was at least in part motivated by the regulations. There is evidence that small and medium sized enterprises (SMEs) have done less, in part because they have less equipment significantly impacted by the requirements ...*
- *A majority are aware of the regulations, and there is some evidence that awareness has increased since the 1992 regulations. Most users of the main groups of equipment do, at least broadly, understand the link between LOLER and PUWER 98 ;*
- *There is evidence of improved and on-going compliance with the requirements originally brought in by PUWER 92, although the occurrence of fatal and non-fatal accidents involving failure to adopt basic safety measures, such as guarding, demonstrates that compliance is not universal..*

Attitude to the regulations

³⁴ Evaluation of the implementation of the use of work equipment directive and the amending directive to the use of work equipment directive in the UK:
<http://www.hse.gov.uk/research/rrpdf/rr125.pdf>

- *Duty holders believe that the regulations have led to safety improvements, such as safer equipment and a more competent workforce;*
- *Duty holders believe that the regulations are an improvement on previous industry specific regulations and offer many advantages such as flexibility and practicality*

144 The research did identify both concerns and difficulties and areas for improvement but none of these related to the separation of the respective provisions in PUWER and LOLER, nor any concern with regard to duplication. Furthermore under *Cost and benefits*, the research found

- *Duty holders, on the whole, do not believe that the costs of compliance with PUWER 98 and LOLER have caused concern and do believe that they have led to improved working practices and safer equipment despite uncertainty over whether the injury rate has fallen;*

Conclusion regarding merging LOLER and PUWER

145 In short, merging LOLER with PUWER would not result in any reduction in the number of provisions but would impact upon the volume of any consolidated ACOP and Guidance. Businesses would remain best served by specific guidance being available concerning lifting equipment. In the absence of any evidence that industry affected by LOLER and PUWER believes that it would benefit in any way from such merger, there could only be the negative consequence of duty holders incurring familiarisation costs.

Statutory instruments (Regulations) owned and enforced by HSE/Local Authorities (arranged by subject)	Subject Matter or Theme
Management of Health and Safety at Work Regulations 1999 (S.I. 1999/3242)	General/ management
Management of Health and Safety at Work (Amendment) Regulations 2006 (S.I. 2006/438)	General/ management
Workplace (Health, Safety and Welfare) Regulations 1992 (S.I. 1992/3004)	General/ management
Personal Protective Equipment at Work Regulations 1992 (S.I. 1992/2966)	General/ management
Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (S.I. 1995/3163)	General/ management
Health and Safety (First-Aid) Regulations 1981 (S.I. 1981/917)	General/ management
Health and Safety Information for Employees (Amendment) Regulations 2009 (S.I. 2009/606)	General/ management
Safety Representatives and Safety Committees Regulations 1977 (S.I. 1977/500)	General/ management
Health and Safety (Consultation with Employees) Regulations 1996 (S.I. 1996/1513)	General/ management
Health and Safety (Training for Employment) Regulations 1990 (S.I. 1990/1380)	General/ management
Health and Safety Information for Employees (Modifications and Repeals) Regulations 1995 (S.I. 1995/2923)	General/ management
Health and Safety Information for Employees Regulations 1989 (S.I. 1989/682)	General/ management
Notification of Employment of Persons Order 1964 (S.I. 1964/533)	General/ management
Employers' Health and Safety Policy Statements (Exception) Regulations 1975 (S.I. 1975/1584)	General/ management
Agriculture (Safety, Health and Welfare Provisions) Act 1956 (Repeals and Modifications) Regulations 1975 (S.I. 1975/46)	Agriculture
Agriculture (Tractor Cabs) (Amendment) Regulations 1990 (S.I.1990/1075)	Agriculture
Agriculture (Tractor Cabs) Regulations 1974 (S.I. 1974/2034)	Agriculture
Health and Safety (Agriculture) (Miscellaneous Repeals and Modifications) Regulations 1976 (S.I. 1976/1247)	Agriculture
Prevention of Accidents to Children in Agriculture Regulations 1998 (S.I. 1998/3262)	Agriculture
Control of Asbestos Regulations (S.I. 2006/2739)	Asbestos
Biocidal Products (Amendment) Regulations 2003 (S.I. 2003/429)	Biocides
Biocidal Products Regulations 2001 (S.I. 2001/880)	Biocides
Biocidal Products (Amendment) Regulations 2005 (S.I. 2005/2451)	Biocides
Biocidal Products (Amendment) Regulations 2007 (S.I. 2007/293)	Biocides
Biocidal Products (Amendment) Regulations 2010	Biocides

The Genetically Modified Organisms (Contained Use) (Amendment) Regulations 2010	Biosafety
Notification of Cooling Towers and Evaporative Condensers Regulations 1992 (S.I.1992/2225)	Biosafety
Export and Import of Dangerous Chemicals Regulations 2005 (S.I. 2005/928)	Chemicals
Chemicals (Hazard Information and Packaging for Supply) Regulations 2002 (S.I. 2002/1689)	CHIP
Chemicals (Hazard Information and Packaging for Supply) (Amendment) Regulations 2005 (S.I. 2005/2571)	CHIP
Chemicals (Hazard Information and Packaging for Supply) (Amendment) Regulations 2008 (S.I. 2008/2337)	CHIP
Chemicals (Hazard Information and packaging for supply) Regulations 2009 (S.I. 2009/716)	CHIP
Control of Major Accident Hazards Regulations 1999 (S.I. 1999/743)	COMAH
Control of Major Accident Hazards (Amendment) Regulations 2005 (S.I. 2005/1088)	COMAH
Notification of Installations Handling Hazardous Substances (Amendment) Regulations 2002 (S.I. 2002/2979)	COMAH
Notification of Installations Handling Hazardous Substances Regulations 1982 (S.I. 1982/1357)	COMAH
Work in Compressed Air Regulations 1996 (S.I. 1996/1656)	Compressed air
Confined Spaces Regulations 1997 (S.I. 1997/1713)	Confined spaces
Construction (Design and Management) Regulations 2007 (S.I. 2007/320)	Construction
Construction (Head Protection) Regulations 1989 (S.I. 1989/2209)	Construction
Notification of Conventional Tower Cranes Regulations 2010 (S.I. 2010/333)	Construction
Control of Substances Hazardous to Health (Amendment) Regulations 2003 (S.I. 2003/978)	COSHH
Control of Substances Hazardous to Health (Amendment) Regulations 2004 (S.I. 2004/3386)	COSHH
Control of Substances Hazardous to Health Regulations 2002 (S.I. 2002/2677)	COSHH
Dangerous Substances in Harbour Areas Regulations 1987 (S.I. 1987/37)	Dangerous substances (Explosives)/ ports
Dangerous Substances and Explosive Atmospheres Regulations 2002 (S.I. 2002/2776)	Dangerous substances (Fire and explosion)
Dangerous Substances (Notification and Marking of Sites) Regulations 1990 (S.I. 1990/304)	Dangerous substances
Diving at Work Regulations 1997 (S.I. 1997/2776)	Diving
Electricity at Work Regulations 1989 (S.I. 1989/635)	Electrical safety
Health and Safety (Fees) Regulations 2007 (2007/813)	Enforcement/ amendment/ procedure
Health and Safety (Fees) Regulations 2008 (2008/736)	Enforcement/ amendment/ procedure

Health and Safety (Fees) Regulations 2009 (2009/515)	Enforcement/ amendment/ procedure
Health and Safety (Fees) Regulations 2010	Enforcement/ amendment/ procedure
Celluloid and Cinematograph Film Act 1922 (Exemptions) Regulations 1980 (S.I. 1980/1314)	Enforcement/ amendment/ procedure
Celluloid and Cinematograph Film Act 1922 (Repeals and Modifications) Regulations 1974 (S.I. 1974/1841)	Enforcement/ amendment/ procedure
Control of Industrial Air Pollution (Transfer of Powers of Enforcement) Regulations 1987 (S.I. 1987/180)	Enforcement/ amendment/ procedure
Employment Medical Advisory Service (Factories Act Orders etc Amendment) Order 1973 (S.I. 1973/36)	Enforcement/ amendment/ procedure
Factories Act 1961 and Offices, Shops and Railway Premises Act 1963 (Repeals and Modifications) Regulations 2009 (S.I. 2009/605)	Enforcement/ amendment/ procedure
Factories Act 1961 (Repeals) Regulations 1975 (S.I. 1975/1012)	Enforcement/ amendment/ procedure
Factories Act 1961 etc (Metrication) Regulations 1983 (S.I. 1983/978)	Enforcement/ amendment/ procedure
Factories Act 1961 etc (Repeals and Modifications) Regulations 1974 (S.I. 1974/1941)	Enforcement/ amendment/ procedure
Factories Act 1961 etc (Repeals) Regulations 1976 (S.I. 1976/2004)	Enforcement/ amendment/ procedure
Factories Act General Register Order 1973 (S.I. 1973/8)	Enforcement/ amendment/ procedure
Health and Safety (Leasing Arrangements) Regulations 1992 (S.I. 1992/1524)	Enforcement/ amendment/ procedure
Health and Safety (Miscellaneous Amendments) Regulations 2002 (S.I. 2002/2174)	Enforcement/ amendment/ procedure
Health and Safety (Miscellaneous Provisions) (Metrication etc) Regulations 1992 (S.I. 1992/1811)	Enforcement/ amendment/ procedure

Health and Safety (Repeals and Revocations) Regulations 1995 (S.I. 1995/3234)	Enforcement/ amendment/ procedure
Health and Safety (Repeals and Revocations) Regulations 1996 (S.I. 1996/1811)	Enforcement/ amendment/ procedure
Health and Safety at Work etc Act 1974 (Application outside Great Britain) Order 2001 (S.I. 2001/2127)	Enforcement/ amendment/ procedure
Health and Safety Inquiries (Procedure) (Amendment) Regulations 1976 (S.I. 1976/1246)	Enforcement/ amendment/ procedure
Health and Safety Inquiries (Procedure) Regulations 1975 (S.I. 1975/335)	Enforcement/ amendment/ procedure
Health and Safety Licensing Appeals (Hearings Procedure) Rules 1974 (S.I. 1974/2040)	Enforcement/ amendment/ procedure
Offices, Shops and Railway Premises Act 1963 (Repeals and Modifications) Regulations 1974 (S.I. 1974/1943)	Enforcement/ amendment/ procedure
Offices, Shops and Railway Premises Act 1963 (Repeals) Regulations 1975 (S.I. 1975/1012)	Enforcement/ amendment/ procedure
Offices, Shops and Railway Premises Act 1963 etc (Repeals) Regulations 1976 (S.I. 1976/2005)	Enforcement/ amendment/ procedure
Health and Safety (Enforcing Authority) Regulations 1998 (S.I. 1998/494)	Enforcement/ amendment/ procedure
Health and Safety at Work etc Act 1974 (Application to Environmentally Hazardous substances) Regulations 2002 (S.I. 2002/282)	Enforcement/ amendment/ procedure
Health and Safety (Foundries etc) (Metrication) Regulations 1981 (S.I. 1981/1332)	Engineering
Non-ferrous Metals (Melting and Founding) Regulations 1962 (S.I. 1962/1667)	Engineering
Control of Explosives Regulations 1991 (S.I. 1991/1531)	Explosives
Explosive Acts 1875 and 1923 etc (Repeals and Modifications) Regulations 1974 (S.I. 1974/1885)	Explosives
Explosives Act 1875 (Exemptions) Regulations 1979 (S.I. 1979/1378)	Explosives
Explosives Act 1875 etc. (Metrication and Miscellaneous Amendment) Regulations 1984 (S.I. 1984/510)	Explosives
Explosives Acts 1875 and 1923 etc (Repeals and Modifications) (Amendment) Regulations 1974 (S.I. 1974/2166)	Explosives

Health and Safety (Explosives and Petroleum Fees) (Modification) Regulations 1987 (S.I. 1998/52)	Explosives
Manufacture and Storage of Explosives Regulations 2005 (S.I. 2005/1082)	Explosives
Placing on the Market and Supervision of Transfers of Explosives Regulations 1993 (1993/2714)	Explosives
Stratified Ironstone, Shale and Fireclay Mines (Explosives) Regulations 1956 (S.I. 1956/1943)	Explosives
Factories Act (Docks, Building and Engineering Construction, etc) Modification Regulations 1938 (S.I. 1938/610)	Factories
Work at Height Regulations 2005 (S.I. 2005/735)	Falls from height
Work at Height (Amendment) Regulations 2007 (S.I. 2007/114)	Falls from height
Compressed Acetylene Order 1947 (S.I. 1947/805)	Fire
Fire Certificates (Special Premises) Regulations 1976 (S.I. 1976/2003)	Fire
Fire Precautions (Factories, Offices, Shops and Railway Premises) Order 1989 (S.I. 1989/76)	Fire
Fire Precautions Act 1971 (Modifications) (Revocation) Regulations 1989 (S.I. 1989/79)	Fire
Management of Health and Safety at Work and Fire Precautions (Workplace) (Amendment) Regulations 2003 (S.I. 2003/2457)	Fire
Order in Council No. 30 Prohibiting the manufacture, importation, keeping, conveyance or sale of acetylene when an explosive as defined by the order (S.R. & O 1937/54)	Fire
Order of Secretary of State (No 5) relating to Compressed Acetylene in Admixture with Oil-Gas (S.R.& O. 1898/248)	Fire
Order of Secretary of State (No 5A) relating to Compressed Acetylene in Admixture with Oil-Gas (1905) (S.R.& O. 1905/1128)	Fire
Order of Secretary of State (No 9) relating to Compressed Acetylene contained in a Porous Substance (1919) S.R.& O. 1919/809)	Fire
Gas Safety (Installation and Use) Regulations 1998 (S.I. 1998/2451)	Gas
Gas Safety (Rights of Entry) Regulations 1996 (S.I. 1996/2535)	Gas
Gas Safety (Management) Regulations 1996 (S.I. 1996/551)	Gas
Gasholders (Record of Examinations) Order 1938 (S.I. 1938/598)	Gas
Gasholders and Steam Boilers Regulations (Metrication) Regulations 1981 (S.I. 1981/687)	Gas
Genetically Modified Organisms (Contained Use) (Amendment) Regulations 2002 (S.I. 2002/63)	Genetically modified organisms
Genetically Modified Organisms (Contained Use) (Amendment) Regulations 2005 (S.I. 2005/2466)	Genetically modified organisms
Genetically Modified Organisms (Contained Use) Regulations 2000 (S.I. 2000/2831)	Genetically modified organisms
Classification, labelling and packaging of substances and mixtures (Regulation (EC) 2008 (S.I. 2008/1272)	GHS
Anthrax Prevention Order 1971 etc (Revocation) Regulations (S.I. 2005/228)	Infections
Control of Lead at Work Regulations 2002 (S.I. 2002/2676)	Lead
Manual Handling Operations Regulations 1992 (S.I. 1992/2793)	Manual handling
Borehole Sites and Operations Regulations 1995 (S.I. 1995/2038)	Mines/ quarries
Quarries Regulations 1999 (S.I. 1999/2024)	Mines/ quarries

Disused Mine and Quarry Tips (Prescribed Forms) Regulations 1969 (S.I. 1969/807)	Mines/ quarries
Coal and Other Mines (General Duties and Conduct) Order 1956 (S.I. 1956/2016)	Mining
Coal and Other Mines (Horses) Order 1956 (S.I. 1956/1777)	Mining
Coal and Other Mines (Locomotives) Order 1956 (S.I. 1956/1771)	Mining
Coal and Other Mines (Metrication) Regulations 1978 (S.I. 1978/1648)	Mining
Coal and Other Mines (Safety-Lamps and Lighting) Order 1956 (S.I. 1956/1765)	Mining
Coal and Other Mines (Sanitary Conveniences) Order 1956 (S.I. 1956/1776)	Mining
Coal and Other Mines (Shafts, Outlets and Roads) (Amendment) Regulations 1968 (S.I. 1968/1037)	Mining
Coal and Other Mines (Shafts, Outlets and Roads) Regulations 1960 (S.I. 1960/69)	Mining
Coal and Other Mines (Sidings) Order 1956 (S.I. 1956/1773)	Mining
Coal and Other Mines (Ventilation) (Variation) Regulations 1960 (S.I. 1960/1116)	Mining
Coal and Other Mines (Ventilation) (Variation) Regulations 1966 (S.I. 1966/1139)	Mining
Coal and Other Mines (Ventilation) Order 1956 (S.I. 1956/1764)	Mining
Coal and Other Safety-Lamp Mines (Explosives) Regulations 1993 (S.I. 1993/208)	Mining
Coal Mines (Cardrox and Hydrox) Regulations 1956 (S.I. 1956/1942)	Mining
Coal Mines (Clearances in Transport Roads) Regulations 1959 (S.I. 1956/1217)	Mining
Coal Mines (Control of Inhalable Dust) Regulations 2007	Mining
Coal Mines (Firedamp Drainage) Regulations 1960 (S.I. 1960/1015)	Mining
Coal Mines (Owner's Operating Rules) Regulations 1993 (S.I. 1993/2331)	Mining
Coal Mines (Precautions against Inflammable Dust) (Second Amendment) Regulations 1974 (S.I. 1974/2124)	Mining
Coal Mines (Precautions against Inflammable Dust) (Variation) Regulations 1960 (S.I. 1960/1738)	Mining
Coal Mines (Precautions against Inflammable Dust) Order 1956 (S.I. 1956/1769)	Mining
Coal Mines (Respirable Dust) (Amendment) Regulations 1978 (S.I.1978/807)	Mining
Coal Mines (Respirable Dust) Regulations 1975 (S.I. 1975/1433)	Mining
Escape and Rescue from Mines Regulations 1995 (S.I. 1995/2870)	Mining
Health and Safety (Miscellaneous Amendments and Revocations) Regulations 2009 (S.I. 2009/693)	Mining
Management and Administration of Safety and Health at Mines Regulations 1993 (S.I. 1993/1897)	Mining
Mines (Control of Ground Movement) Regulations 1999 (S.I.1999/2463)	Mining
Mines (Manner of Search for Smoking Materials) Order 1956 (S.I. 1956/2016)	Mining
Mines (Medical Examinations) Regulations 1964 (S.I. 1964/209)	Mining
Mines (Precautions Against Inrushes) Regulations 1979 (S.I. 1979/318)	Mining
Mines (Safety of Exit) Regulations 1988 (S.I. 1988/1729)	Mining
Mines (Shafts and Winding) Regulations 1993 (S.I. 1993/302)	Mining

Mines and Quarries (Metrication) Regulations 1976 (S.I. 1976/2063)	Mining
Mines and Quarries (Tipping Plans) Rules 1971 (S.I. 1971/1378)	Mining
Mines and Quarries (Tips) Regulations 1971 (S.I. 1971/1377)	Mining
Mines and Quarries Acts 1954 to 1971 (Repeals and Modifications) Regulations 1974 (S.I. 1974/2013)	Mining
Mines and Quarries Acts 1954 to 1971 (Repeals and Modifications) Regulations 1975 (S.I. 1975/1102)	Mining
Mines Miscellaneous Health and Safety Provisions Regulations 1995 (S.I. 1995/2005)	Mining
Miscellaneous Mines (Explosives) Regulations 1959 (S.I. 1959/2258)	Mining
Miscellaneous Mines (Metrication) Regulations 1983 (S.I. 1983/994)	Mining
Miscellaneous Mines (General) Order 1956 (S.I. 1956/1778)	Mining
Control of Noise at Work Regulations 2005 (S.I. 2005/1643)	Noise
Nuclear Installations (Dangerous Occurrences) Regulations 1965 (S.I. 1965/1824)	Nuclear
Nuclear Reactors (Environmental Impact Assessment for Decommissioning) Regulations 1999 (S.I.1999/2892)	Nuclear
Nuclear Reactors (Environmental Impact Assessment for Decommissioning) (Amendment) Regulations (EIADR) 2006 (S.I. 2006/657)	Nuclear
Health and Safety (Display Screen Equipment) Regulations 1992 (S.I. 1992/2792)	Offices
Health and Safety at Work etc. Act 1974 (Application outside Great Britain) (Variation) Order 2011	Offshore
Offshore Electricity and Noise Regulations 1997 (S.I. 1997/1993)	Offshore
Offshore Installations (Inspectors and Casualties) Regulations 1973 (S.I. 1973/1842)	Offshore
Offshore Installations (Logbooks and Registration of Death) Regulations 1972 (S.I. 1972/1542)	Offshore
Offshore Installations (Prevention of Fire and Explosion, and Emergency Response) Regulations 1995 (S.I. 1995/743)	Offshore
Offshore Installations (Safety Case) Regulations 2005 (S.I. 2005/3117)	Offshore
Offshore Installations (Safety Representatives and Safety Committees) Regulations 1989 (S.I. 1989/971)	Offshore
Offshore Installations (Safety Zones) Order 2005 (S.I. 2005/1656)	Offshore
Offshore Installations (Safety Zones) (No 2) Order 2005 (S.I. 2005/2669)	Offshore
Offshore Installations (Safety Zones) (No 3) Order 2005 (S.I. 2005/3227)	Offshore
Offshore Installations (Safety Zones) Regulations 1987 (S.I. 1987/1331)	Offshore
Offshore Installations and Pipeline Works (First-Aid) Regulations 1989 (S.I. 1989/1671)	Offshore
Offshore Installations and Pipeline Works (Management and Administration) Regulations 1995 (S.I. 1995/738)	Offshore
Offshore Installations and Wells (Design and Construction, etc) Regulations 1996 (S.I. 1996/913)	Offshore
Offshore Safety (Miscellaneous Amendments) Regulations 2002 (S.I. 2002/2175)	Offshore

Offshore Safety (Repeals and Modifications) Regulations 1993 (S.I. 1993/1823)	Offshore
Petroleum (Consolidation) Act 1928 (Enforcement) Regulations 1979 (S.I. 1979/427)	Petroleum
Petroleum (Liquid Methane) Order 1957 (S.I. 1957/859)	Petroleum
Petroleum (Mixtures) Order 1929 (S.I. 1929/993)	Petroleum
Petroleum (Regulation) Acts 1928 and 1936 (Repeals and Modifications) Regulations 1974 (S.I. 1974/1942)	Petroleum
Petroleum-Spirit (Motor Vehicles, etc) Regulations 1929 (S.I. 1929/952)	Petroleum
Petroleum-Spirit (Plastic Containers) Regulations 1982 (S.I. 1982/630)	Petroleum
Pipe-lines Act 1962 (Repeals and Modifications) Regulations 1974 (S.I. 1974/1986)	Pipelines
Pipelines Safety (Amendment) Regulations 2003 (S.I. 2003/2563)	Pipelines
Pipelines Safety Regulations 1996 (S.I. 1996/825)	Pipelines
Submarine Pipe-lines (Inspectors and Safety) (Amendment) Regulations 1991 (S.I. 1991/680)	Pipelines
Submarine Pipe-lines (Inspectors etc) Regulations 1977 (S.I. 1977/835)	Pipelines
Submarine Pipe-lines Safety Regulations 1982 (S.I. 1982/1513)	Pipelines
Police (Health and Safety) Regulations 1999 + (Commencement) Order (1999/860)	Police Services
Docks Regulations 1988 (S.I. 1988/1655)	Ports
Docks, Shipbuilding etc (Metrication) Regulations 1983 (S.I. 1983/644)	Ports
Loading and Unloading of Fishing Vessels Regulations 1988 (S.I. 1988/1656)	Ports
Shipbuilding and Ship-repairing Regulations 1960 (S.I. 1960/1932)	Ports/ shipbuilding
Pottery (Health and Welfare) Special Regulations 1950 (S.I. 1950/65)	Pottery
Pottery (Health etc) (Metrication) Regulations 1982 (S.I. 1982/877)	Pottery
Pressure Systems Safety Regulations 2000 (S.I. 2000/128)	Pressurised systems
Control of Artificial Optical Radiation at Work Regulations 2010 (S.I. 2010/1140)	Radiation
Ionising Radiations Regulations 1999 (S.I. 1999/3232)	Radiation
Radiation (Emergency Preparedness and Public Information) Regulations 2001 (S.I. 2001/2975)	Radiation
Health and Safety Licensing Appeals (Hearings Procedure) (Scotland) Rules 1974 (S.I. 1974/2068)	Scotland
Control of Vibration at Work Regulations 2005 (S.I. 2005/1093)	Vibration
Lifting Operations and Lifting Equipment Regulations 1998 (S.I. 1998/2307)	Work equipment
Provision and Use of Work Equipment Regulations 1998 (S.I. 1998/2306)	Work equipment
The locomotives and wagons on lines and sidings in or used in connection with premises under Factory and Workshop Regulations 1906 (S.I. 19/679)	Workplace transport
Freight Containers (Safety Convention) Regulations 1984 (S.I. 1984/1890)	Workplace transport

EU Legislation	Title	Date
89/391/EEC	On the introduction of measures to encourage improvements in the safety and health of workers at work	12 June 1989
89/654/EEC	Concerning the minimum health and safety requirements for the workplace (first individual directive within the meaning of Article 16 (1) of Directive 89/391/EEC)	30 November 1989
89/656/EEC	Concerning the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace (third individual directive within the meaning of Article 16 (1) of Directive 89/391/EEC)	30 November 1989
90/269/EEC	On the minimum health and safety requirements for the manual handling of loads where there is a risk particularly of back injury to workers (fourth individual directive within the meaning of Article 16 (1) of Directive 89/391/EEC)	29 May 1990
90/270/EEC	On the minimum health and safety requirements for work with display screen equipment (fifth individual directive within the meaning of Article 16 (1) of Directive 89/391/EEC)	29 May 1990
91/322/EEC	On establishing indicative limit values by implementing On the protection of workers from the risks related to exposure to chemical, physical and biological agents at work	29 May 1991
91/383/EEC	Supplementing the measures to encourage improvements in the safety and health of workers with a fixed - duration employment relationship or temporary employment relationship	25 June 1991
92/29/EEC	On the minimum safety and health requirements for improved medical treatment on board vessels	31 March 1992
92/57/EEC	On the implementation of minimum safety and health requirements at temporary or mobile construction sites (eighth individual Directive	24 June 1992

	within the meaning of Article 16 (1) of Directive 89/391/EEC)	
92/58/EEC	On the minimum requirements for the provision of safety and/or health signs at work (ninth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)	24 June 1992
92/85/EEC	On the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)	19 October 1992
92/91/EEC	Concerning the minimum requirements for improving the safety and health protection of workers in the mineral- extracting industries through drilling (eleventh individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)	3 November 1992
92/104/EEC	On the minimum requirements for improving the safety and health protection of workers in surface and underground mineral-extracting industries (twelfth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)	3 December 1992
93/103/EEC	Concerning the minimum safety and health requirements for work on board fishing vessels (thirteenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)	23 November 1993
94/33/EC	On the protection of young people at work	22 June 1994
96/94/EC	Establishing a second list of indicative limit values in implementation of Council Directive 80/1107/EEC on the protection of workers from the risks related to exposure to chemical, physical and biological agents at work (Text with EEA relevance)	18 December 1996
98/24/EC	On the protection of the health and safety of workers from the risks related to chemical agents at work (fourteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)	7 April 1998

1999/92/EC	On minimum requirements for improving the safety and health protection of workers potentially at risk from explosive atmospheres (15th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)	16 December 1999
2000/39/EC	Establishing a first list of indicative occupational exposure limit values in implementation of Council Directive 98/24/EC on the protection of the health and safety of workers from the risks related to chemical agents at work (Text with EEA relevance)	8 June 2000
2000/54/EC	On the protection of workers from risks related to exposure to biological agents at work (seventh individual directive within the meaning of Article 16(1) of Directive 89/391/EEC)	18 September 2000
2002/44/EC	On the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (vibration) (sixteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)	25 June 2002
2003/10/EC	On the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (noise) (Seventeenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)	6 February 2003
2004/37/EC	On the protection of workers from the risks related to exposure to carcinogens or mutagens at work (Sixth individual Directive within the meaning of Article 16(1) of Council Directive 89/391/EEC) (codified version) (Text with EEA relevance)	29 April 2004
2004/40/EC	On the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields) (18th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)	29 April 2004
2006/15/EC	Establishing a second list of indicative	7 February 2006

	occupational exposure limit values in implementation of Council Directive 98/24/EC and amending Directives 91/322/EEC and 2000/39/EC (Text with EEA relevance)	
2006/25/EC	On the minimum health and safety requirements regarding the exposure of workers to risks arising from physical agents (artificial optical radiation) 19th individual directive within the meaning of Article 16(1) of Directive 89/391/EEC)	5 April 2006
341/2006	Adopting the specifications of the 2007 ad hoc module on accidents at work and work-related health problems provided for by Council Regulation (EC) No 577/98 and amending Regulation (EC) No 384/2005 (Text with EEA relevance)	24 February 2006
2007/30/EC	Amending Council Directive 89/391/EEC, its individual Directives and Council Directives 83/477/EEC, 91/383/EEC, 92/29/EEC and 94/33/EC with a view to simplifying and rationalising the reports on practical implementation (Text with EEA relevance)	20 June 2007
2008/46/EC	On minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields) (18th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)	23 April 2008
1338/2008	On Community statistics on public health and health and safety at work (Text with EEA relevance)	16 December 2008
2009/41/EC	On the contained use of genetically modified micro-organisms (Recast) (Text with EEA relevance)	6 May 2009
2009/104/EC	Concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (Text with EEA relevance)	16 September 2009
2009/148/EC	On the protection of workers from the risks related to exposure to asbestos at work (Text	30 November 2009

	with EEA relevance)	
2009/161/EU	Establishing a third list of indicative occupational exposure limit values in implementation of Council Directive 98/24/EC and amending Commission Directive 2000/39/EC (Text with EEA relevance)	17 December 2009
2010/32/EU	Implementing the Framework Agreement on prevention from sharp injuries in the hospital and healthcare sector concluded by HOSPEEM and EPSU (Text with EEA relevance)	10 May 2010
328/2011	Implementing Regulation (EC) No 1338/2008 of the European Parliament and of the Council on Community statistics on public health and health and safety at work, as regards statistics on causes of death Text with EEA relevance	5 April 2011

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S.I. No. 299 of 2007

Safety, Health and Welfare at Work (General Application) Regulations 2007

Arrangement of Regulations

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Class of duty	Provision	Duty holder	Effect
1.	Reg 3(4) & (5), MHSWR 1999	Employer	An employer shall not employ a young person unless he has, in relation to risks to the health and safety of young persons, made or reviewed an assessment that considers various specific factors
	Reg 16, MHSWR 1999	Employer	Where the work is of a kind which could involve risk, by reason of her condition, to the health and safety of a new or expectant mother, or to that of her baby, from any processes or working conditions, or physical, biological or chemical agents, then the assessment required by Reg 3(1) shall also include such risk
2.	Reg 6, Control of Substances Hazardous to Health Regulations 2002	Employer	An employer shall not carry out work which is liable to expose any employees to any substance hazardous to health unless he has made a suitable and sufficient assessment of the risk created by that work to the health of those employees (which shall include consideration of various specific factors) and of the steps that need to be taken to meet the requirements of these Regulations; and implemented the steps
	Reg 5, Control of Lead at Work Regulations 2002	Employer	An employer shall not carry out work which is liable to expose any employees to lead unless he has made a suitable and sufficient assessment of the risk created by that work to the health of those employees (which shall include consideration of various specific factors) and of the steps that need to be taken to meet the requirements of these Regulations; and implemented the steps
	Reg 5, Dangerous Substances and Explosive Atmospheres Regulations 2002		Where a dangerous substance is or is liable to be present at the workplace, the employer shall make a suitable and sufficient assessment of the risks to his employees which arise from that substance
	Reg 5, Control of Vibration at Work Regulations 2005	Employer	An employer who carries out work which is liable to expose any of his employees to risk from vibration shall make a suitable and sufficient assessment of the risk created by that work to the health and safety of those employees (which shall include consideration of various specific factors) and the Risk assessment shall identify the measures that need to be taken to meet the requirements of these Regulations
	Reg 5, Control of Noise at Work	Employer	An employer who carries out work which is liable to expose any of his employees to noise at or above defined

	Regulations 2005		values shall make a suitable and sufficient assessment of the risk from that noise to the health and safety of those employees (which shall include consideration of various specific factors) and the Risk assessment shall identify the measures that need to be taken to meet the requirements of these Regulations
	Reg 10, Control of Artificial Optical Radiation at Work Regulations 2010	Employer	Where the employer carries out work which could expose any of its employees to levels of artificial optical radiation that could create a reasonably foreseeable risk of adverse health effects to the eyes or skin of the employee; and that employer has not implemented any measures to either eliminate or, where this is not reasonably practicable, reduce to as low a level as is reasonably practicable, that risk based on the general principles of prevention set out in Schedule 1 to MHSWR; the employer must make a suitable and sufficient assessment of that risk for the purpose of identifying the measures it needs to take to meet the requirements of these Regulations (which includes assessing and if necessary measuring or calculating levels of artificial optical radiation)
	Reg 12, Control of Asbestos Regulations 2012	Employer	An employer must not carry out work which is liable to expose employees of that employer to asbestos unless that employer has made a suitable and sufficient assessment of the risk created by that exposure to the health of those employees and of the steps that need to be taken to meet the requirements of the Regulations; recorded the significant findings of that Risk assessment as soon as is practicable after the Risk assessment is made; and implemented the steps . Without prejudice to the general duty created by the regulation, the risk assessment must take account of various specific factors.
	Reg 2(1)(b), Sche 2, Supply of Machinery (Safety) Regulations 2008 ³⁵	Responsible person ³⁶	The responsible person must ensure that a Risk assessment is carried out in order to determine the health and safety requirements which apply to the machinery. The machinery must then be designed and constructed taking into account the results of the Risk assessment. There are very detailed specific matters contained within the Annex that must be considered in various different situations
	Reg 4, Manual Handling Operations	Employer	Each employer shall, so far as is reasonably practicable, avoid the need for his employees to undertake any

³⁵ Reproducing Annex 1 Annex I: Essential Health and Safety Requirements Relating to the Design and Construction of Machinery)

³⁶ Being usually the machine manufacturer or final assembler of component parts

3.	Regulations 1992		manual handling operations at work which involve a risk of their being injured; or where it is not reasonably practicable .. make a suitable and sufficient assessment of all such manual handling operations to be undertaken by them. In determining whether manual handling operations at work involve a risk of injury and in determining the appropriate steps to reduce that risk regard shall be had in particular to the results of any relevant Risk assessment carried out pursuant to Reg 3 MHSWR
	Reg 6, Work at Height Regulations 2005	Employer	Avoidance of risks from work at height: In identifying the measures required by this regulation, every employer shall take account of a Risk assessment under Reg 3 MHSWR
	Reg, 4 Health and Safety (Safety Signs and Signals) Regulations 1996	Employer	if the Risk assessment made under reg 3 MHSWR 1999 indicates that the employer concerned, having adopted all appropriate techniques for collective protection, and measures, methods or procedures used in the organisation of work, cannot avoid or adequately reduce risks to employees except by the provision of appropriate safety signs to warn or instruct, or both, of the nature of those risks and the measures to be taken to protect against them
	Reg 13, Construction (Design and Management) Regulations 2007	Contractor	Every contractor shall provide every worker carrying out the construction work under his control with any information and training which he needs for the particular work to be carried out safely and without risk to health, including, the measures which have been identified by the contractor in consequence of the Risk assessment as the measures he needs to take to comply with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions
	Reg 6, Working Time Regulations 1998	Employer	An employer shall ensure that no night worker employed by him whose work involves special hazards or heavy physical or mental strain works for more than eight hours in any 24-hour period during which the night worker performs night work. The work shall be regarded as involving special hazards or heavy physical or mental strain if it is recognised in a Risk assessment made by the employer under reg 3 MHSWR 1999 as involving a significant risk to health or safety
	Reg 7, Ionising Radiations Regulations 1999	Radiation employer	Before a radiation employer commences a new activity involving work with ionising radiation in respect of which no Risk assessment has been made by him, he shall make a suitable and sufficient assessment of the risk to any employee and other person for the purpose of

			identifying the measures he needs to take to restrict the exposure of that employee or other person to ionising radiation. The requirements of this regulation are without prejudice to the requirements of reg 3 MHSWR 1999
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