

View Response

Answers to **Proposals to exempt self-employed persons from section 3(2) of the Health and Safety at Work etc. Act 1974, except those undertaking activities on a prescribed list.**

FINAL RESPONSE

Response ID #144289. Submitted on 16 Jul 2014 13:55 by CWU NW Safety Forum

Confidentiality

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

Please select one option.

Yes	<input type="checkbox"/>
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Section 1 - You and the sector you work in

What describes your sector best:

Please select one option.

Academic	<input type="checkbox"/>
Business	<input type="checkbox"/>
Charity	<input type="checkbox"/>
Consultancy	<input type="checkbox"/>
Local government	<input type="checkbox"/>
Central government	<input type="checkbox"/>
Non-governmental organisation (NGO)	<input type="checkbox"/>
Trade association	<input type="checkbox"/>
Member of the public	<input type="checkbox"/>
Non-departmental public body	<input type="checkbox"/>
Pressure / campaign group	<input type="checkbox"/>
Trades union	<input checked="" type="checkbox"/> Selected

Other - please specify

How would you describe your role:

Please select one option.

An employer	<input type="checkbox"/>
An employee	<input type="checkbox"/>
Health and safety professional / consultant	<input type="checkbox"/>
Self-employed person	<input type="checkbox"/>
Trades union official	<input checked="" type="checkbox"/> Selected
Safety representative	<input type="checkbox"/>
Training provider	<input type="checkbox"/>
Employer body / Trade Association	<input type="checkbox"/>
Other	<input type="checkbox"/>

If you have answered Other - please describe your role

Section 2 - Work activities

Q1. In the Schedule to the draft Regulations at Annex 1, you will see a list of definitions for each of the work activities listed below set out at paragraphs 1 to 32 of the Schedule. These are the prescribed activities for which the self-employed will continue to have health and safety duties. It is important that the definitions are clear and accurate to ensure that a self-employed person could understand if the law applied to them. We would like you to consider the definition for the activity/ activities you have an interest in and let us know if you agree that the definition is clear or not. If you disagree, you will have the opportunity to tell us why. You can respond to any or all of the activities listed below.

The definitions often refer to other regulations and a glossary of these can be found at Annex 3

Agriculture and Forestry – Paragraphs 1 – 4

1.1 Any agricultural activity (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998).

Please select one option.

Agree	<input checked="" type="checkbox"/> [Selected]
Disagree	<input type="checkbox"/> []

Please comment here if you disagree with the definition and propose an alternative

1.2. Gamekeeping, which means the management of game and the environment to provide a habitat conducive for the production of game through activities including:

- (a) vermin control**
- (b) land, plant and water management**
- (c) the prevention of poaching**

Please select one option.

Agree	<input checked="" type="checkbox"/> [Selected]
Disagree	<input type="checkbox"/> []

Please comment here if you disagree with the definition and propose an alternative

1. 3. Landscaping and other amenity activities, including the creation, maintenance and management of hard and soft landscapes in parks, gardens and similar environments for aesthetic and leisure purposes.

Please select one option.

Agree	<input checked="" type="checkbox"/> [Selected]
Disagree	<input type="checkbox"/> []

Please comment here if you disagree with the definition and propose an alternative

1.4. Any arboricultural activity, including the cultivation and maintenance of trees, shrubs and other woody plants.

Please select one option.

Agree	<input checked="" type="checkbox"/> [Selected]
Disagree	<input type="checkbox"/> []

Please comment here if you disagree with the definition and propose an alternative

Construction and design – Paragraphs 5 – 6

Please select one option.

Agree	<input checked="" type="checkbox"/> [Selected]
Disagree	<input type="checkbox"/> []

Please comment here if you disagree with the definition and propose an alternative

Compressed air – Paragraph 7

Please select one option.

Agree	<input checked="" type="checkbox"/> [Selected]
Disagree	<input type="checkbox"/> []

Please comment here if you disagree with the definition and propose an alternative

Diving – Paragraph 8

Please select one option.

Agree	<input checked="" type="checkbox"/> [Selected]
Disagree	<input type="checkbox"/> []

Please comment here if you disagree with the definition and propose an alternative

Chemicals, explosives and other dangerous substances – Paragraphs 9(a) – 9(f)

Here ‘work activity’ includes manufacturing, importing, exporting, supplying, managing, handling, storing, transporting, examining, testing and use.

Please select one option.

Agree	<input checked="" type="checkbox"/> [Selected]
Disagree	<input type="checkbox"/> []

Please comment here if you disagree with the definition and propose an alternative

Dangerous substance (within the meaning of the Dangerous Substances and Explosive Regulations 2005) - Paragraph 9(g)

Please select one option.

Agree	<input checked="" type="checkbox"/> [Selected]
Disagree	<input type="checkbox"/> []

Please comment here if you disagree with the definition and propose an alternative

Biocidal product or treated article – Paragraph 9(h)

Please select one option.

Agree	<input checked="" type="checkbox"/> [Selected]
Disagree	<input type="checkbox"/> []

Please comment here if you disagree with the definition and propose an alternative

Acetylene – Paragraph 9(i)

Please select one option.

Agree	<input checked="" type="checkbox"/> [Selected]
Disagree	<input type="checkbox"/> []

Please comment here if you disagree with the definition and propose an alternative

Dangerous Substances in Harbour Areas – Paragraph 10

Please select one option.

Agree	<input checked="" type="checkbox"/> [Selected]
Disagree	<input type="checkbox"/> []

Please comment here if you disagree with the definition and propose an alternative

Explosives – Paragraph 11

Please select one option.

Agree	<input checked="" type="checkbox"/> [Selected]
Disagree	<input type="checkbox"/> []

Please comment here if you disagree with the definition and propose an alternative

Lead – Paragraph 12

Please select one option.

Agree	<input checked="" type="checkbox"/> [Selected]
Disagree	<input type="checkbox"/> []

Please comment here if you disagree with the definition and propose an alternative

Manufacture of refining of chemicals and petrochemicals – Paragraph 13

Please select one option.

Agree	<input checked="" type="checkbox"/> [Selected]
Disagree	<input type="checkbox"/> []

Please comment here if you disagree with the definition and propose an alternative

Carriage of Dangerous Goods and Use of Transportable Pressure Equipment – Paragraph 14

Please select one option.

Agree	<input checked="" type="checkbox"/> [Selected]
Disagree	<input type="checkbox"/> []

Please comment here if you disagree with the definition and propose an alternative

Control of Major Accident Hazard Regulations 1999 – Paragraph 15

Please select one option.

Agree	[Selected]
Disagree	[]

Please comment here if you disagree with the definition and propose an alternative

Asbestos – Paragraph 16

Please select one option.

Agree	[Selected]
Disagree	[]

Please comment here if you disagree with the definition and propose an alternative

Electricity – Paragraph 17

Please select one option.

Agree	[Selected]
Disagree	[]

Please comment here if you disagree with the definition and propose an alternative

Equipment and plant – Paragraph 18

Please select one option.

Agree	[Selected]
Disagree	[]

Please comment here if you disagree with the definition and propose an alternative

Pressure systems – Paragraph 19

Please select one option.

Agree	[Selected]
Disagree	[]

Please comment here if you disagree with the definition and propose an alternative

Mining and quarrying - Paragraphs 20 and 21

Please select one option.

Agree	[Selected]
Disagree	[]

Please comment here if you disagree with the definition and propose an alternative

Pipelines - Paragraph 22

Please select one option.

Agree	[Selected]
Disagree	[]

Please comment here if you disagree with the definition and propose an alternative

Railways and other guided transport - Paragraph 23

Please select one option.

Agree	[Selected]
Disagree	[]

Please comment here if you disagree with the definition and propose an alternative

Health and social care – Paragraph 24

Please select one option.

Agree	[Selected]
Disagree	[]

Please comment here if you disagree with the definition and propose an alternative

Waste management - Paragraph 25

Please select one option.

Agree	[Selected]
Disagree	[]

Please comment here if you disagree with the definition and propose an alternative

Amusement – Paragraph 26

Here: "hazardous thrill seeking activity" includes activities such as bungee jumping and zip wires. "Hazardous production activity" includes circus acts and stunts. "Event, exhibition or venue" includes concerts and fairs.

Please select one option.

Agree	<input type="checkbox"/>
Disagree	<input checked="" type="checkbox"/>

Please comment here if you disagree with the definition and propose an alternative

Whilst agree with most of the section there is a mention of (h) Zoo. We would consider the many horse based working situations where there can be significant risks to people and this should be included such as by adding - "(i) Equitation events where they are attended by one or more members of the general public".

Gas – Paragraph 27

Please select one option.

Agree	[Selected]
Disagree	[]

Please comment here if you disagree with the definition and propose an alternative

Genetically modified organisms – Paragraph 28

Please select one option.

Agree	[Selected]
Disagree	[]

Please comment here if you disagree with the definition and propose an alternative

Nuclear and ionising radiation - Paragraphs 29 and 30

Please select one option.

Agree	[Selected]
Disagree	[]

Please comment here if you disagree with the definition and propose an alternative

Offshore - Paragraph 31

Please select one option.

Agree	[Selected]
Disagree	[]

Please comment here if you disagree with the definition and propose an alternative

Advice - Paragraph 32

Please select one option.

Agree	<input checked="" type="checkbox"/> [Selected]
Disagree	<input type="checkbox"/> []

Please comment here if you disagree with the definition and propose an alternative

Q2. From the definitions for work activities in the Regulations, do you think someone who is self-employed would know if the law applied to them or not?

Please select one option.

Yes	<input type="checkbox"/> []
No	<input checked="" type="checkbox"/> [Selected]

Please comment here

The removal / change will lead to confusion and the current legislation is sufficiently clear.

Q3. In the Impact Assessment in Annex 2 of the consultation document we have made a number of assumptions. Do you have comments about any of these? If so, please enter them below.

Please select one option.

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

Please enter any additional comments

We have concern that reliance on the European obligation to retain the general duty on self employed (such as Council Directive 92/57/EEC) may be meaningless if there is a political will to exempt much of such duties by the current, or subsequent, UK Governments.

Q4. Self-employed people will need to know if the law applies to them or not. How best do you think HSE can achieve this clarity (e.g. web based guidance etc)?

There are more self employed than ever before and to target them all will vary according to their work styles. Many self employed will have little time to access web based guidance unless specifically driven there. Public campaigns such as previous HSE ones (ie Hidden Killer) may drive them to web based guidance.