

11/03/2014

**DRAFT**

**REGULATORY IMPACT ANALYSIS (RIA)**

**Proposal to amalgamate the Safety, Health and Welfare at Work (Quarries) Regulations 2008 and the Safety, Health and Welfare at Work (Quarries) (Amendment) Regulations 2013 with revised Regulations.**

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# 1 Foreword

The Health and Safety Authority has prepared this screening Regulatory Impact Analysis (RIA) under the terms of the revised RIA Guidelines – “How to conduct a Regulatory Impact Analysis” (Department of the Taoiseach, June 2009).

This review of the quarrying legislation aims to ensure the maximum protection for workers in the modern quarrying industry through the update of the relevant legal instruments. A number of options were considered in the analysis, including retaining the current legislation preparing additional amending regulations, or introducing new revised Quarries Regulations.

This Regulatory Impact Analysis (RIA) has been prepared to assess the proposal to amalgamate the Safety, Health and Welfare at Work (Quarries) Regulations 2008 and the Safety, Health and Welfare at Work (Quarries) (Amendment) Regulations 2013 with revised Regulations. The RIA describes the range of options considered and the potential impacts on key stakeholders. This analysis recommends the drafting of revised Regulations.

The revised draft regulations will re-transpose, in relation to quarries, the relevant provisions of Council Directive 92/104/EEC of 3 December 1992 on the minimum requirements for improving the safety and health protection of workers in surface and underground mineral extracting industries (OJ L404, 31.12.1992, p. 10) and, in conjunction with other proposed legislative changes, will facilitate the repeal of the Safety, Health and Welfare at Work (Extractive Industries) Regulations 1997 (S.I. No. 467 of 1997)

It is the Authority’s view that the proposed draft Regulations will be welcomed by the Quarrying industry. The draft Regulations were prepared in consultation with the Quarry Safety Partnership, a tripartite group established by the Authority with representatives from all of the senior stakeholders in the industry. They were developed to facilitate health and safety management in the context of modern quarrying operations and taking cognizance of the current issues faced by the quarry industry. They are consistent with the approach set out in the Safety, Health and Welfare at Work Act 2005 and the Safety, Health and Welfare at Work (General Application) Regulations 2007. There are no major new requirements for employers; in fact, they offer quarry operators who have temporarily suspended operations to remove themselves from the requirements of the proposed regulations if they satisfy certain criteria. The Safety, Health and Welfare at Work (General Application) (Amendment) Regulations 2012 also facilitate the removal requirements relating to Air Receivers from the proposed regulations.

The proposed regulations facilitate improved safety management in the area of explosives by providing additional controls that could reduce the risk of flyrock.

Quarrying operations that are already compliant with the current legislation, and are operating to recognised best practice in the industry should not incur any significant additional costs.

## 2 Policy Context

As part of the national policy to review and rationalise existing legislation, a Repeals/Revocations/Replacement/Consolidation process was provided for in the Safety, Health and Welfare at Work Act 2005 (No. 10 of 2005). The need for progress in this process was highlighted in the Oireachtas debates during the passing of the Act in 2005.

The Safety, Health and Welfare at Work Act 2005 together with the Safety, Health and Welfare at Work (General Application) Regulations 2007 provide a framework of core health and safety responsibilities for all sectors. It is intended that individual sectors should align and consolidate their regulations within this framework and draft supplementary regulations as required to address specific hazards in each sector.

This review of the Quarrying legislation examined the Safety, Health and Welfare at Work (Quarries) Regulations 2008 and the Safety, Health and Welfare at Work (Quarries) (Amendment) Regulations 2013 and the relevant provisions of Council Directive 92/104/EEC of 3 December 1992 on the minimum requirements for improving the safety and health protection of workers in surface and underground mineral extracting industries (OJ L404, 31.12.1992, p. 10).

FAS was dissolved by the Further Education and Training Act 2013 (No. 25 of 2013) and the organisation FETAC was dissolved by the Qualifications and Quality Assurance (Education and Training) Act 2012 (No. 28 of 2012). SOLAS has taken over the responsibilities of FAS as regards the issuing of Registration Card under Schedule 1. Quality and Qualifications Ireland (QQI) have taken responsibility for FETAC awards. Amendments have been made to the draft regulations to take account of these changes.

Schedule 2 was the focus of the amending Regulations in order to take account of an EU Directive on Machinery related to vehicles requiring auxiliary devices and visual aids, and consolidation would benefit clarity in this regard.

The Safety, Health and Welfare at Work (General Application) (Amendment) Regulations 2012 facilitate the deletion of Part 7 and Schedule 4 of the Safety, Health and Welfare at Work (Quarries) Regulations 2008 in relation to air receivers.

The Quarry Safety Partnership is a tripartite group established by the Health and Safety Authority with representatives from all of the senior stakeholders in the industry, and discussions at meetings of the group identified a need to consolidate and update the Regulations. As a result a number of recommendations have been incorporated in the draft consolidated Regulations, including issues that have emerged through experience of implementing the legislation and through the identification of a number of inconsistencies in the current text of the legislation.

## 3 Objectives

The primary objective of this proposal is to improve protection for those working in and affected by the quarrying industry by simplifying the legislative basis for implementing and enforcing safety, health and welfare at work requirements. This objective is in line with both the Government's Better Regulation programme and the European Commission's objective of simplifying the legislative framework and reducing administrative demands on companies (Community Strategy 2007-2012 on Health and Safety at Work).

An associated objective is to ensure that the national legislation continues to comply with current EU Directives.

Other objectives to be achieved by the review include:

1. improved safeguards in relation to the use of explosives by requiring that:
  - a) the Quarry Operator ensures the competence of drilling operators,
  - b) ensuring that trainee shotfirers only fire shots whilst under competent supervision,
  - c) ensuring changes to the blast specification are agreed between the shotfirer and the explosives supervisor prior to blasting
2. enabling Quarry Operators to take appropriate measures and then notify the Authority of the temporary cessation of quarry operations at a quarry. This will remove the requirements on the Operator to comply with the Quarry Regulations until they are in a position to recommence operations. This may reduce the financial and legal burden on Operators that have quarries that are currently not economically viable to operate or maintain.
3. providing greater clarity to the definition of quarry and of quarry operations
4. allowing for the deletion of Part 7 and Schedule 4 of the 2008 Regulations as amended in 2013 as these now fall within the requirements of the Safety, Health and Welfare at Work (General Application) (Amendment) Regulations 2012
5. ensuring Schedule 1 of the Regulations reflects the dissolving of FAS and the establishment of SOLAS and take account of changes in the 2013 Construction Regulations.
6. improving the efficiency of the compliance and enforcement process as inspectors and stakeholders will operate on the basis of a simplified legislative framework.
7. taking account of *Better Regulation* policies concerning the review and update of legislation, so that obsolete provisions are removed, unnecessary administrative demands are reduced and the legislation is comprehensible to those who must comply
8. re-transposing relevant provisions of Council Directive 92/104/EEC into national legislation

## 4 Options

Regulation of health and safety in the Quarrying sector is an EU obligation. The purpose of this exercise is to review the current legal instruments and to assess what further needs to be done to ensure that the Irish legislation is fully effective.

- Option 1: Do nothing. Continue to enforce the Safety, Health and Welfare at Work (Quarries) Regulations 2008 and the Safety, Health and Welfare at Work (Quarries) (Amendment) Regulations 2013.
- Option 2: Prepare additional amending regulations to implement the identified amendments.
- Option 3: Develop amended Safety, Health and Welfare at Work (Quarries) Regulations.

## 5 Impact analysis

### Option 1.

Retaining the current arrangements involves no extra benefits or costs over and above those currently prevailing. However, in the longer term, this option means that the quarrying sector must continue to operate with two legislative documents and identified necessary updates and changes would not be implemented. The information supplied in section 3, the objectives, is so compelling that Option 1, the option to do nothing, will not be considered further in this analysis.

### Option 2

The Authority has a mandate to review and rationalise existing legislation under the repeals / revocations / replacement / consolidation process provided for in the Safety, Health and Welfare at Work Act 2005 (No. 10 of 2005) and therefore this discounts the case for Option 2. It is regarded as efficient to have consolidated legislation under a single provision rather than have a set of Regulations with additional amendments.

### Option 3

Option 3 introduces a set of Regulations which, combined with Safety, Health and Welfare at Work Act 2005 and the Safety, Health and Welfare at Work (General Application) Regulations 2007, fully address the nature and range of hazards in modern quarry operations, and should ultimately lead to a reduction in the number of accidents and illnesses in the sector. This option is also consistent with the Authority's efforts to reduce regulatory demands on business, by bringing about a situation where all relevant provisions are contained within a smaller number of legal instruments. Specific provisions within the proposed Regulation in relation to temporary cessation of quarrying operations should also ease administrative demands on quarry operators.

On this basis it is recommended to proceed with Option 3

The impacts of Option 3 are assessed overleaf;

**Health and safety:** There will be no diminution of existing health, safety and welfare standards resulting from this process to streamline the legislation. Amended Regulations should facilitate improved health and safety management through update and clarification of the legislation that applies and, in the area of explosives, provide additional controls to reduce the risk of flyrock.

**Business:** The amended Regulations are not expected to create any undue obligations for employers and there is not expected to be any incurred costs. The amendments provide clarity to employers on meeting statutory requirements. The proposed inclusion facilitating the temporary closure of a quarry may reduce the financial and legal burden on operators that have quarries that are currently not economically viable to operate or maintain.

**Enforcement:** The proposed option should improve the efficiency of the enforcement process as inspectors will operate on the basis of a simplified legislative framework and will have notification where operations have been permanently or temporarily suspended. The costs associated with updating the current guidance document could be accommodated within existing budgets.

**Other impacts:** It is not expected that the proposed option will have impacts on national competitiveness, socially excluded and vulnerable groups, the environment, consumers and competition, the rights of citizens, compliance burdens or North-South and East-West relations.

## 6 Consultation

In the drafting of proposals for regulations and codes of practice, the Authority is obliged under Section 57 (2) of the Safety, Health and Welfare at Work Act, 2005 to consult “any other person or body that appears to the Authority to be appropriate having regard to the proposals to be submitted or as directed by the Minister”.

The proposed draft Regulations and this RIA will be made available on the Authority’s website for a one month period in accordance with the Authority’s standard public consultation policy. The selected stakeholders below will be contacted directly by the Authority and invited to make submissions, and further discussion relating to the progress and development of these Regulations will take place within the Quarries Safety Partnership.

- Irish Concrete Federation
- Irish Mining and Quarrying Society
- Construction Industry Federation
- Irish Business and Employers Confederation
- Services, Industrial, Professional and Technical Union

- Building Materials Federation
- Construction Safety Partnership
- Machinery suppliers
- Training providers

Submissions received during the public consultation will be collated and considered by the Authority and relevant additions or amendments may be incorporated in the Regulations and in this RIA. The revised proposals for Regulations and RIA will be submitted to the Legislation and Guidance Sub-Committee of the Board and the Board of the Authority for consideration and approval. Subject to approval, the proposed Regulations will be submitted to the Minister at the Department of Jobs, Enterprise and Innovation for his consideration with a view to formal legal settlement of the Regulations by the Office of the Parliamentary Counsel to the Government.

## **7 Review**

The Authority will maintain and monitor records of accident reports and inspection and enforcement actions in the quarrying sector to ensure that there is no diminution in the protection of the health and safety of workers arising from the proposed action.