

Regulatory Impact Analysis (RIA)

**Safety, Health and Welfare at Work (Construction) (Amendment) Regulations
2018**

Summary of Regulatory Impact Analysis (RIA)			
Department/Office: Health and Safety Authority			
Title of Legislation: Safety, Health and Welfare at Work (Construction) (Amendment) Regulations 2018			
Stage: Public Consultation Stage			
Related publications: None			
Available to view or download at: http://consultation.hsa.ie/			
What policy options have been considered? Please summarise the costs, benefits and impacts relating to each of the option below and indicate whether a preferred option has been identified.			
<ol style="list-style-type: none"> 1. No policy change 2. Amend the SHWW (Construction) Regulations 2013 to introduce a requirement for a temporal limit on a safety awareness card once issued 			
OPTIONS			
	COSTS	BENEFITS	IMPACTS
1	Potential legal costs to defend challenges to the requirement to renew SafePass cards and to complete training to qualify for renewal.	None	Potential negative impact on the improvements in health and safety for construction workers that the SafePass system has contributed to the sector safety
2	None	Potential savings in terms of defending future legal challenges in respect of the requirement to renew SafePass cards.	Positive impact to the extent that construction workers continue to receive up to date training and information every four years when they undertake training to renew their SafePass card.

1: Description of Policy Context and Objectives

Under the Safety, Health and Welfare at Work (Construction) Regulations 2013 all general and craft workers undertaking construction work, as defined, are required to be in possession of a valid safety awareness registration card. This is a SOLAS SafePass card or another safety awareness card from another EU Member State recognized by SOLAS as equivalent to SafePass. The requirement for SafePass training was first introduced in the Safety, Health and Welfare at Work (Construction) Regulations in 2001 and has been in place since. In 2017 90,000 workers undertook SafePass training. Currently SOLAS

impose a 4 year expiry on SafePass cards. The course must be completed again to get another card. The course is being developed constantly to keep it in line with legislation, changing technologies and trends; it is now on version 8.

Recently a High Court case was taken against SOLAS challenging their right to require retraining or reassessment for their Construction Skills Certification Scheme (CSCS) training. The challenge was based largely on the fact that no specific requirements for retraining or reassessment are contained in the SHWW (Construction) Regulations 2013. The challenge was successful and SOLAS have now removed the requirements for retraining and reassessment when renewing CSCS training cards.

A similar matter is now before the High Court in relation to the requirement for renewals for SafePass training.

It is the Authority's view that the SafePass safety awareness training has contributed to the downward trend of fatal and non-fatal accidents and to an improvement in the safety culture in the construction sector since its introduction. The requirement for renewal allows for the dissemination of up to date information on occupational safety and health to workers. The latest version of SafePass has an increased focus on occupational health issues and behavioral based safety.

The objective of this amendment is to provide a statutory basis for the requirement to renew SafePass cards through training / re-assessment every four years.

2: Identification and Description of Options

Option 1: No policy change

Under this option the Authority would leave the SHWW (Construction) Regulations 2013 Regulations unchanged. If the High Court challenge was successful then SafePass, like CSCS, would be renewed automatically regardless of when they last completed the training course. Somebody who successfully completed the course in 2001 could then, despite not having worked in the sector since, get a new card simply by reapplying to SOLAS.

Option 2: Amend Construction Regulations to introduce a requirement for a temporal limit on a safety awareness card once issued

Under this option the legislation will prescribe that the SafePass card will be valid for 4 years, and will include a requirement to take the course again in order to obtain a new SafePass card. SOLAS would continue to manage the scheme and the amendment would provide a legal basis for the practices that already exist with the scheme.

3: Analysis of Costs, Benefits and Impacts for all Options

Option 1: No policy change

Costs: In the case of no policy change it is likely that significant costs could accrue to the state in terms of dealing with the defense of any ongoing or new legal challenge to the requirement to renew the SafePass card and to complete training to obtain the new card.

Benefits: There are no benefits associated with Option 1

Impacts: There are potential significant adverse impacts of no policy change. Safe Pass is widely recognized as having improved the safety culture in the sector and helped reduce ill-health, and fatal and non-fatal accidents. Should the High Court challenge be successful and the requirement to retake the course be removed then there is potential for these gains to be lost. New legislation, new technologies and new areas of focus would not be communicated as effectively to workers within the sector, and this could ultimately result in negative impacts on the safety and health of workers in the sector.

Option 2: Amend Construction Regulations to introduce a requirement for a temporal limit on a safety awareness card once issued

Costs: This should not result in costs to the Authority or any other body. In practice SOLAS is already operating the SafePass system such that cards are renewed every four years following completion of the course. The proposal simply provides a legal basis for practices around renewals of Safe Pass that are already in practice.

Benefits: There are no additional benefits expected to accrue from this option. The benefits of the SafePass system are already evident in the industry and the legislative proposal seeks to ensure that these benefits continue. The introduction of the amendment should also preclude any further legal challenge and save the state the costs of defending such a challenge.

Impacts: The main positive impact of the proposed regulation is that that the success of the SafePass system is insured in to the future and that workers in the sector continue to receive up to date training and information every four years when they undertake training to renew their SafePass card. It is not expected that there will be any negative impacts arising from Option 2.

4: Consultation

Subject to the approval of the Board of the Authority, there will be a four week public consultation process on the Authority's website where submissions will be invited on the proposed change to the Regulations. Key industry stakeholders including DES, SOLAS, QQI, Construction Safety Partnership Advisory Committee (CSPAC), CIF, ICTU and those presently involved in the delivery of SafePass training will be notified in advance about the proposed change to the SHWW (Construction) Regulations 2013. The Authority will alert the stakeholders to the consultation by email and will also by posting a notice of the proposed change on the Authority website. SafePass instructors will be notified through SOLAS.

5: Enforcement and compliance

The Authority's inspectorate presently checks that workers in construction have valid SafePass Cards. This will not change as neither option above removes the requirement to have completed the training.

6: Review

The Authority will engage with key sector stakeholders on an ongoing basis once the amendment is implemented to monitor the success of the arrangement.

7: Publication

This RIA will be published on the Authority's website along with the draft Regulation as part of the four week online public consultation process. Following the consultation process, the RIA and draft Regulation may be amended and will be forwarded to the Board of the Authority for approval to submit to the Minister for consent to publish.