The Government’s latest proposal in the draft Deregulation Bill could see some self-employed who do pose a risk to others potentially becoming exempt. Richard Jones reports.

Safeguarding the self-employed

**DRAFT DEREGRATION BILL**

As part of the Government’s deregulation programme, last May’s Queen’s speech referred to a “Bill to reduce the burden of excessive regulation on businesses”, thus heralding the Draft Deregulation Bill, which was produced in July 2013. It is a diverse bill and covers issues related to public rights of way; household waste; apprenticeships; and employment tribunals, as well as measures affecting occupational safety and health (OSH).

These include clause 1 to exempt certain self-employed from health and safety law; and clauses giving ministerial powers to repeal legislation, together with a ‘growth duty’ for non-economic regulators.

The background to clause 1 is Professor Löffstedt’s 2011 recommendation in *Reclaiming health and safety for all*, to exempt from health and safety law those self-employed “…whose work activity poses no potential risk of harm to others.”

In 2012, the Health and Safety Executive (HSE) consulted on this, presenting a number of options, with option 2 as its preference, as follows:
- **option 1** – the self-employed who pose no potential risk of harm to others;
- **option 2** – the self-employed who pose no potential risk of harm to others and who do not work in a high-risk sector as prescribed by the Secretary of State (HSE estimate this to be around 840,000 people);
- **option 3** – the self-employed who undertake office-type activities and pose no potential risk of harm to others; and
- **option 4** – do nothing (the status quo and baseline for the impact assessment).

In its response to the consultation, IOSH firmly opposed such an exemption, believing it to be unnecessary, unhelpful and unwise and could lead to confusion and increased risk of injury, illness and death.

In the autumn, the bill underwent pre-legislative scrutiny by a joint committee highlighting concerns about exempting certain self-employed, together with serious flaws in the ‘prescribed list’ of occupations/activities not exempted. This would remove the requirement for the self-employed to also assess whether they pose a risk to others before exemption, which had been key to all three original options.

Concerningly, this would lose an important safeguard and could lead to unintended consequences, as already identified by HSE, with some self-employed who do pose a risk to others potentially becoming exempt.

In February, the bill had its second reading and IOSH subsequently gave further evidence to the ‘committee stage’ highlighting concerns about exempting certain self-employed, together with serious flaws in the ‘prescribed list only’ approach.

The next steps are ‘report stage’ and third reading, before the bill goes to the House of Lords for similar stages. There may then be ‘ping pong’ where it moves back and forth between the two houses for agreement, before going for Royal Assent.

Richard Jones is head of policy and public affairs at IOSH – see page 4 for more details.