



An Roinn Breisoideachais agus Ardoideachais,  
Taighde, Nuálaíochta agus Eolaíochta  
Department of Further and Higher Education,  
Research, Innovation and Science

# Screening Regulatory Impact Assessment

## Construction Safety Licensing Bill, 2022

May 2023

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## Policy context, objectives and options

### Policy Context

Construction skills are critical to the successful delivery of several whole of Government policy objectives, particularly as articulated in Housing for All, the National Development Plan and the Climate Action Plan. Part of these skills encompass safety awareness and it is important that all workers in the sector have common, standardised skills in this regard.

At the same time, there are major changes taking place in the type of work carried out in construction. Modern technologies are having an impact and skills needs are changing. This being the case, and drawing on previous research, the current arrangements for construction safety licensing are considered unfit for purpose.

The Construction Skills Certification Scheme (CSCS) and the Quarries Skills Certification Scheme (QSCS) provide for the training, assessment, certification and registration of non-craft operatives for occupations within the construction and quarrying sectors, as defined under the relevant legislation. The programmes are delivered by SOLAS approved training organisations (ATOs) and tutors. Successful trainees receive a CSCS/QSCS Registration Card which are renewable every five years, on the sole basis of payment of a fee. There is no requirement for re-certification or proof of competence.

Safe Pass is a one-day health and safety awareness programme, also delivered by ATOs and tutors. Under the relevant regulations, craft and general construction workers, persons undertaking on-site security work and persons or classes of persons as may be prescribed by the Minister are required to hold a valid Safe Pass card. Cards must be renewed every four years, based on further training.

Recognising the changes which were taking place in the wider sector, SOLAS commissioned an independent review of its Construction Services Unit (CSU) in 2017. The review aimed to identify opportunities for process improvement in respect of the CSU's functions, including regarding the operation of the CSCS, QSCS and Safe Pass scheme.

An independent Technical Working Group representing all stakeholders was established and reported on how to progress the review's recommendations. This identified a number of areas for improvement, including that:

1. The legislative instruments that define the requirements for the Safe Pass, QSCS and CSCS schemes are dated and do not fully reflect changes within the construction sector and workforce arrangements.
2. The current primary legislation links the award of the CSCS and QSCS cards to Quality and Qualifications Ireland (QQI) certification. However, unlike an educational qualification which applies for life, the two schemes relate to evidence of a card holder's skills, which skills need to be kept current and retained. A licensing type model, to include formal renewal and Competency Professional Development processes, is considered more appropriate.

Following on from this, the Government approved in principle the development of a licensing model for certain construction safety and related activities. The model was to be supported by legislation providing for a licensing authority appropriately enabled to apply conditions to the renewal of licences.

Noting Government approval in principle to the development of a licensing model for certain construction safety and related activities, to be supported by legislation, SOLAS drafted the General Scheme of The Licensing of Construction Activities Bill, 2019. However, this work was not significantly advanced in the interim.

The creation of the Department of Higher and Further Education, Research, Innovation and Science, and resulting policy responsibility changes mean that this work has been re-prioritised and is now being brought forward.

## Policy Objectives

The overall objective of action in this area is to improving health and safety practices in construction and quarrying so as to reduce workplace accidents, work-related injuries and fatalities.

## Options

Recognising the policy context and objectives set out above, two options were identified:

1. Do nothing
2. Progress with legislative changes

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## Identification of costs, benefits & impacts

### Option 1: Do nothing

#### **COSTS**

It is considered that there are no financial costs to Option 1. However, given the changes which have taken place in both construction sector work and work-related learning, it is not considered best practice to continue with existing arrangements. Weaknesses in these arrangements have been identified, and circumstances have only evolved since the relevant research was conducted (2017). In addition, given that evolution, it is the case that lives could be in danger if workers are not skilled in the most relevant and up to date safety knowledge and practices.

#### **BENEFITS**

Given these identified costs, not benefits can be identified under Option 1.

#### **IMPACTS**

Option 1 negatively impacts on worker safety and outdated arrangements, at a time when Ireland is trying to attract international construction workers, could cause national reputational damage.

### Option 2: Progress with legislative changes

#### **COSTS**

The current CSCS, QSCS and Safe Pass training arrangements are delivered by private ATOs. Neither the Department nor SOLAS have a role in the setting of fees or in influencing pricing structure within the market place. A fixed fee is payable to SOLAS for the administration and processing of cards.

Funding for a new licensing model will be at the discretion of the Government, in consultation with partners. It is intended that the new arrangements would be largely self-

financing, with minimal staffing costs within the licensing authority. These costs would be associated with establishing and overseeing private sector training arrangements and the outsourced processing of licences, in line with current delivery of the schemes.

## **BENEFITS**

Amending the current construction safety arrangements was recommended based on independent research. Drawing on this research, the benefits can be seen as developing a modern and fit for purpose training and recognition system for construction safety awareness.

The consultation process highlighted the importance of the need for appropriate oversight and transparency in the new licensing model. Licensed workers and tutors will be expected to comply with specific conditions set out in the model and this will be monitored by the established licensing authority. The licensing authority will have specific inspection, monitoring and compliance powers to enable it to monitor the adherence of tutors and workers to these conditions. Any appeals process will ensure fair process for decisions of the licensing authority regarding the granting or suspension of licences.

In order to further ensure the competence of workers and tutors, the legislation provides that licenses may be renewed subject to re-assessment of skills competency and health and safety awareness. The licensing authority must ensure that a licensing holder has complied with all renewal conditions and, in order to gain and maintain registration, tutors must uphold a strict code of practice. Offences will be created where an individual is found to have intentionally acted to deceive or in an otherwise fraudulent way relating to obtaining a licence.

Putting in place the proposed new arrangements will ensure that workers receive the most up to date training from regulated tutors. Requiring regular re-certification of both workers and tutors means that skills will be kept current, reflecting developments in both construction practice and construction health and safety. Overall, this will help to raise safety awareness and is expected to minimise preventable accidents on construction sites.

## **IMPACTS**

Option 2 is expected to have the following direct impacts:

### ***Quality Regulation***

The introduction of the licensing model will change the way in which the health and safety practices of construction workers are regulated. The model aims to ensure that workers on site are competent and able to contribute to a high standard of safety practices in the construction sector without being a risk to themselves or others. Therefore, moving the scheme to a licensing model that requires workers to complete safety awareness training after a specific amount of time rather than as a once off course, will contribute to this.

In particular, implementing a formal renewal process for CSCS and QSCS means that workers in construction and construction-related disciplines are mandated to continuously keep up to date with their health and safety practices. This will enhance health and safety practices in such roles and activities and it is expected to ultimately reduce work place accidents, injuries and fatalities.

### ***Competitiveness and Industry Costs***

By giving those in the construction sector the opportunity to obtain occupational recognition under a licensing model, there is an anticipation that awareness will be raised regarding the scale and diversity of opportunities in the sector. The development of this licensing model is an important step in the continued response to the needs of the construction sector. It will assist in meeting the objectives outlined in 'Project Ireland 2040', the 'National Development Plan 2021-2030', 'Housing for All' and the 'Climate Action Plan'.

### ***Gender Equality***

The introduction of the licensing model will assist in meeting the workforce requirements, skills and objectives outlined in Government strategies, including Housing for All and the National Development Plan. By introducing occupational recognition under a licensing model it is anticipated that awareness will be raised regarding the scale and diversity of opportunities in the sector which will also create an opportunity to support increased female participation in the construction industry. The development of this licensing model is an important step in the continue response to the needs of the construction sector.

There are no impacts for the following:

- Jobs
- North-South, East-West Relations
- Poverty Proofing
- Rural Communities



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## Consultation

There have been two main rounds of consultation to develop this Draft Scheme.

A pre-consultation process took place in late 2021 and early 2022. At that stage, a draft questionnaire was circulated to a small number of key stakeholders who agreed to participate in an informal “sense-checking” process. They reviewed the questionnaire and provided feedback on the contents.

This feedback informed the development of the survey issued for full consultation with 30 industry stakeholders and other key partners. In preparing the draft General Scheme, regard has been had to the replies received.

In addition, throughout the process so far, there has been close engagement with SOLAS as the body chiefly responsible for overseeing current arrangements.

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## Enforcement & Compliance

Under the terms of the draft General Scheme, it is envisaged that enforcement and compliance will rest with the licensing authority and the Health and Safety Authority (HSA).

Specifically, the licensing authority will be responsible for ensuring that workers meet the conditions of their licensing (such as undertaking appropriate periodic training), that tutors comply with their licence conditions (such as adherence to a Code of Conduct and quality assurance requirements) and that ATOs comply with their conditions (including through inspections of their records and premises).

It is proposed that the Licensing Authority shall have responsibility for the prosecution of offences under the legislation (failure to hold a licence, met the required standards of service, etc.).

The HSA will retain its power under section 88 of the Safety, Health and Welfare at Work Act, 2005. This section empowers the Minister for Enterprise, Trade and Employment, for the purpose of protecting health, safety and welfare at work, to prescribe certain activities as being subject to licence requirements. The licensing function may be performed by the Health and Safety Authority or by another body so prescribed by the Minister. This provision has been in place since 1989, having been carried over to the 2005 Act from the Safety, Health and Welfare at Work Act 1989.

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## Review

Subject to Cabinet approval to proceed, the draft General Scheme will be further reviewed during the legislative development process.