

Hazards Campaign submission to the HSE's post-implementation review of the extension of PPE duties to Limb (b) Workers.

Date 18.9.26

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Introduction

The Personal Protective Equipment at Work (Amendment) Regulations (PPE) 2022 corrected an indefensible gap by extending PPE duties to limb (b) workers. Exposure to risk—not contractual status—must determine entitlement to protection. The amendment recognised that basic principle; and we feel very strongly that the wider framework should now follow it.

This submission strongly supports retaining these protections. But we believe retention alone is not enough. HSE must confront the unresolved structural gap between a worker's right to PPE and their power to challenge unsafe decisions, influence risk controls and secure compliance in practice.

The workers most dependent on the amendment and the real test of success

The amendment matters most to workers in casual, temporary, agency, platform-based or otherwise insecure arrangements. They face the same hazards as permanent employees but often have less power to question decisions, refuse inadequate protection or insist that failings are corrected. The reform extended protection to the workers least able to enforce it for themselves.

A right that depends on workers first proving they fall within a contested employment category is a fragile right. Uncertainty over limb (b) status creates scope for delay, inconsistent application and avoidance. Unless HSE tests implementation rigorously, workers can remain exposed while duty holders debate status.

Any review should test whether workers are being identified, informed and protected consistently in the sectors that rely most heavily on limb (b) labour.

Success cannot be measured by the existence of the amendment. It must be measured by whether workers receive suitable PPE, can challenge failures and can do so without jeopardising their livelihood. Specifically assessed against three fundamental questions:

- Are limb (b) workers receiving PPE free of charge?
- Are limb (b) workers receiving PPE that is suitable for the risks they face and appropriate to the individual worker?
- Are limb (b) workers able to raise concerns regarding PPE, risk assessments and wider health and safety arrangements without fear of detriment?

The third question is key - a right that cannot safely be asserted is not an effective right. Where raising a concern can mean fewer shifts, loss of future work or the end of an engagement, silence is a predictable consequence of insecurity—not evidence that the system is working.

For this reason, we believe worker consultation and representation arrangements are an important indicator of whether the amended regulations are operating effectively. Where workers have access to trusted collective representation, concerns regarding risk assessments, PPE suitability, maintenance, replacement and availability are more likely to be identified and addressed before harm occurs. You'll note that the HSE has repeatedly emphasised the importance of worker involvement and consultation in improving workplace health and safety outcomes.

Effective implementation requires more than providing PPE. Consistent with the Robens Report and the Health and Safety at Work etc. Act 1974, workers exposed to risk must be able to participate meaningfully in its management and raise concerns without fear of detriment.

Protection rights have been modernised, participation rights have not

The extension of PPE protections to limb (b) workers was based upon an important principle: protection should follow exposure to risk rather than employment status. Where workers face the same hazards, they should receive the same protections.

The law now recognises these workers when allocating PPE duties, but largely ignores them when allocating power. PPE duties now protect limb (b) workers, but the Safety Representatives and Safety Committees Regulations 1977 remain tied to a traditional employment model. The result is a two-tier system: workers can face the same hazards and receive the same PPE entitlement, yet be denied equivalent access to the formal representation that helps make those protections real.

When legislation is updated to reflect modern working arrangements but connected frameworks are not reviewed, gaps can emerge. The PPE amendments addressed physical protection. It is less clear that they addressed worker participation and representation to the same extent.

The Robens principle

The Robens Report, which informed the development of the Health and Safety at Work etc. Act 1974, promoted a model in which responsibility for health and safety rests principally with those who create risks and those who work with them. The system was intended to encourage cooperation, participation and shared responsibility rather than reliance solely upon external enforcement.

Worker involvement is not an optional supplement to the British health and safety system. It is a foundational safeguard. A framework that extends duties without extending meaningful voice is structurally incomplete. The extension of PPE rights to limb (b) workers acknowledges that these workers are exposed to workplace risks and deserve protection. By the same reasoning, there is a strong argument that they should also be afforded meaningful opportunities to contribute to the identification, assessment and control of those risks.

We strongly feel that workers must not be treated as passive recipients of PPE. They must have power to challenge how risks are created and controlled.

The value of additional safety advocates in an on-demand labour environment

The case for extending eligibility for statutory safety representative roles to limb (b) workers is strengthened by the unique role safety representatives perform. In particular, Regulation 4A of the Safety Representatives and Safety Committees Regulations 1977 provides a powerful mechanism through which employers consult safety representatives on:

- risk assessments;
- preventive and protective measures;
- health and safety arrangements;
- competent health and safety assistance;
- health and safety information; and
- workplace changes that may affect health and safety.

This function is especially important in relation to PPE. PPE sits towards the bottom of the hierarchy of control and should generally be relied upon only after consideration has been given to elimination, substitution, engineering controls and safe systems of work. Safety representatives do more than improve the PPE supplied. They enable workers to challenge whether PPE is needed at all and whether higher-order preventative controls should be used instead. This aligns directly with both the preventative purpose of Regulation 4A and the wider philosophy of the Health and Safety at Work etc. Act 1974.

Key point: PPE is already a lower-order control with recognised limitations, and those limitations are magnified when equipment is designed around a narrow range of body shapes and cannot be readily adapted to the individual. Women can be disproportionately affected by poor fit, restricted size ranges and limited adjustability. Ill-fitting PPE may reduce protection, impede movement, create additional hazards or discourage consistent use. The review should therefore test not only whether PPE is supplied, but whether procurement and assessment arrangements provide genuinely suitable, correctly fitting and adaptable options for women and for workers with differing body dimensions.

Participation mechanisms have not evolved alongside the working arrangements recognised by the PPE amendment. This is particularly relevant in an increasingly on-demand labour environment where many workers may have less secure working arrangements and weaker connections to traditional workplace structures.

PPE places substantial responsibility on the individual worker: it must be worn correctly, shortcomings must be recognised, and deficiencies must be reported. Unlike elimination, substitution, engineering controls or workplace-wide measures, it does not remove the hazard.

This individualistic nature can make prevention more difficult. Where health and safety depends heavily upon individual action, concerns can remain isolated and unreported.

Collective representation helps address this challenge. Safety representatives can identify patterns, aggregate concerns, challenge systemic shortcomings and ensure issues are addressed before harm occurs.

Prevention, Enforcement and Regulatory Capacity

The preventative contribution of safety representatives assumes even greater importance when viewed alongside the practical realities of modern regulation.

Inspection and enforcement cannot provide continuous oversight in every workplace. The health and safety system therefore depends on informed participation by those closest to the risks. Extending opportunities for limb (b) workers to act as statutory safety representatives would increase the number of knowledgeable participants capable of identifying shortcomings in risk assessments, challenging unnecessary reliance on PPE and supporting compliance before harm occurs.

This should not be viewed as a substitute for regulatory enforcement. Rather, it would strengthen the preventative, cooperative model that has long underpinned British health and safety law.

Measuring Success: The Limits of RIDDOR

RIDDOR data alone cannot show whether the PPE amendment is working. RIDDOR principally captures reportable injuries, diseases and dangerous occurrences after harm has occurred or a significant event has taken place. It does not routinely capture:

- failures to provide PPE;
- failures to undertake PPE assessments;
- deficiencies in PPE suitability;
- PPE fit issues;
- failures in maintenance or replacement;
- situations where workers felt unable to raise concerns; or
- successful interventions that prevented harm from occurring.

Many of the benefits of worker consultation and safety representation occur before injury or disease arises. Effective worker engagement can improve risk assessments, identify deficiencies, challenge unsafe practices and drive improvements that are never reflected in injury statistics.

Safety representation is a leading indicator of prevention; RIDDOR is primarily a lagging indicator of harm. The review should therefore assess worker consultation, reporting confidence and preventative interventions alongside reportable incidents.

Recommendations

HSE should recommend extending eligibility for statutory safety representative roles to limb (b) workers who are members of recognised trade unions and work alongside employees exposed to the same hazards. Anything less leaves the central contradiction of the 2022 reform intact: equal exposure and nominally equal protection, but unequal power to make that protection effective.

Such a change would:

- align participation rights with the principle underpinning the PPE amendments;
- strengthen worker involvement;
- support the preventative purpose of Regulation 4A;
- improve scrutiny of risk assessments;
- reduce barriers to reporting concerns;
- improve confidence that issues can be raised without detriment;
- discourage overreliance on PPE as a first-choice control measure; and
- better reflect the realities of the modern workforce.

If government will not amend the statutory framework, HSE should require a demonstrably equivalent mechanism that gives limb (b) workers collective voice, protected channels for raising concerns and a direct role in scrutinising workplace risks. A weaker, discretionary arrangement would merely preserve the present gap under a different label.

Conclusion

The 2022 amendment corrected an unacceptable gap in PPE protection. It left untouched the equally important question of who has power to challenge unsafe decisions.

Protection without voice is precarious. It leaves the workers with the least bargaining power dependent on individual courage, variable employer practice and enforcement that cannot be continuously present.

HSE should use this review to end the two-tier approach. Workers who share the hazards must share the right to influence how those hazards are prevented and controlled.

Leaving the participation gap untouched would entrench a weaker system for insecure workers and undermine the preventative purpose of the PPE reform. Closing it would not be an optional enhancement. It is the necessary next step.