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HEALTH AND SAFETY COMMISSION

UK RESPONSE TO THE INTERNATIONAL LABOUR ORGANISATION QUESTIONNAIRE ON A PROMOTIONAL FRAMEWORK FOR OCCUPATIONAL SAFETY AND HEALTH

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Cleared by Peter Brown on 21st September 2004

Issue

1. The Joint International Unit of the Department for Work and Pensions/Department for Education and Skills (JIU DWP/DfES) has asked the HSE to provide the UK response to an International Labour Organisation (ILO) issued questionnaire on the possible scope and content of a new ILO instrument on a Promotional Framework for Occupational Safety and Health.

Timing

2. Immediate. JIU DWP/DfES is expecting a completed response to the questionnaire to be delivered to them by HSE by Friday 24th September 2004, in order to present the response to the ILO by their October deadline.

Recommendation

3. The Commission is invited to note the proposed response, which has accommodated the social partners views where appropriate and where not, their views form an annex to be submitted with the main response (please see Annexes C and D).

Background

4. At the International Labour Conference in June 2003, it was agreed that a new instrument should be developed to establish a promotional framework for occupational safety and health. A proposal will be tabled at the 2005 International Labour Conference.
5. The ILO has issued a report setting out the arguments for such an instrument and its scope and possible content (Annex A). The report also includes a short questionnaire

of twenty questions for the governments of all ILO member states to complete. It seeks views on the scope and content of the possible instrument. On the basis of the responses to the questionnaire a second report will be issued nearer the time of the Conference.

6. On receipt of HSE's response, JIU DWP/DfES will forward the response to the TUC and CBI for comment before being forwarded to the ILO. However due to the tripartite nature of HSC/E, Better Regulation & International Branch (BRIB) has already forwarded the draft UK response to the social partners, in order to incorporate their comments where appropriate. JIU DWP/DfES has been notified of this action by BRIB.

Argument

7. The draft UK response to the questionnaire can be found at Annex B. The overall thrust is in favour of an ILO instrument as long as it is not unduly prescriptive. However internal and external consultation for the response has revealed several significant issues with the questions. The following are the main points of contention with the new instrument:
 8. The form of the instrument: [Question 2] HSE believes that a Declaration or a Recommendation would be the best choice of instrument, as they are both realistically achievable. The UK government has had prior difficulties in ratifying a number of conventions, as UK legislation is incompatible with their specific detailed requirements. The changes needed to ratify these existing conventions are small but time-consuming. A Declaration or Recommendation would prevent non-ratification by the UK and also HSE's resources would not be diverted from the delivery of the HSC Strategy.
 9. Goal setting vs. prescriptive approach: HSE recommends that any ILO instrument focuses on set objectives and is phrased in goal setting terms, rather than the prescriptive approach frequently adopted by the ILO. The prescriptive nature of existing instruments has hindered ratification in the past as this is at odds with UK legislation. The UK government's response to the questionnaire includes remarks throughout on its preference for goal-setting instruments rather than prescriptive methods. There are prescriptive suggestions for the instrument raised in several parts of the questionnaire. Examples of these include:
 - i. Question 8(b), probing whether other concerned parties should be consulted as appropriate. The UK government response is positive but it recommends not specifying these parties as per the list in Paragraph 49, Chapter II of the report;
 - ii. Question 13, which proposes that national campaigns to raise public awareness be linked to international initiatives. The response is that it is instead preferable for the instrument to propose that each member state should seek to raise public awareness through national campaigns that are focussed upon priorities identified in their national programmes;
 - iii. Question 15, which suggests promoting the management systems approach to occupational safety and health based on *ILO-OSH 2001*. The response is negative as this does not permit flexibility nor does it make allowances for a range of factors.

10. References to other relevant ILO instruments on occupational safety and health: [Question 3(e) and 3(f)] References to these in the new instrument would reopen the debates surrounding these conventions. HSE recommends that they are not listed in any new instrument, due to the UK's inability to ratify some of them. The UK's health and safety system already meets the majority of provisions set out in several existing instruments.
11. The promotion of a "safety culture": The questionnaire queries the need to make reference to a safety culture:

Should the instrument contain a Preamble referring to the importance of the promotion of a "safety culture", which is defined as the assembly of beliefs, values, attitudes and patterns of behaviour in organisations and of individuals, wherein prevention is given the highest priority? [Question 3(d)]

Although HSE recommends that there should be a reference to the promotion of a safety culture, objections have been raised by the social partners. The meaningfulness of promoting a safety culture is questionable when pre-existing safety cultures are not necessarily effective. The TUC has reservations that the term could be used to the detriment of workers and absolves employers of responsibility. HSE believes that this is not necessarily the case and a safety culture would not remove the employer's legal requirements for safety. The CBI considers the term dated, unspecific and overlooks the occupational health element. They have also questioned the mention of "prevention" and how priorities would be determined in relation to other issues. HSE urges that the ILO modify this phrase to either a "positive" or "effective" safety culture.

12. The role of workers: The TUC has commented that there is insufficient attention to successful union oriented initiatives in the ILO report. These could include, but are not limited to:
- Rights to union safety representatives;
 - Workplace safety committees;
 - The use of union-issued inspection notices.

Consultation

13. Internal HSE consultation: Solicitors' Office (Julian Shellard); Operational Policy Support Division (Phil Scott); Strategy and Intelligence Division (Phil Kemball); COSAS Economic Advisers Unit (Chris Collinson); COSAS Safety and Enforcement Statistics (Graham Stevens); CEPS Social Inclusion Policy Branch (Angela Orr-Ewing); BWED Occupational Health Support (Colleen Bowen); BWED Innovative Engagement (Neal Stone); BWED Delivery Mechanisms (Linda Varney); Communications Directorate (Steve Pointer); Civil Contingencies and Special Services Division (Sharan Bains); Nuclear Safety Division (Norman Byrom and Craig Reiersen); Strategic Planning Unit (Tony Mulhall).

14. External consultation: TUC (Hugh Robertson); CBI (Janet Asherson).

Presentation

15. None at this stage.

Costs and Benefits

16. None.

Financial/Resource Implications for HSE

17. None at this stage.

Environmental Implications

18. None.

Other Implications

19. None at this stage.

Action

20. The Commission is asked to note the draft UK response.