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HEALTH AND SAFETY COMMISSION

Delivering the better regulation agenda - HSE's draft Simplification Plan

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Issue

1. The HSC/E draft Simplification Plan has been developed, as required by the Cabinet Office Better Regulation Executive (BRE), and is attached (see annex) for the Commission's consideration and approval before being submitted to BRE. The approach taken very much reflects HSC/E's longstanding commitment to be a modern regulator.

Timing

2. Urgent. HSC/E is required to submit the agreed plan to BRE by the end of January 2006. The HSC/E Plan along with all other Government Departments will be published in Spring/Summer 2006.

Recommendation

3. That HSC agree the attached HSC/E Simplification Plan for submission to BRE.

Background

4. In July 2005 the Commission was consulted on HSE's plans to implement the Hampton Review and Better Regulation Task Force Recommendations (see paper HSC/05/94). As part of the better regulation agenda Government Departments were asked to prepare simplification plans containing proposals for: reducing administrative burdens on business, regulatory consolidation and wider better regulation initiatives.
5. The Simplification Plan has been developed in the context of HSC's Strategy, a long tradition of consultation, leadership in risk-based regulation, and a progressive approach to enforcement policies. Therefore, the Plan contains initiatives that contribute to the delivery of HSC's Strategy.
6. HSE prepared an initial simplification plan, approved by Lord Hunt and the Chair, which was published on the HSE website on 29 November 2005 and comments were invited from dutyholders and other stakeholders. Key themes, (as detailed in MISC04/05/23) are laid out in paragraph 4 of the annex. The initial plan was well received and David Arculus, Chair of the Better Regulation Task Force¹ said, "HSE's initial simplification plan contains...valuable initiatives to reduce the burden of regulation...I welcome HSE's commitment to listen to stakeholders and develop meaningful simplification measures."

¹ Better Regulation Commission from 1 January 2006. New Chair: Rick Haythornthwaite

7. Responsibility for occupational safety and health is not a devolved matter. Therefore the initiatives within the HSC/E Simplification Plan apply to Scotland and Wales.

Argument

8. In developing the Plan HSE's Better Regulation Team (BRT) has taken as its starting point to maintain levels of protection but simplify and rationalise wherever possible. Effective enforcement is also a key part of the Plan.
9. Much of the content of the Plan draws together projects into which the Commission has already had an input, such as the Sensible Risk Management campaign and the current legislative programme. The main new areas of work not previously discussed by Commissioners are:
 - initiatives to help get best value from consultants and to capitalise on the potential of intermediaries (e.g. accountants) and the supply chain to promote good health and safety,
 - a legislative review programme – considering possibilities for simplifying both the stock and flow of regulation (see paragraphs 12 and 13, below).
10. BRT is working with colleagues to develop the detailed information still needed on some of the projects listed in the Plan. Further work streams, particularly on specific regulations identified for review, have still to be included.
11. For a number of projects, burden reduction calculations are yet to be completed. Most are currently being worked up and will be finalised in time for the completed simplification plan to be submitted to BRE in January; others require significant impact assessment work, and so can only be added later.
12. Following discussions within HSE, we are also including in the Plan a legislative review. We expect that a plan for carrying out this review will be submitted to HSC at a later date. We have identified internally some legislation that we consider should be reviewed, these include: the Gas Safety Regulations; The Factories Act; the Offices, Shops & Railway Premises Act; and the Management of Health and Safety Regulations. The timetable for the work on these items will be considered as part of the prioritisation for the legislative review project as a whole.
13. In **prioritising the legislative work streams** we will take account of the following:
 - The outcome of the **administrative burdens measurement exercise** (see HSC/05/94) being carried out by Pricewaterhouse Coopers. The deadline for completion of this exercise is late January therefore the results are unlikely to be available to influence the draft Simplification Plan prior to submission to BRE. It will, however, be used as a prioritisation tool in later iterations of the Plan.
 - The **financial estimates of costs savings and business benefits**. For example, where there are amendments to regulations already scheduled, it would clearly be most efficient use of HSE resources to undertake a full review of those regulations with a view to simplification at the same time. The revision of regulations in itself also imposes a burden on business as a result of the time and cost of familiarisation with the new amended regulations.
 - The **proposals received as part of the BRE scheme**, from businesses and others for simplification. Although a number of suggestions have been received by HSE, the responsible teams need time to consider whether they are likely to be viable and, following an initial impact assessment, whether it is possible to

include them in HSE's work schedule. At this stage, only one such proposal, from the Electrical Contractors Association to develop HSE endorsed pre-qualification criteria for contractors, has been included in the Plan. Others worthy of detailed consideration will be flagged up in the draft plan submitted to BRE at the end of January.

14. Although we are required to submit a draft to BRE at the end of January, this is very much a working document that will continue to be extended until publication, alongside other departmental plans, by the Cabinet Office in Spring/Summer 2006.
15. In addition to the Plan itself, a process to maintain momentum and monitor the projects that have been included in the Plan will be set up over the coming months.

Consultation

16. LACORS has been involved in the development of the draft Plan through its membership on the Hampton Implementation Programme Board.
17. The initial draft Simplification Plan was published with a request for comments. Although no comments have been received to date, the views of stakeholders who respond will be taken into account in the on-going development of the Plan.
18. BRT have previously met to discuss the draft Plan with two Commissioners and will continue meeting Commissioners informally as the plan, its priorities and monitoring procedures are developed. The Commission is invited to consider whether it is happy with this approach or would rather set up a sub-committee to work with BRT in these areas.

Presentation

19. An internal communications plan is being developed to inform and engage HSE staff in the better regulation agenda. This will be co-ordinated with a communications plan for high-level strategic engagement that has been drawn up to implement the Hampton Report recommendations, with which this Plan interlinks.

Financial/Resource Implications for HSE

20. Potentially the review of legislation could have considerable implications for HSE resources as HSE is responsible for 227 pieces of legislation. However, the prioritisation system (paragraph 13, above) will help ensure we target limited resource to best effect.
21. The development of the Simplification Plan has taken 3 months to date, with staff costs of approximately £20,700. Staff costs for the maintenance and development of the Plan over the five years it is projected to run are likely to be approximately £37,160 each year.
22. In addition a Band 2 has been recruited to establish a team as support to policy sections in taking forward the review. A rough estimate of the resource cost would include the B2, possibly supported by a small team of two B4s at a cost of approximately £186,000 per year. This is likely to be an underestimate of the total HSE resource involved, as this team would work closely with the relevant parts of HSE on each piece of legislation identified for review.

Action

23. The Commission is invited to

- note the current draft Simplification Plan and approve for submission (as draft) to BRE,
- note and give their view on the proposed legislative review,
- to endorse the overall presentation and the approach taken in the Plan and its covering paper, and
- consider whether it wishes to create a sub-committee to be involved more closely with future stages of the implementation of the plan, such as prioritisation and/or monitoring and reporting.

24. The final draft Plan will be submitted to the Commission ahead of publication in Spring/Summer 2006.

Health and Safety Commission/Executive

Draft Simplification plan

Introduction

1. The Health and Safety Commission and its Executive (HSE) are committed to protecting people's health and safety in the workplace. As part of this commitment we are constantly reviewing what can be done better.
2. Legislation that is easy to understand and comply with will help secure stronger commitment from business and so improve health and safety outcomes with no lessening in levels of protection for workers or the public. It also supports our risk based, targeted approach to enforcement.
3. Wider promotion of health and safety using non-legislative routes to improvement has a vital complementary role, not least in reaching small- and medium-sized enterprises (SMEs) and building understanding that well managed health and safety brings business benefits.
4. The work set out in the Plan will help us work effectively in partnership with business, workers and other stakeholders to improve health and safety outcomes, in line with HSC's Strategy ('A Strategy for workplace health and safety in Great Britain to 2010 and beyond' MISC643 published 02/04). Key themes include:
 - Simplification for business to help them concentrate on improving outcomes rather than bureaucratic processes. We are making a commitment to reduce the burden of forms by 25% following a zero-based review; and further to simplify guidance on risk assessment.
 - Changing the culture for example through a campaign to tackle risk aversion; consideration of alternative penalties to reduce burdens and simplify enforcement; and challenging policy makers on the need for new regulation and its impact on SMEs. Rebalancing interventions with more emphasis on advice and prevention.
 - Simplifying existing legislation including proposals on management of construction projects which impact on a wider range of businesses across sectors; and a fundamental review of the system on reporting injuries and ill-health.
 - Joined up enforcement including more effective partnership with LAs to secure a consistent, targeted approach; and new arrangements for dealing with large organisations to ensure interventions are better coordinated for multi-site firms and consistent with agreed priorities for improvement across the organisation.

What HSC/E have already achieved

5. HSC/E has a strong track record and a good reputation with those it regulates. Since it was established in 1974 the number of fatal injuries has fallen by almost two-thirds, a risk-based approach is firmly embedded in the regulatory framework and a modern approach to control of major hazards is in place. A 2004 MORI survey found that more than 7 out of 10 employers say health and safety requirements benefit their companies as a whole, and over 80% of employers and nearly 7 in 10 employees regarded HSE favourably.
6. Since 1974, HSC/E has reduced its legislative stock by over 55%. In the early 1990s, and more recently in 2004, reviews led to major reforms of the legislative programme

reflecting new priorities and better regulation principles. Today HSC/E's stock of primary and secondary legislation stands at 227 items.

7. Since the early 1990s, HSC/E has followed the principles of good regulation; proportionality, accountability, consistency, transparency and targeting. These are integral to our enforcement policy statement, which formed the basis of the Government's Enforcement Concordat. Our approach to a cost benefit analysis in policy development is now built into the Government's Regulatory Impact Assessment process.
8. In recent years HSC/E has:
 - started to explore alternatives to regulation, such as the Stress Management Standards, a non-mandatory approach launched in November 2004, and e-COSHH Essentials, a simple, electronic, risk-based tool for carrying out chemical risk assessments,
 - built on its established approach to wide consultation by engaging directly with SMEs,
 - adopted the Government's policy on the use of Common Commencement Dates, and
 - put in place a robust internal challenge process, with a strong small business focus.
9. In striving to become a truly modern regulator, HSC/E is working closely with Local Authorities and other regulators to ensure a consistent, proportionate and targeted approach to enforcement.

Work streams included in the plan

10. The Simplification Plan has been broken down under two headings:
 - Simplifying the legislation and regulatory initiatives
 - Wider better regulation initiatives
11. To deliver the plan HSE will be working to sustain and increase the momentum on long-term developmental culture change across HSE such that the need for regulation is clearly justified at every appropriate stage of policy development. Both employer and employee stakeholders are involved in this process. This applies to considering the current stock of legislation as well as the flow of new requirements.
12. The work on **simplifying legislation** will be developed in the light of stakeholder suggestions received through both the Cabinet Office web-portal and direct to HSE. In setting priorities for action we will take into account the cross-government administrative burdens measurement exercise, which is expected to deliver its results in early 2006.
13. More generally, in taking work forward we will pay close attention to some points of connection and co-ordination between individual projects within the plan:
 - We will **focus enforcement activity where it will have the greatest impact** in the most efficient way through both the work on alternative penalties and the Enforcement Programme.
 - **Working with other regulators** will include regional/local schemes; and a Large Organisation Partnership Pilot, where HSE is working with Local Authority regulators to provide companies with a strategic approach to front line activities.
 - We will **reinforce our focus on the needs of small businesses**, for example providing clearer, simpler information and non-regulatory approaches to

encouraging compliance. HSE's Small Business Trade Association Forum will also provide a driver for on-going change.

14. In addition we will build on progress made under the UK Presidency to place better regulation at the heart of the new Occupational Safety and Health Strategy to run from 2007. On individual proposals we will renew efforts to embed better regulation in European health and safety, ensuring impact assessments are produced and influencing negotiations.
15. HSE is working with the BRE to promote joint working between the seven thematic regulators identified in the Hampton Report. This will ensure they deliver collectively on the Hampton priorities, including integrated advice packages, unified risk assessment used to target inspections, consistent use of enforcement tools, and a coordinated approach to large organisations.

Monitoring and review

16. HSE will establish a process to maintain momentum and monitor all the projects in the Plan. In line with all government departments, HSC/E will be expected to report on progress annually.

Conclusion

17. HSC/E welcomes the Hampton and the BRTF reports and, in developing its focus as a modern regulator, intends to take a lead role in ensuring that our approach to regulation is more effective and efficient, both for those regulated and the regulators. This draft simplification plan demonstrates our commitment to addressing these concerns and challenges.