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HEALTH AND SAFETY COMMISSION

Clearance of Practical Implementation Reports on Occupational Safety and Health Directives

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Issue

1. Clearance of draft implementation reports with the Health and Safety Commission (HSC) prior to seeking Ministerial approval for submission of the reports to the European Commission (EC).

Timing

2. If HSC is content with the reports, we will submit them to Ministers for approval with the intention of getting them to the EC by the end of September.

Recommendation

3. The Commission is invited to approve the reports, noting: -
 - These are short factual reports confirming the importance of effective implementation including enforcement and are not proposing any legislative change
 - The reports have been shown to stakeholders and where appropriate comments included. The tone however does not always reflect the views of individual stakeholders. For instance, the TUC is not opposed to changes to the Directives.

Background

4. The 1989 "Framework" Directive on Health and Safety and its "daughter" Directives contain provisions requiring member states to report to the EC on the practical implementation of the Directives at either 4 or 5 yearly intervals.

5. Reports on a number of health and safety Directives were due with the EC late last year. HSE sought an extension while awaiting the EC's internal report of member states' implementation of first round reports, in case this generated significant differences to reporting requirements with attendant resource implications for HSE and the social partners. That report, now received, raises no immediate resource issues. A short summary of the report is contained in the Explanatory Memorandum at Annex H submitted by DWP Ministers to the Parliamentary Scrutiny Committees. The quality of the EC report was sharply criticised by the Commons European Scrutiny Committee.
6. Our extension to submit the reports has now expired and we propose to submit reports by the end of September 2005. The reports cover the following Directives: -

• 89/391	Framework Directive	2 nd report	See Annex A
• 92/58	Safety Signs	2 nd report	See Annex B
• 92/91	Extractive Industries, drilling	2 nd report	See Annex C
• 92/104	Extractive Industries, mining	2 nd report	See Annex D
• 90/265	Manual Handling	3 rd report	See Annex E
• 90/270	Display Screen Equipment	3 rd report	See Annex F
7. The current round of reports are in their second and third cycles so only changes from the previous report need to be documented.
8. The reports follow a standard format dealing with various aspects of the implementing Regulations. These include legal impact, effect on SME's, how the legislation was publicised, how implementation was monitored and reviewed, assessment of effectiveness of the legislation, and whether amendments are considered necessary.
9. The EC is working on a proposal to rationalise the reporting structure of practical implementation reports which may appear towards the end of the UK Presidency. At present consultation with the social partners is in progress. The consultation document may be found at: -

http://europa.eu.int/comm/employment_social/social_dialogue/docs/simplification_hs_en.pdf

Argument

10. Substantial resource and external research was commissioned for the production of first round reports. Unless there has been legislative amendments or other significant changes following the submission of the initial implementation report, there is usually little of substance to report in successive implementation reports. Because of this, HSE has adopted a minimalist approach to the current batch of reports.

11. Additionally, we have only consulted the social partners at national level via the TUC and CBI rather than carrying out individual sectoral level consultations.

Consultation

12. The TUC and CBI have been consulted on the draft reports. The CBI is content with the reports. Comments from the TUC were received on the Framework Directive, Manual Handling (MH) and Display Screen Equipment (DSE) reports. Minor changes to the Framework Directive report have been made following comment from the TUC which can be found in Annex G in bold and underline type. TUC comments on the MH and DSE reports, along with observations from the relevant HSE policy sections on those comments they feel unable to integrate into the reports are also in Annex G.

Presentation

13. Reactive briefing is being prepared in the event of any media attention.

Costs and Benefits

14. Submission of the reports will benefit HSE's reputation within the EC. Producing very brief reports has meant minimal HSE resource has been diverted from implementing the domestic strategy and meeting PSA targets.

Financial/Resource Implications for HSE

15. Previously the production of a report would cost approximately £1000 in HSE personnel resource as well as considerable expense where external research was commissioned. Producing very brief reports has meant HSE resource used has been reduced to approximately £450 in personnel time with no external research costs.

Other implications

16. None.

Next steps

17. If the Commission is content with the reports, they will be sent to DWP Ministers for approval. Following Ministerial clearance, they will be sent to the European Commission via the United Kingdom Permanent Representation to the European Union. (UKRep)

**DIRECTIVE 89/391/EEC ON THE INTRODUCTION OF MEASURES TO
ENCOURAGE IMPROVEMENTS IN THE SAFETY AND HEALTH OF WORKERS
AT WORK**

**REPORT BY THE UNITED KINGDOM ON THE SECOND FIVE YEAR PERIOD OF
PRACTICAL IMPLEMENTATION OF THE DIRECTIVE.**

INTRODUCTION

The Health and Safety Executive (HSE) has produced this report on behalf of the Health and Safety Commission (HSC). HSC and HSE are the national authorities responsible for ensuring that risks to people's health and safety from work activities in Great Britain are properly controlled.

The requirements in the Directive, which were not already present in our health and safety law, are implemented by the Management of Health and Safety at Work Regulations 1999 (MHSWR). These Regulations revoke and replace the 1992 Regulations of the same name. In Northern Ireland the equivalent Regulations are the Management of Health and Safety at Work Regulations (Northern Ireland) 2000 (MHSWRNI), which revoked and replaced the 1992 Regulations. In Gibraltar the Management of Health & Safety at Work Regulations 1996 apply.

An evaluation study looking at the impact of the Framework Directive was carried out during 1996/97 following the five years of its implementation. That study informed the first implementation report. There have been no further research studies since the work carried out in 1996/97.

The social partners have been consulted on this report and it has been considered by the Health and Safety Commission which includes representatives of employers and worker authorities.

This report has been produced in consultation with the health and safety at work authorities in Northern Ireland and Gibraltar, which have separate occupational safety and health administrations.

1 Legal Impact

MHSWR were amended by the Management of Health and Safety at Work and Fire Precautions (Workplace) (Amendment) Regulations 2003 (the 2003 Amendment Regulations) to enable employees to claim damages from their employer in a civil action, where they suffer injury or illness as a result of the employer being in breach of MHSWR or the Fire Precautions (Workplace) Regulations 1997 (FPWR). The 2003 Regulations also amended MHSWR to enable civil claims against employees for a breach of the employees' duties under regulation 14 of MHSWR that results in injury or illness. The MHSWRNI were amended by the Management of Health and Safety at Work and Fire Precautions (Workplace) (Amendment) Regulations (Northern Ireland) 2003

These amendments were offered by the UK to the European Commission (EC) to address their concerns over the implementation of the EC Framework Directive on health and safety (89/391/EEC). In Gibraltar, the required amendment to the Management of Health and Safety at Work Regulations 1996 was carried out in 2004 (Legal Notice 102/04) "Civil liability for statutory duty" under Regulation 23.

The opportunity to further limit the statutory presumption of civil liability by amending regulation 22 of MHSWR so as to protect self-employed persons who are not employers against claims arising from breach of any duty imposed on them by the 1999 Regulations is currently being taken. In addition, the regulation is amended so that civil action may be brought by employees of an employment business, to whom duties are owed by host employers under regulation 15(2) and (3) of the 1999 Regulations. These changes are intended to further tidy up the civil liability aspects of the Regulations.

2. Publicising the new legislation

HSE issued a consultation document on the proposed changes to Regulation 22 of MHSWR as described above. A similar consultation was undertaken in Northern Ireland and the results are being evaluated.

A press release was issued to announce these changes. HSC will be considering the results of consultation on further amendments to regulation 22 of MHSWR (detailed above) and other changes that have no bearing on the Directive at its meeting in September 2005.

HSE and HSENI publish various guidance on the application of the legislation and what employers are required to do to comply with the law. The HSE and HSENI websites give advice and signposts to appropriate documents (HSE website: www.hse.gov.uk. HSE Northern Ireland: www.hseni.gov.uk)

3. Small and medium sized enterprises

HSE publishes various industry-specific advice aimed at small firms. In particular, the free publications '*5 Steps to risk assessment*' and '*A Guide to risk assessment*' are designed to give practical advice for small and medium-size firms.

These publication can be accessed from the HSE website and are linked to other websites which are visited by small firms and SMEs

4. Monitoring of implementation

The HSE advises and assists the HSC on the legislation and also has day-to-day responsibility for enforcing the legislation. Local Authorities also have responsibilities for enforcing health and safety law, which they carry out alongside their other responsibilities.

No changes to these responsibilities have occurred since the first report.

5. Assessment of effectiveness

Telephoned and written enquiries continue to provide HSE with information about how the MHSWR is being applied. Further information is provided by field staff that visit workplaces and see first hand how the legislation is put into practice and understood by employers.

As stated above, no further research studies have been done since the last implementation report.

6. Summing up

Positive aspects of experience of practical implementation.

The general approach to the management of health and safety is generally understood and accepted by the business community.

There is evidence to show that many large employers are reporting openly on their health and safety systems and setting targets for improvement.

There is easy access to free advice and guidance on the requirements of MHSWR from HSE and other organisations such as the Federation of Small Businesses.

Negative aspects of experience of practical implementation.

There is still a perception that managing health and safety is time consuming and requires a deal of paperwork. This is particularly prevalent among small businesses.

7. Outlook

Changes in patterns of employment, such as homeworking, and the continued growth in small firms remain key factors to be addressed.

HSE and HSENI continue to try and influence employers, particularly small firms, by demonstrating the practical benefits that good health and safety management can bring – i.e. reduced insurance premiums, increased productivity and reduction in lost working hours.

**DIRECTIVE 92/58/EC ON THE MINIMUM REQUIREMENTS FOR THE PROVISION
OF SAFETY AND/OR HEALTH SIGNS AT WORK.**

**REPORT BY THE UNITED KINGDOM ON THE SECOND FIVE YEAR PERIOD OF
PRACTICAL IMPLEMENTATION OF THE DIRECTIVE.**

INTRODUCTION

The Health and Safety Executive (HSE) has produced this report on behalf of the Health and Safety Commission (HSC). HSC and HSE are the national authorities responsible for ensuring that risks to people's health and safety from work activities in Great Britain are properly controlled.

The Directive has been implemented through the Health and Safety (Safety Signs and Signals) Regulations 1996. These Regulations were made jointly by the Health and Safety Commission (HSC) and the Home Office. In Northern Ireland, the Directive was implemented as the Health and Safety (Safety Signs and Signals) Regulations (Northern Ireland) 1996 (Statutory Rule 1006 No. 119), and in Gibraltar, the directive was implemented as the Health and Safety (Safety Signs and Signals) Regulations 1996 (1996s059).

The social partners have been consulted on this report and it has been considered by the Health and Safety Commission which includes representatives of employers and worker authorities.

This report has been produced in consultation with the health and safety at work authorities in Northern Ireland and Gibraltar, which have separate occupational safety and health administrations.

1. Legal Impact

The Health and Safety (Safety Signs and Signals) Regulations 1996 (implementing Directive 92/58/EC) replaced the Safety Signs Regulations 1980 (implementing

Directive 77/576). The requirements of both sets of Regulations were broadly similar, with the new Regulations going further in both scope and detail.

The main effect of implementing the Directive has been to bring both general workplace and fire signs under one set of Regulations. In general, most signs and signals were found to be consistent with relevant standards. However, older text-only fire-exit signs have had to be replaced. A transitional period, ending on 24 December 1998, was agreed in order to allow time for the changes to be made.

The Regulations apply to all premises and activities where workers are employed, but exclude signs used for the regulation of road, rail, inland waterway, sea or air traffic and those used in the marketing of dangerous substances, products and equipment. Unlike the previous Regulations, they also apply offshore.

There have been no changes made to the Regulations since the first report.

2. Publicising the legislation

HSE publicised widely the coming into force of these Regulations, including an announcement regarding the publication of guidance on the Regulations and the availability of a free guidance leaflet for small firms. In light of their enforcement powers, HSE also sent copies of the guidance on the Regulations to all local authorities.

The comprehensive guidance and brief free leaflet is available from HSE. Advice on what is necessary in specific circumstances is also available from enforcing authorities on request, and employers, employees and the public are able to take advantage of HSE's Infoline, a free telephone enquiry service with a guaranteed level of service.

Additionally, advice and training are available from bodies such as the Institute of Occupational Safety and Health (IOSH) and the Engineering Employers Foundation (EEF.)

Assessment of the efforts made indicate that the great majority of duty holders are aware of the Regulations, are content with the guidance available and are complying with them.

It has not been necessary to take any further action or make any specific changes since the first report.

3. Small and medium sized enterprises

HSE continues to publish or otherwise make available various advice targeted towards small and medium sized enterprises. This includes a basic guidance leaflet as a source of practical advice without too much technical or legal information, and HSE's Infoline service for employers, employees and the public.

Other than this ongoing action, there has been no specific action targeted towards SME's since the first report, and no specific problems regarding the targeting and content of advice have been reported by SME's.

4. Monitoring of implementation

HSE is the statutory body responsible for ensuring that risks to people's health and safety from work activities are properly controlled, with day-to-day responsibility for enforcing health and safety legislation.

Local Authorities also have responsibility for enforcing health and safety law, which they carry out alongside their other responsibilities. Similar enforcement arrangements apply in Scotland, Wales and Gibraltar. The Home Office and Fire Service are responsible for policy and enforcement in relation to fire safety signs in England and Wales, with similar arrangements in Scotland, Northern Ireland and Gibraltar.

The primary means of monitoring compliance with health and safety law, including the Safety Signs and Signals Regulations, is through inspection. HSE and Local Authority inspectors have the legal authority to enter premises without warning and

carry out inspections. Inspectors also visit premises to investigate accidents, dangerous occurrences or complaints.

Whether or not enforcement action is taken depends on the facts of each case. It is likely that an inspector would offer advice and assistance to employers before considering formal enforcement action. Such action would be considered where there is a significant risk of injury or ill health, or an uncooperative employer does not cooperate or recognize their responsibilities or standards of compliance are unacceptable low.

Any enforcement action is informed by the principles of proportionality, consistency, transparency and targeting, as laid down in HSE's Enforcement Policy Statement. Enforcement action can be through Improvement Notices, where improvements need to be made or a contravention needs to be remedied, Prohibition Notices where there is a high and immediate risk of serious risk of personal injury or prosecution in the criminal courts for breaches of the law.

There have been no changes in monitoring or enforcement since the first report.

5. Assessment of effectiveness

There have been no identified effects on accidents or ill health. Most of the requirements of the Directive were already in place in Great Britain, Northern Ireland and Gibraltar before the Directive came into force. Nor has there been any reported impact on productivity, employment and competitiveness.

6. Summing up

Most of the requirements of the Directive were already in place though the Safety Signs Regulations 1980. Initial evaluation indicated that the bringing together of information in one set of Regulations, with accompanying guidance and other assistance has been useful, and this continues to be the case.

The Fire Service did encounter some initial confusion whereby some employers thought they needed to replace pre-existing signage that was in fact already compliant with the Directive. This situation has been resolved, and has not recurred. Evaluation indicated that advice and guidance given by HSE, the Fire Service and local authorities has helped to clear this confusion.

7. Outlook

Past evaluations of the Regulations have not indicated any problems with the Directive that require attention in the near to medium term.

We shall, over time, take account of the implications of employment, such as subcontracting and the increasing number of small businesses. Another relevant consideration may be migrant workers for whom English is not their first language and who may not understand the meanings or icons of safety signs and signals.

It may also be necessary in the future to consider the impact of technological developments such as electronic or centrally controlled adaptable signage (such as computer controlled LCD and plasma information displays in buildings.)

**DIRECTIVE 92/91/EEC ON MINIMUM REQUIREMENTS FOR IMPROVING THE
SAFETY AND HEALTH PROTECTION OF WORKERS IN THE MINERAL-
EXTRACTING INDUSTRIES THROUGH DRILLING**

**REPORT BY THE UNITED KINGDOM ON THE SECOND FIVE YEAR PERIOD OF
PRACTICAL IMPLEMENTATION OF THE DIRECTIVE.**

INTRODUCTION

This is the second report by the UK on implementation of Directive 92/91/EEC.

The Health and Safety Executive (HSE) has produced this report on behalf of the Health and Safety Commission (HSC). HSC and HSE are the national authorities responsible for ensuring that risks to people's health and safety from work activities in Great Britain are properly controlled.

The position remains largely as stated in the first UK report submitted early in 2000. This report indicates where changes have been made since the first report.

The size of the workforce engaged in extractive activities through drilling continues to decline. The current population is approximately 19,500, the great majority of whom work offshore.

The social partners have been consulted on this report and it has been considered by the Health and Safety Commission which includes representatives of employers and worker authorities.

There has been no activity in Northern Ireland or Gibraltar since the 2000 report.

1. Legal impact

No significant changes have been made to the implementing legislation described in the first report. However, in 2004 the HSC issued proposals to reform the Offshore Installations (Safety Case) Regulations 1992. The reforms would improve the effectiveness of the Regulations in controlling offshore hazards while streamlining the processes involved in preparing and assessing safety cases. New Regulations are expected to come into effect later in 2005 and will maintain implementation of the relevant parts of the Directive.

2. Publicising the legislation

Proposed reforms of the Safety Case Regulations have been fully publicised. In particular a major stakeholder conference was held in November 2003.

3. Small and medium-sized enterprises

No change.

4. Monitoring of implementation

No change.

5. Assessment of effectiveness

No change, apart from the identified need to update the Safety Case Regulations.

6. Summing up

No change.

7. Outlook

No change.

**DIRECTIVE 92/104/EEC ON THE ON THE MINIMUM REQUIREMENTS FOR
IMPROVING THE SAFETY AND HEALTH PROTECTION OF WORKERS IN
SURFACE AND UNDERGROUND MINERAL- EXTRACTING INDUSTRIES**

**REPORT BY THE UNITED KINGDOM ON THE SECOND FIVE YEAR PERIOD OF
PRACTICAL IMPLEMENTATION OF THE DIRECTIVE.**

INTRODUCTION

This is the second report by the United Kingdom and Gibraltar on the practical implementation of this Directive.

The Health and Safety Executive (HSE) has produced this report on behalf of the Health and Safety Commission (HSC). HSC and HSE are the national authorities responsible for ensuring that risks to people's health and safety from work activities in Great Britain are properly controlled.

Those requirements of the Directive not already covered by British law were implemented through the Mines Miscellaneous Health and Safety Provisions Regulations 1995, the Escape and Rescue from Mines Regulations 1995 and the Quarries Miscellaneous Health and Safety Provisions Regulations 1995. The 1995 quarries Regulations also applied the Workplace (Health Safety and Welfare) Regulations 1992 to quarries and above ground at mines to implement those parts of the Directive which paralleled the Workplace Directive. Northern Ireland has equivalent Regulations. Gibraltar has the Factories (Mines and Quarries) (Miscellaneous Health and Safety Provisions) Regulations 1997. Since 1999 full implementation of the Directive at quarries in Great Britain has been through the Quarries Regulations 1999.

The social partners have been consulted on this report and it has been considered by the Health and Safety Commission which includes representatives of employers and worker authorities.

This report has been produced in consultation with the health and safety at work authorities in Northern Ireland and Gibraltar, which have separate occupational safety and health administrations. However, there are no mines or quarries in Gibraltar.

1. Legal Impact

There have been no changes since the first report.

2. Publicising the legislation

In our view the Directive was successfully implemented and no further action was required.

3. Small and medium enterprises

In our view the Directive was successfully implemented and no further action was required.

4. Monitoring of implementation

There have been no changes since the drafting of the first report.

5. Assessment of effectiveness

Quarries

The quarry industry in Great Britain has seen a significant reduction in accidents which can largely be attributed to the "hard target initiative" set by the industry in response to the Health and Safety Executive's Revitalising Health and Safety initiative. This 10-year HSE initiative was launched in 2000 and the quarrying industry aimed to reduce reported accidents by 50% over a 5-year period. In 4 years there

has been a 46% reduction on the baseline figure. Following the success of the “hard target initiative,” industry plans to achieve a further 50% reduction in injuries by 2010 with the ultimate aim of zero incidents by 2015. For more information on Revitalising Health and Safety please see the HSE website at <http://www.hse.gov.uk/revitalising/index.htm?hseid=aHR0cDovL3d3dy5oc2UuZ292LnVrL2Fib3V0dXMvcGxhbnMvaW5kZXguaHRt>

Mines

The mining industry has continued to contract in size in Great Britain which has led to a natural decline in accident rates. In addition there has been a measurable improvement to the injury rate per 100,000 workshifts for mining coal which has reduced from 34.4 in 1999/2000 to 32.5 in 2004/05. Similarly, the accident rate per 100,000 work hours for miscellaneous mines has reduced from 2.05 in 1999/2000 to 1.29 in 2004/05. There is only one mine in Northern Ireland and that is for salt.

	Fatal	Major	Plus 3-day	Total	Workforce
Mines					
1990/00	0	107	784	891	11,000
2003/4	0	53	471	524	7,100
Quarries					
1999/00	5	145	473	623	30,000
2003/4	6	78	271	355	35,000

6. Summing Up

There is nothing to add to the first report.

7. Outlook

We do not believe that any amendments or adjustments to the Directive are necessary, or that there is a need for any adaptation to technical progress or flanking measures.

DIRECTIVE 90/269/EEC ON MANUAL HANDLING OF LOADS

**REPORT BY THE UNITED KINGDOM ON THE THIRD FOUR YEAR PERIOD OF
PRACTICAL IMPLEMENTATION OF THE DIRECTIVE**

INTRODUCTION

This is a short report which brings up to date the comprehensive information provided in the UK's second report on the practical implementation of Directive 90/269/EEC.

The Health and Safety Executive (HSE) has produced this report on behalf of the Health and Safety Commission (HSC). HSC and HSE are the national authorities responsible for ensuring that risks to people's health and safety from work activities in Great Britain are properly controlled.

Directive 90/269/EEC was implemented in Great Britain by the Manual Handling Operations Regulations 1992 (SI 1992/2793) as amended by the Health and Safety (Miscellaneous Amendments) Regulations 2002 (SI 2002/2174). The corresponding implementing legislation in Northern Ireland was the Manual Handling Operations Regulations (Northern Ireland) 1992 (S.R. 1992 No. 535) as amended by the Health and Safety (Miscellaneous Amendments) Regulations (Northern Ireland) 2003 (S.R. 2003 No. 423). The corresponding implementing legislation in Gibraltar was the Manual Handling Operations Regulations, 1996 (LN.1996/030).

The social partners have been consulted on this report and it has been considered by the Health and Safety Commission which includes representatives of employers and worker authorities.

This report has been produced in consultation with the health and safety at work authorities in Northern Ireland and Gibraltar, which have separate occupational safety and health administrations.

1. Legal Impact

There have been some developments since the previous report:

Regulations

In Great Britain the Health and Safety (Miscellaneous Amendments) Regulations 2002 made a small change to the Manual Handling Operations Regulations 1992 (MHOR). This change was made to better integrate the factors in Annex II of the Directive into the MHOR. These factors were previously in Schedule 1 of the 1992 Regulations and the effect of the 2002 amendment is to move them into the body of the Regulations as a new Regulation 4(3). This change in wording was made to improve clarity of the law; it did not introduce new duties and hence is not thought to have much significance for practical implementation. Similar legislation came into operation in Northern Ireland on 3 November 2003 in the form of the Health and Safety (Miscellaneous Amendments) Regulations (Northern Ireland) 2003 which made an equivalent change to the Manual Handling Operations Regulations (Northern Ireland) 1992.

Guidance on Regulations

HSE published fully updated guidance on the MHO Regulations in 2004, to take account of improved knowledge about manual handling risks and how to avoid them. While the key messages about how to reduce risks remain the same, the guidance (booklet L23 *Manual handling guidance on regulations*) has new or expanded advice on -

- Incorporation of the new Regulation 4(3) and guidance on individual capability
- The risks associated with pushing and pulling of loads, including a risk assessment worked example and checklist
- A revised good handling technique, based on research by the Institute of Occupational Medicine
- New advice on psychosocial issues
- A new appendix on management systems for controlling risks from manual handling
- Expanded advice on risk assessment, with revised checklists
- An introduction to the Manual Handling Assessment Chart (see next section)

- Many other smaller revisions and additions.

The HSE guidance was adopted for use in Northern Ireland.

2. Publicising the legislation

The new HSE guidance on the MHO Regulations was launched at the end of March 2004, with a press notice. The introduction of the new guidance was also publicised in Northern Ireland. In Gibraltar the legislation and guidance implementing Directive 90/269/EEC have been promoted, by the Health and Safety Inspectorate, in particular during the course of the annual European Health and Safety Week promotion. In addition the Health and Safety Inspectorate has published guidance which is freely available, and may be supplemented by either telephone advice or pre-arranged visits by inspectors, who are able to offer on-site guidance.

HSE has also developed and published a screening tool, the Manual Handling Assessment Chart (MAC) to help inspectors and employer/employee stakeholders to quickly identify the highest risk manual handling activities. The MAC can be used to assess the risks posed by lifting, carrying and team manual handling activities. It is designed to help understand, interpret and categorise the level of risk of the various risk factors. The MAC incorporates a numerical and a colour coding score system to highlight high risk manual handling tasks.

Since the previous report HSE has launched a new website specifically about musculoskeletal disorders www.hse.gov.uk/msd. This includes advice on manual handling, back pain and related topics. Several HSE booklets can be downloaded, including those mentioned in the next paragraph. The MAC can also be downloaded together with video-based case studies to help train people how to use it. Work is continuing to expand and improve this website. In Gibraltar a recent innovation has been the availability of electronic access to legislation which may be downloaded free of charge, and may be accessed at <http://www.gibraltarlaws.gov.gi>

HSE is running a major national initiative "Backs! 2005" in summer 2005 which focusses on reducing the incidence of back pain at work. This recognises that manual handling is a major cause of back injury, and makes the point that around

one in five of those who suffer work-related ill health have back pain, which is bad both for people and for business. The overall aim of the initiative is to promote the use of handling aids as a means of reducing the incidence of back injuries at work. A leaflet "*Are you making the best use of lifting and handling aids*" has been produced. The main phase of Backs! 2005 will involve a nationally co-ordinated publicity, education and inspection programme over a 4 week period in June/July. The programme is being developed in partnership with Local Authorities and other stakeholders and will help encourage innovative solutions.

3. Small and Medium sized enterprises

A number of HSE publications are designed with SMEs in mind. In particular, the booklet "*Getting to Grips with Manual Handling*" gives a short guide to the MHOR with the emphasis on practical steps to avoid risk of injury; it was revised in 2004.

All businesses in Gibraltar are SME's.

4. Monitoring of implementation

No changes have been noted since the previous report.

5. Assessment of effectiveness

It is considered appropriate to allow more time for employers and workers to absorb and act on the advice in the most recent editions of the MHOR guidance, before making any attempt to assess the impact of these changes.

The "Backs! 2005" initiative will be evaluated. Inspectors will be gathering detailed information on MSDs, and incidence of back pain in the workplace, from employers and employees during site visits.

6. Summing Up

In the UK the evidence continues to suggest the legislation implementing Directive 90/269/EEC does not require amendment. The risks that can arise during manual handling, and ways to avoid them, are well understood. However it is also accepted that it will never be possible to prevent all manual handling injuries and ill health, thus there is a continuing need for employers to have systems in place to detect and effectively manage any cases. The main need is to continue to raise awareness of the legislation and practical risk control measures among employers and workers.

7. Outlook

The UK sees no need for changes to Directive 90/269/EEC either to adapt to technical progress or for any other reason. In our view effort should be concentrated on improving the implementation of the existing Directive, for example by promoting uniform enforcement and by helping SMEs to comply.

DIRECTIVE 90/270/EEC ON WORK WITH DISPLAY SCREEN EQUIPMENT

**REPORT BY THE UNITED KINGDOM ON THE THIRD FOUR YEAR PERIOD OF
PRACTICAL IMPLEMENTATION OF THE DIRECTIVE**

INTRODUCTION

This is a short report which brings up to date the comprehensive information provided in the UK's second report on the practical implementation of Directive 90/270/EEC.

The Health and Safety Executive (HSE) has produced this report on behalf of the Health and Safety Commission (HSC). HSC and HSE are the national authorities responsible for ensuring that risks to people's health and safety from work activities in Great Britain are properly controlled.

Directive 90/270/EEC was implemented in Great Britain by the Health and Safety (Display Screen Equipment) Regulations 1992 (SI 1992/2792) as amended by the Health and Safety (Miscellaneous Amendments) Regulations 2002 (SI 2002/2174). The corresponding implementing legislation in Northern Ireland was the Health and Safety (Display Screen Equipment) Regulations (Northern Ireland) 1992 (S.R. 1992 No. 513) as amended by the Health and Safety (Miscellaneous Amendments) Regulations (Northern Ireland) 2003 (S.R. 2003 No. 423). The corresponding implementing legislation in Gibraltar was the Display Screen Equipment Regulations, 1996 (LN.1996/026).

The social partners have been consulted on this report and it has been considered by the Health and Safety Commission which includes representatives of employers and worker authorities.

This report has been produced in consultation with the health and safety at work authorities in Northern Ireland and Gibraltar, which have separate occupational safety and health administrations.

1. Legal Impact

There have been some developments since the previous report:

Regulations

In Great Britain the Health and Safety (Miscellaneous Amendments) Regulations 2002 made three small changes to the Health and Safety (Display Screen Equipment) Regulations 1992 (DSER). The minor changes in wording of Regulations 5 and 6 were purely to improve clarity and have no significance for practical implementation. The change to Regulation 3 is more noteworthy. Its effect is to extend the workstation minimum requirements to apply to all workstations covered by the Regulations (previously, this Regulation like the rest of the DSER only applied to workstations used by a defined "user" or "operator"). The reason for this change was to comply with the ECJ judgement in joined cases C-74 and 129/95, which ruled that articles 4 and 5 of Directive 90/270/EEC impose obligations in respect of all display screen equipment (DSE) workstations, not just those used by "workers" as defined in the Directive.

In making this change to Regulation 3, opportunity was also taken to remove references to the transitional period that was allowed from 1993 for modification of older equipment. This period expired at the end of 1996 and hence is no longer relevant.

The practical effect of the change to Regulation 3 is that employers have to modify any DSE workstations that do not already comply with the Schedule to the Regulations. However modification is only required to the extent described by paragraph 1 of the Schedule - that is to say, where the specified components (e.g. a chair) are present; where compliance would promote health, safety or welfare; and where the inherent requirements of the task do not preclude compliance.

Similar legislation came into operation in Northern Ireland on 3 November 2003 in the form of the Health and Safety (Miscellaneous Amendments) Regulations (Northern Ireland) 2003 which made equivalent changes to the Health and Safety (Display Screen Equipment) Regulations (Northern Ireland) 1992.

Guidance on Regulations

HSE published fully updated guidance on the DSER in 2003. Booklet L26 “*Work with display screen equipment*” has new advice on -

- Health effects of DSE and principles of successful prevention, treatment and rehabilitation
- Portable DSE
- Work with a mouse or other pointing device
- Application of the Regulations, i.e. which kinds of DSE are covered by or excluded from the DSER. (The guidance now states that screens used in work with TV or film pictures are subject to the DSER – taking account of the decision in ECJ case C-11/99)
- Application to special groups, e.g. home workers and agency workers
- Workstation requirements (Regulation 3)
- Corrective spectacles
- Software (including rest break monitoring software).

The guidance also contains a new checklist to help assess workstations, and has many other smaller revisions and additions.

The HSE guidance was adopted for use in Northern Ireland.

2. Publicising the legislation

The new HSE guidance on the DSE Regulations was launched at a conference on 28 February 2003. A press notice was also issued.

The introduction of the new guidance was also publicised in Northern Ireland.

In Gibraltar the legislation and guidance implementing Directive 90/270/EEC have been promoted, by the Health and Safety Inspectorate, in particular during the course of the annual European Health and Safety Week promotion. In addition the Health and Safety Inspectorate has published guidance which is freely available, and may be supplemented by either telephone advice or pre-arranged visits by inspectors, who are able to offer on-site guidance.

Since the previous report HSE has launched a new website specifically about musculoskeletal disorders www.hse.gov.uk/msd. This includes advice on DSE work and the HSE booklet "*Working with VDUs*," which gives a summary of the DSE, can be downloaded. Work is continuing to expand and improve this website. In Gibraltar a recent innovation has been the availability of electronic access to legislation which may be downloaded free of charge, and may be accessed at <http://www.gibraltarlaws.gov.gi>

3. Small and Medium Sized Enterprises

"The law on VDUs: an easy guide" (HSG90) is a further HSE guidance booklet, aimed specifically at SMEs. It too was revised in 2003. The new edition has:

- Extra content that takes account of the additions and changes to L26, as far as is compatible with the need to concentrate on short and clear explanations of the main issues;
- Style and presentational changes, to be more helpful, better illustrated, and to put greater emphasis on positive steps that should be taken as opposed to things that do not need to be done.

All businesses in Gibraltar are SME's.

4. Monitoring of implementation

No changes have been noted since the previous report.

5. Assessment of effectiveness

No changes are known to have occurred since the previous report. It is considered appropriate to allow more time for employers and workers to absorb and act on the advice in the most recent editions of the guidance, before making any attempt to assess the impact of the changes.

6. Summing Up

In the UK the evidence continues to suggest the legislation implementing Directive 90/270/EEC is working well. The existing law is robust and flexible enough to deal appropriately with changes that have occurred in technology and working practices (e.g. work using a mouse or other non-keyboard device; laptops; call centres; teleworking).

7. Outlook

The UK sees no need for changes to Directive 90/270/EEC either to adapt to technical progress or for any other reason. In our view effort should be concentrated on improving the implementation of the existing Directive, for example by promoting uniform enforcement and by helping SMEs to comply.

Email received: 28/07/2005

COMMENTS RECEIVED FROM TUC

The TUC would not agree with the comments in Annex 1 [*Framework Directive report*]. In particular we would take issue with the view that "the general approach to the management of health and safety is generally understood and accepted by the business community. Employers and employees in general continue to follow the requirements of MHSWR."

Evidence from the HSE and others shows that a considerable proportion of employers, particularly SME's have failed even to conduct a risk assessment. We therefore fail to see how this statement can be justified.

On Annex E [*Manual Handling report*], given the levels of back injury it is clear that simply passing the regulations into law are insufficient and they are not being enforced. This is demonstrated by the number of convictions under the regulations last year, which was 6. The summing up is complacent and does not reflect the level of the problem.

The TUC is particularly surprised that the HSE is suggesting in Annex F [*Display Screen equipment report*] that the VDU regulations are working well. There is a huge problem with WRULDs caused by VDU work, yet the regulations are flaunted in most offices and there is no effective enforcement. The number of prosecutions in the past year is 0.

In conclusion we hope that the Commission will look beyond the actual transposition of the directives and instead concentrate on their effect and enforcement. Within the UK the average premises will be visited by an inspector every 8-20 years and we have over 25,000,000 days lost every year as a result of work-related accidents and ill-health. 10 million of these are due to MSDs such as back pain and RSI.

Hugh Robertson
Senior Health & Safety Officer
Trades Union Congress

Email: 03/08/2005

**RESPONSE IN RESPECT OF ANNEX E and F: MANUAL HANDLING AND DISPLAY
SCREEN EQUIPMENT PRACTICAL IMPLEMENTATION REPORTS**

Thank you for your comments about the practical implementation reports on H&S Directives. I am responding about your views on Annexes E and F, and would like to explain the context.

The general tone of these annexes was based on the line taken in the UK's first and second practical implementation reports on the DSE and Manual Handling Directives, submitted to the European Commission (EC) in 1997 and 2000/1. These reports discussed the evidence in more detail and were acceptable to the TUC.

We agree the objective should be to encourage the EC to look beyond transposition of the Directives and to focus on practical aspects such as adequate and more uniform enforcement. The wording used in the reports is used deliberately to this end. The intention in describing the law as working well is to dissuade the EC from trying to address any problems by suggesting changes in the wording of the legislation. Both annexes sum up by pointing to the need to improve the practical implementation of the existing law, rather than changing the Directives. In our view that, coupled to sound practical advice about the best way to manage back pain, is the best route to achieve rapid reductions in musculoskeletal ill health.

The manual handling report mentions the Backs! 2005 campaign, which demonstrates HSE commitment to practical steps to reduce back injuries at work.

On DSE, the statistical evidence (e.g. that from the SWI surveys) does not point clearly towards there being any major problem with WRULDs caused by office work. The evidence suggests that risks are highest in certain non-office jobs where there are adverse combinations of forceful movements, repetitive work, long duration and poor posture. However, we are aware that more information about ill health in DSE work is needed, particularly given the very large numbers of workers using DSE. HSE has recently commissioned research by the Institute of Occupational Medicine to obtain more specific data on the extent and nature of ill health associated with DSE work. We intend to use the results (due in 2006) to help decide how much effort should be directed towards reducing ill health in this area in future.

While there is evidence that implementation of the DSE Regulations can be patchy and incomplete, the evaluation of the Regulations (summarised in the second report) did not suggest that the Regulations are flaunted in most offices. But we acknowledge our evidence base is far from comprehensive. We would naturally welcome any other evidence from the TUC which might help plug such knowledge gaps.

To conclude - the wording of Annexes E and F is designed to a specific end and we believe it is suitable for its purpose. It should not be taken as implying that HSE does not support further practical steps to improve compliance with good practice in DSE and manual handling work. The MSD Programme will continue to address these issues.

I hope this is helpful in explaining how we arrived at the wording of these annexes.

Nigel Watson
Musculoskeletal Disorders Priority Programme
Health and Safety Executive

Email: 03/08/2005

RESPONSE (2) IN RESPECT OF ANNEX E AND F FROM THE TUC

Many thanks. However the TUC comments were intended to reflect our view not the HSE view and the TUC is not opposed to changes to the directives.

Hugh Robertson
Senior Health & Safety Officer
Trades Union Congress

RESPONSE IN RESPECT OF ANNEX A: PRACTICAL IMPLEMENTATION REPORT ON THE FRAMEWORK DIRECTIVE

Although there has not been any further research on the Framework Directive since the 96/97 work, there is a clear indication from other sources (i.e. the work of HSE's Business Involvement Unit in general on open reporting, directors' guidance, business benefits case studies, etc) that there is a general understanding of the requirements of MHSWR 'within the business community'. I accept that there is a particular problem with SME's, and we have acknowledged this in the report.

We have modified the report in light of the TUC comments.

Steve Vinton
Business Involvement Programme
Health and Safety Executive

**RESPONSE TO TUC COMMENT ON THE FRAMEWORK DIRECTIVE PRACTICAL
IMPLEMENTATION REPORT.**

(Please see modified in bold and underlined in sections 6 and 7 of this report)

**DIRECTIVE 89/391/EEC ON THE INTRODUCTION OF MEASURES TO ENCOURAGE
IMPROVEMENTS IN THE SAFETY AND HEALTH OF WORKERS AT WORK**

**REPORT BY THE UNITED KINGDOM ON THE SECOND FIVE YEAR PERIOD OF
PRACTICAL IMPLEMENTATION OF THE DIRECTIVE.**

INTRODUCTION

The Health and Safety Executive (HSE) has produced this report on behalf of the Health and Safety Commission (HSC). HSC and HSE are the national authorities responsible for ensuring that risks to people's health and safety from work activities in Great Britain are properly controlled.

The requirements in the Directive, which were not already present in our health and safety law, are implemented by the Management of Health and Safety at Work Regulations 1999 (MHSWR). These Regulations revoke and replace the 1992 Regulations of the same name. In Northern Ireland the equivalent Regulations are the Management of Health and Safety at Work Regulations (Northern Ireland) 2000 (MHSWRNI), which revoked and replaced the 1992 Regulations. In Gibraltar the Management of Health & Safety at Work Regulations 1996 apply.

An evaluation study looking at the impact of the Framework Directive was carried out during 1996/97 following the five years of its implementation. That study informed the first implementation report. There have been no further research studies since the work carried out in 1996/97.

The social partners have been consulted on this report and it has been considered by the Health and Safety Commission which includes representatives of employers and worker authorities.

This report has been produced in consultation with the health and safety at work authorities in Northern Ireland and Gibraltar, which have separate occupational safety and health administrations.

1 Legal Impact

MHSWR were amended by the Management of Health and Safety at Work and Fire Precautions (Workplace) (Amendment) Regulations 2003 (the 2003 Amendment Regulations) to enable employees to claim damages from their employer in a civil action, where they suffer injury or illness as a result of the employer being in breach of MHSWR or the Fire Precautions (Workplace) Regulations 1997 (FPWR). The 2003 Regulations also amended MHSWR to enable civil claims against employees for a breach of the employees' duties under regulation 14 of MHSWR that results in injury or illness. The MHSWRNI were amended by the Management of Health and Safety at Work and Fire Precautions (Workplace) (Amendment) Regulations (Northern Ireland) 2003

These amendments were offered by the UK to the European Commission (EC) to address their concerns over the implementation of the EC Framework Directive on health and safety (89/391/EEC). In Gibraltar, the required amendment to the Management of Health and Safety at Work Regulations 1996 was carried out in 2004 (Legal Notice 102/04) "Civil liability for statutory duty" under Regulation 23.

The opportunity to further limit the statutory presumption of civil liability by amending regulation 22 of MHSWR so as to protect self-employed persons who are not employers against claims arising from breach of any duty imposed on them by the 1999 Regulations is currently being taken. In addition, the regulation is amended so that civil action may be brought by employees of an employment business, to whom duties are owed by host employers under regulation 15(2) and (3) of the 1999 Regulations. These changes are intended to further tidy up the civil liability aspects of the Regulations.

2. Publicising the new legislation

HSE issued a consultation document on the proposed changes to Regulation 22 of MHSWR as described above. A similar consultation was undertaken in Northern Ireland and the results are being evaluated.

A press release was issued to announce these changes.

HSE and HSENI publish various guidance on the application of the legislation and what employers are required to do to comply with the law. The HSE and HSENI websites give advice and signposts to appropriate documents (HSE website: www.hse.gov.uk. HSE Northern Ireland: www.hseni.gov.uk)

3. Small and medium sized enterprises

HSE publishes various industry-specific advice aimed at small firms. In particular, the free publications '*5 Steps to risk assessment*' and '*A Guide to risk assessment*' are designed to give practical advice for small and medium-size firms.

These publication can be accessed from the HSE website and are linked to other websites which are visited by small firms and SMEs

4. Monitoring of implementation

The HSE advises and assists the HSC on the legislation and also has day-to-day responsibility for enforcing the legislation. Local Authorities also have responsibilities for enforcing health and safety law, which they carry out alongside their other responsibilities.

No changes to these responsibilities have occurred since the first report.

5. Assessment of effectiveness

Telephoned and written enquiries continue to provide HSE with information about how the MHSWR is being applied. Further information is provided by field staff that visit workplaces and see first hand how the legislation is put into practice and understood by employers.

As stated above, no further research studies have been done since the last implementation report.

6. Summing up

Positive aspects of experience of practical implementation.

The general approach to the management of health and safety is generally understood and accepted by the business community. **(Deleted sentence - Employers and employees in general continue to follow the requirements of the MHSWR)**

There is evidence to show that many large employers are reporting openly on their health and safety systems and setting targets for improvement.

There is easy access to free advice and guidance **on the requirements of MHSWR** from HSE and other organisations such as the Federation of Small Businesses.

Negative aspects of experience of practical implementation.

There is still a perception that managing health and safety is time consuming and requires a deal of paperwork. This is particularly prevalent among small businesses.

7. Outlook

Changes in patterns of employment, such as homeworking, and the continued growth in small firms remain key factors to be addressed.

HSE and HSENI continue to try and influence employers, **particularly small firms**, by demonstrating the practical benefits that good health and safety management can bring – i.e. reduced insurance premiums, increased productivity and reduction in lost working hours.

Annex H

6105/04

COM(2004) 62 final

EXPLANATORY MEMORANDUM ON EUROPEAN COMMUNITY LEGISLATION

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the practical implementation of the provisions of the Health and Safety at Work Directives 89/391 (Framework), 89/654 (Workplaces), 89/655 (Work Equipment), 89/656 (Personal Protective Equipment), 90/269 (Manual Handling of Loads) and 90/270 (Display Screen Equipment)

Submitted by the Department for Work and Pensions on 23 February 2004

SUBJECT MATTER

1. In 1989 the Commission brought forward an over arching and broad based Framework Directive on health and safety (89/391) followed by a number of linked subject specific daughter directives. These directives were made under Article 118a (now Article 137). A common feature of the directives was a provision requiring Member States to report every five years on the practical implementation of the provisions of the Directives, indicating the points of view of employers and workers.
2. The European Commission has been engaged for some time in analysing the content of these practical implementation reports and this Communication reports on the outcome of the Commission's work.

MINISTERIAL RESPONSIBILITY

3. In Great Britain, the Secretary of State for Work and Pensions, advised by the Health and Safety Commission, has primary responsibility for the health and safety of workers. The Secretary of State for Northern Ireland has overall responsibility for Northern Ireland.

LEGAL AND PROCEDURAL ISSUES

4. (i) **Legal Base**
No legal or procedural issues arise from this report. The directives concerned were made under Article 118a (now Article 137 of the Treaty).
- (ii) **European Parliamentary Procedure**
Not applicable
- (iii) **Voting Procedure**
Not applicable
- (iv) **Impact on UK Law**
Not applicable
- (v) **Application to Gibraltar**
There are no particular implications for Gibraltar

EUROPEAN ECONOMIC AREA

5. Not applicable.

SUBSIDIARITY

6. Not applicable.

POLICY IMPLICATIONS

7. There are no policy implications arising from the Report. It is not critical of the way that the UK has implemented the Directives. The report itself does not pose direct policy consequences for the UK but subsequent follow-up action may. In its analysis of implementation across the EU the Commission picks out:
- i. **risk assessment** (section 4.3). It makes recommendations including the need to consider psychosocial risk factors and longer term risk;
 - ii. **preventive services** (section 4.4) In particular the lack of appropriately qualified personnel, and the need to ensure quality of preventive services, perhaps through certification. This is also picked up in the conclusions;
 - iii. **enforcement** (section 4.7). The need to develop a methodology for measuring effectiveness of inspection; ensuring minimum standards of inspection across EU - and the role of Senior Labour Inspectors Committee in this work;
 - iv. **Small and Medium Enterprises** (S4.8.1) - Highlights well known problems in this area;
 - v. **public sector** (S4.8.2). Flags up low standards and constrained enforcement;
 - vi. **effects on incidence rates** (S5.1). The Conclusion refers to the need 'to develop a uniform stringent monitoring system';

vii. **economic impact** - Sections 5.2-5.4 deal with the costs and benefits of health and safety legislation and wider economic issues.

8. Section 6 lists Member State perceived benefits, difficulties and areas for improvement for each of the Directives. The Conclusion to the report implies that there may be legislative amendment in response to this, after 'debate and analysis', as well as 'coordination of the individual directives to increase the consistency and stringency of the provisions.'

9. As indicated earlier, the report will be subject to discussion in the Advisory Committee on Safety, Hygiene and Health Protection at Work. UK government representatives will seek to ensure that any developments/initiatives arising from the report reflect UK policy to ensure consistency and proportionality in legislation, to achieve improvements where these are justified by risk, promote better standards across Europe and do not have unacceptable consequences for UK industry and the legal framework.

FINANCIAL IMPLICATIONS

10. The report has no financial implications.

CONSULTATION

11. No outside consultation has been undertaken. The report will be discussed by the Advisory Committee on Safety, Hygiene and Health Protection at Work whose membership includes worker and employer representatives.

TIMETABLE

12. The document is simply a report on implementation that the various directives required the Cion to produce and transmit to the Council, European Parliament, etc. It is unlikely even to figure at a meeting of the Council as an information point - the new working practices for the Council discourage ceremonial presentations under any other business.



DES BROWNE
Minister of State for Work
DEPARTMENT FOR WORK AND PENSIONS