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## HEALTH AND SAFETY COMMISSION

### COMMON COMMENCEMENT DATES FOR DOMESTIC LEGISLATION

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Advisor(s):

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#### Issue

1. The introduction of Common Commencement Dates (CCD) for domestic occupational health and safety legislation.

#### Timing

2. HSE will implement CCD with effect from 2005, in line with the commencement dates determined by the Government, ie 6 April and 1 October. During the week commencing 7 February, HSE will publish a *Statement of forthcoming regulations* that are due to commence in 2005.

#### Recommendation

3. HSC to note developments.

#### Background

4. In the 2004 Budget, the Government committed to explore the introduction of common commencement dates (CCD) for domestic legislation. The commitment originated from a Better Regulation Task Force recommendation, and was part of the Government's Action Plan for Small Business. The Government's aim is to give business more certainty and time to prepare for legislative changes. It may also reduce the flow of regulation as Government gets a better sense of the cumulative impact.
5. During 2004 the Department of Trade and Industry (DTI) undertook a pilot for domestic employment legislation and consulted publicly on the proposal. There was overwhelming business support for the introduction of two commencement dates each year.

6. On 2 December 2004, the Government's Pre Budget Report announced that CCD would be extended to all domestic legislation that impacts on business. This would be phased in, starting in 2005 for legislation covering health and safety, work and pensions, company and consumer issues.
7. The Government intends to promote CCD in Europe to encourage the EU to adopt a similar approach. In the meantime, Departments have been asked to negotiate for the date of transposition or coming into effect to align with a CCD, where feasible without jeopardising other important negotiation objectives.

## **Argument**

8. HSE had no significant concern with the proposal and has agreed to implement CCD from 2005. Domestic regulations will therefore commence (ie come into force) on either 6 April or 1 October each year (see annex for details).
9. The Government's proposal allows for certain exemptions from CCD, including urgent and anti-avoidance regulations. There is also scope for introducing alternative commencement dates for sector specific legislation if the 6 April and/or 1 October are problematic to the sector concerned, eg due to seasonal pressures.

## **Consultation**

10. DTI consulted business on the proposal via the Small Business Service (details at: <http://www.sbs.gov.uk>). HSE contributed to the process through membership of an inter-departmental steering group. Policy Group has consulted Bill Callaghan and Board members, as well as Solicitors Office and policy officials on specific issues.
11. Policy Group is considering whether it is necessary to consult some industry sectors on the need for alternative dates for sector specific regulations.

## **Presentation**

12. The Government and Cabinet Office see HSE's early adoption of the proposal in a positive light. However, HSE will use low-key publicity due to the small amount of domestic legislation affected. The initiative will be announced in a press notice. The *Statement of forthcoming regulations* will be sent to key stakeholders and placed on the HSE web site.

## **Costs and Benefits**

13. The Government believes that CCD will give business more certainty about forthcoming legislation and allow more time for their preparation. The Small Business Service has prepared a Regulatory Impact Appraisal for this proposal but HSE has yet to receive the final version.

## **Financial/Resource Implications for HSE**

14. Aligning the Health & Safety (Fees) Regulations with a commencement date will result in a small loss of income. This is due to delaying the introduction of increased fee rates by five days, ie moving from 1 April to 6 April. The loss is not significant; approximately £15K, which is 0.07% of the total income generated by fees.

## **Environmental Implications**

15. None.

## **Other Implications**

16. None.

## **Action**

17. None.

## Health and Safety Executive

### Statement of forthcoming regulations in 2005

#### Introduction

1. The Health and Safety Executive (HSE) is committed to helping business and other stakeholders adapt to changes in occupational health and safety law and practice. Beginning this year, HSE will implement changes that arise from within the UK on only two dates each year. We will also say at the beginning of each year, through a statement such as this, what the expected changes will be.
2. The two 'Common Commencement Dates' are:
  - 6 April (the start of the tax year); and
  - 1 October
3. By harmonising commencement dates we hope that those affected (ie businesses, employee representatives and individuals) will be more aware of forthcoming changes and better able to plan for and implement new measures effectively.
4. This first annual statement details changes to occupational health and safety law and practice that are due to commence in 2005. It has four sections:
  - Section A details changes that are due to commence on 6 April 2005;
  - Section B details changes that are due to commence on 1 October 2005;
  - Section C details changes to domestic regulations that impact on a specific business sector only and where alignment with either of the above commencement dates would be of no benefit to that sector;
  - Section D details regulations arising from Europe, where it has not been possible to align the coming into force date with either of the two common commencements. HSE does not have control of the commencement date for regulations arising from Europe.
5. The dates provided in this statement are correct at the time of publication. However, commencement dates could be deferred following consideration by the Health and Safety Commission and Ministers.
6. Further information on occupational health and safety laws and the supporting framework is available at <http://www.hse.gov.uk/aboutus/index.htm>.

## **Section A - Changes due to commence on 6 April 2005**

### **Health & Safety (Fees) Regulations**

HSE charges for safety case assessment, inspections and approvals in the “permissioning regimes”, ie on-shore major hazards, offshore oil and gas, rail, and gas transportation. It also charges for work on a wide variety of statutory functions (mainly licensing activities, approving equipment and the testing associated with the issue of such licences and approvals). These regulations update the fees and charges that will come into force on 6 April.

### **Manufacture & Storage of Explosives Regulations**

Simplifies existing legislation by replacing major parts of the Explosives Act 1875 and 48 items of secondary legislation with a single set of regulations and guidance on the manufacture and storage of explosives, fireworks and ammunition.

<http://www.hse.gov.uk/explosives/index.htm>

### **Work at Heights Regulations**

To improve worker safety when using work equipment at heights. The Regulations are required to implement the Work at Height Directive (2000/45/EC), which is the 2nd Amendment of the Use of Work Equipment Directive (89/665/EC).

<http://www.hse.gov.uk/falls/index.htm>

### **Anthrax Prevention Order 1971 etc. (Revocation) Regulations**

These regulations revoke the outdated Anthrax Prevention Order (APO) and associated regulations. The APO is no longer the appropriate mechanism for controlling the risk from occupationally acquired anthrax. The existing requirements of the Control of Substances Hazardous to Health Regulations provide the regulatory framework for assessing the risk from all biological agents in the workplace. Defra’s Products of Animal Origin legislation (covering imports) also takes precedence over the requirements of the APO.

### **Occupational Exposure Limit (OEL) framework revision**

The Control of Substances Hazardous to Health Regulations require employers to adequately control exposure to chemicals. The Health and Safety Commission has established exposure limits for a number of substances hazardous to health. These are intended to prevent excessive exposure to specified hazardous substances by containing exposure at or below a set limit. The new framework introduces a single type of limit system and moves the focus of adequate control from compliance with an OEL, to applying eight principles of good practice.

<http://www.hse.gov.uk/coshh/index.htm>

### **Refractory Ceramic Fibres Workplace Exposure Limit**

Establishing a Workplace Exposure Limit for Refractory Ceramic Fibres (RFCs), under the Control of Substances Hazardous to Health Regulations. RFCs are used mainly in the ceramic, steel and metal treatment industries, as a lining for furnaces and kilns.

### **Subtilisins Workplace Exposure Limit**

Setting a Workplace Exposure Limit for subtilisins, under the Control of Substances Hazardous to Health Regulations. Subtilisins are enzymes of bacterial origin and come in the form of light-coloured, free-flowing powders. They are imported to Great Britain for use in the manufacture of detergents and animal feeds, and are used for food and leather processing.

## **Section B - Changes due to commence on 1 October 2005**

### **Coal Mines (Inhalable Dust) Regulations**

Regulations to control the level of inhalable and respirable dust in coal mines. The measures do not derive from EU legislation, but take account of the Chemical Agents Directive and maintain implementation of the Extractive Industries (Mines and Quarries) Directive.

<http://www.hse.gov.uk/mining/index.htm>

### **Tank Vehicle (Loading & Unloading of Petroleum Spirit) Regulations**

Replace existing regulations covering the safe transportation of petrol (the loading of tankers, their carriage and unloading) by road and rail. They are designed to be short and straightforward and find a new home for existing requirements. They change no legal duties and will have no impact on costs for industry.

<http://www.hse.gov.uk/chemicals/index.htm>

### **Management of Health and Safety at Work and Health and Safety (Consultation with Employees)(Amendment) Regulations**

Proposed amendment of Regulation 22 of the Management of Health and Safety at Work Regulations 1999 to exclude the right of third parties to seek damages from employees in breach of their duties under these regulations. The proposals would also remove the civil liability exclusion in the Health and Safety (Consultation with Employees) Regulations 1996.

## **Section C - Sectoral Regulations**

September 2005 (Date to be confirmed)

### **Offshore Installations (Safety Case) Regulations**

Updates existing regulations to ensure the safety case regime remains relevant and proportionate to the changing nature of the offshore industry. Some aspects of the regulations will also be simplified.

<http://www.hse.gov.uk/offshore/information.htm>

## **Section D - Regulations arising from Europe which are not aligned to either common commencement date**

17 January 2005

### **Marketing and Use Directive (76/769/EEC) - hexavalent chromium in cement**

Implemented via the Control of Substances Hazardous to Health (COSHH) Regulations 2004. Restriction to the marketing and use of cement containing chromium VI, through the introduction of a reducing agent, in all activities where there is a risk of contact with the skin. The restriction exempts cement used in closed controlled and totally automated systems.

April 2005 (Provisional date for first stage of implementation. Main body of provisions to commence 1 October)

### **Railways and Other Guided Transport Systems (Safety) Regulations**

Reshaping key elements of the existing regulatory framework for rail safety. Taking into account European requirements, public inquiry recommendations and better regulation principles. The new regulations will implement key aspects of the EC Railway Safety Directive (2004/49/EC). (NB Timing of commencement is dependant on coordination with the Department of Transport's implementation of other EC railway safety Directives).

<http://www.hse.gov.uk/railways/index.htm>

1 July 2005

### **Control of Major Accident Hazards (Amendment) Regulations (COMAH)**

Implementing Directive 2003/105/EC, which amends Directive 96/82/EC (Seveso II) on the control of major accident hazards involving dangerous substances. Key changes are a broadening of scope in respect of mining/quarrying, the introduction of additional named substances, and revised threshold quantities/descriptions for existing named/generic substances.

<http://www.hse.gov.uk/chemicals/index.htm>

6 July 2005

### **Control of Vibration at Work Regulations**

Implements the Physical Agents (Vibration) Directive to control the exposure of workers to hand-arm and whole body vibration.

<http://www.hse.gov.uk/vibration/issues.htm>

29 October 2005

### **Genetically Modified Organisms (Contained Use) (Amendment) Regulations**

Implementing provisions of Council Directive 2003/4/EC on public access to environmental information. Amendments are also being made to implement changes recommended by the Joint Committee on Statutory Instruments, and to clarify some of the containment measures.

31 October 2005

### **Classification Packaging & Labelling of Dangerous Substances (CHIP) Regulations**

Implements the Dangerous Substances Directive (67/548/EEC), 29th Adaptation to Technical Progress. The technical amendment introduces or amends classifications and testing methods of dangerous chemicals. Implementation also effects the labelling of dangerous chemicals.

<http://www.hse.gov.uk/chip/index.htm>

25 November 2005

### **Nuclear Reactors (Environmental Impact Assessment for Decommissioning) (Amendment) Regulations (EIADR)**

The regulations implement amendments to 85/337/EEC with regard to public participation made by Directive 2003/35/EC. The amendment regulations will also ensure that only part of a decommissioning project - where that change in the project is likely to have a significant adverse affect on the environment - stops until a further consultation exercise has been completed.

31 December 2005

### **Biocidal Products (Amendment) Regulations**

The amendment regulations will take account of a third EC Review Regulation due to come into force in late Spring 2005. This will designate Member States for the 3<sup>rd</sup> and 4<sup>th</sup> lists of active substances to be reviewed and implement the Biocidal Products Directive (98/8/EC) in respect of Article 26 (Advertising).

<http://www.hse.gov.uk/biocides/index.htm>

## **HSE Consultations**

Details of new occupational health and safety policies and issues under consultation are available at <http://www.hse.gov.uk/consult/live.htm>. The web page is updated regularly.

## Notes

1. The harmonisation of the commencement dates of legislation stems from a recommendation in the Better Regulation Task Force report 'Employment Regulation: Striking a balance', published in 2002. The Task Force reported that a common complaint by employers was that changes to employment policy seemed to happen in an uncoordinated fashion. It proposed common commencement dates for employment policy.
2. Following a DTI pilot for employment legislation during 2004 and formal consultation with businesses, the Government has undertaken to extend common commencement dates to further areas of regulation during 2005 and 2006. HSE is among the first to adopt this approach.