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HEALTH AND SAFETY COMMISSION

Draft Services Directive: Progress

A Paper by Graham Holder

Advisor(s): Steve Woolley and Francis McGuigan

Cleared by Jonathan Rees on 3 July 2006

Issue

1. To report progress on the draft Services Directive.

Timing

2. Routine. For information.

Recommendation

3. The Commission are asked to note the satisfactory progress that has been made during the negotiations and the expected next steps.

Background

4. The European Commission's (EC) proposed Directive on Services in the Internal Market aims to increase European Union (EU) trade in services with consequent economic benefits. HSC/05/49 set out the UK's negotiating lines, in particular to address concern over the "Country of Origin Principle" (COOP). As drafted, Service providers were to be subject only to the requirements of their country of establishment where they provided a service in another member state on a temporary basis (for example, to test a market). This could have undermined standards of health and safety in the UK.
5. HSC/06/01 updated the Commission on developments during the UK Presidency. Working with DTI (who lead on the Directive) a clear derogation for health and safety legislation was achieved from the country of origin provisions. This met HSE's aims as it covered all health and safety at work legislation.

6. However, at the European Parliament (EP)'s second reading of the Directive on 16 February, it:
 - adopted an amended text.
 - rejected "the country of origin principle" – replacing it instead with "freedom to provide services" (Article 16).
 - voted to limit the scope of the Directive to cover fewer services than the original text.
 - expanded the reasons allowing Member States to restrict the freedom of a service provider from another Member State to provide services on their territory.
7. On 4 April, the EC produced an amended proposal that took on the majority of the Parliament's changes. On 29 May at the Competitiveness Council, EU Ministers reached **political agreement** on the Directive. The Government welcomed this agreement as securing a great many of its negotiating objectives and achieving a good outcome for "UK plc".
8. During the final negotiations leading up to political agreement, HSE worked with the DTI to achieve our key negotiating objectives of upholding UK standards on health and safety in all circumstances and maintaining high standards of protection for workers.

Health and safety issues

9. The compromise Presidency text is acceptable to HSE. The removal of the "country of origin principle" by the EP removed HSC/E's main objection to the Directive. The new "freedom to provide services" provision allows Member States to impose national requirements that are justified for reasons of public policy, public security (this includes public safety), public health or the protection of the environment.
10. Taken together, this mix of provisions in the Directive (Articles 1(6), 9, 16 and 17(2)) will enable us to maintain our statutory provisions and to enforce health and safety legislation against temporary service providers.
11. Other points of interest from the Directive for HSE are:
 - Member States will have to provide a single point of contact for enabling temporary service providers to complete any necessary procedures and formalities. This is in line with our advice to the DTI and we would expect the HSE Infoline to be involved; and
 - the Directive allows permissioning regimes, licensing and authorisation schemes (such as CORGI) provided they can be justified by an overriding reason relating to the public interest. Once the Directive is adopted, it may be necessary to go through a process with the DTI of identifying authorisation schemes and confirming their justification.

Next steps

12. It is likely that the Directive will reach Common Position by the end of July and then go to the EP in September. On this basis, our best estimate is that the Directive will be finally adopted in early 2007 with full implementation three years later i.e. by 2010.

Costs and Benefits

13. None with this paper.

Financial/Resource Implications for HSE

14. As above.

Action

15. To note the current position.

Clearance

16. HSE's Legal Advisers have confirmed that the current text meets HSE's needs and aims.