

Health and Safety Executive Board		Paper No: HSE/08/73	
Meeting Date:	26 th November 2008	FOI Status:	Open
Type of paper:	Above the line	Exemptions:	None
Trim reference:	2008/614350		
Chief Executive's Report to the Board			

Control of Pesticides

- Ms Georgina Downs, a pesticides campaigner who lodged a claim against the Secretary of State for DEFRA in 2004, has challenged the approach taken and policy adopted by DEFRA to the control of pesticides in crop-spraying. Her grounds for challenge were:
 - the absence of any risk assessment in relation to the effects of pesticide spraying on residents (as opposed to transient bystanders)
 - DEFRA was applying the wrong legal test, namely it should be established that pesticides cause no "serious" harm to human health as opposed to the wording in the European Council Directive concerning the placing of plant protection products on the market (91/414/EEC), "no harmful effect on human ... health".
 - DEFRA's lack of action in the light of recommendations made in the report of the Royal Commission on Environmental Pollution.
- In his judgment handed down on 14th November, Mr Justice Collins found against DEFRA but the terms of the Order are yet to be finalised and an oral hearing may be required. HSE (which since April has been responsible for the control of pesticides) and DEFRA are considering the judgment in detail and will take a view on the appropriate course of action, with advice from leading counsel.

ICL Public Inquiry

- The ICL Plastics Public Inquiry hearings formally closed on 13 November 2008. It has not yet been announced when the report will be sent to Ministers.
- Stage 1 of the Inquiry ran from 2 to 22 July and heard evidence from 58 witnesses - 29 appearing in person. Witnesses included those from ICL, two LPG suppliers (Calor and J Gas) and HSE (9 inspectors were called). Its purpose was to establish the factual circumstances leading up to the accident. There was significant media interest in Scotland. As directed by Lord Gill, the Inquiry Chair, HSE provided submissions on the facts it believed. Stage 1 established, what measures might have prevented the explosion and proposals for the future inspection/oversight regimes for LPG installation.
- Stage 2 of the Inquiry ran from 21 October to 13 November. Prior to the second session of evidence HSE, along with a number of other parties, made a number of written submissions to the Inquiry. The Inquiry heard evidence on the lessons to be learned to prevent a recurrence and what form a future inspection/oversight regime for LPG installations might take. Much of the discussions centred around a report on these matters provided by Mr Rod Sylvester-Evans, an independent consultant engaged by the Inquiry. HSE's evidence to Stage 2 was provided by Geoffrey Podger, Sandra Caldwell and Dr Brian Fullam (Head of HSE's Process Safety Specialist Group). They were questioned in some considerable depth

and detail. Additional evidence was provided by Calor, J Gas and the UKLPG (LPG industry's trade body).

Adjournment debate on 13 October – Explosion at Fred's Taxis

6. Ann Mawer and Sue Barker were killed on Christmas Eve 2007 in a petrol fire at their place of work – Fred's Taxis, Immingham. Given that the investigations by the enforcing authority, North East Lincolnshire Council, are not yet complete (HSE and the Health and Safety Laboratory (HSL) have been providing the Council with technical advice and support), the debate centred on the complexity of current petrol storage legislation and the need for clearer guidance, particularly for small firms. Responding, Jonathan Shaw, the DWP Minister, referred to Lord McKenzie's recent meeting with the MP and relatives, and his intention to raise the matter with HSE and the Petroleum Enforcement Liaison Group. A letter was received by HSE last week.

European activities on needle-stick injuries

7. The EC have recently informed Member States that the European social partners of the public hospital sector have formally notified the Commission of their intention to take joint action on the prevention of needle-stick injuries in the hospital sector and to negotiate a framework agreement under article 139 of the EC treaty. As a consequence, work on a draft legislative proposal amending the Biological Agents Directive (2000/54/Ec), which was expected to be formally published in December, has been suspended. The negotiation process by the social partners on the framework agreement is expected to start in January 2009. Domestically, HSE officials are looking at ways of encouraging compliance with the current legislative requirements and will report to the Board in due course.

Health and Safety (Offences) Act 2008

8. Following its successful Third Reading in the House of Lords on 10 October, the Health and Safety (Offences) Act 2008 received Royal Assent on 16 October. The Act will come into force on 16 January 2009. The Act raises maximum fines in the lower courts to £20,000; makes imprisonment an option for most health and safety offences; and make most offences triable 'either way'. The Act applies to England & Wales, Scotland and Northern Ireland.
9. The Act fulfils a longstanding Government and HSE commitment in the Revitalising Health and Safety Strategy Statement in June 2000 to provide the courts with greater sentencing powers for health and safety crimes. Lord McKenzie is very keen to publicise the Act and its importance with key stakeholders. There is also an opportunity to get important HSE messages across such as the importance of director leadership.
10. Following Lord McKenzie's letter to the Chairman of the Sentencing Guidelines Council (SGC), HSE officials have made contact with the SGC Secretariat, offering to work with them on developing appropriate sentencing guidelines to assist the courts in using these new sentencing powers.

Revocation of Explosives Licenses

11. In August 2007 HSE decided that Festival Fireworks (UK) Ltd were unfit to hold explosives licences for their sites at Marlie Farm and Upper Lodge Farm and revoked both licences. This was the first time HSE had used this power.

12. In December 2007 Festival Fireworks (under the new name Alpha Fireworks Limited) appealed to the Secretary of State for Work and Pensions. The appeals were treated as one and the hearing took place in June 2008. The Appointed Person recommended the Secretary of State dismiss the appeals. On 29 October Lord McKenzie wrote to the appellants dismissing their appeal. HSE has given Alpha Fireworks Ltd written notice to clear all fireworks from both sites by 15 December 2008. HSE is closely monitoring this activity and will take enforcement action if necessary to secure the clearance.
13. Criminal proceedings are being taken against Festival Fireworks Ltd following an incident that led to the deaths of two fire fighters at Marlie Farm on 3 December 2006. The cases are scheduled for June 2009. HSE has been careful to distance the licence revocation from the criminal proceedings.

Application for Judicial Review of HSE Decision to Grant Asbestos Exemption

14. On Thursday 13th November the Court of Appeal dismissed Mrs Jean Kennedy's application for Judicial Review of HSE's decision to grant an exemption under the Control of Asbestos Regulations 2006. The exemption was necessary to enable Able UK Ltd to import a French naval aircraft carrier "The Clemenceau" into the UK for decommissioning because the Clemenceau contains asbestos material which could only be completely removed as part of the decommissioning process.
15. Mrs Kennedy did not challenge HSE's decision that the work could be done without risks to health and safety or HSE's decision that it was in the overall public interest for the work to be done in the UK. Rather she sought to argue that HSE had failed to properly understand and apply its written guidance entitled "Granting Exemptions to Health and Safety Legislation".
16. The Court of Appeal rejected Mrs Kennedy's argument, approving comments made in the High Court by Mr Justice Wilkie who said that HSE's approach was "the only sensible way of reading [the policy]". The Court of Appeal made an order for costs against Mrs Kennedy to be enforced against the Legal Services Commission who had funded Mrs Kennedy's case.

Worker Involvement Conference

17. HSE ran a successful 'Worker Involvement in Health and Safety' conference on 14 October. The conference, chaired by Judith Hackitt and addressed by Lord McKenzie, drew together key stakeholders including employers, Trade Unions representatives, employer and professional organisations from a wide variety of sectors. It aimed to reinvigorate worker involvement in health and safety management and to launch a suite of new guidance on worker involvement and consultation that had been seen by the Board in June this year.
18. The conference sessions focussed on sharing of good practice and on how various stakeholders in the GB health and safety system could increase the level and quality of worker involvement across all of GB industry. The constructive ideas generated will be a useful input to helping develop proposals to take forward worker involvement under HSE's new strategy for the GB health and safety system, and will encourage stakeholders to consider what contribution they could make towards this.

Process Safety Leadership Group (PSLG) Leadership Forum – 11 November ***Raising the Profile of Process Safety Leadership - Taking the Next Steps***

19. Seventy CEOs, directors and senior managers from UK major hazard industries met to share approaches to process safety management and to identify where improved process safety leadership is needed. The PSLG were pleased to welcome David Gartside to the event and his contribution was keenly welcomed by the PSLG chair Tony Traynor. The forum was used to develop a clear view on the top team responsibilities and to explore ways to share and learn good practice and lessons from incidents.
20. The conference built on the foundations of the HSE Leading from the Top conference in April and was used to develop the themes from that event. Callum Maclean, chair of several Ineos business divisions gave the key note presentation illustrating how Ineos, the world's third largest chemical company, integrates process safety into board and operational business management. The Forum concluded that competence and expertise in process safety management at board level was essential to enable business risk decisions to be made in full knowledge of process safety issues. Demonstrating visibility and commitment of directors and senior managers who 'walk the talk' was key to success as was ensuring that accountabilities for process safety management are effectively set throughout the organisation. The findings from the forum will be summarised into a set of attributes and behaviours that are considered essential to secure high standards of process safety leadership at senior management level. HSE will then seek to set a programme whereby industry commits to meet these standards.

Launch of 2007/08 Health and Safety Statistics.

21. On 29 October HSE released the latest statistics on work-related ill health, and workplace injury in Great Britain. 'Health and Safety Statistics 2007/08' presented top-level statistics, including reports on progress against the targets set in the 'Revitalising Health and Safety' strategy. The detailed data and commentary on these statistics were also published on the HSE website at www.hse.gov.uk/statistics
22. The data indicated that the rate of fatal and major injury was reducing and on track to meet the Revitalising target and that the PSA target had been met. However, despite improvements since the start of the decade, the rate of reduction in work-related ill-health and days lost was not as great as hoped. Our statisticians' judgement was these revitalising targets were probably not on track at this stage and that the associated PSA targets had not been met.
23. Overall the statistics for 2007/08 indicated:
 - An estimated 2.1 million people reported suffering from illness they believed was caused or made worse by work.
 - Around 137 thousand injuries to employees were reported under RIDDOR. An estimated 34 million working days were lost to work-related ill health or injury.
24. The publication also included the latest statistics on health and safety enforcement activity. The figures for the numbers of offences prosecuted and enforcement notices served in 2007/08 are as follows:

- HSE prosecuted 1028 health and safety offences and secured convictions for 839 offences. These offences represented 565 prosecution cases, in 95% of these the defendant was found guilty of one or more offences. (In 2006/7 HSE prosecuted 1051 offences and secured 852 convictions.) Local Authorities prosecuted 354 (340 in 2006/7) offences and secured convictions for 334 offences (314 in 2006/7).
- HSE issued 7,715 Enforcement Notices (8,234 in 2006/7) and the Local Authorities issued 6,010 Enforcement Notices (6,960 in 2006/7).

HWWW update

25. A second Flexible Early Release (FER) Scheme was launched on 17 September using the “departmental restructuring” option. After discussion with HSE's TUs the scheme was extended to include others in Rose Court with the intention of backfilling the vacancies created from those staff declared surplus. 39 staff applied and the business case for 30 applications has been forwarded to DWP. Nominees will be informed whether they were successful in mid-November and the planned release date is end of March 2009.
26. So far, the total number of leavers from Rose Court is 98 (at 31 October 2008). Of those 98, 15 resigned, 4 retired, 59 transferred to another government department (12 transferring on promotion), 15 transferred within HSE and 3 relocated to Bootle. A further 30 people are in the process of leaving.
27. We have secured space for the residual London Policy Unit on the 6th floor of the DCFS's Sanctuary Buildings from Spring/Summer 2009. We will have access to DCFS's excellent conference facilities which should be of value to the Board as well as to /HSE as a whole.

GEOFFREY PODGER

Management

- The SMT met on 4th November and discussed: finance and staffing (inc recruitment activity to maintain frontline capacity); the health and safety performance of HSE; and managing HSE's corporate information. The SMT also discussed the proposed Board papers on international business and the evaluation of the impact of the directors duties guidance.

Operations

- There were 21 Fatalities reported to HSE in September and 13 fatalities reported in October. Brief details are given in Annex 2.

Significant prosecutions in October included:

- Mitie Engineering Services Ltd, and Roddinglaw Business Park of Edinburgh were fined a total of £300,000 after pleading guilty to charges under S 2 (1) of the HSWA.
- Two companies T. J. Myles & Co Ltd of Ickenham, and Crispin & Borst Ltd of Watford were fined a total of £44,500 after pleading guilty to breaching S2 (1) and S3 (1) of the HSWA.
- Scheldebouw UK Ltd, of, Isle of Dogs, was fined £20,000 with £10,000 in costs, after pleading guilty to breaching Section 3(1) of the HSWA. Brookfield Construction UK Ltd, London, was also fined £18,000 with costs of £9,962 after pleading guilty to the same breach, after a worker suffered a broken pelvis when a panel of glass fell on him.
- North Tyneside Council was fined £17,005 with £3,911 in costs after pleading guilty to five breaches of the Control of Asbestos at Work Regulations 2002, when the school caretaker swept the school boiler house on two separate occasions, unaware that it was contaminated with asbestos. This posed a huge risk to the caretaker's health.
- FA North Ltd of Nottingham, was fined a total of £6,000 with £4,678 in costs after pleading guilty to breaching S4, 9(1) and 11(1) of the Provision and Use of Work Equipment Regulations 1998, when an employee was using a woodworking machine known as a spindle moulder pushed a piece of wood through the machine, it slipped and his hand went into the cutters resulting in the amputation of two fingers and the partial amputation of the thumb on his right hand.

Myth of the Month

- **'Children need to be wrapped in cotton wool to keep them safe.'** Health and safety law is often used as an excuse to stop children taking part in exciting activities, but well-managed risk is good for them. It engages their imagination, helps them learn and even teaches them to manage risks for themselves in the future. They won't understand about risk if they're wrapped in cotton wool. Risk itself won't damage children, but ill-managed and overprotective actions could.

FOI Requests

- 509 Freedom of Information requests were made to HSE in September and 621 in October.

Events, Campaigns and Publications

- HSE launches 'Asbestos: The Hidden Killer' campaign in association with ex-footballer Ian Wright. Asbestos: The Hidden Killer campaign which is running throughout October and November and aims to reduce the rising death rate by educating today's tradesmen about the danger that asbestos presents to them.

Parliamentary Business

- There was 1 PQ in September and 6 PQ's in October.

FATALITIES REPORTED TO HSE DURING SEPTEMBER

These initial notifications are not validated in that investigation has not as yet confirmed that all the deaths were work related

AGE	REGION	INDUSTRY SECTOR	DESCRIPTION
59	Doncaster	Construction	Fell through a roof
	Liverpool	Hardcore recycling	Crushed by moving hardcore crusher
89	Llangollen	Public Services	Asphyxiated when trapped in bed
65	Devon	Engineering	Fell off back of lorry
27	Stroud	Ground Surveying	Killed when excavation collapsed
90	County Durham	Services	Fractured knee when transferring from commode
17	Berkshire	Health Services	Found with ligature tied around neck
39	South Wales	Motor Vehicle Repair	Crushed when car lift failed
73	South Wales	Utilities – (private householder)	CO poisoning
79	Cheltenham	Services	Hit on head by car park barrier
22	Chester	Agriculture	Killed by feeder wagon during repair
5	London	Education	Collapsed next to electronic whiteboard
	Camb	Utilities	Killed when unloading straw bail
47	Bradford	Tree Surgeon	Crushed by own car whilst hotwiring it
	Dorset	Agriculture	Found dead perhaps from whiplash inflammation
50	Staffs	Agriculture	Killed when adjusting twine under bailer
	Cornwall	Construction	Fell through a roof
46	Inverness-shire	Civil Engineering	Crushed when leaning out of telehandler cab
	Devon	Agriculture	Reversed over by JCB
43	Cornwall	Public Services	Found dead in a bath
66	South Yorkshire	Top Tier COMAH Aerosol Warehousing	Crushed between pallets by forklift truck

FATALITIES REPORTED TO HSE DURING OCTOBER

AGE	REGION	INDUSTRY SECTOR	DESCRIPTION
32	Glenrothes	Manufacturing	Fell through a roof
92	West Midlands	Public Services	Fell from sling
30	Peterborough	Manufacturing printing	Crushed by merge unit
46	Oldham	Rubber manufacture	Found next to recycling skip
21	Sheffield	Arboriculture	Chainsaw came into contact with neck
35	Halifax	Construction	Crushed by overturned JCB
63	Ayr		Run over by road sweeper
55	Newcastle upon Tyne	Construction	Fell off a roof
81	Carlisle	Social Care	Fell from bed
35	Derbyshire	Agriculture	Crushed by mini digger
	Surrey	Pleasure boat repair	Fell from ladder
88	North Lanarkshire	Care Home	Fell over
41	London	Construction – domestic refurbishment	Fell off ladder

UPDATE ON EU HEALTH AND SAFETY DOSSIERS

This annex to the Chief Executive's Report provides the Board with a monthly update on progress with EU health and safety dossiers that HSE leads on for HMG or other dossiers that HSE has an interest in but not the lead. To help the Board keep track of developments, each dossier is either marked '[UNCHANGED FROM LAST BOARD UPDATE](#)' or '[NEW DEVELOPMENTS](#)'. For further information about this annex, please contact Stephen Taylor, EU Coordinator in HSE's International Unit (Tel: 020 7717 6677 or e-mail: stephen.taylor@hse.gsi.ov.uk)

ON THE HORIZON:

Initiative on Carcinogens and Mutagens	
Current status (UNCHANGED FROM LAST BOARD UPDATE)	
The second stage of social dialogue on potential amendments to the Carcinogens and Mutagens Directive (2004/37/EC) ended without an agreement. The EC has tendered for a contractor to undertake an Impact Assessment to help decide the next steps for the initiative.	
Lead Department	HSE
HSE contact	SCS Lead – Steve Coldrick Policy Lead – Robin Foster, International Chemicals Unit, 020 7717 6990, robin.foster@hse.gsi.gov.uk SCS Lawyer – Stephen Amos

PRE-PROPOSAL STAGE:

Initiative on Musculoskeletal Disorders	
Current status (NEW DEVELOPMENTS): A concluding conference on the social and economic impact of future European initiatives on the prevention of musculoskeletal disorders was held in Amsterdam on 29 October 2008. The researchers found the majority of stakeholders consulted thought a new Directive covering all MSDs would have the greatest impact. However, no consensus emerged from Member States at the conference. The EC favours a new Directive covering all the <u>physical</u> risk factors for MSDs that allows for a flexible approach to risk assessment. It looks like a proposal for a Directive may come forward in 2009.	
Lead Department HSE contact	HSE SCS Lead – Peter Brown Policy Lead – Neville Higham, MSD Programme, 0207 717 6831, neville.higham@hse.gsi.gov.uk SCS Lawyer – Caroline Croft

Initiative on Needle Stick Injuries	
Current status (NEW DEVELOPMENTS): The EC has suspend its work on bringing forward an amendment to the Biological Agents Directive addressing needlesticks injuries in healthcare worker as the social partners (employee and employer representatives) at a European level in the public hospital sector have formally agreed to start negotiations on a social partners agreement. This work will commence in January 2009.	
Lead Department HSE contact	HSE SCS Lead – Les Philpott Policy Lead – Delyth Dyne, Specific Interventions, 020 7717 6234, delyth.dyne@hse.gsi.gov.uk SCS Lawyer – Stephen Amos

Initiative on 3rd List of Indicative Occupational Exposure Limit Values (IOELVs)	
Current status (UNCHANGED FROM LAST BOARD UPDATE): The EC's Advisory Committee on Safety and Health at Work has voted on its opinion on a draft Commission Directive establishing a 3rd list of IOELVs under Directive 98/24/EC on Chemical Agents.	
Lead Department HSE contact	HSE SCS Lead – Steve Coldrick Policy Lead – Robin Foster, International Chemicals Unit, 020 7717 6990, robin.foster@hse.gsi.gov.uk SCS Lawyer – Stephen Amos

Proposed amendment of Electromagnetic Fields Directive (2004/40/EC)**Current status (UNCHANGED FROM LAST BOARD UPDATE):**

The 4 year delay in the implementation of the directive has been adopted. The EC has now issued an open invitation to tender for the contract to carry out an impact assessment, to inform policy options and help to decide the next steps for the Directive.

**Lead Department
HSE contact****HSE**

SCS Lead – Les Philpott

Policy Lead – Malcolm Darvill, Specific Interventions, 020 7717 6182, malcolm.darvill@hse.gsi.gov.uk

SCS Lawyer – Stephen Amos

Proposed revision of Biocidal Products Directive (98/8/EC)**Current status (NEW DEVELOPMENTS):**

The EC has held a number of stakeholder workshops as means to begin looking at a revision of the Directive. **It now looks likely that a proposal will emerge in 2009.**

**Lead Department
HSE contact****HSE**

SCS Lead – Steve Coldrick

Policy Lead – Gill Smith, Corporate Specialist Division, 0151 951 4919, gill.fod.smith@hse.gsi.gov.uk

SCS Lawyer – Caroline Croft

Proposed revision of Seveso II Directive (96/82/EC) – Linking GHS to Seveso**Current status (NEW DEVELOPMENTS):**

An EC technical working group is currently looking at the implications of bringing GHS into the Seveso Directive. A proposal is not expected until **early 2010.**

**Lead Department
HSE contact****HSE**

SCS Lead – Les Philpott

Policy Lead – Sandra Ashcroft, Specific Interventions, 0151 951 3531, sandra.ashcroft@hse.gsi.gov.uk

SCS Lawyer – Caroline Croft

Proposed recast of Basic Safety Standards Directive (96/29/EURATOM)**Current status (UNCHANGED FROM LAST BOARD UPDATE):**

A Working Party of the EC's Article 31 Group of Scientific Experts is currently considering a recast of the directive. A proposal is not expected until late 2009.

**Lead Department
HSE contact****HSE**

SCS Lead – Les Philpott

Policy Lead – Kate Haire, Specific Interventions, 0151 951 3792, kate.haire@hse.gsi.gov.uk

SCS Lawyer – Caroline Croft

Proposed simplification of Pressure Equipment Directives**Current status (UNCHANGED FROM LAST BOARD UPDATE):**

The EC has decided that the review of the directive will not take place until 2010, after which next steps will be decided.

Lead Department**BERR****HSE contact**

SCS Lead – Dr Elizabeth Gibby

HSE Policy Lead – Phil Papard, STSU, 0161 952 8402, phil.papard@hse.gsi.gov.uk

SCS Lawyer – Caroline Croft

Initiative on Nuclear Safety**Current status (NEW DEVELOPMENTS):**

On 15 October 2008, the EC's High Level Group (HLG) on Nuclear Safety [a meeting of the Chief Nuclear Regulators of Member States in response to a Council Conclusion] received a draft proposal from the Commission for a Directive on Nuclear Safety. The text of this draft proposal has been shared with DECC and FCO to develop an initial UK position. On 7 November, there was an extraordinary meeting of the HLG to further discuss the draft Directive, at which time HLG members expressed many reservations about its content. The Commission noted that the document would go to inter-service consultation very soon and that their intention is to formally adopt the proposals before the end of 2008. This would imply the proposed Directive going to Atomic Questions Group (AQG) early in 2009.

Lead Department**DECC (Policy Lead) HSE (UK Competent Authority)****HSE contact**

SCS Lead – Mike Weightman

Policy Lead – Peter Addison, Nuclear Directorate, 0151 951 3550, peter.addison@hse.gsi.gov.uk

SCS Lawyer – Caroline Croft

UNDER NEGOTIATION:

Dangerous Substances Directive (67/548/EEC) – 31st Adaptation to Technical Progress (ATP)	
Current status (UNCHANGED FROM LAST BOARD UPDATE): This should be taken into GHS so there will be no need for the UK to implement the 31st ATP. However enforcement regulations will be needed for GHS.	
Lead Department HSE contact	HSE SCS Lead – Steve Coldrick Policy Lead – Robin Foster, International Chemicals Unit, 0207 717 6990, robin.foster@hse.gsi.gov.uk SCS Lawyer – Stephen Amos

Marketing and Use Directive (76/769/EEC) – Restrictions on marketing and use of Dichloromethane	
Current status (UNCHANGED FROM LAST BOARD UPDATE): The EC has published a proposal to restrict the marketing and use of Dichloromethane (DCM) based paint-strippers. This is currently going through co-decision via the Council Working Party on Technical Harmonisation (Dangerous Substances) and the European Parliament’s (EP) Environment, Public Health and Food Safety (ENVI) Committee. A UK negotiating strategy has been cleared by Ministers. The EP’s ENVI Committee voted on 9 September 2008 for a ban on professional and consumer use of DCM based paint-strippers. The next Council Working Party meeting is in November.	
Lead Department HSE contact	HSE SCS Lead – Steve Coldrick Policy Lead – Robin Foster, International Chemicals Unit, 0207 717 6990, robin.foster@hse.gsi.gov.uk SCS Lawyer – Stephen Amos

Proposed EC Regulation on Community Statistics on Public Health and Health and Safety at Work	
Current status (NEW DEVELOPMENTS): Common Position formally adopted by the Council on 2 October 2008 with a view to the adoption of the Regulation. The EP’s ENVI Committee’s opinion and report on the Common Position text was adopted by the Committee on 5 November. Second Reading in the EP is indicatively scheduled for 18-19 November.	
Lead Department HSE contact	ONS HSE SCS Lead – Jenny Eastabrook/Elizabeth Hodkinson HSE Policy Lead – Kevin Walkin, Better Regulation Unit, 020 7717 6298, kevin.walkin@hse.gsi.gov.uk SCS Lawyer – Stephen Amos

Proposed EC Regulation on Classification, Labelling and Packaging of Chemicals (adopting Globally Harmonised System (GHS) in the EU)

Current status (NEW DEVELOPMENTS):

Council negotiations concluded at the end of June 2008 and the EP voted on 3 September 2008 to secure a First Reading deal. **The Council is due to adopt the Regulation at its meeting on 18 November.** The Regulation is expected to enter into force in late 2008/early 2009. HSE is working on amendments to the Chemical Hazard Information and Packaging for Supply (CHIP) Regulations to align it with and enable enforcement of the EC Regulation. A paper has been submitted to the Board on this for its meeting on 26 November.

**Lead Department
HSE contact**

HSE
SCS Lead – Steve Coldrick
Policy Lead – Robin Foster, International Chemicals Unit, 020 7717 6990, robin.foster@hse.gsi.gov.uk
SCS Lawyer – Stephen Amos

Biocidal Products Directive (98/8/EC) – amendment of the transitional deadline to allow for completion of the review of active substances used in biocidal products that were already on the market before the Directive came into force

Current status (NEW DEVELOPMENTS):

The proposal will be presented for the first time at the Environment Working Party meeting on 28 November 2008. It is currently anticipated that the proposal will be agreed at first reading so that final agreement can be reached early in 2009.

**Lead Department
HSE contact**

HSE
SCS Lead – Steve Coldrick
Policy Lead – Gill Smith, Corporate Specialist Division, 0151 951 4919, gill.fod.smith@hse.gsi.gov.uk
SCS Lawyer – Caroline Croft

UNDER IMPLEMENTATION:

EC Regulation on Existing Substances (793/93) – Risk Assessment and Risk Reduction Strategies	
Current status (UNCHANGED FROM LAST BOARD UPDATE): The UK is working to complete Risk Reduction Strategies for four outstanding substances before the regime folds and is replaced by REACH. The strategies are due for completion by 1 December 2008.	
Lead Department HSE contact	HSE (UK Competent Authority) SCS Lead – Steve Coldrick Policy Lead – Robin Foster, International Chemicals Unit, 020 7717 6990, robin.foster@hse.gsi.gov.uk SCS lawyer – Stephen Amos

Artificial Optical Radiation Directive (2006/25/EC)	
Current status (UNCHANGED FROM LAST BOARD UPDATE): The Directive was adopted on 27 April 2006 and member states have until 27 April 2010 to implement the directive. HSE has begun work on transposing the Directive by the deadline.	
Lead Department HSE contact	HSE SCS Lead – Les Philpott Policy Lead – Malcolm Darvill, Specific Interventions, 020 7717 6182, malcolm.darvill@hse.gsi.gov.uk SCS Lawyer – Stephen Amos

EC Regulation on Registration, Evaluation, Authorisation and Restriction of Chemical substances (REACH) (1907/2006)

Current status (NEW DEVELOPMENTS):

The regulation came into force on 1st June 2007. At Community level, HSE officials are working with other Member States, the Commission and key stakeholders in a number of committees and other groups to establish the working principles for the Regulation. Key recent developments include review of annexes to the Regulation including developments re:

- Resolution (at Community level) of an issue of unintended consequences regarding the supply of asbestos.
- Developing procedures at the Community level for Member State input into proposals for substances that may eventually require authorisation or restriction.
- Acceptability of a Commission proposal for a corrigendum to the REACH Regulation taking account of substances categorized as 'No Longer Polymers' under legacy EU law and their status in REACH.
- Ongoing work to form the grounds for a proposed new EU REACH 'Risk Communication Network' with UK prominent in a new working group to investigate options for this.
- The Defra statutory instrument arranging for UK enforcement of REACH has been signed by their Minister and will enter into force by 1st December (the REACH deadline for this). We expect to require amendments early next year to account for shifting REACH requirements.
- The 'Enforcement Liaison Group' being established to consider and own the domestic enforcement MoU and facilitate enforcer cooperation will meet for the first time in November.
- There are ongoing issues surrounding the scope of pre-registration requirements, including some substances that will eventually be exempt from registration duties, (for example some polymers, or substances recovered from waste streams).
- The Helpdesk is operating at full capacity, handling around 1500 contacts per month.

Lead Department
HSE contact

DEFRA (Policy Lead) HSE (UK Competent Authority)

HSE SCS Lead – Steve Coldrick

Policy Lead – Robin Foster, International Chemicals Unit, 020 7717 6990, robin.foster@hse.gsi.gov.uk

SCS Lawyer – Stephen Amos

EC Regulation concerning the import and export of dangerous chemicals (689/2008)	
Current status (UNCHANGED FROM LAST BOARD UPDATE): The EC Regulation came into force on 1 August 2008. UK enforcement regulations were laid before Parliament on 8 August and came into force on 3 September 2008.	
Lead Department HSE contact	HSE SCS Lead – Steve Coldrick Policy Lead – Robin Foster, International Chemicals Unit, 020 7717 6990, robin.foster@hse.gsi.gov.uk SCS Lawyer – Stephen Amos

Dangerous Preparations Directive (2006/8/EC)	
Current status (UNCHANGED FROM LAST BOARD UPDATE): GB implementing regulations were laid before Parliament on 5 September 2008 and came into force on 1 October 2008. Northern Ireland Regulations will follow shortly. This should lead to closure of the current infraction proceedings against the UK on this Directive.	
Lead Department HSE contact	HSE SCS Lead – Steve Coldrick Policy Lead – Robin Foster, International Chemicals Unit, 020 7717 6990, robin.foster@hse.gsi.gov.uk SCS Lawyer – Stephen Amos

Directive (2006/121/EC) amending Directive 67/548/EEC relating to classification, packaging and labelling of dangerous substances in order to adapt it to the REACH Regulation	
Current status (UNCHANGED FROM LAST BOARD UPDATE): This Directive was adopted on 18 December 2006, with transposition required by 31 May 2008. The Directive is due to be transposed in two parts. The majority of the requirements of the Directive will be included in the REACH Enforcement Regulations, which are expected to be laid before Parliament by December this year. The remaining requirements will be transposed through amendments to CHIP, which will be made in relation to the GHS Regulation; this is likely to be in Spring 2009. As transposition has not yet taken place, the UK is currently subject to infraction proceedings on this Directive.	
Lead Department HSE contact	HSE SCS Lead – Steve Coldrick Policy Lead – Robin Foster, International Chemicals Unit, 020 7717 6990, robin.foster@hse.gsi.gov.uk SCS Lawyer – Stephen Amos

Identification and Traceability of Explosives for Civil Uses Directive (2008/43/EC)**Current status (UNCHANGED FROM LAST BOARD UPDATE):**

This Directive was adopted on 4 April 2008 with transposition required by 5 April 2009. Options for transposing the Directive are currently being worked up and will be presented to the Board for consideration and clearance.

Lead Department**HSE****HSE contact**

SCS Lead – Les Philpott

Policy Lead – Graham Collins, Nuclear Safety Policy, 020 7717 6365, graham.collins@hse.gsi.gov.uk

SCS Lawyer – Caroline Croft

Dangerous Substances Directive (67/548/EEC) – 30th Adaptation to Technical Progress (ATP)**Current status (UNCHANGED FROM LAST BOARD UPDATE):**

This should be taken into GHS so there will be no need for the UK to implement the 30th ATP. However enforcement regulations will be needed for GHS.

Lead Department**HSE****HSE contact**

SCS Lead – Steve Coldrick

Policy Lead – Robin Foster, International Chemicals Unit, 0207 717 6990, robin.foster@hse.gsi.gov.uk

SCS Lawyer – Stephen Amos

Machinery Directive (2006/42/EC)**Current status (NEW DEVELOPMENTS):**

BERR implemented the UK Supply of Machinery (Safety) Regulations 2008 in June; these will come into force on 29 December 2009. The Commission has submitted a proposed amendment to the Directive to introduce environmental protection requirements for pesticides application machinery. The French presidency plan to hold a first Council WG meeting to discuss this on 3 December 2008.

Lead Department**BERR****HSE contact**

HSE SCS Lead – Dr Elizabeth Gibby

HSE Policy Lead – Phil Papard, STSU, 0161 952 8402, phil.papard@hse.gsi.gov.uk

SCS Lawyer – Caroline Croft

Services Directive (2006/123/EC)**Current status (UNCHANGED FROM LAST BOARD UPDATE):**

BERR is currently working on measures to implement the Directive in the UK.

Lead Department**BERR****HSE contact**

HSE SCS Lead – Jenny Eastabrook/Elizabeth Hodkinson

HSE Policy Lead – Kevin Walkin, Better Regulation Unit, 020 7717 6298, kevin.walkin@hse.gsi.gov.uk

SCS Lawyer – Stephen Amos

EC Regulation applying aspects of the New Regulatory Framework (New Approach) that set out the essential requirements which apply directly to all Member States concerning control of most non-food products supplied in the UK or elsewhere in the European Community (765/2008)**Current status (NEW DEVELOPMENTS):**

Adopted at the June 2008 Agriculture Council. This EC Regulation sets out the requirement for Member States accreditation and market surveillance obligations relating to the marketing of products in the EU. The Regulation will apply from 1 January 2010. **BERR is at an early stage in considering what UK legislation changes may be required. This includes looking at if the new requirements for recall and withdrawal of defective products are adequately covered by existing UK legislation, including Section 6 of HSWA. A new Market Surveillance Coordinating Committee, including a HSE representative, has been set up by BERR to help implement this Regulation.**

Lead Department**BERR****HSE contact**

HSE SCS Lead – Dr Elizabeth Gibby

HSE Policy Lead – Phil Papard, STSU, 0161 952 8402, phil.papard@hse.gsi.gov.uk

SCS Lawyer – Caroline Croft

EC Regulation on Mutual Recognition of Goods in the European Union (764/2008)**Current status (UNCHANGED FROM LAST BOARD UPDATE):**

Adopted at the June 2008 Agriculture Council. This EC Regulation defines the rights and obligations of, on the one hand, national authorities and, on the other, enterprises wishing to sell in a Member State products lawfully marketed in another Member State, when the competent authorities intend to take restrictive measures about the product in accordance with national technical rules. The Regulation will apply from 13 May 2009.

Lead Department**BERR****HSE contact**

HSE SCS Lead – Dr Elizabeth Gibby

HSE Policy Lead – Phil Papard, STSU, 0161 952 8402, phil.papard@hse.gsi.gov.uk

SCS Lawyer – Caroline Croft

