

Health and Safety Executive Board		Paper No: MISC/08/12	
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Trim reference:			
Relationships between REACH, CHIP, and COSHH			

N.B. A glossary of abbreviations and terms is at Annex 1.

Purpose of this paper

1. To provide the HSE Board with an overview on the way the European REACH system will interact with several key pieces of UK legislation relating to chemicals, and the relevance of the forthcoming changes in classification and labelling principles. The Board is asked to note:
 - the European and wider context of REACH and CLP/GHS;
 - the role HSE plays in these harmonised systems, including the development of harmonised European REACH guidance; and
 - differences in scope and approach between REACH and existing UK systems.

Background

2. In the February 2008 meeting, the Board (then the HSC) asked for an explanation of the way REACH interacts with existing UK systems, and the way guidance is being made available for UK dutyholders.
3. REACH, the new European system for controlling risks associated with the use of industrial chemicals, constitutes a major shift in the way chemicals are approached in European Regulation.
4. By creating new duties on industry to investigate the characteristics of a large number of substances being sold in Europe, REACH will generate information about risks associated with chemical use. This can then be used in risk assessment at all levels. REACH also creates new mechanisms for controlling chemicals by both regulatory measures, and by leveraging market forces to drive some substances off the market.
5. REACH is a European system. It is a direct-acting Regulation, not a Directive, and is managed centrally by the new European Chemicals Agency (ECHA).
6. REACH aims to protect both human health and the environment, and will drive joined-up thinking about these complementary areas of risk control at the Community level.
7. Our appointment as UK Competent Authority provides us with an important role in influencing REACH decision-making, which takes place at the Community level.
8. Implementing REACH in the UK is the responsibility of Defra. Although REACH is direct-acting and does not need to be transposed into UK law, it is necessary for UK government to establish the means to manage domestic aspects of the regime and to enforce compliance.

9. Defra are drafting a statutory instrument, which will be consulted upon later in the year. HSE officials have worked closely with Defra in developing this SI and enforcement arrangements generally.
10. As Competent Authority, HSE play a key role in representing the UK and managing technical aspects of the Member State role. We will also play a central role in enforcing REACH, both as Competent Authority and as the UK health and safety regulator, with responsibility for aspects of the new system relating to occupational substance use.

The legislative impact of REACH and CLP

11. REACH repeals some parts of the existing European system for investigating and controlling chemical hazards, principally the Existing and New Substances regimes (known as ESR and NONS), and replaces these approaches. It repeals some other aspects of European regulation and adopts those approaches, principally the Safety Data Sheets (SDS) Directive and the suite of Marketing and Use (M&U) Directives. It leaves others in place, notably the Chemical Agents Directive (CAD), under which the Carcinogens and Mutagens Directive (CMD) was made.
12. HSE is the UK policy lead for the new European Classification, Labelling and Packaging (CLP) of Substances and Mixtures Regulation, which implements in the EU the United Nations-agreed Globally Harmonised System (GHS) for the classification and labelling of chemicals. CLP will repeal further aspects of European law, and will also result in further changes to UK laws. An update on CLP is the subject of Board paper MISC/08/11.
13. REACH was drafted taking CLP/GHS into account. Together, REACH and CLP will significantly consolidate European law relating to chemicals, and also allow the UK to simplify the body of domestic law in this area.
14. CHIP implements the SDS Directive (already repealed by REACH), and aspects of the Dangerous Substances Directive (DSD) and the Dangerous Preparations Directive (DPD), both of which will be repealed by CLP.
15. CHIP is being amended to reflect the REACH changes, and later will be completely repealed as a result of CLP. The initial amendments are being carried forward as part of the Defra enforcement SI, which will simultaneously establish the replacement enforcement powers under REACH.
16. COSHH implements CAD and CMD, neither of which is repealed by REACH or CLP. COSHH will subsequently remain substantially in place.
17. COSHH also implements several M&U restrictions on individual substances which are repealed by REACH and shifted into direct-acting European law. COSHH will therefore require minor amendments to reflect the shift into REACH of M&U restrictions. These amendments are also being carried forward as part of the Defra enforcement SI.
18. A graphic representation of these legislative relationships is shown at Annex 2.
19. Because COSHH is wider in scope than REACH (for example covering substances such as welding and rubber fumes, and wood and flour dust), and because it places valuable emphasis on employers' responsibility to assess and manage risks to workers, it is beneficial to the health and safety of UK workers that COSHH should

remain in place. REACH will complement COSHH by providing more information for dutyholders to use in assessing and controlling risk.

REACH guidance

20. In 2006, recognising the complexity of the new REACH proposals, the European Commission initiated a number of 'REACH Implementation Projects', or RIPs.
21. The RIPs have generated large volumes of guidance on specific REACH processes, which is made available by ECHA after discussion with Member State Competent Authorities, including HSE. The RIPs themselves have largely been undertaken by Community-wide 'Stakeholder Expert Groups' on which regulators, industry and other social partners have been represented.
22. In the future, new guidance and amendments to existing publications will be undertaken in a similar manner, managed at the Community level by ECHA, with HSE participating as UK Competent Authority.
23. Because REACH is a European Regulation, there is limited scope for Member States to publish individual guidance. It is important for dutyholders in the UK and throughout Europe that the law be interpreted and applied as consistently as possible, including the publication of guidance.
24. UK government communications activity on REACH, including publication of guidance, is Defra's responsibility as policy lead.
25. As Competent Authority, HSE have managed a programme of information provision where we have deemed this essential and within the scope of our role. We are publishing an increasing range of brief topic-specific leaflets explaining key concepts for readers with only a basic understanding of REACH (listed with an example at Annex 3). HSE also run a busy and well-received Helpdesk, manage the principal UK government REACH website, and have undertaken a wide-ranging series of regional and local awareness-raising sessions, as well as presenting at industry and other events.
26. When the full range of UK legislative changes required by REACH and CLP and the effects of the new systems can be better understood, HSE will review existing guidance to reflect these changes and explain them to UK dutyholders, in the context of the harmonised guidance published at Community level. This will include an explanation for dutyholders of the relationship between REACH and COSHH, and minor amendments to *eCOSHH Essentials* to reflect the new nature of risk management information being passed down the supply chain.
27. Papers HSC/07/035 and HSC/08/013 discussed the role of HSE as REACH enforcer and Competent Authority, and the relationship between REACH and existing UK systems. They are attached at Annexes 4 and 5 for reference.

Consultation

28. Internal HSE.

Presentation

29. No immediate issues.

Costs and Benefits

30. Defra has previously published an RIA assessing the impact of REACH as a whole, which estimates the total cost of REACH to UK industry as £515m over the 11 year period during which REACH provisions enter into force. For occupational health, the RIA estimates that 0.4 to 1.5% reduction in non-asbestos cancer deaths would balance the costs to UK industry from REACH.

Financial/Resource Implications for HSE

31. Defra paid HSE £1.1m to deliver the Competent Authority for the first year, tied to a Business Plan establishing the delivery parameters for 2007/08. Similar arrangements are in place for 2008/09, with a figure of £1.5m to cover increasing activity. Defra and HSE have agreed that a PES baseline transfer will be actioned when activity levels are fully established.

32. HSE and local authority activity in supply-chain and end-use enforcement is outside the scope of this funding and will have to be addressed separately in considering the downstream enforcement of REACH alongside COSHH and other chemicals legislation. Practical enforcement of downstream requirements of REACH will not be a significant issue for some years following the first tranche of registration under REACH.

Other Implications

33. None.

Action / Next Steps

34. None, for information.

Paper Clearance

35. This paper was produced by Tim Harris and was cleared by Steve Coldrick and Geoffrey Podger on XX May 2008.

Annex 1

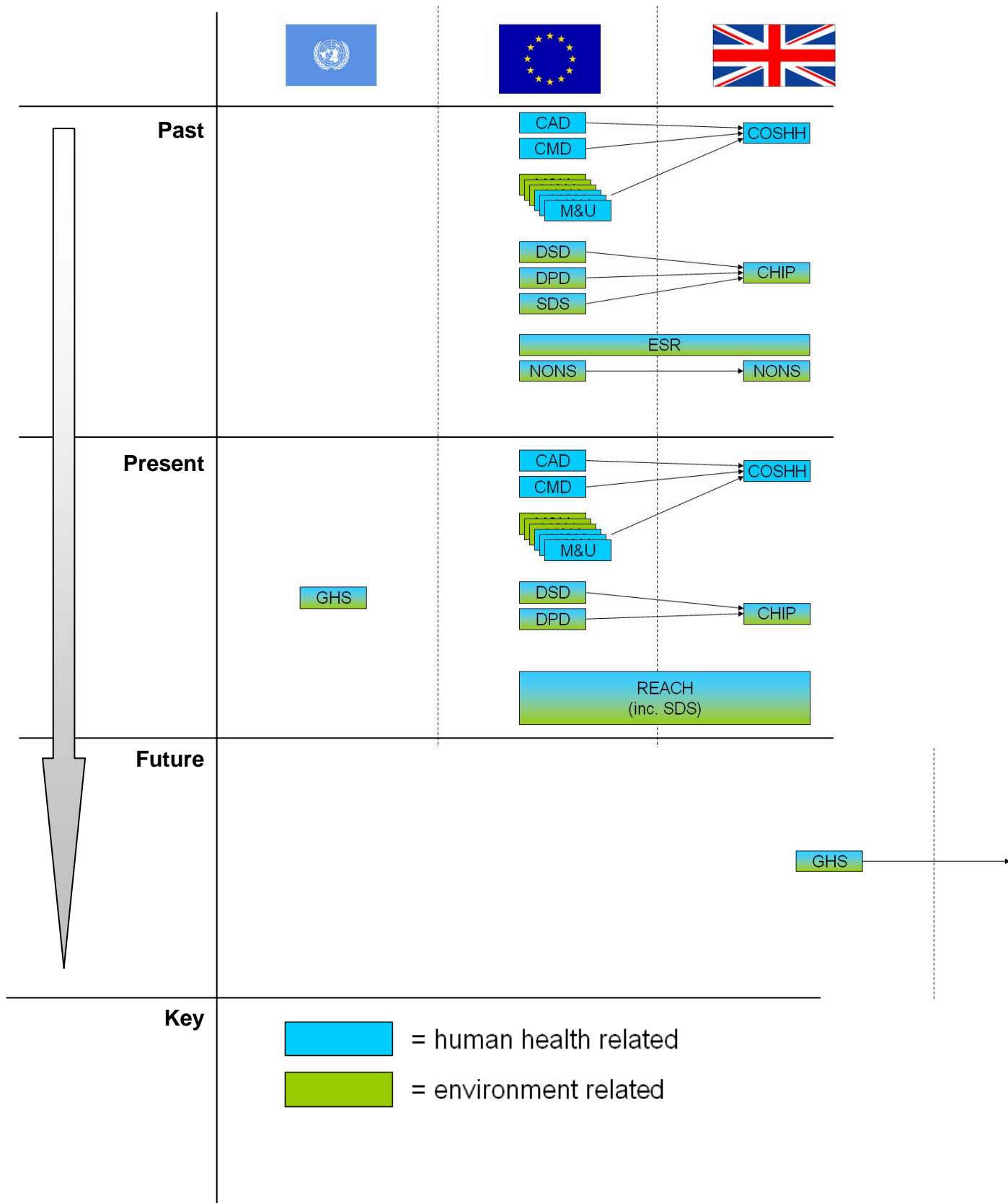
Abbreviations and terms

CAD	Chemical Agents Directive – short for Council Directive 98/24/EC on the protection of the health and safety of workers from the risks related to chemical agents at work. Implemented in the UK by COSHH, and not repealed by REACH or CLP.
CHIP	Chemicals (Hazard Information and Packaging for Supply) Regulations 2002 . Implementing in the UK the SDS Directive (repealed by REACH), DSD and DPD (will be repealed by CLP). Will be amended by the forthcoming Defra REACH Enforcement SI to account for the REACH repeal, and will be further repealed by HSE to account for forthcoming CLP repeals.
CLP	European Classification, Labelling and Packaging (CLP) of Substances and Mixtures Regulation (direct-acting European legislation), implementing the United Nations GHS. Currently under negotiation.
CMD	Carcinogens and Mutagens Directive . Short for Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work. Implemented in the UK by COSHH, and not repealed by REACH or CLP.
COSHH	Control of Substances Hazardous to Health Regulations, 2002 . Implementing in the UK the CAD, CMD, and various M&U restrictions.
DPD	European Dangerous Preparations Directive . Short for the Directive 1999/45/EC of the European Parliament and of the Council of 31 May 1999 concerning the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations. Implemented in the UK by CHIP. Will be repealed by CLP.
DSD	European Dangerous Substances Directive . Short for Council Directive 67/548/EEC of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances. Implemented in the UK by CHIP. Will be repealed by CLP.
ECHA	European Chemicals Agency , established by REACH and now based in Helsinki. The focal point for the REACH system, responsible for managing the registration, evaluation and authorisation procedures, and most aspects of the new regime, including publication of guidance.
ESR	European Existing Substances Regulation (direct-acting European legislation). Short for Council Regulation (EEC) No 793/93 of 23 March 1993 on the evaluation and control of the risks of existing substances. Partner regulation to NONS. Repealed by REACH.
GHS	United Nations Globally Harmonised System for the classification and labelling of chemicals . Being implemented in the EU by the CLP Regulation.

M&U	European Marketing & Use Directive. Short for Council Directive 76/769/EEC of 27 July 1976 on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations. Also refers to the individual restriction Directives on certain substances. Will be repealed by REACH on 1 June 2009.
NONS	short for the Notification of New Substance Regulations 1993, a UK SI implementing part of DSD. Partner regulation to ESR. As the relevant part of DSD is repealed by REACH, UK will repeal NONS in December 2008 as part of the forthcoming DEFRA REACH Enforcement SI.
REACH	Direct-acting European legislation – short for Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the registration, evaluation, authorisation and restriction of chemicals .
RIA	Regulatory Impact Assessment.
RIP	REACH Implementation Project. A number of projects commissioned by the European Commission to establish harmonised interpretations of the REACH legal text, generate guidance for REACH dutyholders, and establish procedures for REACH processes not established in law.
SDS Directive	European Safety Data Sheets Directive. Short for Commission Directive 91/155/EEC of 5 March 1991 defining and laying down the detailed arrangements for the system of specific information relating to dangerous preparations in implementation of Article 10 of Council Directive of 7 June 1988 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations [this latter Directive was replaced by DPD]. SDS Directive is implemented in the UK as Regulation 5 of the CHIP Regulations. SDS Directive is repealed by REACH, therefore CHIP Regulation 5 will be repealed by the forthcoming Defra REACH Enforcement SI.
SI	Statutory Instrument.

Annex 2

Graphic representation of relevant UN, European and UK OSH systems



Annex 3

List of CA drafted leaflets, with example (attached)

- REACH is here
- What REACH means for chemical manufacturers
- What REACH means for EU importers
- What REACH means for users of chemicals
- REACH – The Basics
- REACH – Timeline
- REACH Pre-registration
- REACH – Exemptions
- REACH and Articles
- The Distributor's role in REACH
- Creating an inventory for downstream users of chemicals including formulators
- Creating an inventory for importers
- REACH and SDS

Annex 4 **Paper HSC/07/035 (attached)**

Annex 5 **Paper HSC/08/013 (attached)**