

Health and Safety Executive Board		Paper No: HSE/09/68	
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Trim reference:	2009/272950		
Chief Executive's Report to the Board			

Downs Judicial Review – Court of Appeal Judgment

1. Defra is responsible for high-level UK pesticides policy, but HSE is responsible (under an agency agreement with Defra) for operational pesticides regulation, including establishing methodology for risk assessments. This case concerned both Defra and HSE's areas of responsibility, and Defra and HSE officials worked together on this case.
2. At the High Court on 15th December 2008, Mr Justice Collins ruled that the Defra Secretary of State was not in compliance with the European Commission Directive 91/414/EEC (Plant Protection Products) in that the UK regime does not provide the necessary protection for residents or bystanders near crop spraying operations. Three Grounds were put forward:
 - Ground 1 – the alleged absence of a risk assessment for residents who may be exposed to spray drift.
 - Ground 2 - the approach taken in the UK that there should be no 'serious' harm to health was alleged to be wrong in law.
 - Ground 3 - Defra's failure to follow the RCEP's conclusions was alleged to be erroneous.
3. Collins J ordered Defra to reconsider and as necessary amend its policy in accordance with the terms of the judgment.
4. Defra challenged the judgment because of the far reaching implications for the regulation of chemicals and the protection of human health and the environment. The application was heard at the Court of Appeal on 18-21 May 2009. The Court of Appeal Court handed down judgment on 7th July 2009 in which it found for Defra on all three grounds and also found for Defra on the claim that Ms Downs' rights under Article 8 of the European Convention on Human Rights (ECHR) were infringed.
5. Defra Ministers issued a statement welcoming the Court of Appeal's judgment that the Government has complied with its obligations under European law and renewed the Government's commitment to the protection of human health.

Launch of joint HSE LACORS Statement of commitment between HSE and local authority representative bodies

6. The joint statement (see Board paper HSE/09/63) was launched at the Local Government Association Annual Conference at Harrogate on 1st July. The launch was undertaken by Geoffrey Theobald, (LACORS Chairman), Derek Allen (LACORS Executive Director) and I. The leaflet has been further disseminated by inclusion within the subsequent edition of LG First, a magazine widely read by

LA chief executives and elected members. It has also been publicised via the HSE and LACORS websites. Copies have been distributed to FOD Partnership Managers for onward distribution amongst LA inspectors. LA inspectors are asked to use the document to assist in raising the profile of their health and safety service within their authorities. A Welsh translation is also available.

Publication of the Key Programme 3 (KP3) Review Report

7. HSE has completed a review of Industry's progress in addressing the issues raised by KP3 (which examined the maintenance of safety critical elements of offshore installations). The review report was launched by Judith Hackitt on the 14 July 2009. The review found that the offshore industry leadership responded well, and allocated considerable resource, to tackling the issues identified by KP3. The key findings are:
 - KP3, and its review, has raised awareness of the need for effective process safety management and major hazard risk controls;
 - Good progress has been made on fabric and general plant maintenance, although ageing infrastructure means that this will be an ongoing challenge;
 - Remedial work has taken place to rectify those matters identified by KP3 as giving serious cause for concern, such as fire doors and deluge systems;
 - Leadership in integrity management is now firmly on the industry's agenda and has been effectively promoted through the sector;
 - The industry is now more open to sharing asset integrity good practice; and
 - Although there is increasing workforce awareness of major hazard risks, the review has identified areas where improvement is required to strengthen safety culture.
8. The review report recognises that the work by Industry is not complete, and that continued effort is necessary to sustain the momentum (particularly in the current economic climate) so that installations are not allowed to degrade to the unacceptable levels identified by KP3.

Publication of fatality statistics for 2008/09

9. The provisional fatality statistics were released on 24 June showing that 180 workers were killed between 1 April 2008 and 31 March 2009, 22% lower than the average for the past five years (231) and the lowest on record. The rate of fatal injuries was 0.59 per 100,000 worker, 23% lower than the five-year average rate of 0.77. These figures provide evidence that the underlying downward trend apparent since the late 1990s is continuing, although it is important not to read too much into one year's statistics where the recession will inevitably have had some influence. They also show that compared with the latest data available (for the year 2006) for the four other leading industrial nations in Europe – Germany, France, Spain and Italy – Great Britain has the lowest rate of fatal injuries.

Secretary of State's Inquiry into the Underlying Causes of Construction Fatal Accidents

10. Rita Donaghy, Chair of the Inquiry, handed over her report to Lord McKenzie, Minister with responsibility for health and safety, on 23 June and met with the Rt Hon Yvette Cooper, Secretary of State for Work and Pensions, on 2 July. DWP

published the Inquiry report entitled 'One death is too Many' on 8 July. The report sets out 28 recommendations for improving safety in the construction industry.

11. DWP will now be consulting with HSE, the industry, trade unions and other relevant Government Departments, to fully consider the report and all its recommendations before responding later in the year.
12. In addition to widespread stakeholder consultation the Inquiry involved a phased programme of supporting work. Phase 1 delivered a review of previous HSE work and insight into underlying causes. Phase 2 involved a review of industry evidence and separate study of recent construction fatal accidents. All background reports and final peer reviews are available through DWP and HSE websites.

Collapse of tower crane at Chandlers Wharf building site, Liverpool on 6 July

13. At 12.05 hrs, 6 July 2009, a luffing jib tower crane collapsed onto the roof of an occupied apartment block at Chandlers Wharf, Liverpool. The crane driver sustained extensive injuries. The crane was erected on a project involving the construction of an 8-storey apartment block with underground parking.
14. Inspectors arrived on the scene immediately after the incident and a full investigation team is now in place, including mechanical and construction engineering specialists and HSL. After the initial search and rescue phase, conducted by the emergency services, emphasis turned to recovering the wreckage which involved setting up heavy lifting equipment. The main crane sections were lifted on Saturday 11 July following several days of high winds which had prevented activity. With the main crane structure removed Liverpool City Building Control Officers were able to assess the stability of the affected building and HSE's investigation could begin in earnest. Any lessons learnt will be promulgated as soon as possible.

Work and Pensions Committee - 4th Report, 2008-09 session: 'Workplace health and safety: follow-up report'

15. The Committee published this report on 12 July. It reflects their visit to HSE's Bootle HQ on 18 May, the oral evidence session on 10 June with the Chair and I and Rita Donaghy's report of her inquiry into construction fatalities. It is generally positive in tone in relation to HSE.
16. The report contains 21 recommendations indicating the Committee's intention to monitor progress in certain areas (e.g. whether the Health and Safety (Offences) Act is successful in stimulating higher penalties), supporting some of Rita Donaghy's recommendations and requesting to be kept updated with developments, for example, on progress with the establishment of the new arrangements for nuclear safety regulation.

HWWW Update

17. OSD Specialists located in Rose Court moved out to other HSE offices at the end of June. A third Voluntary Early Release exercise has been completed with 24 staff taking up this option. Most will leave HSE in September 2009. Other than those staff whose posts are scheduled to remain in Rose Court, this now leaves only a handful of staff in Rose Court who need to find alternative

employment and we continue to provide them with appropriate help and support. In addition 19 staff working away from HSE on loan to other Government Departments, but with Rose Court as their HSE location still, will receive ongoing support to help them secure futures away from Rose Court for when their loan agreements end.

GEOFFREY PODGER

Operations

Fatality Details

Following a recommendation made by the Information Commissioner, HSE extended its policy to include the names of the deceased and additional details on these fatal incidents on our webpages. Accordingly, since 1 April 2009, the names of the deceased plus additional details may be viewed at:

<http://www.hse.gov.uk/foi/fatalities/in-year-names.htm>.

To ensure that details are not released prior to inquest, HSE delays publication until at least one month from the date of notification to HSE has elapsed. Occasionally owing to a period of latency between an accident being reported and the death of the injured person, details of incidents that occurred prior to the current reporting period may be included in the statistics.

Since the last update to the HSE Board, 20 fatal accidents reported to HSE under RIDDOR were published to HSE's website, please see [Annex 2](#) for details.

Significant Prosecutions for June 2009

- [A Sussex bus company](#) was fined £100,000 plus £135,000 costs, and its Managing Director fined £5,000 plus £5,000 costs when an employee was crushed between two vehicles and fatally injured.
- [An East London based construction company](#) was fined £160,000 plus £21,698 costs when an employee was struck and killed by a reversing vehicle.
- [A Warrington plastics company](#) was fined £150,000 plus £24,323 costs and a Manchester waster treatment company fined £50,000 plus £41,073 costs when a sub-contractor was crushed by a poorly maintained telescopic forklift truck.
- [A Scottish construction company](#) was fined £5000 and one of its directors fined £4000 when an employee fell from height and was fatally injured.
- [The owners of a Scottish farm](#) were fined £6,650 when an employee who was not wearing protective headgear sustained fatal head injuries after falling from an all terrain vehicle.
- [A Staffordshire plumber](#) was jailed for 84 days for carrying out sub-standard gas work without CORGI registration.
- [A London construction company](#) was fined £15,000 plus £13,540 costs sustained severe multiple leg injuries when he was reversed over by a forklift truck.
- [A Manchester based pet bedding company](#) was fined £13,300 plus £8655 costs at Boston Magistrates' Court when an employee sustained severe multiple injuries after falling into a shredder.
- [A London construction company](#) was fined £18,000 plus £2796 costs and ordered to pay £5000 to a carpenter who fell from height sustaining a number of thoracic injuries.

- [A County Durham automotive parts company](#) was fined £14,000 plus £3776 costs when an employee's hand became entangled in unguarded milling machinery.
- [Heathrow Airport](#) was fined £10,000 plus £3130 costs when a contractor sustained serious leg injuries after falling from height.

Myth of the Month July 2009 – Health and safety is a threat to village fetes

Health and safety has been wrongly blamed for the cancellation of a lot of fun activities. Proportionate and fit-for-purpose risk assessments can ensure that things go smoothly.

FOI Requests made to HSE

There were 544 FOI requests during June.

Events, Campaigns and Publications

Strategy

- The successful media launch took place on 3 June.

June Podcast

- The Chair introduced the HSE's new Strategy.
- The head of offshore health and safety spoke about the industry.
- Infoline outlined some surprising and frequently asked questions.

Website & Guidance

- The new rebranded HSE website was launched
- New workplace temperature website launched
- Exemplar set of CoSHH risk assessments for various industries has been published
- Guidance published on:
 - Petrol fire and explosion risk
 - Conduction inspections of HM Prisons

Parliamentary Business

There were 12 PQs during June.

In-year work-related deaths reported to HSE

HSE's internet publication is the collated picture of 'as reported' information on fatalities. It does not purport to be a formal statistical release. Subsequent investigation may determine that some are not reportable under RIDDOR, for example deaths due to natural causes. Other deaths shown here may have been caused by gas incidents in the home. In such cases these deaths will not be counted in our statistics for workplace fatal injuries. Provisional quarterly figures for workplace fatal injuries are available from our latest quarterly injury figures and validated figures and information will only be available on publication of the annual fatality statistics for Great Britain.

The following table is the first publication of the emerging picture for 2009/10 work-related deaths notified to HSE. It is taken from the latest "Names and details of fatalities" update published on HSE's website on 8 June 2009.

Incident Date	Deceased's Name	Age	Incident Description	Location
01/04/2009	David Stephenson	44	The deceased was struck by rigging equipment	-
06/04/2009	Robert McGill	35	The deceased fell from an elevated platform	Kilmarnock
07/04/2009	Bryn Evans	52	The deceased was crushed by a vehicle	Milton Keynes
22/04/2009	Rocco Carafalo	51	The deceased fell from a step ladder	London
30/04/2009	Christopher Woolley	58	The deceased fell from a trolley	Stafford
04/05/2009	James Kilpatrick Robertson Ferrier	53	The deceased fell from a ladder	Dunfermline
04/05/2009	Debbie Bishop	42	The deceased was found dead at home	Scarborough
07/05/2009	Simon Wood	39	The deceased was crushed by a vehicle	Barnsley
09/05/2009	John Jordan	56	The deceased fell from a ladder	Ilford Essex
10/05/2009	Danny Jewitt	45	The deceased fell from a window	Kent
11/05/2009	Maarten Pieter Den Heijer	31	The deceased died from oxygen deprivation in a confined space	Argyll and Bute
11/05/2009	Robert MacDonald	45	The deceased died from oxygen deprivation in a confined space	Argyll and Bute
12/05/2009	Erjon Hyseni	2	The deceased was hit by a junior roller coaster	London
14/05/2009	Satpal Singh	51	The deceased was struck by a vehicle	Wolverhampton
15/05/2009	Michael Jackson	63	The deceased fell from a platform	North Yorkshire
19/05/2009	Terence Gardiner	61	The mechanical hatch of a mixing machine closed, trapping the deceased.	Ipswich
23/05/2009	David Swinbank	63	The deceased fell from a roof	Stockton-on-Tees
24/05/2009	Ian Robson	44	The deceased was found lying next to a path	Acklington
26/05/2009	Kenneth Patrick Lannen	67	The deceased fell from a roof	Gomersall
28/05/2009	George Stokes	48	The deceased was struck by the moving arm of bale wrapping machine attached to tractor	Shifnal in Shropshire

ⁱ Third parties provide this information when notifying these incidents to HSE. We will verify its accuracy (e.g. the name and age of the deceased) when the incident is investigated and as more information becomes available. Although we may have done some validation of the notifier's information prior to publication on HSE's web pages we cannot guarantee the accuracy of all of the above details. All possible work-related fatalities are separately notified to the Coroner and the Coroners Court release the name of the deceased when they open the inquest. To ensure that this release has taken place, we do not publish this information until at least a month after the date of the reported incident.

UPDATE ON EU HEALTH AND SAFETY DOSSIERS

This annex to the Chief Executive's Report provides the Board with a monthly update on progress of 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 7227 3830 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 agreement. The European Commission has tendered for a contractor to undertake an impact assessment to help decide the next steps for the initiative.	
Lead Department HSE contact	HSE SCS Lead – Steve Coldrick Policy Lead – Robin Foster, Long Latency Health Risks Division, 020 7227 3814, robin.foster@hse.gsi.gov.uk SCS Lawyer – Navroza Ladha

SOCIAL DIALOGUE:

Initiative on Needlestick Injuries	
Current status (UNCHANGED FROM LAST BOARD UPDATE):	
The social partners in the public health sector met recently to finalise a collective agreement on how to work safely with needlesticks – this will now go to a plenary session of the partners. If the plenary approves the agreement, it will then go to the Council for approval as a directive.	
Lead Department HSE contact	HSE SCS Lead – Susan MacKenzie Policy Lead – Paul Logan, Specialised Industries Division, 0151 951 4767, paul.logan@hse.gsi.gov.uk SCS Lawyer – Navroza Ladha

PRE-PROPOSAL STAGE:

Proposed Directive on Musculoskeletal Disorders	
Current status (NEW DEVELOPMENTS): The European Commission (EC) provided a second draft directive text to a meeting of its Group of National Technical Experts on 19 June. The group reached no common position on what should be included in any technical annexes to the draft directive. Work also continues in a working party of the Advisory Committee on Safety and Health at Work on producing a draft opinion on the proposal. Recent information provided by the EC now suggests a delay until 2010 for a formal legislative proposal (originally EC officials hoped to have a draft directive adopted by Commissioners by December).	
Lead Department HSE contact	HSE SCS Lead – Peter Brown Policy Lead – Nick Snelham, Work Environment, Radiation and Gas Division, 0151 951 3691, nicholas.snelham@hse.gsi.gov.uk SCS Lawyer – Caroline Croft

Proposed amendment of Electromagnetic Fields Directive (2004/40/EC)	
Current status (NEW DEVELOPMENTS): FICETTI outlined its draft report on options for the delayed directive at the end of June. The European Commission is now considering the draft with the final report due in September. HSE officials are developing a Board paper, provisionally planned for October 2009, to seek agreement on an influencing strategy in light of what will be the report's then final recommendations.	
Lead Department HSE contact	HSE SCS Lead – Peter Brown Policy Lead – Matthew Penrose, Work Environment, Radiation and Gas Division, 0151 951 4909, matthew.penrose@hse.gsi.gov.uk SCS Lawyer – Navroza Ladha

Proposed “Omnibus Directive” to modify New Approach Directives in line with EC Regulation 768/200**Current status (UNCHANGED FROM LAST BOARD UPDATE):**

The EC will introduce a horizontal "Omnibus Directive" to bring all New Approach Directives that need minor modification in line with European Commission Regulation 768/2008 (this deals with the harmonisation of New Approach Supply Directives). A first draft of this proposed directive is expected during the first half of 2009.

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

HSE SCS Lead – Marcia Davies

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

HSE SCS Lawyer – Caroline Croft

Proposed revision of Seveso II Directive (96/82/EC)**Current status (NEW DEVELOPMENTS)**

The European Commission (EC) called an informal meeting on 3 July to consider suggestions for revising the directive put forward by Member States, including the UK. The meeting was positive and the EC committed itself to drafting a paper with suggestions for revisions for discussion at the Committee of Competent Authorities meeting in October. Two recommendations in the EC's Action Programme for reducing administrative burdens relate to the directive. The EC plans a stakeholders' consultation meeting in September.

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

SCS Lead – Peter Baker

Policy Lead – Sandra Ashcroft, Chemicals Industries Division, 0151 951 3531, sandra.ashcroft@hse.gsi.gov.uk

SCS Lawyer – Navroza Ladha

Proposed recast of Basic Safety Standards Directive (96/29/EURATOM)**Current status (NEW DEVELOPMENTS):**

A working party (WP) of the European Commission's Article 31 (A31) Group of Scientific Experts is currently considering a recast of the directive. The WP expects to produce a full report by late 2009. A legislative proposal is not likely until mid 2010. In the UK, three stakeholder-working groups (WG) are in place to help with preparing our position during the development of the proposal. HSE is leading the Occupational Exposures WG, the first meeting of which will take place on 7 July. The Department for Energy and Climate Change is leading the Public and Environmental Exposures WG, and the Health Protection Agency will lead the Medical Exposures WG.

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

SCS Lead – Peter Brown

Policy Lead – Kate Haire, Work Environment, Radiation and Gas Division, 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 European Commission has decided that a review of the directive will not take place until 2010.	
Lead Department HSE contact	BIS HSE SCS Lead – Marcia Davies HSE Policy Lead – Phil Papard, Operational Strategy Division, 0161 952 8402, phil.papard@hse.gsi.gov.uk HSE SCS Lawyer – Caroline Croft

UNDER NEGOTIATION:

Proposed EC Regulation concerning the placing on the market and use of biocidal products (replacing Directive 98/8/EC)	
Current status (NEW DEVELOPMENTS): The European Commission (EC) published a formal legislative proposal for a major review of the Biocidal Products Directive on 12 June. This proposes that an EC Regulation, which will be directly applicable in Member States (MS), will revise and replace the directive. The proposal identifies five policy areas for change: scope, product authorisation, data sharing, data requirements and fees. The Swedish Presidency is keen to make progress and has organised six negotiating meetings between July-December. The first of these, on 3 July, introduced the proposal and gave an opportunity for MSs to ask questions. Negotiations will begin in earnest at the second meeting on 20 July.	
Lead Department HSE contact	HSE SCS Lead – Steve Coldrick Policy Lead – Robin Foster, Long Latency Health Risks Division, 020 7227 3814, robin.foster@hse.gsi.gov.uk SCS Lawyer – Caroline Croft

Pregnant Workers Directive (92/85/EC) – introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding	
Current status (UNCHANGED FROM LAST UPDATE): The previous European Parliament (EP) voted to reject its Women’s Rights Committee report on the directive. It was referred back to the Committee for further work. This won’t be possible until the new EP meets in the Autumn. Negotiations in Council will continue under the Swedish Presidency.	
Lead Department HSE contact	BIS HSE SCS Lead – Peter Brown HSE Policy Lead – Marion Evans, Work Environment, Radiation and Gas Division, 020 7717 6428, marion.evans@hse.gsi.gov.uk HSE SCS Lawyer – Navroza Ladha

Proposed Directive on 3rd List of Indicative Occupational Exposure Limit Values (IOELVs)

Current status (NEW DEVELOPMENTS):

A Technical Progress Committee meeting of Member States took place on 31 March 2009. The meeting was inconclusive because of differences of opinion concerning one substance, with no vote taken. **The European Commission (EC) has since circulated a revised text for a vote by Member States by written procedure by 7 August. The EC has withdrawn the substance with concerns against it from the annex of the draft directive pending consideration of the results of an on-going study. Following the vote, the European Parliament will subject the dossier to scrutiny before adoption by the EC – we expect this towards the end of 2009. Member States will then have 2 years in which to implement the directive.**

Lead Department	HSE
HSE contact	SCS Lead – Steve Coldrick Policy Lead – Robin Foster, Long Latency Health Risks Division, 020 7227 3814, robin.foster@hse.gsi.gov.uk SCS Lawyer – Navroza Ladha

Proposed EC Regulation to replace Directive 91/414/EEC the on authorisation and marketing of pesticides

Current status (UNCHANGED FROM LAST BOARD UPDATE):

In January 2009, the European Parliament agreed a new regulation to replace Directive 91/414/EEC, which establishes a framework for the authorisation and marketing of plant protection products in the Community. It follows a second reading agreement reached with the Council in December. The regulation includes provisions to increase the level of protection given to human health, animal welfare and the environment. It also aims to speed up decision-making and provide clearer rules for the crop protection industry. The Council is expected to endorse the agreement in September. The new regulation will take effect some 18 months after publication in the Official Journal. HSE is developing detailed plans for implementing the regulation and will consult stakeholders on proposed measures, where appropriate.

Lead Department	DEFRA (Policy Lead) HSE (UK Competent Authority)
HSE contact	HSE SCS Lead – Dave Bench HSE Policy Lead – Mark Hawkins, Chemicals Regulation Directorate, 01904 455759, mark.hawkins@hse.gsi.gov.uk HSE SCS Lawyer – Caroline Croft

Proposed Directive on the sustainable use of pesticides

Current status ([UNCHANGED FROM LAST BOARD UPDATE](#)):

In January 2009, the European Parliament agreed a new directive on the sustainable use of pesticides, which establishes a framework for greater harmonisation of controls on the use of plant protection products in the Community. It follows a second reading agreement reached with the Council in December. The directive requires Member States to develop national action plans to reduce the risk associated with the use of pesticides and dependency on these chemicals. The directive goes on to list a number of measures that will populate the plans. These include provisions relating to: training of users, distributors and advisors; controls on sales; testing of application equipment; protection of watercourses, amenity and conservation areas; handling and storage; and use of integrated pest management approaches. The Council is expected to endorse the agreement in September. Member States will have 2 years from the date of publication in the Official Journal of the adopted directive to develop the necessary implementing legislation/administrative procedures (though there are a variety of implementation dates for the measures proposed extending up to 9 years beyond this).

Lead Department	DEFRA (Policy Lead) HSE (UK Competent Authority)
HSE contact	HSE SCS Lead – Dave Bench HSE Policy Lead – Adrian Dixon, Chemicals Regulation Directorate, 01904 455701, adrian.dixon@hse.gsi.gov.uk HSE SCS Lawyer – Caroline Croft

Proposed EC Regulation on pesticide statistics

Current status ([UNCHANGED FROM LAST BOARD UPDATE](#)):

The proposed regulation will require Member States to collect data on pesticides sales and use. The data will populate models developed under an associated European Union project to assess the risks that can arise from the use of pesticides. The former European Parliament (EP) failed to ratify the deal at its final April Plenary (as there were an insufficient number of members present in the chamber). We understand that responsibility for making progress on the dossier lies with the Council. The incoming Swedish Presidency has indicated that although it has yet to decide its priorities, it will be seeking an early meeting with the new EP to determine a way forward. Member States will have to begin supplying data from the 2011 calendar year onwards (though there are slightly different reporting arrangements for sales and usage data).

Lead Department	DEFRA (Policy Lead) HSE (UK Competent Authority)
HSE contact	HSE SCS Lead – Dave Bench HSE Policy Lead – Grant Stark, Chemicals Regulation Directorate, 01904 455983, grant.stark@hse.gsi.gov.uk HSE SCS Lawyer – Caroline Croft

Proposed EC Regulation amending Annex 1 to EC Regulation on the Export and Import of Dangerous Chemicals (689/2008)**Current status (UNCHANGED FROM LAST BOARD UPDATE):**

A meeting of Member States Designated National Authorities voted to approve this proposal on 29 April 2009. The European Parliament will subject the dossier to scrutiny before adoption by the European Commission – we expect this to happen towards the end of 2009. Annex I is to be reviewed at least annually with substances being proposed for inclusion in or deletion from the annex.

Lead Department	HSE
HSE contact	SCS Lead – Steve Coldrick Policy Lead – Robin Foster, Long Latency Health Risks Division, 020 7227 3814, robin.foster@hse.gsi.gov.uk SCS Lawyer – Navroza Ladha

EC Regulation on Classification, Labelling and Packaging of Substances and Mixtures (1272/2008) – 1st Adaptation to Technical Progress**Current status (UNCHANGED FROM LAST BOARD UPDATE):**

Member States agreed the 1st Adaptation to Technical Progress (ATP) of European Commission's (EC) Regulation on Classification, Labelling and Packaging on 25 March 2009 - this comprises both the 30th and 31st ATPs to the Dangerous Substances Directive. However, in December 2008, ETIME SA, a Turkish borate producer, issued proceedings against DWP seeking Judicial Review and referral from a British Court to the European Court of Justice (ECJ), challenging the classifications for borate substances that appear in the 30th ATP. This followed similar action initiated by the nickel industry against DWP in September 2008, seeking Judicial Review of the classification of certain nickel compounds also in the 30th ATP, and referral to the ECJ. On 6 May, Rio Tinto joined the action initiated by ETIME, in order to ensure the proper reflection of its interests. Rio Tinto is opposed to the re-classification of borate substances.

Lead Department	HSE
HSE contact	SCS Lead – Steve Coldrick Policy Lead – Robin Foster, Long latency Health Risks Division, 020 7227 3814, robin.foster@hse.gsi.gov.uk SCS Lawyer – Navroza Ladha

Proposed amendment of the Machinery Directive (2006/42/EC)**Current status (NEW DEVELOPMENTS):**

The European Commission submitted a proposed amendment to introduce environmental protection requirements for pesticides application machinery. The European Parliament agreed the text at first reading on 21-24 April. **A Jurists-Linguists meeting is set for the 9 July 2009.**

Lead Department	BIS
HSE contact	HSE SCS Lead – Marcia Davies HSE Policy Lead – Phil Papard, Operational Strategy Division, 0161 952 8402, phil.papard@hse.gsi.gov.uk HSE SCS Lawyer – Caroline Croft

UNDER IMPLEMENTATION:**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 (UNCHANGED FROM LAST BOARD UPDATE):**

The European Parliament agreed the proposal at first reading on 24 March 2009. It will enter into force 20 days after its publication in the Official Journal. Member States will be required to transpose the directive by 14 May 2010.

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

SCS Lead – Steve Coldrick

Policy Lead – Robin Foster, Long Latency Health Risks Division, 020 7717 6990, robin.foster@hse.gsi.gov.uk

SCS Lawyer – Caroline Croft

Directive Establishing a Community Framework for the Nuclear Safety of Nuclear Installations (2009/71/EURATOM)**Current status (NEW DEVELOPMENTS):**

The Council adopted the directive on 25 June 2009 with publication in the Official Journal on 2 July 2009 (the directive enters into force twenty days from that date). Member States are required to transpose the directive by 22 July 2011.

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

HSE SCS Lead – Mike Weightman

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

HSE SCS Lawyer – Caroline Croft

Artificial Optical Radiation Directive (2006/25/EC)**Current status (NEW DEVELOPMENTS):**

The transposition deadline for this directive is 27 April 2010. The HSE Board agreed a transposition strategy at its 23 June meeting. Public consultation is, subject to Board approval, scheduled for the autumn.

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

SCS Lead – Peter Brown

Policy Lead – Matthew Penrose, Work Environment, Radiation and Gas Division, 0151 951 4909,

matthew.penrose@hse.gsi.gov.uk

SCS Lawyer – Navroza Ladha

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, on behalf of the UK, are working with other Member States, the European Commission (EC) and key stakeholders in a number of committees and other groups to complete the REACH framework and establish the working principles for the regulation. Key recent developments include:

- On 1 June 2009, Annex XVII to the REACH Regulation replaced the existing Marketing and Use Restrictions on substances, including the restrictions on asbestos. A revised text, adopted in February, enables us to continue our existing approach to regulating asbestos, ensuring that, where work involving asbestos is undertaken, protection of workers, the public and the environment is properly controlled, and that necessary trade in objects potentially containing asbestos (such as real estate) can be allowed to continue. COLA advised that legislation would be necessary to do this. DEFRA has agreed to carry forward the necessary statutory amendment, which covers both work-related and wider asbestos issues and so requires the co-operation of HSE and other interested central and devolved government bodies.
- REACH also replaced the old Safety Data Sheets Directive. Annex II to the REACH Regulation sets out requirements for the content of Safety Data Sheets. The EC has launched a review of Annex II – principally to reflect the changes required to bring Safety Data Sheets in line with EC's Classification, Labelling and Packaging Regulation (and its UN equivalent legislation), but also to resolve drafting issues in REACH itself. HSE is leading on this for the UK.

Lead Department	DEFRA (Policy Lead) HSE (UK Competent Authority)
HSE contact	HSE SCS Lead – Steve Coldrick HSE Policy Lead – Robin Foster, Long Latency Health Risks Division, 020 7227 3814, robin.foster@hse.gsi.gov.uk HSE SCS Lawyer – Navroza Ladha

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 (NEW DEVELOPMENTS):

Transposition of the directive was required by 31 May 2008. The UK implemented the substantive parts of the directive on 1 December 2008 through the REACH Enforcement Regulations 2008. Transposition of the remaining requirements occurred through amendments to the HSE Approved Classification and Labelling Guide, given legal effect by the Chemicals (Hazard Information and Packaging for Supply) Regulations 2009. Northern Ireland has now completed transposition. The UK has notified the European Commission (EC) that it has completed all its transposition measures, with the expectation that the EC will close the infringement proceeding against us.

Lead Department	HSE
HSE contact	SCS Lead – Steve Coldrick Policy Lead – Robin Foster, Long Latency Health Divisions, 020 7227 3814, robin.foster@hse.gsi.gov.uk SCS Lawyer – Navroza Ladha

Decision on restrictions on marketing and use of dichloromethane (455/2009/EC)	
Current status (UNCHANGED FROM LAST BOARD UPDATE): The Council adopted the decision on 23 April. HSE is currently looking at the legislative measures that will be necessary to benefit from the derogation for professional use and is in contact with manufacturers and producers of dichloromethane based paint stripper about this.	
Lead Department HSE contact	HSE SCS Lead – Steve Coldrick Policy Lead – Robin Foster, Long Latency Health Risks Division, 020 7227 3814, robin.foster@hse.gsi.gov.uk SCS Lawyer – Navroza Ladha

Identification and Traceability of Explosives for Civil Uses Directive (2008/43/EC)	
Current status (UNCHANGED FROM LAST BOARD UPDATE): Transposition of the directive was required by 5 April 2009. The UK expects to complete transposition in Great Britain by January 2010, with Northern Ireland to follow shortly after.	
Lead Department HSE contact	HSE SCS Lead – Susan MacKenzie Policy Lead – David Pascoe, Specialised Industries Division, 0151 951 4241, david.pascoe@hse.gsi.gov.uk SCS Lawyer – Caroline Croft

Services Directive (2006/123/EC)	
Current status (NEW DEVELOPMENTS): The Department for Business, Innovation and Skills (BIS) consultation on draft regulations closed on 9 June 2009. BIS is currently considering the responses received and will be putting revised regulations before Parliament for debate in the autumn. Development of the UK Point of Single Contact (PSC) is continuing. A short survey commissioned by the European Commission indicated that 25 member states have started building their own points of contact.	
Lead Department HSE contact	BIS HSE SCS Lead – Jenny Eastabrook/Elizabeth Hodkinson HSE Policy Lead – Kevin Walkin, Strategic Interventions Division, 020 7227 3831, kevin.walkin@hse.gsi.gov.uk HSE SCS Lawyer – Navroza Ladha

EC Regulation on Accreditation and Market Surveillance (RAMS) (765/2008)**Current status (NEW DEVELOPMENTS):**

The regulation sets accreditation and market surveillance obligations relating to the marketing of products in the European Union. The regulation applies from 1 January 2010. Following agreement between HSE and the Department for Business, Innovation and Skills (BIS) on the existing gaps in enforcement powers in existing UK legislation to meet the requirements of RAMS, BIS wrote to HSE asking if it should introduce legislation to give us and other authorities these powers. They also asked HSE if the Placing on the Market and Supervision of Transfers of Explosives Regulations (POMSTER) 1993 should be included in the list of applicable legislation. **The SMT has agreed to accept the BIS offer and to include POMSTER as relevant legislation.**

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

HSE SCS Lead – Marcia Davies
HSE Policy Lead – Phil Papard, Operational Strategy Division, 0161 952 8402, phil.papard@hse.gsi.gov.uk
HSE SCS Lawyer – Caroline Croft

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

The 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 applied from 13 May 2009. We do not expect the regulation to affect significantly HSE's activities as the majority of work products already come under specific supply directives, but the full effects will take some time to become evident.

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

HSE SCS Lead – Marcia Davies
HSE Policy Lead – Phil Papard, Operational Strategy Division, 0161 952 8402, phil.papard@hse.gsi.gov.uk
HSE SCS Lawyer – Caroline Croft