

Health and Safety Executive Board		Paper No: HSE/09/55	
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Chief Executive's Report to the Board			

Strategy Launch

1. The new strategy for the Health and Safety Executive, *Be part of the solution*, was unveiled to the media on 3 June at Central Hall, Westminster. The panel speakers were Judith Hackitt, Chair of HSE, Brendan Barber, General Secretary of the Trades Union Congress, Sir Steve Bullock, Chair of the Local Government Association human resources panel and then Secretary of State for Work and Pensions.
2. Following speeches there was a lively Q&A session and a short film created for the occasion was shown. It can be seen at www.hse.gov.uk/strategy. The launch of the new strategy has garnered widespread coverage. The first stage of redefining the national debate on health and safety has begun in trade, national, broadcast and online media.
3. A pledge to put health and safety at the heart of business was signed by the panel speakers and a number of other attendees. It is available to sign online and more than 460 organisations have signed up to date, including employers' and business leaders' organisations and some of Britain's best known companies.

Calman Commission Report

4. Following a lengthy inquiry, to which HSE furnished both written and oral evidence, the Calman Commission, that has been looking at devolution issues relating to Scotland, published its report '*Serving Scotland Better: Scotland and the United Kingdom in the 21st Century*' on 15 June. It recognised the efforts made by HSE to work within the Scottish context. The report cited a number of submissions made for a greater Scottish dimension to the implementation of health and safety law. The Commission also noted HSE's argument that full legislative devolution of health and safety would be a retrograde step, which could lead to a lack of consistency of approach within Great Britain, as well as unnecessary duplication of function and a waste of resources.
5. The report commended several high profile initiatives, such as the creation of a free safe and healthy working advisory service, the creation and development of the Partnership on Health and Safety in Scotland, as well as the co-location of HSE officials and those from the specialist health and safety division of the Crown Office and Procurator Fiscal Service to improve the effectiveness of investigation and prosecution in Scotland. The Commission acknowledged these as good examples of an agency exercising reserved powers taking into account the views of, and working with, those involved in the process.

6. The Commission has therefore recommended a closer relationship between HSE in Scotland and the Scottish Parliament be developed. Other recommendations are also relevant to HSE, for example, on earlier engagement with the Scottish Government on EU matters; a new power for the Scottish Parliament to seek to legislate on reserved matters where there is an interaction with devolved issues; and better training for reserved departments on devolution.
7. It should be noted that the Scottish Government propose to publish their conclusions from the national conversation on 30 November 2009.

Striking the Balance Between Operational and Health and Safety Duties in the Police Service

8. The association of Chief Police Officers (ACPO) agreed in June the statement developed with employer and employee representatives of the Police setting out how HSE views the responsibilities of the Police Service under the Health and Safety at Work Act in the particularly difficult operational circumstances which can occur. The high-level statement, to be launched shortly, will be further underpinned by detailed guidance to be developed in collaboration with police stakeholders and using the expertise of senior police officers.
9. A similar initiative with regard to the Fire and Rescue Service is also currently the subject of consultation.

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

10. Rita Donaghy, Chair of the Inquiry, is due to hand over her report to the Rt Hon Yvette Cooper, Secretary of State, and Lord McKenzie, Minister with responsibility for health and safety, towards the end of June 2009 and publication will be shortly thereafter.

Oil Industry Advisory Committee Conference

11. The Workforce Involvement Group of the Oil Industry Advisory Committee held a conference in Aberdeen on 11 June on the theme of engaging the offshore workforce on health and safety. The event was oversubscribed and attracted 170 offshore workers and safety representatives. Good practice and obstacles to workforce engagement were presented by a range of speakers from industry and trades unions. The picture presented was mixed - some very positive stories presented by safety reps alongside examples of some installation managers doing the minimum necessary. The progress report on KP3 (on asset integrity) will be presented in July and will contain recommendations on further steps to improve offshore worker engagement.

Oval Planning Inquiry

12. The Secretary of State's decision on the Oval Planning Inquiry was released on Tuesday 9 June. The decision was to grant planning permission for the new stand and hotel near the Kennington Gasholder station.
13. As the Planning Inquiry had been subject to a S. 321 Direction by the Secretary of State, some of the S of S's decision and the Inspector's recommendations were published in restricted format. [S. 321 of the Town and Country Planning

Act 1990 gives the Secretary of State for Communities and Local Government the power to direct that certain material in planning inquiries be closed to the public. In this case, certain material (written and oral evidence) is not open to the public for security reasons because HSE's evidence could have provided information about the likelihood and consequences of a major incident at the gasholders which could have been of use to terrorists]

14. HSE officials are currently studying the decision, which is quite lengthy. HSE's more considered response will be formulated in due course.

ICL Plastics Public Inquiry

15. The ICL Plastics Public Inquiry hearings formally closed on 13 November 2008. HSE has recently received a warning letter, in line with the Inquiries (Scotland) Rules 2007, which was formally responded to on 15 June. A warning letter must be issued by the Chairman of the Inquiry to any person (or organisation) if the final Inquiry report is to contain explicit criticism of them. It is believed individual HSE and ex-HSE employees have also received such letters.

16. It is now expected that replies to the warning letters will be considered by the Inquiry, who may amend the draft report in light of any representations received. The final report will then to be sent to Ministers.

Work & Pensions Select Committee

17. The Chair and I appeared before the Work and Pensions Select Committee on 10 June for a follow-up session on the 2007/08 inquiry into *'The role of the Health and Safety Commission and Health and Safety Executive in Regulating Workplace Health and Safety'*. Questioning concentrated on the new HSE strategy, the likely effects of the recent offences and penalties and corporate manslaughter legislation, worker involvement, developments in the construction industry and the new arrangements for regulating nuclear safety.

Sizewell Nuclear Incident

18. In January 2007, a pipe circulating water from the cooling ponds at Sizewell A nuclear power station failed, discharging some 40,000 gallons of low-level radioactive water.
19. A contractor spotted the leak after safety alarms had failed. The incident was notified to the Nuclear Installations Inspectorate, which investigated but did not to prosecute, but issued a direction to the operator to conduct a safety review, in line with HSE enforcement policy. Local campaigners obtained a copy of the inspector's report under the Freedom of Information Act and passed it to the media.
20. Mike Weightman, the HSE's Chief Inspector of Nuclear Installations, appeared on Channel 4 News to explain the response to the incident and HSE's enforcement actions.

HSE's New Website

21. The first instalment of [HSE's new website](#) went live in tandem with the Strategy launch. Feedback has been positive with unsolicited compliments from users on

ease of navigation and ability to find information.

22. The new design aims to create a better first impression (especially for those new to health and safety). The site is customised for different audiences (workers, businesses, industry sectors etc) – and a more logical structure and deeper links make it easier to find the guidance, videos, case studies, presentations etc. people need to play a part in improving health and safety.
23. Subscription services using email, text message, podcasting or newsfeeds help customers stay in touch with 'what's new'. Email is the most popular so far - with 252,103 subscriptions.

Construction Inspector Fixed Term Appointments

24. On the 15 June, 24 Health and Safety Inspectors (Construction) started in operational field offices in the North West (7), Midlands (6), Scotland (6) and London/South East (5). These inspectors have been recruited directly from the construction industry on a two year fixed term contract. They join with a wealth of construction knowledge and will initially undergo an intensive four month training programme focussing on the necessary legal and enforcement skills and knowledge relevant to the inspection role in Construction Division. These additional inspectors will allow us to review and modify our intervention methods with the more elusive sections of the construction industry. They will concentrate on preventative inspection of smaller sites and refurbishment projects and be involved in a number of focussed projects targeting specific trades, such as smaller roofing contractors and small developers, using inspection coupled with awareness events.

HSE's Annual Report and Accounts

25. The Audit Committee met on 10 June 2009 to consider, among other things, HSE's draft Accounts for 2008/09. The Committee received a report from the National Audit Office (NAO) of its audit, which provided an unqualified opinion that the Accounts represent a true and fair record with no material mis-statements. As well as testing the financial statements, the Committee also considered the Statement of Internal Control which reports on how we maintain a sound system of internal control that supports the achievement of HSE's policies, aims and objectives. I have now signed the Accounts, which are currently with the Comptroller and Auditor-General for final review and signature before they are laid in Parliament as part of HSE's Annual Report and Accounts.

HWWW Update

26. Treasury approved the Business Case for the transfer of the lease to the Crown Prosecution Service for Rose Court on 5 June 2009. Staff in the Westminster Office relocated to Sanctuary Buildings on 15 June 2009. Applications from staff for Voluntary Early Severance/Retirement on Compulsory terms have been assessed by the HSE moderation panel and DWP. The intention is to inform staff of the outcome by end June 2009.

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, 12 fatal accidents reported to HSE under RIDDOR were published to HSE's website, please see [Annex 2](#) for details.

Significant Prosecutions for May 2009

- [A Perthshire](#) fruit farmer was fined £10,800 after an employee was fatally electrocuted after contacting overhead power lines.
- [A Kent-based](#) construction company was fined £135,000 plus £18,313 costs when an employee died as a result of a fall from height.
- [A West Midlands](#) flooring manufacturer was fined £75,000 plus £23,721 costs when an employee suffered multiple injuries on unguarded machinery.
- [A Wrexham](#) motor company was fined £6,000 plus £4,000 costs when a customer's child fell from a car that had been raised on a service ramp.
- [The London](#) Borough of Havering was fined £10,000 plus £9,810 costs when an employee suffered burns after striking a buried power cable.
- [A Wolverhampton](#) waste disposal and recycling company was fined £8,000 plus £3,532 costs when an employee fell from height and sustained severe multiple injuries.
- [A Staffordshire](#) agricultural contractor was fined £12,000 plus £2,500 costs when an unsupported 1.8 tonne weight fell and crushed an employee's leg. The injury subsequently required amputation of the limb.

Myth of the Month June 2009 – You can't wear flip-flops to work

Health and safety law does not ban the wearing of flip-flop sandals in the workplace. However, given that slips, trips and falls account for 30% of workplace accidents, consideration should be given of the suitability of such footwear in environments containing slip and trip hazards.

FOI Requests made to HSE

There were 595 FOI requests during May.

Events, Campaigns and Publications

Chair's address to Safety and Health Expo

Speech focusing on the leadership strand of the new strategy.

Be safe on site, be safe on the road

Marcia Davies addressed RoSPA's Road Transport Conference on the estimated 2500 manual handling injuries, falls from height and accidents caused by falling objects result from poorly restrained loads shifting in transit.

Deaf Awareness Week 2009

Invitation to sign up for HSE's Noise at Work e-bulletin.

World Asthma Day

A number of new and revised HSE resources launched in support of various work-related respiratory conditions.

HSL Report on impact of SHADs on the arboriculture sector

This research was aimed at adapting and deploying a 'cultural barometer' to assist the HSE agriculture team in assessing the impact of an arboriculture client Safety and Health Awareness Day (SHAD) event.

Parliamentary Business

There were 4 PQs during May

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In-year work-related deaths reported to HSE

ⁱHSE'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
7/4/2009	Hafiz Shakoor	36	The deceased was trapped between lift and fixed support	Birmingham
10/4/2009	David Cole	37	The deceased died when electric ignition caused gas explosion	Yorkshire
20/4/2009	William Siggery	-	The deceased fell from a flyover	East & South East
20/4/2009	Peter Hunt	42	The deceased died in a care home	Kent
21/04/2009	Ellen Cornwall	77	The deceased was struck by a van	Edinburgh
21/04/2009	Donald O'Sullivan	67	The deceased was overcome by carbon monoxide	London
21/04/2009	Rosetta O'Sullivan	67	The deceased was overcome by carbon monoxide	London
26/04/2009	Rattan Singh Nagra	73	The deceased was overcome by carbon monoxide	Halesowen
26/04/2009	Rhona McCarthy	89	The deceased died in a fire at a nursing home	Norwich
28/04/2009	Richard Zebedee	45	The deceased was killed when accessing a running machine	Plymouth
28/04/2009	Martin Rice	57	The deceased was killed whilst unloading stone slabs	Great Baddow Essex
29/04/2009	Henry Thorpe	85	The deceased was crushed by a vehicle	Yorkshire

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 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 (<u>UNCHANGED FROM LAST BOARD UPDATE</u>)	
The second stage of social dialogue on potential amendments to the Carcinogens and Mutagens Directive ended without an 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 7717 6990, robin.foster@hse.gsi.gov.uk SCS Lawyer – Navroza Ladha

PRE-PROPOSAL STAGE:

Initiative on Needle Stick Injuries	
Current status (<u>NEW DEVELOPMENTS</u>):	
The social partners met recently to put the finishing touches to their collective agreement on how to work safely with needlesticks, which is going to a plenary session of the partners at the beginning of June. If the plenary approves the agreement, it will then go to the Council for approval. The agreement will then be issued as a Council 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

Proposed Directive on Musculoskeletal Disorders**Current status (UNCHANGED FROM LAST BOARD UPDATE):**

The European Commission (EC) provided its Advisory Committee on Safety and Health at Work (ACSH) Working Party (WP) with a draft directive text prior to its meeting on the 24 March. Officials have provided a view on this draft to the UK employer representative on the WP. The text contains reference to four physical risk factors for MSDs, and excludes references to psychosocial risk factors. At the 24 March WP meeting, the EC requested suggested amendments to its draft text during May with HSE having now provided written comments, in particular highlighting what we consider to be serious deficiencies in the evidence base used by the EC. The next WP meeting is scheduled for 3 June. The EC has also convened a Technical Experts Working Group to advise it on the development of two screening tools to be included in the annexes. UK is represented on this group by and it met for the first time on 30 April. At this meeting, EC officials suggested that they were aiming for final adoption of a draft directive by Commissioners by December. We expect the EC to publish its draft impact assessment for consultation sometime over the summer.

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

FICETTI (the contractor who is undertaking a revised impact assessment on different options for the Directive) have been continuing its work. Officials have met with two FICETTI representatives to discuss the changes to UK practices the Directive would cause. UK has also submitted a return to a questionnaire circulated by FICETTI. Throughout the work with FICETTI, officials have kept to the established line that the Directive offers nothing in terms of improving EMF regulation while possibly leading to greater costs for UK sectors. Work continues on an internal impact assessment to assess the potential implications on the UK of the 5 options being considered by FICETTI. The first draft of the FICETTI report is scheduled for June 2009, with the final version due September 2009. UK has also been actively engaging with government members of the EC's ACSH EMF WP on the future of the directive. A Board paper on the preferred UK option for development of the directive is proposed for Autumn 2009.

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

Proposed revision of Biocidal Products Directive (98/8/EC)	
Current status (NEW DEVELOPMENTS): In a combined report to the Council and the European Parliament on the implementation and progress of the BPD, the EC stated its intention to revise the BPD. The revision will take a two-tiered approach, a ‘mini-revision’ which involves necessary administrative changes to the legislation and the ‘main revision’, which will involve more significant changes. <i>We anticipate a formal proposal in mid-June.</i>	
Lead Department HSE contact	HSE 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

Proposed revision of Seveso II Directive (96/82/EC)	
Current status (UNCHANGED FROM LAST BOARD UPDATE) The European Commission’s (EC) technical working group has made good progress collecting information and advising on the impact of the new EC Regulation on the Classification, Labelling and Packaging of dangerous substances on Seveso. Two further meetings are likely before the EC considers the outcome and whether to revise the directive (any proposal is expected in 2010). Separately, the EC is reviewing the effectiveness of the directive through a number of studies. The first study, on the effectiveness of duties on operators, showed no real need for legislative change but identified inconsistent implementation throughout and within Member states. A second study, focusing on duties on public authorities, is underway. The results of the review may influence the EC proposal, but no significant changes are anticipated.	
Lead Department HSE contact	HSE 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 (UNCHANGED FROM LAST BOARD UPDATE):**

A Working Party (WP) of the European Commission's (EC) Article 31 (A31) Group of Scientific Experts is currently considering a recast of the directive. They are expected to produce a full report by late 2009. The Commission is not expected to produce a proposal until mid 2010. HSE submitted a cross government response to an EC consultation on naturally occurring radiation. Member State responses to this exercise will serve as background for the A31 WP recast.

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

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

SCS Lead – Marcia Davies

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

SCS Lawyer – Caroline Croft

UNDER NEGOTIATION:**Proposed Directive on Nuclear Safety****Current status (NEW DEVELOPMENTS):**

A proposal for a Council Directive on Nuclear Safety was adopted by the European Commission on 26 November 2008 and went to the Atomic Questions Working Group (AQWG) on the same day for information. **The AQWG, on 26 May, reached a consensus on the text. This has now gone to COREPER for agreement, and will then to the Council for formal adoption.**

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

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 was agreed by the European Parliament at First Reading on 24 March 2009. **The text is due to be finalised at the Jurists/Linguists meeting on 22 June, following which it will be published in the Official Journal.** It will enter into force 20 days after publication. Member States will be required to transpose the directive by 14 May 2010.

Lead Department HSE contact	HSE 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
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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 European Parliament (EP) voted last week 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 the Council will continue under the Swedish Presidency.

Lead Department HSE contact	BIS SCS Lead – Peter Brown Policy Lead – Marion Evans, Work Environment, Radiation and Gas Division, 020 7717 6428, marion.evans@hse.gsi.gov.uk SCS Lawyer – Navroza Ladha
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Proposed Directive on 3rd List of Indicative Occupational Exposure Limit Values (IOELVs)

Current status (UNCHANGED FROM LAST BOARD UPDATE):

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 and no vote was taken. The European Commission (EC) plans to re-circulate a revised text for a Member States’ vote by written procedure within the next few weeks. The dossier will then be subject to scrutiny by the European Parliament before adoption by the EC which is expected towards the end of 2009.

Lead Department HSE contact	HSE SCS Lead – Steve Coldrick Policy Lead – Robin Foster, Long Latency Health Risks Division, 020 7717 6990, robin.foster@hse.gsi.gov.uk SCS Lawyer – Navroza Ladha
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Proposed EC Regulation to replace Directive 91/414/EEC the on authorisation and marketing of pesticides

Current status (**NEW DEVELOPMENTS**):

In January 2009 the European Parliament adopted 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. HSE is developing detailed plans for implementing the new legislation and will consult stakeholders on proposed measures where appropriate.

Lead Department

DEFRA

HSE contact

HSE SCS Lead – Dave Bench

HSE Policy Lead – Mark Hawkins, Chemicals Regulation Directorate, 01904 455759, mark.hawkins@hse.gsi.gov.uk

SCS Lawyer – Caroline Croft

Proposed Directive on the sustainable use of pesticides

Current status (**NEW DEVELOPMENTS**):

In January 2009 the European Parliament adopted 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 which 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 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

HSE contact

HSE SCS Lead – Dave Bench

HSE Policy Lead – Adrian Dixon, Chemicals Regulation Directorate, 01904 455701, adrian.dixon@hse.gsi.gov.uk

SCS Lawyer – Caroline Croft

Proposed EC Regulation on pesticide statistics

Current status (**NEW DEVELOPMENTS**):

The proposed Regulation will require Member States to collect data on pesticides sales and use. The data will be used to populate models being developed under an associated European Union project to assess the risks which can arise from the use of pesticides. **The former European Parliament (EP) failed to formally ratify the deal at its last 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 formally 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

HSE contact

HSE SCS Lead – Dave Bench

HSE Policy Lead – Grant Stark, Chemicals Regulation Directorate, 01904 455983, grant.stark@hse.gsi.gov.uk

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 proposal will now be subject to the regulatory procedure with scrutiny before adoption by the EC which is expected towards the end of 2009. Annex I will 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 7717 6990, 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):

The EC published a proposal for a 1st Adaptation to Technical Progress (ATP) of EC's Classification, Labelling and Packaging (CLP) Regulation comprising the 30th and 31st ATPs to the Dangerous Substances Directive on 9 March with a proposal that these amendments come into direct effect on 1 December 2010. This would align with both the CLP and the REACH Regulations. Member States voted on and agreed the proposal on 25th March. The EP has not objected under the regulatory procedure with scrutiny. 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 which appear in the 30th ATP. This follows 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 again referral to the ECJ. On 6 May, HSE was alerted that Rio Tinto was joining the action initiated by ETIME, in order to ensure that its interests were properly reflected. Rio Tinto has opposed the re-classification of borate substances from the outset and has made numerous representations to UK and, more recently, to the EC.

Lead Department

BIS

HSE contact

HSE SCS Lead – Steve Coldrick

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

SCS Lawyer – Navroza Ladha

Proposed amendment of the Machinery Directive (2006/42/EC)

Current status (UNCHANGED FROM LAST BOARD UPDATE):

The Supply of Machinery (Safety) Regulations 2008 (published in June 2008), come into force on 29 December 2009. The EC has submitted a proposed amendment to introduce environmental protection requirements for pesticides application machinery. The compromise text had its first reading at the EP Plenary on 21-24 April and, with minor changes, it was passed.

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

SCS Lawyer – Caroline Croft

UNDER IMPLEMENTATION:

Artificial Optical Radiation Directive (2006/25/EC)	
Current status (UNCHANGED FROM LAST BOARD UPDATE): The transposition deadline for this Directive is 27 April 2010. Options are being looked at to transpose the Directive. A paper will be submitted to the 23 June Board on handling implementation and seeking a recommendation on the way forward.	
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

EC Regulation on Registration, Evaluation, Authorisation and Restriction of Chemical substances (REACH) (1907/2006)	
Current status (UNCHANGED FROM LAST BOARD UPDATE): The regulation came into force on 1 st 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 completed the REACH framework and establish the working principles for the Regulation. Key recent developments include review of annexes to the Regulation including developments: <ul style="list-style-type: none">• On 1st June 2009, Annex XVII to the REACH Regulation will replace 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. Although options for appropriate ways to implement this are being developed, COLA advise that legislation will be necessary. The 'Risk Communication Network' (RCN) was re-convened by the European Chemicals Agency (ECHA) to establish the principles ECHA should follow in writing guidance for Member States in this area, and to formally adopt the RCN mandate previously established by the working group and REACH Member State Competent Authorities, with strong UK contributions throughout.• HSE is working the European Commission and counterparts in other Member States to revise European Commission guidance on the EU Chemical Agents Directive to reflect the risk assessment requirements of REACH. In the UK, this work forms the basis for developing guidance documents for Trade Union safety representatives, and for employers, as well as an operational circular, on the relationship between REACH and COSHH.	
Lead Department HSE contact	DEFRA (Policy lead) HSE (UK Competent Authority) HSE SCS Lead – Steve Coldrick Policy Lead – Robin Foster, Long Latency Health Risks Division, 020 7717 6990, robin.foster@hse.gsi.gov.uk 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):

This Directive was adopted on 18 December 2006, with transposition required by 31 May 2008. The UK implemented the substantive parts of the Directive on 1 December 2008 through the REACH Enforcement Regulations 2008. The remaining requirements have been transposed through amendments in the new edition of the HSE Approved Classification and Labelling Guide. This was published on 6th April 2009 and is given legal effect by the Chemicals (Hazard Information and Packaging for Supply) Regulations 2009, which entered into force on the same day. The EC has been notified of our implementation. **Infraction proceedings continue as Northern Ireland has not yet completed transposition, however this is expected in June.**

Lead Department	HSE
HSE contact	SCS Lead – Steve Coldrick Policy Lead – Robin Foster, Long Latency Health Divisions, 020 7717 6990, robin.foster@hse.gsi.gov.uk SCS Lawyer – Navroza Ladha

Marketing and Use Directive (76/769/EEC) – Restrictions on marketing and use of Dichloromethane

Current status (NEW DEVELOPMENTS):

The Decision was adopted by the Council 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
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 – Navroza Ladha

Identification and Traceability of Explosives for Civil Uses Directive (2008/43/EC)

Current status (NEW DEVELOPMENTS):

This Directive was adopted on 4 April 2008 with transposition required by 5 April 2009. **A revised timetable for UK transposition is being developed and it is expected that transposition will be completed by December 2009 or in January 2010 in Great Britain, with Northern Ireland to follow shortly after.**

Lead Department	HSE
HSE contact	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) is currently consulting on draft regulations. These were published on the BIS website on 12 May 2009 and the four week consultation period closes on 9 June 2009.	
Lead Department	BIS
HSE contact	HSE SCS Lead – Jenny Eastabrook/Elizabeth Hodkinson HSE Policy Lead – Kevin Walkin, Strategic Interventions Division, 020 7717 6298, kevin.walkin@hse.gsi.gov.uk SCS Lawyer – Navroza Ladha

EC Regulation on Accreditation and Market Surveillance (RAMS) (765/2008)	
Current status (UNCHANGED FROM LAST BOARD UPDATE): This European Union (EU) Regulation sets accreditation and market surveillance obligations relating to the marketing of products in the EU. The Regulation applies from 1 January 2010. Following agreement between HSE and the then Department for Business, Enterprise and Regulatory Reform (BERR) on the existing gaps in enforcement powers in existing UK legislation to meet the requirements of RAMS, BERR wrote to HSE asking if they 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. An item has been placed on the July SMT meeting for this matter to be considered.	
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 SCS Lawyer – Caroline Croft

EC Regulation on Mutual Recognition of Goods in the European Union (764/2008)

Current status (**NEW DEVELOPMENTS**):

This European Union 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. HSE has been in consultation with the then Department for Business, Enterprise and Regulatory Reform now Department for Business, Innovation and Skills to identify any possible restrictive measures in legislation, that HSE is responsible for, that needs to be notified to the European Commission. We do not expect the regulation to significantly affect 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

SCS Lawyer – Caroline Croft

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.