

Health and Safety Executive Board		Paper No: HSE/09/48	
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<b>Chief Executive's Report to the Board</b>			

## Swine Flu

On 26 April 2009 central Government emergency response procedures were enacted in response to the rapid emergence of a previously unknown flu virus (the A/H1N1 virus, or swine flu) in Mexico, and the potential for this to trigger a worldwide flu pandemic.

The Department of Health (DH), working with the Health Protection Agency (HPA), is the lead Government Department for the UK response. HSE has supported their response by:

- publishing general advice, agreed by DH/HPA, to employers for the current pre-pandemic situation, and
- providing DH/HPA with, for example, legal and technical advice on the use of facemasks and respirators by health care and social care workers.

Cabinet Office is co-ordinating the overall Government response and HSE has contributed to this through attendance at Civil Contingencies Committee meetings.

Working with DH, HSE has in recent years developed agreed guidance for employers should a flu pandemic at some future stage be declared by the Government's Chief Medical Officer. This is available on the HSE website.

HSE has, working with DWP, considered its own business continuity arrangements in the event of a pandemic.

## Minister's Roundtable on accreditation of health and safety professionals

A second meeting of the Minister with HSE and the various health and safety professional bodies was held on Tuesday 19th May and was attended by the Chair and myself. The group is seeking to address the Select Committee recommendation that health and safety professionals should be accredited.

The group concluded that this was to a great extent an issue of confidence in the profession, but further research is needed to look at how the market segments and what the options are for different levels of advice. There was general agreement that all bodies need to be involved in progressing this work and that a network would be established to facilitate this. The intention is to address the problem incrementally and on a non-regulatory basis. The group agreed that work begun by the Institution of Occupational Safety and Health (IOSH) and the Chartered Institute of Environmental Health (CIEH) to carry out a scoping study for accreditation, funded by HSE, should be progressed and that HSE will lead a discussion on the possibilities for wider involvement.

## **Work & Pensions Select Committee**

Three members of the Work & Pensions Select Committee visited Redgrave Court on Monday 18 May. Terry Rooney (Chair), Harry Cohen and Tom Levitt toured the building and took the opportunity to speak with HSE staff during the tour and over lunch. The Committee also received updates on progress against the recommendations made in their 2008 report on issues such as construction, offshore interventions, performance and resource for inspection and the relocation to Bootle.

The Committee is due to visit the Olympic site on 9 June to view progress since their visit last year. A formal evidence session will be held on 10 June when the Chair and I will appear before the Committee.

## **Downs Judicial Review**

The Judicial Review against Defra, brought by Georgina Downs, concerns the Government's approach to the risk assessment of bystanders and residents to pesticide spraying. The High Court found against Defra in that certain aspects of UK pesticides policy failed to comply with its obligations under the relevant EC Directive.

This judgment has serious ramifications for UK pesticides policy and the Regulatory Authority's ability to fulfil its responsibilities and also raises wider issues. On the 12 January 2009, Defra filed an appeal against the ruling. The appeal hearing began on 18 May at the Court of Appeal and concluded on 20 May 2009. The judgment is awaited.

## **Strategy Launch**

The Board agreed the text of the strategy at its last meeting. Since then the design of the document has been agreed and it has gone to print. A cover letter from the Chair will accompany the document. Variants of this letter will be used for different stakeholder groupings to whom it will also be sent. Different aspects of the media strategy are being taken forward and are on track, including a pledge for signature by businesses and partner organisations on the importance of health and safety, a survey on public and business attitudes to health and safety and a short film of relevant case studies. The Chair and the Department for Work and Pensions Secretary of State will lead the launch event, together with the TUC General Secretary, Brendan Barber, Sir Stephen Bullock, from the Local Government Association, and industry representatives. Publicity materials post-launch will be made available via the HSE website.

## **HSE Exhibition in the House of Commons 15 to 18 June 2009**

HSE bid successfully this year to exhibit in the Upper Waiting Hall in the House of Commons. The graphics display will include material on the Strategy and campaigns: Shattered Lives (slips, trips and falls), Asbestos, the Hidden Killer (asbestos-related disease awareness and reduction) and Make the Promise (agriculture campaign to reduce farm accidents). HSE's Laboratory (HSL) will demonstrate its work through interactive displays. HSE staff will explain and discuss issues with MPs. The Chair will host a photo call followed by a small reception for exhibition staff and invited guests on 15 or 16 June, which Board members are welcome to attend.

## **Nuclear Directorate (ND) - Recruitment Update**

As a result of the 2008/09 ND recruitment activities (comprising both national campaigns and the appointment of 2 recruitment search consultant agencies specialising in the nuclear industry), 33 nuclear discipline specialists have been recruited, of whom 27 have already started work. The most recent recruitment campaign went live on 23 March 2009 with a closing date of 30 April 2009. The response to the campaign has been good. ND has received 316 applications against posts in 16 advertised disciplines from 283 applicants. To date, 53 interviews have been arranged. 238 applications have been sifted out with the remainder of the applications due to be processed by 20 May 2009. Interviews are taking place throughout May and June 2009, having commenced on 19th May.

## **Nuclear Directorate - Satellite Office Update**

One of the recommendations from the 2008 'Stone Review' into the UK's nuclear safety regulatory regime was that "...the possibility of satellite offices for members of the Nuclear Directorate elsewhere in the UK should be actively considered" in order to support ND's recruitment activities. Advice from specialist recruitment consultants, Nuclear Topic Leads and relevant chartered institutions (particularly in relation to those disciplines where successful recruitment had proved particularly challenging for ND) was used to identify suitable locations to maximise successful recruitment of Nuclear Installation Inspectors, taking account of other strategic factors. In October 2008, the Senior Management Team supported the development of two strategically sited ND satellite offices in London and Cheltenham, in addition to the main office in Bootle. The London satellite office has been established in Rose Court, for the time being. The Cheltenham Office will be located in St. James House, St James Square. Renovation work is currently underway and everything is on schedule for the office to be ready for occupation as of the 9th July 2009. The Cheltenham office will accommodate up to 35 ND staff, the majority of whom will be Nuclear Inspectors. The running costs of these additional arrangements are recoverable from industry.

## **HSE Structural Changes from 1 June**

With the establishment of the combined HSE Headquarters at Redgrave Court we will be carrying out some structural changes to take forward some of the 'How' elements of the How and Where We Work Programme. Firstly the 'sectors' (other than Construction which will remain part of Construction Division) will be brigaded into a new Operational Strategy Division working within Kevin Myers' command in his role of co-ordinating delivery of the new Strategy. This Division will also include the Local Authority Unit and will be led by Marcia Davies. The aim here is to further promote cross-working within the sectors and between them and the rest of HSE.

Marcia will report directly to a newly created Director post (effectively the post vacated by Giles Denham following his planned return to the Department of Health). Further details of this Directorate's structure and functions will be circulated in due course.

Secondly we shall be bringing together in the same work units policy and operational staff who are already working closely together in Redgrave Court. The intention is to strengthen our ability to deal with issues on a functional basis. The changes are as follows:

- Nuclear safety policy to ND (and then to new Statutory Corporation)
- Offshore, diving and pipelines safety policy to HID (OSD)
- COMAH and gas safety management policy to HID (CID and SID)
- Mines, quarries and explosives safety policy to HID (SID)
- Biological agents safety policy (including the implementation of the Callaghan Review) to HID (SID)

Finally, we will restructure the remainder of the present Policy Group into three divisions, under Jane Willis. Two of the current divisions – Disease Reduction (DRD) and Crosscutting Interventions (XCD) Divisions – will remain broadly as they are now, but with minor additional responsibilities. DRD will take on noise and vibration policy, as this fits well with existing interests in longer latency conditions. XCD will take on the crosscutting team dealing with civil contingency and major incident policies and procedures, which also has links with that Division's Resilience and Response Team in the Westminster Office.

The third division reporting to Jane will be comprised of the following work areas from the current Specific Interventions, Injury reduction and Health and Work Divisions:

- Domestic gas safety, utilities and miscellaneous interventions policy (including LPG)
- Non-ionising radiation policy
- Radiation policy (with workplace temperature and non-gas fuels)
- Slips, trips and falls from height
- Workplace transport
- Work on 'common health problems' (stress, MSD)
- Violence and aggression
- Health and safety management project (HSG 65)

None of these proposals involves any reduction in posts working on policy areas, apart from the saving of one Deputy Director post (SCS Payband 1) (and the recycling of one Director post). The Deputy Director post and its funding will be retained for possible redeployment elsewhere in HSE.

### **HWWW update**

We are still on course to vacate 5.5 floors of Rose Court by September 2009, retaining 1.5 floors for our London Operational Field Force. Those relatively few staff still remaining in Rose Court who do not have plans for their future have now been offered Voluntary Early Severance /Retirement on Compulsory terms. Applications will be processed during the course of May and June.

**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 web pages. Accordingly, since 1 April 2009, this information can 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 on 29 April 2009, 29 fatal accidents reported to HSE under RIDDOR were published to HSE's website.

### Significant Prosecutions for April 2009

- A senior partner of a Cumbrian auto recovery company was fined £100,000 plus £20,000 costs after an employee was fatally crushed when a machine toppled onto him.
- East Dunbartonshire Council was fined £13,500 after an employee was crushed and killed by a reversing waste recycling lorry.
- A Leicestershire property developer was fined £10,000 plus £7,500 court costs after an employee narrowly escaped injury resulting from the collapse of a building undergoing refurbishment.
- A Cleveland scaffolding company and Northumbrian engineering firm were respectively fined £27,000 plus £6,000 costs and £10,000 plus £3,000 costs at Sheffield Crown Court after a self-employed roofer fell from height and was injured.
- A Northamptonshire lift company was fined £2,000 plus £8,000 costs after an employee sustained severe injuries as a result of falling from height down a lift shaft.
- A Cardiff fabrication company was fined £30,000 plus £27,500 costs after an employee was severely injured when a machine toppled onto him.

### Myth of the Month May 2009 – Ice cream toppings have been banned for safety reasons

An ice cream parlour had been serving toppings to customers in separate containers to avoid spillages. However, simply clearing up spills as they occur will prevent this common cause of major injuries.

### FOI Requests made to HSE

There were 565 FOI requests during April.

### Events, Campaigns and Publications

#### April Podcast

Jeff Learnmann talked about the Gas Safe Register and the implications for gas engineers and consumers. News about changes to health and safety legislation, HSE and the Environment Agency re-launch the New Nuclear Power Stations website, and HSE revises

the Health and Safety Law Poster. HSE Infoline answer a frequently asked question “Can I work alone under health and safety law?”

### New Nuclear Build

Joint HSE-EA e-bulletin service announced, offering information on assessment of new nuclear power stations and potential host sites. Invitation to tender for two project management service providers.

### Health and Safety Law Poster

The new modern, eye-catching and easy to read poster was launched on 27 April.

### Falls from Vehicles Case Studies

Suite of real-life case studies published on HSE’s ‘Falls from Vehicles’ website. The case studies give examples of good practice from industry. They show how companies have tried to reduce injuries due to falls from vehicles through sensible management of health and safety risks in the workplace.

### British Occupational Hygiene Society: 2009 Conference

HSE’s Occupational Hygiene Portfolio Holder and HSE Board Member, Sayeed Khan, attended this three-day conference at Eastbourne and contributed to the following:

- Competency
- Workshops on COSHH in the NHS; occupational exposure; asbestos & local exhaust ventilation
- Isocyanates in vehicle motor repair
- Discussions on physical agents; carcinogens & asthmagens; REACH; communicating hazards; offshore drilling muds; aerosols and measurement methods

### RoSPA: Health & Safety in Waste Management event

HSE’s Head of Manufacturing gave the opening keynote address.

### International Workers’ Memorial Day

This took place on 28 April; on the same day the Government launched a consultation with the view of having official recognition of the event.

## **Parliamentary Business**

There were 10 PQs during April.

## 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](mailto:stephen.taylor@hse.gsi.ov.uk))

### ON THE HORIZON:

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

## PRE-PROPOSAL STAGE:

<b>Initiative on Needle Stick Injuries</b>	
<b>Current status (UNCHANGED FROM LAST BOARD UPDATE):</b> The EC has suspended its work on bringing forward an amendment to the Biological Agents Directive addressing needlestick injuries in healthcare workers as the social partners (employee and employer representatives) at a European level in the public hospital sector have formally agreed to start negotiations on a social partners' agreement. This work will commence in January 2009. The Commission may still bring forward a proposal if the social partners fail to reach agreement.	
<b>Lead Department</b> <b>HSE contact</b>	<b>HSE</b> SCS Lead – Les Philpott Policy Lead – Kate Haire, Specific Interventions, 0151 951 3792, <a href="mailto:kate.haire@hse.gsi.gov.uk">kate.haire@hse.gsi.gov.uk</a> SCS Lawyer – Navroza Ladha

<b>Proposed Directive on Musculoskeletal Disorders</b>	
<b>Current status (NEW DEVELOPMENTS):</b> The 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 09 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 09. We expect the EC to publish its draft impact assessment for consultation sometime over the summer.	
<b>Lead Department</b> <b>HSE contact</b>	<b>HSE</b> SCS Lead – Peter Brown Policy Lead – Nick Snelham, Health Policy Development Team, 0151 951 3691, <a href="mailto:nicholas.snelham@hse.gsi.gov.uk">nicholas.snelham@hse.gsi.gov.uk</a> SCS Lawyer – Caroline Croft

**Proposed amendment of Electromagnetic Fields Directive (2004/40/EC)****Current status (NEW DEVELOPMENTS):**

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 FICHETTI 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 HSE Board paper on the preferred UK option for development of the directive is proposed for Autumn 2009.**

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

SCS Lead – Les Philpott

Policy Lead – Matthew Penrose, Specific Interventions, 0151 951 4909, [matthew.penrose@hse.gsi.gov.uk](mailto: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. BERR will be leading negotiations and will liaise with HSE via the Market Surveillance Coordination Committee.

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

SCS Lead – Marcia Davies

HSE Policy Lead – Phil Papard, Safety Unit, 0161 952 8402, [phil.papard@hse.gsi.gov.uk](mailto:phil.papard@hse.gsi.gov.uk)

SCS Lawyer – Caroline Croft

**Proposed revision of Biocidal Products Directive (98/8/EC)****Current status (UNCHANGED FROM LAST BOARD UPDATE):**

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. We don't anticipate a proposal until 2010.

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

SCS Lead – Steve Coldrick

Policy Lead – Robin Foster, International Chemicals Unit, 020 7717 6990, [robin.foster@hse.gsi.gov.uk](mailto:robin.foster@hse.gsi.gov.uk)

SCS Lawyer – Caroline Croft

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

The 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 – Les Philpott

Policy Lead – Sandra Ashcroft, Specific Interventions, 0151 951 3531, [sandra.ashcroft@hse.gsi.gov.uk](mailto: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 WP of the EC's Article 31 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 contact****HSE**

SCS Lead – Les Philpott

Policy Lead – Kate Haire, Specific Interventions, 0151 951 3792, [kate.haire@hse.gsi.gov.uk](mailto:kate.haire@hse.gsi.gov.uk)

SCS Lawyer – Caroline Croft

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

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

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

SCS Lead – Marcia Davies

HSE Policy Lead – Phil Papard, Safety Unit, 0161 952 8402, [phil.papard@hse.gsi.gov.uk](mailto:phil.papard@hse.gsi.gov.uk)

SCS Lawyer – Caroline Croft

## UNDER NEGOTIATION:

Marketing and Use Directive (76/769/EEC) – Restrictions on marketing and use of Dichloromethane	
<b>Current status (NEW DEVELOPMENTS):</b> In February 2008 the EC published a proposal to restrict the marketing and use of Dichloromethane (DCM)-based paint-strippers. The last Council Working Party meeting took place on 27 November and the finalised text of the Decision was considered by COREPER in December 2008. The outcome of negotiations is a compromise position. We secured wide spread support for the view that licensing was an inappropriate control measure. The result was a provision for Member States to derogate from a ban on professional use, subject to appropriate conditions, including training. In addition, HSE officials secured substantive changes to requirements on industrial use, where existing standards are often poor. The dossier was voted on and agreed by the European Parliament in its plenary session on 14 <sup>th</sup> January 2009, and a final text agreed by the Jurists-Linguists on 27 March. <b>The final legislative act was adopted by the Council on 23 April.</b>	
<b>Lead Department</b> <b>HSE contact</b>	<b>HSE</b> SCS Lead – Steve Coldrick Policy Lead – Robin Foster, International Chemicals Unit, 020 7717 6990, <a href="mailto:robin.foster@hse.gsi.gov.uk">robin.foster@hse.gsi.gov.uk</a> SCS Lawyer – Navroza Ladha

Proposed Directive on Nuclear Safety	
<b>Current status (NEW DEVELOPMENTS):</b> The Council Directive on Nuclear Safety (revised and updated from the original draft) was adopted by the Commission on 26 November 2008 and went to the Atomic Questions Working Group (AQWG) on the same day for information. A revised draft is being considered under the Czech Presidency, starting with the AQWG on 28 January 2009. <b>The AQWG has now reached some consensus on the Articles (although not a finally agreed text), and the discussion has moved on to consideration of the recitals.</b>	
<b>Lead Department</b> <b>HSE contact</b>	<b>DECC (Policy lead) HSE (UK Competent Authority)</b> SCS Lead – Mike Weightman Policy Lead – Peter Addison, Nuclear Directorate, 0151 951 3550, <a href="mailto:peter.addison@hse.gsi.gov.uk">peter.addison@hse.gsi.gov.uk</a> 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 (UNCHANGED FROM LAST BOARD UPDATE):**

The proposal was agreed by the European Parliament at First Reading on 24 March 2009. It is currently awaiting Council scrutiny following which it will be translated into Community languages (25 days) before being 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.

<b>Lead Department</b> <b>HSE contact</b>	<b>HSE</b> SCS Lead – Steve Coldrick Policy Lead – Robin Foster, International Chemicals Unit, 020 7717 6990, <a href="mailto:robin.foster@hse.gsi.gov.uk">robin.foster@hse.gsi.gov.uk</a> 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 (NEW DEVELOPMENTS):**

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 council will continue under the Swedish Presidency.

<b>Lead Department</b> <b>HSE contact</b>	<b>BERR</b> SCS Lead – Les Philpott Policy Lead – Marion Evans, Specific Interventions Division, 020 7717 6428, <a href="mailto:marion.evans@hse.gsi.gov.uk">marion.evans@hse.gsi.gov.uk</a> SCS Lawyer – Navroza Ladha
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**Proposed Directive on 3<sup>rd</sup> 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 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 EP before adoption by the EC which is expected towards the end of 2009.

<b>Lead Department</b> <b>HSE contact</b>	<b>HSE</b> SCS Lead – Steve Coldrick Policy Lead – Robin Foster, International Chemicals Unit, 020 7717 6990, <a href="mailto:robin.foster@hse.gsi.gov.uk">robin.foster@hse.gsi.gov.uk</a> 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 (**UNCHANGED FROM LAST BOARD UPDATE**):

**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 May or June. 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](mailto:mark.hawkins@hse.gsi.gov.uk)

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 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. 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](mailto:adrian.dixon@hse.gsi.gov.uk)

SCS Lawyer – Caroline Croft

Proposed EC Regulation on pesticide statistics	
Current status ( <b>NEW DEVELOPMENTS</b> ): 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 EU project to assess the risks which can arise from the use of pesticides. <b>The EP was expected to ratify the deal at its April Plenary – however this did not happen (we understand this was because there were an insufficient number of MEPs present in the chamber). It is not yet clear what the implications of this are and are awaiting advice.</b> 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 HSE contact	<b>DEFRA</b> HSE SCS Lead – Dave Bench HSE Policy Lead – Grant Stark, Chemicals Regulation Directorate, 01904 455983, <a href="mailto:grant.stark@hse.gsi.gov.uk">grant.stark@hse.gsi.gov.uk</a> SCS Lawyer – Caroline Croft

EC Regulation on Classification, Labelling and Packaging of Substances and Mixtures (1272/2008) – 1 <sup>st</sup> Adaptation to Technical Progress	
Current status ( <b>NEW DEVELOPMENTS</b> ): 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 25 <sup>th</sup> March. <b>The EP has not objected under the regulatory procedure with scrutiny.</b> 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. <b>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.</b>	
Lead Department HSE contact	<b>BERR</b> HSE SCS Lead – Steve Coldrick HSE Policy Lead – Robin Foster, International Chemicals Unit, 020 7717 6990, <a href="mailto:robin.foster@hse.gsi.gov.uk">robin.foster@hse.gsi.gov.uk</a> SCS Lawyer – Navroza Ladha

**Proposed EC Regulation amending Annex 1 to EC Regulation on the Export and Import of Dangerous Chemicals (689/2008)**

**Current status (NEW DEVELOPMENTS):**

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.

<b>Lead Department</b>	<b>HSE</b>
<b>HSE contact</b>	SCS Lead – Steve Coldrick Policy Lead – Robin Foster, International Chemicals Unit, 020 7717 6990, <a href="mailto:robin.foster@hse.gsi.gov.uk">robin.foster@hse.gsi.gov.uk</a> SCS Lawyer – Navroza Ladha

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

**Current status (NEW DEVELOPMENTS):**

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.**

<b>Lead Department</b>	<b>BERR</b>
<b>HSE contact</b>	HSE SCS Lead – Marcia Davies HSE Policy Lead – Phil Papard, Safety Unit, 0161 952 8402, <a href="mailto:phil.papard@hse.gsi.gov.uk">phil.papard@hse.gsi.gov.uk</a> SCS Lawyer – Caroline Croft

## UNDER IMPLEMENTATION:

<b>Artificial Optical Radiation Directive (2006/25/EC)</b>	
<b>Current status (UNCHANGED FROM LAST BOARD UPDATE):</b> 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.	
<b>Lead Department</b> <b>HSE contact</b>	<b>HSE</b> SCS Lead – Les Philpott Policy Lead – Matthew Penrose, Specific Interventions, 0151 951 4909, <a href="mailto:matthew.penrose@hse.gsi.gov.uk">matthew.penrose@hse.gsi.gov.uk</a> SCS Lawyer – Navroza Ladha

<b>EC Regulation on Registration, Evaluation, Authorisation and Restriction of Chemical substances (REACH) (1907/2006)</b>	
<b>Current status (UNCHANGED FROM LAST BOARD UPDATE):</b> The regulation came into force on 1 <sup>st</sup> 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"><li>• On 1<sup>st</sup> 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.</li><li>• 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.</li></ul>	
<b>Lead Department</b> <b>HSE contact</b>	<b>DEFRA (Policy lead) HSE (UK Competent Authority)</b> HSE SCS Lead – Steve Coldrick Policy Lead – Robin Foster, International Chemicals Unit, 020 7717 6990, <a href="mailto:robin.foster@hse.gsi.gov.uk">robin.foster@hse.gsi.gov.uk</a> 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 6<sup>th</sup> 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.**

<b>Lead Department</b>	<b>HSE</b>
<b>HSE contact</b>	SCS Lead – Steve Coldrick Policy Lead – Robin Foster, International Chemicals Unit, 020 7717 6990, <a href="mailto:robin.foster@hse.gsi.gov.uk">robin.foster@hse.gsi.gov.uk</a> SCS Lawyer – Navroza Ladha

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

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

This Directive was adopted on 4 April 2008 with transposition required by 5 April 2009. The Board has cleared an approach for transposing the Directive.

<b>Lead Department</b>	<b>HSE</b>
<b>HSE contact</b>	SCS Lead – Les Philpott Policy Lead – David Pascoe, Specific Interventions, 0151 951 4241, <a href="mailto:david.pascoe@hse.gsi.gov.uk">david.pascoe@hse.gsi.gov.uk</a> SCS Lawyer – Caroline Croft

**EC Regulation on Community Statistics on Public Health and Health and Safety at Work (1338/2008)**

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

The Regulation came into force on 20 January 2009. There are no immediate implications for HSE. Eurostat is expected to begin preparatory work on a range of secondary implementing Commission Regulations in 2009 but there are no plans for secondary regulations on health and safety at work statistics for the moment.

<b>Lead Department</b>	<b>ONS</b>
<b>HSE contact</b>	HSE SCS Lead – John Ewins Policy Lead – Simon Clarke, Statistics Branch, 0151 951 3832, <a href="mailto:simon.clarke@hse.gsi.gov.uk">simon.clarke@hse.gsi.gov.uk</a> SCS Lawyer – Navroza Ladha

<b>Services Directive (2006/123/EC)</b>	
<b>Current status (UNCHANGED FROM LAST BOARD UPDATE):</b> BERR is currently working on measures to implement the Directive in the UK.	
<b>Lead Department</b>	<b>BERR</b>
<b>HSE contact</b>	HSE SCS Lead – Jenny Eastabrook/Elizabeth Hodkinson HSE Policy Lead – Kevin Walkin, Better Regulation Unit, 020 7717 6298, <a href="mailto:kevin.walkin@hse.gsi.gov.uk">kevin.walkin@hse.gsi.gov.uk</a> SCS Lawyer – Navroza Ladha

<b>EC Regulation on Accreditation and Market Surveillance (RAMS) (765/2008)</b>	
<b>Current status (NEW DEVELOPMENTS):</b> This EC Regulation sets accreditation and market surveillance obligations relating to the marketing of products in the EU. The Regulation applies from 1 January 2010. <b>Following agreement between HSE and BERR legal advisors on the existing gaps in enforcement powers in existing UK legislation to meet the requirements of RAMS, BERR has written 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.</b>	
<b>Lead Department</b>	<b>BERR</b>
<b>HSE contact</b>	HSE SCS Lead – Marcia Davies HSE Policy Lead – Phil Papard, Safety Unit, 0161 952 8402, <a href="mailto:phil.papard@hse.gsi.gov.uk">phil.papard@hse.gsi.gov.uk</a> SCS Lawyer – Caroline Croft

<b>EC Regulation on Mutual Recognition of Goods in the European Union (764/2008)</b>	
<b>Current status (UNCHANGED FROM LAST BOARD UPDATE):</b> This EC Regulation defines the rights and obligations of, on the one hand, national authorities and, on the other, enterprises wishing to sell in a Member State products lawfully marketed in another Member State, when the competent authorities intend to take restrictive measures about the product in accordance with national technical rules. The Regulation will apply from 13 May 2009. HSE has been asked by BERR to identify any possible restrictive measures in legislation it is responsible for that needs to be notified to the EC.	
<b>Lead Department</b>	<b>BERR</b>
<b>HSE contact</b>	HSE SCS Lead – Marcia Davies HSE Policy Lead – Phil Papard, Safety Unit, 0161 952 8402, <a href="mailto:phil.papard@hse.gsi.gov.uk">phil.papard@hse.gsi.gov.uk</a> SCS Lawyer – Caroline Croft