

Health and Safety Executive Board		Paper No: HSE/09/09	
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Trim reference:	2009/21093		
<b>Chief Executive's Report to the Board</b>			

### **LPG explosion at Drumtochty Arms Hotel, Auchenblae, Aberdeenshire**

1. At 17:30 hours on Wednesday 7 January an LPG explosion in the kitchen caused collapse of the rear of the hotel and serious injuries to a gas-fitting contractor, a barmaid and a customer. Gas appliances were being fitted in the kitchen as the final phase of a major renovation. FOD enacted the Scotland Major Incident Response Plan, calling on specialists from HID and HSL. Following demolition of the damaged structure HSE gained safe access for on site testing and retrieval of all pipework and appliances to Buxton.
2. The main lines of enquiry focus on (a) product safety and the supply chain for the new gas appliances (New Zealand via West Midlands importer) and (b) the contractor working on the appliances. The buried 1 tonne propane tank and underground polyethylene pipe are almost new and in-situ testing did not identify leakage. Some divergence from the LPGA Code of Practice merits follow-up with the gas supplier and LPGA and a small sample of other buried LPG installations is proposed.

### **Downs Judicial Review**

3. The Judicial Review against Defra (and PSD), brought by Georgina Downs, concerns the Government's approach to the assessment of the risk to bystanders of pesticide spraying. Mr Justice Collins handed down his judgment on 14 November 2008, and Order on 15 December 2008, in which he determined that aspects of UK pesticides policy failed to comply with its obligations under the relevant EC Directive. Permission to Appeal was granted by Collins J but he did not grant a stay.
4. This judgment has serious ramifications for UK pesticides policy and PSD's ability to fulfil its regulatory responsibilities. Defra and PSD believe it is imperative that these issues are determined swiftly and in the meantime the judgment be stayed until further order.
5. On the 12 January 2009 Defra filed an appeal against the ruling with the Court of Appeal and sought a stay and expedition of the appeal hearing. If the Court agrees to expedite this case, the hearing is likely to take place in the first half of 2009.

### **Electromagnetic Fields Directive (EMF)**

6. In 2008 the Council set a revised implementation date for the Directive of April 2012. Meanwhile the EC is arranging a full impact assessment of a number of options, ranging from repealing the Directive through to Social Partner Agreements on EMF issues.

7. In December 2008 the EC awarded the contract for the impact assessment to a consortium titled 'FICETTI'. The project lead is from the Finnish Institute of Occupational Health.
8. FICETTI is due to report in summer 2009 and we will be working closely with them over the coming months.

### **Artificial Optical Radiation Directive (AOR)**

9. The Directive is to be implemented by April 2010. We continue to analyse the evidence for a number of implementation options for discussion at our Board meeting on 29 April 2009.

### **Anderson Review of Government Guidance**

10. BERR are in the final stages of planning the publication of the Sarah Anderson Review of Government Guidance. A launch event is planned for the 28th January aimed at businesses, with an embargoed press briefing planned for 23rd January. The Government response will be published in due course. HSE is working with BERR and other colleagues to ensure our interests are represented and a consistent approach is maintained.

### **Gas Safety Update: Flues in Ceiling Voids - Safety Alert**

11. Following the publication of the safety alert on gas flues in ceiling voids, an update was provided to the Board at the 17th December meeting (agenda item 3). On 13th January HSE officials met with representatives from the Home Builders Federation (HBF) who gave an undertaking to reconsider their advice to members and bring it into line with that in the HSE Alert. HBF will write to HSE in due course to confirm that this has happened and to provide a copy of their revised guidance. Additionally, HSE is currently working with the gas installation and building industries to review the existing industry technical guidance.

### **Strategy Launch**

12. The regional consultations on the new draft HSE strategy have taken place in Liverpool (90 attendees), Newcastle (95), Bristol (97), Cardiff (62) and Birmingham (173). Events in Glasgow (140) and London (196) will take place during the week commencing January 26th. To date, figures for attendance at the consultation events are tracking at over 850 people. In some cases we have had to run morning and afternoon sessions to meet demand.
13. The Chair or a nominated Board Member has led each event, with other Board and SMT colleagues facilitating the discussions and the plenary sessions summarising delegates' views. The approach of allocating sectors to sector specific tables has worked well and the format has produced a range of useful feedback to the key questions. There is broad agreement on the thrust of the strategy and its high-level goals, but also there are helpful suggestions on what we might do to develop it further and others we can engage in the process.
14. The Board may also note that there has been very positive feedback on the fact that we have been inclusive in our consultation. The delegates have welcomed the opportunity to meet the Board and senior staff team of HSE. Getting the HSE stakeholders together on a regional basis and sharing views on the strategy has

been a useful exercise in itself. Our various communities have benefited from hearing their respective views in the plenary sessions.

15. The strategy section of the HSE external website has also received 17,249 visits with 8885 downloads of the document.
16. Plans are in hand to synthesise the feedback on both the strategy and the events and to examine the implications for the finalised strategy document.
17. SMT visits to HSE's regional offices are scheduled for January and February. Board Members are invited to attend any sessions which are convenient for them. No formal presentation from Board Members is expected but the events provide an opportunity to meet HSE's staff.

### **Visit to the Netherlands**

18. On 20 January Sandra Caldwell, Stuart Bristow and I met colleagues from the Dutch Ministry of Social Affairs and Employment in The Hague. This was arranged following a reorganisation and the appointment of new staff to key health and safety-related posts in the Ministry and forms part of a programme of visits to establish and maintain contact with my counterparts in EU member states. We discussed our respective strategies, reducing administrative burdens, director leadership, how best to get advice to small firms, migrant workers and Dutch work on the precautionary principle. We found, as expected, a great deal of common ground and similarity of approach, despite our different systems and cultures. We agreed to stay in close touch on these and other health and safety issues.

### **HWWW update**

19. We have run two Flexible Early Release (FER) Schemes. Under the first scheme 20 staff accepted the offer. 12 have already left and the rest will leave HSE between now and March 2009. Under the second scheme 27 staff have accepted and will leave by June 2009.
20. The Government Department interested in taking over the lease of Rose Court have now put a business case to Treasury with a view to taking over responsibilities in September 2009. Initial reaction from Treasury has been favourable.
21. HSE's legal advice team will transfer to Treasury Solicitors on 1 April 2009.
22. A second DWP Gateway review of the Programme has been scheduled for w/c 23 February 2009.

**GEOFFREY PODGER**

### Management

- The SMT met on 7 January 2009 and discussed finance and staffing (incl. recruitment activity to maintain frontline capacity); improving safety in construction and were updated on nuclear issues. The SMT also discussed the proposed Board paper on complaints handling.

### Operations

- There were 16 fatalities reported to HSE in December. Brief details are given in Annex 2.

### Significant prosecutions in December included:

- Staffordshire County Council was fined £83,000 with £21,000 in costs after pleading guilty to breaching section 3(1) of the HSWA.
- Dean Entertainments Ltd, Kirkcaldy was fined £28,000 and Edward Dean Melville a director of the company was fined £7,000 after both pleading guilty to charges under section 3(1) and section 37(1) of the HSWA.
- Denso Manufacturing Midlands Ltd, of Sutton Coldfield, was fined £28,000 with £5,278 in costs after pleading guilty to breaching sections 2(1) and 3(1) of the HSWA and Regulation 3(1) of the Management of Health and Safety at Work Regulations 1999.
- South Birmingham Primary Care Trust was fined £20,000 with £17,500 in costs, after pleading guilty to breaching section 3(1) of the HSWA., when two auxiliary nurses were transferring a 90-yr old patient from a commode to a bed, using a large sling and a battery-operated lifting hoist, when the patient fell from the sling to the floor and died at the scene.
- Caltherm (UK) Ltd was fined £10,000 with £3,377 in costs after pleading guilty to breaching section 2 (1) of the HSWA when a 22 year old employee was helping to move an industrial steam-heated 'DMT' liquid oven weighing 800kg when the oven fell from the two pallet trucks that were being used to move it. He received three breakages to his left foot and five dislocated toes.
- M.J.Curle Ltd, of Shifnal, was fined £5,000 with £7,500 in costs after pleading guilty to breaching section 3(1) of the HSWA. Principal site contractor Anthony Wilson Wilson Homes Ltd was fined £25,000 with £10,000 in costs after pleading guilty to breaching sections 2(1) and 3(1) of the HSWA and Regulation 3(1)(a) of the Management of Health and Safety at Work Regulations 1999, when a tipper truck carrying 'tar-covered road-rubble', toppled onto its side trapping a workman by his foot, necessitating amputation of part of his left leg.

### Myth of the Month

- If you call HSE for help, you'll end up with an unwanted inspection

HSE's Infoline is confidential and run for HSE by a contractor. Your individual information is not passed to HSE so it won't result in a visit. The trained operators answer the great majority of calls themselves. If they can't deal with your query fully they will ask you if it is alright to refer it to an expert in HSE. So, if you've got a query or a concern, just ask. You've got nothing to lose and it could help your business!

### FOI Requests

- There were 420 FOI requests made to HSE in December.

### **Events, Campaigns and Publications**

- The Health and Safety Executive launched a three month consultation on its new strategy 'The Health and Safety System of Great Britain\Be Part of the Solution', at events in London, Edinburgh and Cardiff to which a wide range of its key stakeholders were invited.

### **Parliamentary Business**

- There were 9 PQ's in December.

### FATALITIES REPORTED TO HSE DURING DECEMBER

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

AGE	REGION	INDUSTRY SECTOR	DESCRIPTION
81	Liverpool	Care Services	Fell from sling
89	Liverpool	Care Services	Struck by falling ceiling
55	Halifax	Chocolate confectionary	Crushed by machine
79	Manchester	Gas safety	CO poisoning
55	Leicester	Manufacturing	Crushed by load from crane
42	Glasgow	Gas	CO poisoning
48	Nr Whitby	Mixed Farming	Suffocated by grain dust
37	Wolverhampton	Services	Drowned in swimming pool
36	Buckinghamshire	Public Services (LA/Highways)	Killed by explosion from arc of electricity
83	Northumberland	Services	CO poisoning
50	Lancashire	Plastic	Crushed by heavy tool
53	Glasgow	Engineering	Suspected natural causes
39	Widnes	Gen Engineering & Manufacture	Trapped by tractor
43	Cleveland	Recycling	Struck by loading shovel
96	Gateshead	National Health Service Trust	Suspected heart attack
50	Kent	Gas	Suspected CO poisoning

**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 (UNCHANGED FROM LAST BOARD UPDATE)</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 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 – Stephen Amos

**PRE-PROPOSAL STAGE:**

<b>Initiative on Musculoskeletal Disorders</b>	
<b>Current status (UNCHANGED FROM LAST BOARD UPDATE):</b>	
A concluding conference on the social and economic impact of future European initiatives on the prevention of musculoskeletal disorders was held in Amsterdam on 29 October 2008. The researchers found the majority of stakeholders consulted thought a new Directive covering all MSDs would have the greatest impact. However, no consensus emerged from Member States at the conference. The EC favours a new Directive covering all the <u>physical</u> risk factors for MSDs that allows for a flexible approach to risk assessment. It looks like a proposal for a Directive may come forward in 2009.	
<b>Lead Department</b> <b>HSE contact</b>	<b>HSE</b> SCS Lead – Peter Brown Policy Lead – David Lewis, MSD Programme, 020 7717 6290, <a href="mailto:david.lewis@hse.gsi.gov.uk">david.lewis@hse.gsi.gov.uk</a> SCS Lawyer – Caroline Croft

Initiative on Needle Stick Injuries	
<b>Current status (NEW DEVELOPMENTS):</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. <b>The Commission may still bring forward a proposal if the social partners fail to reach agreement.</b>	
<b>Lead Department</b> <b>HSE contact</b>	<b>HSE</b> SCS Lead – Les Philpott Policy Lead – Sarah Senior, Specific Interventions, 020 7717 6266, <a href="mailto:sarah.senior@hse.gsi.gov.uk">sarah.senior@hse.gsi.gov.uk</a> SCS Lawyer – Stephen Amos

Initiative on 3 <sup>rd</sup> List of Indicative Occupational Exposure Limit Values (IOELVs)	
<b>Current status (NEW DEVELOPMENTS):</b> The EC's Advisory Committee on Safety and Health at Work has voted on its opinion on a draft Commission Directive establishing a 3rd list of IOELVs under Directive 98/24/EC on Chemical Agents. <b>A vote of Member States on the final text prior to adoption by the Commission is expected in spring 2009.</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 – Stephen Amos

Proposed amendment of Electromagnetic Fields Directive (2004/40/EC)	
<b>Current status (NEW DEVELOPMENTS):</b> <b>The revised implementation date of is 30 April 2012. The EC has awarded a contract to the FICETTI consortium (lead by Finnish Institute of Occupational Health) to gather evidence to inform new EC impact assessment. HSE is aiming to facilitate UK stakeholder contributions to the contractor.</b>	
<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 – Stephen Amos

**Proposed revision of Biocidal Products Directive (98/8/EC) - main revision**

**Current status (NEW DEVELOPMENTS):**

In a combined report to the Council and the European Parliament on the implementation and progress of the BPD, the EU Commission 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 (see separate contribution) and the 'main revision', which will involve more significant changes.

The key issues that the EU Commission have suggested for the **main revision** are:

- replacing the current Directive with a direct acting European Commission Regulation;
- using the new Regulation to widen the scope of the original Directive;
- establishing a partially centralised system for the authorisation certain substances/product types;
- setting reduced fees for Small & Medium sized Enterprises (SMEs) and in some cases waiving the fee altogether;

HSE will need to consider the consequences arising from these suggestions, including:

- The introduction of direct acting European Commission Regulation;
- The implication of widening the scope of the legislation;
- The practical aspects of operating a partially centralised system;
- The consequence of reducing/waiving fees;

A formal Commission proposal on the main revision is likely to be submitted to the EU Council and Parliament early in 2009

**Lead Department**

**HSE contact**

**HSE**

SCS Lead – Steve Coldrick

Policy Lead – Gill Smith, Corporate Specialist Division, 0151 951 4919, [gill.fod.smith@hse.gsi.gov.uk](mailto:gill.fod.smith@hse.gsi.gov.uk)

SCS Lawyer – Caroline Croft

**Proposed revision of Seveso II Directive (96/82/EC) – Linking GHS to Seveso**

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

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

**Lead Department**

**HSE contact**

**HSE**

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Policy Lead – Sandra Ashcroft, Specific Interventions, 0151 951 3531, [sandra.ashcroft@hse.gsi.gov.uk](mailto:sandra.ashcroft@hse.gsi.gov.uk)

SCS Lawyer – Caroline Croft

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

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

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

SCS Lead – Les Philpott

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

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SCS Lawyer – Caroline Croft

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

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. **The Directive was on the agenda for the subsequent 3 meetings. A revised draft is being considered under the Czech Presidency starting with the AQG on 28 January 2009.** FCO is liaising with Department of Energy and Climate Change (DECC) and HSE to coordinate the UK responses.

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

SCS Lead – Mike Weightman

Policy Lead – Peter Addison, Nuclear Directorate, 0151 951 3550, [peter.addison@hse.gsi.gov.uk](mailto:peter.addison@hse.gsi.gov.uk)

SCS Lawyer – Caroline Croft

## UNDER NEGOTIATION:

Marketing and Use Directive (76/769/EEC) – Restrictions on marketing and use of Dichloromethane	
<p>Current status (<b>NEW DEVELOPMENTS</b>):</p> <p>In February 2008 the EC published a proposal to restrict the marketing and use of Dichloromethane (DCM)-based paint-strippers. This has been subject co-decision via the Council Working Party on Technical Harmonisation (Dangerous Substances) and the European Parliament's (EP) Environment, Public Health and Food Safety (ENVI) Committee. A UK negotiating strategy was cleared by Ministers. The EP's ENVI Committee voted on 9 September 2008 for a ban on professional and consumer use of DCM based paint-strippers.</p> <p>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 and is the best that HSE officials have been able to achieve. 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.</p> <p>The dossier was voted on and agreed by the European Parliament in its plenary session on 14<sup>th</sup> January 2009. It will now go back to Council for adoption..</p>	
<b>Lead Department</b> <b>HSE contact</b>	<b>HSE</b> SCS Lead – Steve Coldrick Policy Lead – Robin Foster, International Chemicals Unit, 0207 717 6990, <a href="mailto:robin.foster@hse.gsi.gov.uk">robin.foster@hse.gsi.gov.uk</a> SCS Lawyer – Stephen Amos

Proposed EC Regulation on Community Statistics on Public Health and Health and Safety at Work	
<p>Current status (<b>UNCHANGED FROM LAST BOARD UPDATE</b>):</p> <p>The Regulation completed its Second Reading at the EP Plenary session on 18 November 2008 and was adopted. The Regulation will come into force twenty days after formal publication in the Official Journal of the European Union before the end of the year. Eurostat is expected to begin preparatory work on secondary implementing Commission Regulations in 2009.</p>	
<b>Lead Department</b> <b>HSE contact</b>	<b>ONS</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 – Stephen Amos

<b>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</b>	
<b>Current status (UNCHANGED FROM LAST BOARD UPDATE):</b> The proposal was presented at the Environment Working Party meeting on 28 November 2008. It is currently anticipated that the proposal will be agreed at first reading so that final agreement can be reached early in 2009.	
<b>Lead Department</b> <b>HSE contact</b>	<b>HSE</b> SCS Lead – Steve Coldrick Policy Lead – Gill Smith, Corporate Specialist Division, 0151 951 4919, <a href="mailto:gill.fod.smith@hse.gsi.gov.uk">gill.fod.smith@hse.gsi.gov.uk</a> SCS Lawyer – Caroline Croft

### UNDER IMPLEMENTATION:

<b>EC Regulation on Existing Substances (793/93) – Risk Assessment and Risk Reduction Strategies</b>	
<b>Current status (UNCHANGED FROM LAST BOARD UPDATE):</b> The UK has completed its work to prepare Risk Reduction Strategies for four outstanding ESR substances (Bisphenol A, MCCP, Styrene and Tetrachloroethylene) before the due completion date of 1 December 2008. These have been submitted to European Chemicals Agency to take forward the recommendations.	
<b>Lead Department</b> <b>HSE contact</b>	<b>HSE (UK Competent Authority)</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 – Stephen Amos

<b>Artificial Optical Radiation Directive (2006/25/EC)</b>	
<b>Current status (NEW DEVELOPMENTS):</b> The implementation date is set on 27 April 2010. An above-the-line paper is proposed for the 29 April meeting of the HSE Board to present evidence for the various transposition options and to take direction 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 – Stephen Amos

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

### Current status (**NEW DEVELOPMENTS**):

The regulation came into force on 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 establish the working principles for the Regulation. Key recent developments include review of annexes to the Regulation including developments:

- 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 meeting on 17<sup>th</sup> December 2008 failed to vote on adoption of the revised text, as the European Commission were not able to resolve opposition on several key points, including issues with the entry for asbestos. Failure to adopt the revision of Annex XVII causes significant problems for the UK, as legislative process and consultation will cause our implementation of the solution, once agreed, to be later than the 1st June. This problem will be the subject of separate Board engagement in coming months.
- A report from the working group considering the 'Risk Communication Network' proposed by the European Chemicals Agency (ECHA) to facilitate Member State and ECHA duties to communicate information has been adopted by Member States, ECHA and the Commission. Officials are satisfied that the draft mandate for the group does not extend beyond the duties on Member States agreed in REACH negotiations.
- REACH-IT, the online system set up by ECHA to manage the REACH process, continues to cause concern. It is not robust or accessible, and is the subject of considerable criticism from industry. Officials are representing these concerns to ECHA, but do not expect the situation to improve soon.
- ECHA have published a consultation on their draft recommendation to the European Commission on substances that should be added to Annex XIV of REACH (i.e. made subject to 'authorisation' requirements controlling their continued use). Defra lead on the UK policy response.
- HSE are continuing to develop guidance 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, International Chemicals Unit, 020 7717 6990, [robin.foster@hse.gsi.gov.uk](mailto:robin.foster@hse.gsi.gov.uk)

SCS Lawyer – Stephen Amos

<b>EC Regulation concerning the import and export of dangerous chemicals (689/2008)</b>	
<b>Current status (UNCHANGED FROM LAST BOARD UPDATE):</b> The EC Regulation came into force on 1 August 2008. UK enforcement regulations were laid before Parliament on 8 August and came into force on 3 September 2008.	
<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 – Stephen Amos

<b>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</b>	
<b>Current status (UNCHANGED FROM LAST BOARD UPDATE):</b> This Directive was adopted on 18 December 2006, with transposition required by 31 May 2008. The Directive is due to be transposed in two parts. The UK implemented the substantive parts of the Directive on 1 December 2008 through the REACH Enforcement Regulations 2008. The remaining requirements will be transposed through amendments to CHIP, which will be made in relation to the GHS Regulation; this is likely to be in Spring 2009. As full transposition has not yet taken place, the UK is currently subject to infraction proceedings on this Directive.	
<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 – Stephen Amos

<b>Identification and Traceability of Explosives for Civil Uses Directive (2008/43/EC)</b>	
<b>Current status (UNCHANGED FROM LAST BOARD UPDATE):</b> 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 and this is being put to Ministers for approval.	
<b>Lead Department</b> <b>HSE contact</b>	<b>HSE</b> SCS Lead – Les Philpott Policy Lead – David Pascoe, Nuclear Safety Policy, 0151 951 4241, <a href="mailto:david.pascoe@hse.gsi.gov.uk">david.pascoe@hse.gsi.gov.uk</a> SCS Lawyer – Caroline Croft

**Dangerous Substances Directive (67/548/EEC) – 30<sup>th</sup> Adaptation to Technical Progress (ATP)**

Current status (**NEW DEVELOPMENTS**)

**On 31<sup>st</sup> December 2008, the EC's new Classification Labelling and Packaging (CLP) Regulation (EC Regulation 1272/2008) was published in the Official Journal. As a result, Member States no longer have an obligation to implement the 30th ATP as Article 55(11) deletes Annex I of the DSD. The deletion of Annex I of the DSD becomes effective on 21 January 2009, i.e. 20 days after publication of the CLP Regulation).**

**Annex I of the DSD is incorporated into Annex VI of the CLP Regulation. That said, Annex VI of the CLP Regulation only incorporates the previous Annex I up to the 29th ATP, so does not include the 30th or 31<sup>st</sup> ATP. We are advised that the European Commission will bring forward a proposal for a 1st Adaptation of Regulation 1272/2008 to add the content of the 30th and 31st ATPs in February or March 2009, with a view to this coming into direct effect around June 2009 or shortly thereafter.**

**In December 2008 counsel acting on behalf of 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 challenging the classifications for Borate substances which appear in the 30<sup>th</sup> ATP. This follows similar proceedings brought by the Nickel Industry against DWP in September 2008, seeking Judicial Review of the classification of certain nickel compounds, again in the 30<sup>th</sup> ATP.**

**Lead Department**

**HSE**

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SCS Lawyer – Stephen Amos

Dangerous Substances Directive (67/548/EEC) – 31<sup>st</sup> Adaptation to Technical Progress (ATP)

Current status (**NEW DEVELOPMENTS**):

The 31<sup>st</sup> ATP amends Annex I of the Dangerous Substances Directive (DSD = 67/548/EEC. The vote on the 31<sup>st</sup> ATP took place on 19 November 2008. No Member State voted against, six abstained, and all others voted in favour. This means there were 297 votes in favour with 48 abstentions, giving a comfortable QMV in favour (255 is required for QMV).

In late December 2008, the EC's new Classification Labelling and Packaging (CLP) Regulation (EC Regulation 1272/2008) was published in the Official Journal. As result, Member States no longer have an obligation to implement the 31st ATP as Article 55(11) deletes Annex I of the DSD. The deletion of Annex I of the DSD becomes effective on 21 January 2009, i.e. 20 days after publication of the CLP Regulation).

As part of this, Annex I of the DSD is replaced by Annex VI of the CLP Regulation, the latter incorporating the previous Annex I of the DSD. That said, Annex VI of the CLP Regulation only incorporates the previous Annex I up to the 29th ATP, so does not include the 30th or 31<sup>st</sup> ATP. We are advised that the European Commission wil bring forward a proposal for a 1st Adaptation of Regulation 1272/2008 to add the content of the 30th and 31st ATPs in February or March 2009, with a view to this coming into direct effect around June 2009 or shortly thereafter.

In December 2008 counsel acting on behalf of the Nickel Institute issued proceedings against DWP seeking Judicial Review and referral from a British Court to the European Court of Justice challenging some or all of the classifications for nickel substances.

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**EC Regulation 1272/2008 on Classification, Labelling and Packaging of Chemicals, adopting Globally Harmonised System (GHS) in the EU (CLP Regulation)**

**Current status (NEW DEVELOPMENTS):**

The Regulation was published in the Official Journal of the European Union on 31<sup>st</sup> December 2008 and will enter into force on 20<sup>th</sup> January 2009. However the provisions on classification, labelling and packaging do not become mandatory until 1<sup>st</sup> December 2010 for substances and 1<sup>st</sup> June 2015 for mixtures. HSE is working on amendments to the Chemical Hazard Information and Packaging for Supply (CHIP) Regulations to align them with and to enable enforcement of the EC Regulation. A Consultation Document on the proposed amendments was published on 19<sup>th</sup> December 2008.

<b>Lead Department</b>	<b>HSE</b>
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**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 French Presidency held a first Council WG meeting on 3 December 2008. BERR, with HSE support, represented the UK. A further meeting is planned for December and then the Czech Presidency will take up in January with at least two meetings – we expect the Council to agree a text in the first quarter of 2009. BERR is preparing an impact assessment.

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

**Services Directive (2006/123/EC)**

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

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

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

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

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

**Lead Department**

**BERR**

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

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

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

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**BERR**

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