

Health and Safety Executive Board		Paper No: HSE/09/35	
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<b>Chief Executive's Report to the Board</b>			

### House of Commons Health Committee

1. The House of Commons Health Committee examines the expenditure, administration, and policy of the Department of Health and its associated bodies. It announced an enquiry into patient safety in summer 2008. HSE submitted written evidence to its inquiry and was subsequently invited to give oral evidence. Geoffrey Podger gave evidence on Thursday 5 March, alongside Professor Kent Woods, Chief Executive, Medicines and Healthcare Products Regulatory Agency.
2. The Committee questions were about:
  - HSE's view on the current regulatory situation
  - The interface between HSE, the Care Quality Commission (CQC) and the Healthcare Commission (HC) and the drive for effective regulation
  - Views on the Maidstone and Tunbridge Wells Trust issue
  - Legal liability of clinicians and managers as individuals
  - Slips, trips and falls in health care workplaces.
3. The key points covered by Geoffrey's evidence were that:
  - Our work with the Healthcare Commission has confirmed that there are many bodies inspecting different aspects of healthcare all with differing roles and responsibilities. We hope that CQC will look to secure more effective working between organisations and communication about the impact of our combined efforts.
  - HSE's role is well established in relation to regulating risks to healthcare workers. Where appropriate we also become involved in the health and safety of patients, by virtue of section 3 of the Health and Safety at Work etc Act 1974.
  - As a general principle, we seek to avoid duplication with other regulators
  - Where it is necessary for us to investigate, our experience is that we should be brought in early and, where appropriate, take over any criminal health and safety investigation, liaising and working with the Police and the Crown Prosecution Service accordingly.
4. The uncorrected transcript is available on the Health Committee website at: <http://www.parliament.the-stationery-office.com/pa/cm200809/cmselect/cmhealth/uc151-iv/uc15102.htm>

### Work & Pensions Select Committee

5. The Work & Pensions Select Committee is intending to follow up its most recent inquiry into the work of the HSE. Three sessions are proposed:

- A visit to Redgrave Court on 18 May 2009
- A formal oral evidence session on 10 June 2009; and
- A visit to the Olympic Site accompanied by HSE officials

6. An itinerary and briefing for the Redgrave Court visit is currently being prepared.

### **Helicopter Crash in the North Sea**

7. On the 1st April, a Super Puma helicopter, operated by Bond and contracted to BP, crashed into the sea killing all 16 people on board. The helicopter, which was returning on a regular crew change flight from the BP Miller Platform, was about 15 miles offshore. All bodies have been recovered together with wreckage and the flight recorders.

8. The responsibility for the regulation of safety for helicopters in flight rests with the Civil Aviation Authority (CAA). The HSE enforced legal requirements relating to recovery and rescue for such incidents are limited to incidents in the immediate vicinity of offshore installations. Although BP will have mobilised its rescue and recovery resources this is not be a matter for HSE to pursue (unlike the previous incident in February which occurred as the helicopter came in to land on the installation).

9. The responsibility for investigation of the incident, which is ongoing, lies solely with the Air Accident Investigation Branch (AAIB). HSE in Aberdeen offered assistance to the AAIB but this has not been taken up.

10. On the 8th April Oil and Gas UK announced the formation of a Task Group to address cross industry issues arising from the crash. HSE is not a member of the task group but will offer assistance as required. On the same day, BP announced that it is to carry out jointly with Bond a review of Bond offshore helicopter operations. Until that review is complete BP will not be using Bond Helicopters in its operations. In addition, the Scottish TUC has called for a review of offshore safety in relation to helicopter operations.

11. Interim reports into the incident produced by the AAIB have indicated the cause of the accident was catastrophic gear box failure. The reasons for this failure are not currently known but precautionary inspections have been ordered and all super puma aircraft have been grounded until the checks have been completed.

### **Gas Safe Register**

12. The transition from CORGI gas registration to the Gas Safe Register is now complete, with the new scheme operating in Great Britain from 1 April 2009. The new Gas Safe Register office in Basingstoke is open and CORGI staff have transferred there. At transition, most gas engineering businesses had registered with the Gas Safe Register.

13. The Gas Safe Register 'Big Change' campaign has so far reached an estimated audience of some 35 million people. The campaign has included TV coverage on BBC Watchdog, The One Show and BBC Breakfast, plus advertising in national and local newspapers, on national and regional radio, and on billboards at mainline railway stations and at sporting events. TV advertising is continuing

and other advertising and publicity activities by the Gas Safe Register will continue throughout 2009.

### **Construction Inspection Initiative**

14. Throughout March 2009, HSE's Construction Division (CD) carried out its latest intensive inspection initiative across Great Britain with the continued goal of sending strong messages to the construction industry that HSE will not tolerate poor standards. The initiative once again targeted the refurbishment sector – responsible for more accidents than any other sector of construction – and Inspectors focussed particularly on prevention of falls, site good order and risks associated with asbestos removal.
15. 1759 refurbishment sites were visited with the work of 2145 contractors being inspected, resulting in 491 contractors across 348 sites receiving enforcement notices. 20% of sites had a sufficiently serious risk to warrant enforcement action either stopping work immediately or calling for improvements to be made.
16. Improvements were witnessed by inspectors in certain parts of the country compared to a similar initiative last year, when inspectors took enforcement action on 30% of the sites visited.

### **Publishing the names of work-related fatalities on HSE's website**

17. On 6 April 2009, HSE started publishing the names and brief details of work-related deaths reported to HSE on our website. This approach was agreed as an efficient and effective way of placing this information in the public domain in response to growing interest and the advice of the Information Commissioner in relation to FOI requests on fatality details.
18. This publication is the cumulative picture of fatalities since 1 April 2008, and includes those documented in the Chief Executive's reports. It will be updated on a monthly basis. This information is an emerging picture, it will not be fully validated until we finalise the 2008/09 fatality statistics. Subsequent investigation may determine that some of these incidents are not reportable under RIDDOR, for example deaths due to natural causes. Other deaths may have been caused by gas incidents in the home and, in such cases, these deaths will not be counted in our statistics for workplace fatal injuries.
19. HSE does not intend to be the first source to release these names into the public domain. Our policy deliberately holds the names back until there has been sufficient time for these to be released through the Coroners Court. Many of these deaths are also extensively reported by the media.

### **Staff Resourcing In 2008/09**

20. Over 2008/09 HSE recruited nearly 350 new staff (including 53 for HSL). This total included 167 new inspectors, comprising 114 trainee regulatory specialists and 53 discipline specialists. There were also 77 external recruits to posts relocated to Bootle under the HWWW programme.
21. There were 315 leavers (28 from HSL) during the year, including 66 front line leavers. At the end of March there were 3551 staff in post, including 391 HSL staff.

22. As planned, by the end of March there were 1324 inspectors in post, exceeding the Ministerial red-line (1283 front line inspectors).
23. From the 2008/09 recruitment campaigns a further 17 discipline specialists are expected to start in April and the recruitment of up to 25 construction inspectors on fixed term contracts is reaching the final selection stages. 86 candidates for these posts have been invited to assessment and the results are expected at the end of April.

### **Pay 2008 - 2010**

24. Having gained DWP approval, HSE received HM Treasury clearance of its 3-year remit on 15 January 2009. At short notice, and with the flexibility and support of both sides, we were able to commence Pay negotiations with the Trades Unions on the very next day.
25. Negotiations and clarification occurred through several formal meetings and correspondence. At the conclusion of negotiations, Prospect and FDA supported the final offer but PCS did not. When these positions were confirmed, HSE released the full pay offer to staff on 27 February 2009.
26. HSE's Trades Unions then balloted their members and I am pleased to report that all 3 Unions have now voted in favour of accepting our pay offer.
27. The pay award will be paid to staff in their May salaries, backdated to October 2008.

### **HWWW update**

28. We are still very much on course to vacate Rose Court by March 2009. The Financial Director of the Government Department interested in taking over the lease of Rose Court has confirmed that they still want the building. However, they still await final approval of their business case by the Chief Secretary of the Treasury, although it has already been cleared by the relevant Treasury Spending Review Team.
29. A second DWP Gateway review of the Programme took place in February 2009 and once again the programme was given a 'Green' Delivery Confidence Assessment rating. The Review Team found that the programme remains strategically aligned, is affordable and on target to achieve its outcomes.
30. HSE's Legal Advice Team transferred to the Treasury Solicitors Department on 1 April but will continue to provide dedicated services to HSE.
31. HSE's new Westminster Office, which will provide the day to day interface with Whitehall and other London based stakeholders, will move to new premises in Sanctuary Buildings in June.

**KEVIN MYERS**

## Operations

There were 35 fatalities reported to HSE in February and March. Brief details are given in [Annex 2](#).

### Significant Prosecutions in February to March 2009

- Following the death of a 17-year-old apprentice from serious head injuries in Nottinghamshire in 2006, his employers were fined £7,500.
- A company in Lincolnshire was fined £15,000 and ordered to pay £9,000 costs after a school student suffered burns whilst on work experience.
- Laing O'Rourke Construction South Ltd and sub-contractor in Surrey were fined £80,000 and ordered to pay £10,000 costs, after a worker fell through a roof opening and was seriously injured.
- A pet food manufacturer was fined £157,500 after a worker was crushed to death in 2006.
- A company was fined £3,000 plus costs after two workers were unwittingly exposed to asbestos, whilst carrying out refurbishment work in Oxfordshire last year.
- A landlord in Staffordshire was prosecuted and fined £40,000 following the death of a tenant from carbon monoxide poisoning. The court stipulated that the landlord had to pay the fine by 31st January 2010 or face a prison sentence of 18 months.
- A company was fined £4,000 after a lorry driver was killed in East London in 2001.
- Following the death of a welder in Norfolk in 2005, his employers were fined £25,000 and ordered to pay court costs. The victim was electrocuted in the incident.
- A company was fined £5,000 plus costs after an employee fell, fracturing his skull and vertebrae. The victim has not worked since the incident.

### Myth of the Month March 2009 - Health and safety rules take the adventure out of playgrounds

Health and safety laws don't stop children having fun but ill-considered and overprotective actions do. What's important is to strike the right balance - protecting children from harm while allowing them the freedom to develop independence and risk awareness.

### Myth of the Month April 2009 – People don't have to take any responsibility for their own health and safety

Employers have a duty to protect workers and the public from dangers caused by their work - and HSE is committed to making sure they do that. But health and safety isn't entirely someone else's responsibility. We all have a duty to keep ourselves safe, by co-operating with safety measures and not putting ourselves or others in danger.

### FOI Requests made to HSE

There were 556 FOI requests during February and 650 FOI requests during March.

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

### Panorama

A Panorama programme about the world of health and safety broadcast on Monday 20 April contained an interview with HSE Chair, Judith Hackitt.

Internal and external handling plans were developed to ensure HSE communicated fully with HSE staff and stakeholders before and after the programme was aired. This included; regular updates and statements to parliamentary stakeholders; HSE staff; other organisations involved in health and safety; a media handling plan and the preparation of pre-interview briefing papers. Judith Hackitt also appeared on BBC Breakfast on the morning of the Panorama broadcast and in a double-page feature in the Times the following day.

Overall, the programme was reasonably well balanced. However, the programme failed to adequately distinguish between HSE staff and others involved in the world of health and safety. This is already one of the objectives in our broader strategic plan to position HSE and the raise the organisation's profile.

### IOSH Annual Conference

The 60<sup>th</sup> annual conference and exhibition organised by the Institution of Occupational Safety and Health (IOSH) and hosted in part by the Health and Safety Executive took place in March. HSE had a high profile at the conference with a number of representatives taking part and an industry networking reception hosted by HSE.

### Chemicals Regulations Directorate

HSE announced that the Pesticides Safety Directorate (PSD) and the Chemicals Assessment Schemes Unit (CASU) were merging to form the new Chemicals Regulation Directorate (CRD) on 1 April 2009.

### Pesticides Residues Committee

The Pesticide Residues Committee published findings from its third quarterly 2008 report on 17 March. The report found that none of the eight samples that were found to contain residues above the maximum permitted levels was likely to cause concern for people's health.

### Rivers Lecture

Judith Hackitt, HSE Chair gave the annual Rivers Lecture to an audience of Chartered Secretaries and Administrators in London in March.

### Law poster

HSE introduced a new, easier to read law poster for employers to display from 01 April.

## **Parliamentary Business**

There were 35 PQs during February and 27 PQs during March.

### FATALITIES REPORTED TO HSE DURING MARCH AND APRIL 2009

These initial notifications are not validated because their investigations have not yet confirmed that all the deaths were work related

AGE	REGION/TOWN	INDUSTRY SECTOR	DESCRIPTION
63	Warwickshire	Agriculture	Entangled on an unguarded power take-off shaft.
59	Scotland	Construction	Trapped between cherry picker basket and a steel beam
16	Rotherham	LA Activities	Using Land Rover roof as an improvised sledge, hit a fence
78	Cumbria	Construction	Fell through the laths of a bungalow after the slates had been stripped
68	Burnley	Nursing Home	Strangled by an electrical cord
48	Middlesbrough	Ship Repair	Crushed by a freestanding anchor when it fell over
37	Nottinghamshire	Agriculture	Found with arm severed next to tractor and slurry tanker
53	Cumbria	Agriculture	Trapped between a bale and either the tractor or trailer
55	Guildford	Public Services	Hanged by own shoelaces in the shower room
41	London	Plant Installation	Fell 19m from a ladder
40	Dudley	Waste & MVR	Crushed by vehicle during repair
26	Alton	Construction	Vehicle collision at speed with a road planing machine
76	Manchester	MVR	Fell through unprotected fragile roof light
21	Berkshire	Construction	Electrocuted whilst repairing wiring to an electric immersion heater
54	East Grinstead	Engineering	Crushed between 13 ton engine and static racking during lift operation
43	High Bavington	Quarries	Crushed performing maintenance work on mobile plant
79	Bolton	Healthcare	Incorrect administration of medication
18	Staffordshire	Refuse collection	Struck by reversing vehicle
64	Nottinghamshire	Manufacturing	Crushed by vehicle during maintenance work
48	Birmingham	Nursing Home	Quadriplegic patient died of DVT, bedsores etc
2	Glasgow	Residential Letting	Electrocution
41	Southampton	Docks	Drowning
27	London	Construction	Crushed by a worker on a platform - died scene
38	Leicestershire	Utilities	Fire/explosion at rented domestic premises

<b>AGE</b>	<b>REGION/TOWN</b>	<b>INDUSTRY SECTOR</b>	<b>DESCRIPTION</b>
44	Northamptonshire	Manufacturing	Crushed by warehouse forklift truck
30	London	Construction	Trapped between beam and control panel/basket
39	South Wales	Agriculture	Struck by reversing vehicle
95	Yorkshire	Nursing Home	Found on floor, subsequently died of injuries. at hospital
Age Not known	Yorkshire	Manufacturing	Welding an RSJ and using an overhead gantry crane for lifting. RSJ fell onto him
20	East & South East	Manufacturing	Electrocuted whilst undertaking electrical testing work at 415V -
35	South West	Transport	Crushed by 1260Kg pallet
42	Ayrshire	Agriculture	Crushed by a cow
52	East & South East	Road Haulage	Crushed between reversing vehicle and wall
59	Ayrshire	Waste Collection	Slipped and fell from vehicle cab
37	Yorkshire	Food	Gas explosion

**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 (<b><u>UNCHANGED FROM LAST BOARD UPDATE</u></b>)</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 the ACSH Working Party with a draft 'directive' text prior to its meeting on the 24 March. Officials provided a view on this draft to the CBI representative on the Working Party. The next WP meeting is scheduled for 3 June. The text contains reference to four physical risk factors for MSDs, and excludes references to psychosocial risk factors. In parallel, the EC has convened a Technical Experts Working Group to advise them on the detailed content of a future Directive. UK has a representative (HSE ergonomist) on this Group – they are due to meet for the first time on 30 April. The EC has asked the Technical Working Group to provide information on costs, benefits and general impacts on the draft text. HSE is currently scoping out an outline impact assessment on the information available to inform strategy to anticipated future formal proposal from Commission.	
<b>Lead Department</b> <b>HSE contact</b>	<b>HSE</b> SCS Lead – Peter Brown Policy Lead – Nick Snelham, MSD Programme, 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 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.

**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, STSU, 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) - 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 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.

- The key issues that the EC 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 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 proposal on the main revision is likely to be submitted to the Council and European Parliament in the near future.

**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) – 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****HSE contact**

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 – Caroline Croft

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

A Working Party 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 is currently co-ordinating a response to an EC consultation on naturally occurring radiation.**

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

SCS Lead – Les Philpott

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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

## UNDER NEGOTIATION:

<b>Marketing and Use Directive (76/769/EEC) – Restrictions on marketing and use of Dichloromethane</b>	
Current status ( <b>UNCHANGED FROM LAST BOARD UPDATE</b> ): <b>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. 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. 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.</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

<b>Proposed Directive on Nuclear Safety</b>	
Current status ( <b>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. The Directive was on the agenda for the subsequent 3 meetings. A revised draft is being considered under the Czech Presidency, starting with the AQWG on 28 January 2009. <b>Further revisions have been tabled by the Presidency and are being reviewed on a monthly basis by AQG.</b> FCO is liaising with Department of Energy and Climate Change (DECC) and HSE to coordinate the UK responses.	
<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 (NEW DEVELOPMENTS):**  
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):**  
Ministerial approval has been given for the UK approach to the health and safety amendments to the Directive being proposed by the European Parliament. Briefing has been passed to BERR for inclusion in their MEP briefing pack.

<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 (NEW DEVELOPMENTS):**  
A Technical Progress Committee meeting of Member States took place on 31 March 2009. The meeting was inconclusive because of differences of opinion concerning one substance and no vote was taken. The Commission 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 Commission 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 UK's negotiating strategy was cleared by Defra Ministers. Whilst welcoming most of the Regulation, our key concern was the lack of proper impact assessment for the introduction of new hazard criteria. These will exclude active substances from use in pesticides on the basis of their intrinsic properties, rather than their risks in use. The Commission's impact assessment which accompanied their original proposals did not address these aspects.**

**The Council is expected to endorse the agreement in May or June.**

**The new Regulation will take effect some 18 months after publication. PSD is developing detailed plans for implementing the new legislation and will consult stakeholders on proposed measures where appropriate.**

**Lead Department**

**DEFRA**

**HSE contact**

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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.**

The UK's negotiating strategy was cleared by Defra Ministers. Overall, our goal was to develop a suitably flexible framework which enables Ministers to decide on the range of controls to be put in place to implement the Directive. We believe we have done this and will use the public consultation on how to implement the directive (scheduled for the final quarter of this year) to identify options/approaches.

**The Council is expected to endorse the agreement in May or June.**

**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**

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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 EU project to assess the risks which can arise from the use of pesticides. **Trilogue negotiations have concluded and the deal which will be ratified by the European Parliament and Council during the next 2-3 months satisfactorily addresses previous UK concerns on scope and methodology.****

The UK's negotiating strategy was cleared by Defra Ministers. Our goal was to develop a proportionate set of requirements; ensuring that the survey programmes collect the necessary data, whilst minimising administrative burdens on the crop protection and farming industries (who will provide the data).

We believe we have done this and will use the public consultation on how to implement the directive (scheduled for the final quarter of this year) to identify options/approaches. We have already opened discussions with the Office of National Statistics on how we may use existing surveys to provide sales data and are conducting a public consultation on the make-up of the existing national pesticide usage survey programme which will inform the way forward on implementing the remaining requirements.

**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**

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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 (NEW DEVELOPMENTS):**

Member States no longer have an obligation to implement the 30th ATP and 31<sup>st</sup> ATPs to the related Dangerous Substances Directive (DSD), as Article 55(11) of the CLP Regulation deletes Annex 1 of the DSD. The deletion of Annex 1 of the DSD became effective on 20 January 2009, i.e. 20 days after publication of the CLP Regulation.

Annex 1 of the DSD is now incorporated into Annex VI of the CLP Regulation, up to the 29th ATP. The EC published a proposal for a 1st Adaptation of CLP Regulation comprising the 30th and 31st ATPs 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.**

**However an MEP, Eija-Riitta Korhola, has triggered a meeting of the Environment Committee of the European Parliament on 21<sup>st</sup> April to object to the 1st ATP of the CLP Regulation under the regulatory procedure with scrutiny process. The objection is that anomalies in the process and timing of the Commission's proposal led to it exceeding its powers. The UK does not support this objection and is briefing UK MEPs accordingly.**

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, 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. As the 31st ATP also includes numerous entries for nickel substances, we anticipate that the nickel industry will also seek a referral to the ECJ to challenge these, perhaps by addition to the existing judicial review.

**Lead Department  
HSE contact**

**BERR**

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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 French Presidency held the first Council WG meetings, with the Czechs taking over in January. BERR, with HSE support, represented the UK. **A compromise text was agreed in early April and will now go to the EP Plenary on 21-24 April where we expect a 1<sup>st</sup> reading agreement. The key issues for the UK were protected, including no further 3<sup>rd</sup> party conformity assessment and not extending the general scope of this Directive to cover environmental risks.**

**Lead Department  
HSE contact**

**BERR**

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SCS Lawyer – Caroline Croft

## UNDER IMPLEMENTATION:

<b>Artificial Optical Radiation Directive (2006/25/EC)</b>	
<b>Current status (NEW DEVELOPMENTS):</b> The transposition deadline for this Directive is 27 April 2010. Options are being looked at to transpose the Directive. <b>A paper will be submitted to the 23 June Board on handling implementation and seeking a recommendation on the way forward.</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 – Navroza Ladha

<b>EC Regulation on Registration, Evaluation, Authorisation and Restriction of Chemical substances (REACH) (1907/2006)</b>	
<b>Current status (NEW DEVELOPMENTS):</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. <b>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.</b></li><li>• 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.</li><li>• <b>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.</b></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 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 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.

**Lead Department**

**HSE**

**HSE contact**

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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.

**Lead Department**

**HSE**

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**EC Regulation on Classification, Labelling and Packaging of Substances and Mixtures (1272/2008)****Current status (NEW DEVELOPMENTS):**

The Regulation (known as the CLP Regulation) was published in the Official Journal of the European Union on 31<sup>st</sup> December 2008 and entered 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. A revised and consolidated version of the Chemical Hazard Information and Packaging for Supply (CHIP) Regulations (known as CHIP4) entered into force on 6<sup>th</sup> April 2009. This aligns CHIP with the CLP Regulation and introduces provisions for its enforcement.

**Lead Department  
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**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.

**Lead Department  
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**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.

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

HSE SCS Lead – Jenny Eastabrook/Elizabeth Hodkinson

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SCS Lawyer – Navroza Ladha

**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):**

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 considering with OGDs what UK legislation changes may be required. This includes looking to see if the new requirements for recall and withdrawal of defective products are adequately covered by existing UK legislation, including Section 6 of HSWA and POMSTER – STSU, PG and LAO are in close liaison with BERR. The new Market Surveillance Coordinating Committee, including an HSE representative, has met twice to help plan the implementation of this Regulation. Following discussions and presentations between the Information and Communication System Across-Border Market Surveillance (ICSMS) Board headed by the UK, the EU Commission has obtained agreement from member states not using ICSMS (already in use in HSE) to use this to develop the information exchange and coordination system required under the Regulation.

**Lead Department**

**BERR**

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

**Current status (NEW DEVELOPMENTS):**

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. **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.**

**Lead Department**

**BERR**

**HSE contact**

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