

Open Government status: Fully open

Paper Number: M3/2002/3

Exempt material: None

Meeting Date: 6 November 2002

Type of Paper: Above the line

HEALTH AND SAFETY COMMISSION

CONSTRUCTION INDUSTRY ADVISORY COMMITTEE (CONIAC)

The proposals to harmonise the Employee Consultation Regulations

Summary

This paper details the background of the proposals to harmonise the present onshore employee consultation regulations in advance of formal consultation and reports progress.

Issue

1 See summary.

Timing

2 Comments from CONIAC members by Friday 15th November, 2002, on the scope and coverage of the planned consultation on the harmonised regulations.

Background

3 In December 2000, HSC announced a new package of measures to improve employers' consultation on health and safety matters. Health and Safety Chair Bill Callaghan said:

"Genuine consultation is central to forming effective partnerships between employers, unions, workers and their safety representatives - and to meeting and beating the tough targets set out in the Revitalising Health and Safety strategy."

(see HSE Press Release C072:00 - see attached.)

4 The HSC, following consultation on employee involvement in 2000, has agreed with Ministers to take forward harmonising the employee consultation regulations. Under the present regulatory arrangements there are two different regulations for employee consultation:

a) Employers who recognise a trade union and their employees are subject to the Safety Representatives and Safety Committees Regulations 1977. These regulations allow the recognised trade union to appoint safety representatives and prescribe the functions of these safety representatives.

b) Employees in workplaces where is no recognised trade union are covered by the Health and Safety (Consultation with Employees) Regulations 1996. These Regulations allow the employer to decide whether to consult with the workforce either directly or through an elected representative of employee safety and describes what the employer must consult the workforce on.

5 Duties relating to the consultation of workers under the Construction (Design and Management) Regulations do not fall within the scope of this review and will not change as a consequence of it. Members will be aware that the Discussion Document, 'Revitalising Health and Safety in Construction' devotes an entire chapter (Chapter 4) to workers, raises some fundamental issues and seeks views on how workforces can be properly engaged and treated with respect.

Current Position

6 Research shows that the 1977 Regulations have proved effective as a means of consulting employees and contributing to good health and safety in trade union recognised workplaces. There are strong signs that the 1996 Regulations have not proved satisfactory in facilitating employee consultation in workplaces where trade unions are not recognised.

Issues

7 We are committed to harmonise the 1977 and 1996 Regulations to bring about greater employee involvement in all onshore workplaces. It is intended that the Regulations will be supported by an approved code of practice and guidance with illustrative examples of good practice.

Issues under consideration for consultation include:

- A new right for employees in workplaces where trade union appointed safety representatives do not operate to determine how they shall be consulted either directly or through elected safety representatives;
- New duties on employers concerning the administration and conduct of the election of safety representatives and setting up of safety committees;
- Alignment of powers and functions of trade union appointed and elected safety representatives using Reg. 4(1) of the 1977 Regulations as the model; Extension of Reg. 4A (of 1977 Regulations) duty on employer to consult trade union appointed or elected safety representative in relation to risk assessments and development of statutory safety cases;
- New right for safety representatives to have access to employees they represent when working at the premises of a third party;
- New duty on employers to respond in writing to representations made by safety representatives under Reg. 4 (1) (c) and (d) of the 1977 Regulations;
- Consideration of exceptions in Regulations to duty on employers to make information available to safety representatives – see Reg. 7 (2) of 1977 Regulations and Reg. 5 (3) of the 1996 Regulations;
- Extension of Reg. 8 of the 1977 Regulations (Equity and Musicians' Union provision) – permitting trade unions, where recognised, to appoint safety representatives who are not employees of employers concerned;

- Case studies in the supporting guidance that illustrate best practice and the benefits to health and safety that worker involvement and consultation bring.

Next Steps

8 Strategy Division is currently in the process of producing draft consultative proposals on the harmonising regulations, which are scheduled for consultation by the HSC in January 2003. We welcome the views of stakeholders on the scope and coverage of the planned consultation.

Action

9 Members are invited to:

- Express some initial opinions on the issues on which views are sought
- Respond to Neil Stone, SASD, **by Friday 15th November 2002** (and copy responses to CONIAC Secretariat)

Contact

Neal Stone Strategy Division, SASD

Tel: 020 7717 6484

Neal.Stone@hse.gsi.gov.uk