

SUPPLEMENTARY MEMORANDUM OF UNDERSTANDING BETWEEN
HM INDUSTRIAL (SCOTTISH OFFICE ENVIRONMENT DEPARTMENT) AND
THE HEALTH AND SAFETY EXECUTIVE

EXISTING SUBSTANCES REGULATION (EEC) 793/93
THE NOTIFICATION OF EXISTING SUBSTANCES (ENFORCEMENT)
REGULATIONS 1994 SI 1994 NO 1806

1. This memorandum of understanding is supplementary to and should be read with the memorandum of understanding between HMIPI and HSE dated 8 November 1993 (existing memorandum). Its purpose is to ensure effective co-ordination in Scotland of the enforcement of the Council Regulation (EEC) No 793/93 of 23 March 1993 on the evaluation and control of the risks of existing substances. To this end HMIPI and HSE, both appointed as Enforcing Authorities for the purpose of the Regulation, shall work under the general policy supervision of the Competent Authority responsible to the European Commission for the operation of the Regulation within the UK as designated in Regulation 2(1) of the 1994 Regulations.

2. Either HMIPI or HSE may be requested by the Competent Authority to take enforcement action. It is the responsibility of the officers identified in paragraph 3 to liaise and as necessary nominate Inspectors to carry out such enforcement action as is required. Nominated inspectors must agree together which authority should carry out the enforcement action in any particular case before any approach is made to the Company or Companies. Factors that should be taken into account when deciding on the appropriate authority include:

- a. Which authority has legal powers.
- b. The subject matter requiring enforcement. In general if the main concern is risk to human health then enforcement should be carried out by HSE Inspectors, while if the main concern is risk to the environment then the enforcement should be carried out by HMIPI.
- c. Any other current contacts between the regulatory authorities and the Company concerned which would minimise the use of resources by the authorities and/or reduce regulatory burdens on industry.

In the first instance the Competent Authority will make contact with, for HMIPI, the Chief Inspector and/or, for HSE, the Field Operations Director (Scotland). The request will then be passed to the officer named in paragraph 3 for action.

3. For operational issues relating to enforcement, the appropriate contact in HMIPI is the Senior Inspector responsible for the operation of Integrated Pollution Control and in HSE the Principal Specialist Inspector (Occupational Hygiene) in the Field Consultancy based in Edinburgh. If any issue cannot be resolved by these officers it should be referred to a meeting of senior management as provided for in Paragraph 5.4 of the existing memorandum and if the issue relates to an interpretation of the Regulations to the Competent Authority.

4. Without prejudice to the general duties placed on the enforcing authorities by Regulation 3(1) and 4(1) that may require direct enforcement action to be taken, in general, if, in the carrying out of their normal business, either HMIPI or HSE identify circumstances when enforcement action may be appropriate, the relevant responsible officer will seek advice from the Competent Authority and from the other enforcing authority prior to taking any such action.

5. Each authority will inform the other and the competent authority on progress with any enforcement action.

SUCCESSOR BODIES

6. The arrangements in this Memorandum applicable to HMIPI or THSD shall apply to any successor bodies (or internal Divisions of HSE) set up to carry out the functions of those bodies (or Divisions) relevant to this Memorandum.

Signed

For HMIPI

For HSE

Date:

Date:

General Note:

Under Article 16 of ESR, companies are able to keep certain information confidential. Inspectors should consult the Competent Authority before disclosing information provided in connection with the ESR. Such disclosure will be in accordance with the Code of Practice on Access to Government Information and the Environmental Information Regulations 1992.