

# EU and UK Health and Safety Calendar

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Winter 2012



# Introduction

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This calendar covers some of the key dates for proposed and existing health and safety legislation in the **EU** and **UK** (colour-coded accordingly). For a brief explanation of the different types of EU legislation, please refer to the last page.

The content is ordered as follows:

4\_New **UK** and **EU** Legislation in Force

8\_**UK** and **EU** Legislation Coming Into Force

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This calendar is provided by way of general guidance only and does not constitute legal or professional advice. While we aim for it to be as up-to-date as possible, some recent developments may miss our publication deadline and some dates may change at short notice. The calendar is not intended to cover every policy or legislative initiative, only major health and safety issues.

# New legislation in force

13 July 2012

## **The Offshore Installations (Safety Zones) (No. 3) Order 2012**

This Order establishes safety zones having a radius of 500 metres from the specified point, around each installation specified in the Schedule and stationed in waters to which section 21(7) of the Petroleum Act 1987 applies.

Vessels, which for this purpose include hovercraft, submersible apparatus and installations in transit, are prohibited from entering or remaining in a safety zone except with the consent of the Health and Safety Executive or in accordance with regulations made under section 23(1) of the Petroleum Act 1987 (currently the Offshore Installations (Safety Zones) Regulations 1987).

10 August 2012  
(other than Part 1)

## **The Air Navigation (Amendment) Order 2012**

This Order amends the Air Navigation Order 2009 and has six Parts, each relating to a different area. The amendments relate to:

17 September 2012  
(Part 1 only)

- licensing of flight crew on aircraft (Part 1)
- the certification of airworthiness of aircraft (Part 2)
- air navigation services (Part 3)
- air traffic control licensing (Part 4)
- the operation of aeronautical radio stations (Part 5)
- minor textual amendments (Part 6).

14 August 2012

## **The Human Medicines Regulations 2012**

The Human Medicines Regulations 2012 repeal or revoke most existing UK legislation regulating the authorisation, sale and supply of medicinal products for human use and consolidate their effect in one place.

24 September 2012

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In addition, the Regulations remove an existing exemption from wholesale dealing licensing requirements in order to ensure compliance with EU law, and implement EU Directive 2010/84/EU introducing modified requirements for the monitoring of the safety of medicines in clinical use and taking appropriate action to minimise risk.

#### **The Coroners and Justice Act 2009 (Commencement No. 10) Order 2012**

This Order brings into force a number of sections of the Coroners and Justice Act 2009. In particular, the enforcement implements amendments to the Fatal Accidents and Sudden Deaths (Inquiry) Scotland Act 1976.

This implementation means that it is now possible for fatal accident inquiries into overseas deaths of military personnel to be heard in Scotland. Previously, the Lord Advocate had no authority under Scots law to investigate deaths that occurred outside of Scotland. Inquests regarding military personnel had to be heard in England by means of a coroner's investigation there.

1 October 2012

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#### **The Health and Safety (Fees) Regulations 2012**

The Health and Safety (Fees) Regulations 2012 introduce the Health and Safety Executive's Fee for Intervention (FFI) scheme. Under the scheme organisations deemed by an inspector to be in 'material breach' of health and safety laws will be charged at a rate of £124 an hour for the HSE's enforcement costs.

Charges will be imposed where the dutyholder is in 'material breach' of health and safety law, resulting in the relevant HSE Inspector providing a written notice of the contravention – even if that is only in the form of a letter.

1 October 2012

Ffi was originally scheduled to come into force on 6 April 2012 but was postponed in enforcement until 1 October to enable the publication of HSE Guidance on the matter which took place in June.

### **The Health and Safety (Miscellaneous Revocations) Regulations 2012**

Under these Regulations the following instruments are revoked:

- Regulations, dated August 24th, 1906, made by the Secretary of State for Use of Locomotives and Waggons on Lines and Sidings in or used in connexion with Premises under the Factory and Workshop Act, 1901
- the Pottery (Health and Welfare) Special Regulations 1950
- the Non-ferrous Metals (Melting and Founding) Regulations 1962
- the Employment Medical Advisory Service (Factories Act Orders etc. Amendment) Order 1973
- the Health and Safety (Foundries etc.) (Metrication) Regulations 1981
- the Pottery (Health etc.) (Metrication) Regulations 1982 and
- the Anthrax Prevention Order 1971 etc. (Revocation) Regulations 2005.

These Regulations are the outcome of the HSE Consultation on proposals to revoke Statutory Instruments which took place between 23 January 2012 and 12 March 2012.

1 October 2012

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### **The Smoke-Free (Signs) Regulations 2012**

Applying to England only, these regulations revoke the Smoke-Free (Signs) Regulations 2007 and replace the detailed requirements for no smoking signs prescribed with a simple requirement for there to be at least one legible no-smoking sign displayed in all smoke-free vehicles and in all smoke-free premises.

31 October 2012

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### **The Cosmetic Products (Safety) (Amendment) Regulations 2012**

These Regulations amend the Cosmetic Products (Safety) Regulations 2008 to give effect to EC Directive 2011/84/EU concerning cosmetic products.

The amendment relates to cosmetic use of hydrogen peroxide and increases the percentage of hydrogen peroxide allowed in tooth whitening or bleaching products subject to conditions, which include first use by a dental practitioner.

16 November 2012

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### **The Merchant Shipping (Passenger Ships on Domestic Voyages) (Amendment) Regulations 2012**

The purpose of the Regulations is to implement EC Directive 2010/36/EU of 1 June 2010, amending Directive 2009/45/EC on safety rules and standards for passenger ships.

# Legislation coming into force

6 April 2013

## **Proposed Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2013**

On 11 April 2012 a public consultation was launched which sought views on proposals to replace the Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2001 and the Health and Safety at Work etc. Act 1974 (Application outside Great Britain) (Variation) Order 2011 with a new Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2013.

The introduction of the 2013 Order will ensure that when the 2011 Variation Order expires (due to a 'sun setting' provision), the HSE will be able to retain regulatory jurisdiction over high risk activities and maintain worker protection offshore on energy structures beyond the territorial sea.

On 5 November 2012 the HSE published a report with an analysis of the responses to the public consultation. This states that HSE has made some minor amendments to the Statutory Instrument and will seek Ministerial approval for the legislative package, with a view to the Order coming into force on 6 April 2013.

7 June 2013

## **EC Regulation 1077/2012 on a common method for supervision by national safety authorities after issuing a safety certificate or safety authorisation**

This Regulation establishes a common safety method (CSM) of supervision of the safety performance, after issuing a safety certificate for railway undertakings, or a safety authorisation for infrastructure managers, as referred to in Annex IV to Regulation (EU) No 1158/2010 and Annex III to Regulation (EU) No 1169/2010 respectively.

National safety authorities shall apply the CSM to oversee compliance with the legal obligation to use a safety management system to control all the risks associated with their activities. They shall use this Regulation to perform their



7 June 2013

supervision activities under Article 16(2)(f) of Directive 2004/49/EC and to advise the Member States on the effectiveness of the safety regulatory framework.

**EC Regulation 1078/2012 on a common safety method for monitoring to be applied after receiving a safety certificate or safety authorisation and by entities in charge of maintenance**

This Regulation establishes a common safety method (CSM) for monitoring, enabling the effective management of safety in the railway system during its operation and maintenance activities and, where appropriate, improving the management system.

It shall be used to check the correct application and the effectiveness of all the processes and procedures in the management system, including the technical, operational and organisational risk control measures.

1 September 2013

**EC Regulation 528/2012 concerning the making available and use of biocidal products**

Regulation No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available and use of biocidal products ('the EU Biocides Regulation') was published in the Official Journal on 27 June 2012 and entered into force on 17 July 2012. It will take effect in Member States on 1 September 2013.

The EU Biocides Regulation revises and replaces the current regulatory framework for the marketing and use of biocidal products contained in the Biocidal Products Directive 98/8/EC. It aims to improve the functioning of the internal market in biocidal products in five key policy areas:

- Scope – bringing treated articles into the scope of the biocides regime
- Product authorisation – establishing a centralised Union authorisation system

- Data sharing
- Data requirements
- Fees – harmonising the fee structure (but not the level of fees) across the Member States without reducing the high level of protection provided by the regime for human and animal health and the environment.

The EU Biocides Regulation will directly be implemented in Member States, and so does not require transposition. However, new UK legislation will be necessary in order to specify enforcement measures and penalties in relation to breaches of the Regulation, as well as to appoint a competent authority and provide a system of fees and charges by which the costs of operating the biocides system in the UK can continue to be recovered.

At the same time the existing legislation transposing the now replaced Biocidal Products Directive (the Biocidal Products Regulations 2001, and four amending Regulations in 2003, 2005, 2007 and 2010) will need to be revoked. The HSE plans to put the necessary statutory measures in place by 1 September 2013.

October 2013

### **Revision of EC Regulation 689/2008 on the export and import of dangerous chemicals**

In 2011, the European Commission published a proposal to recast Regulation (EC) 689/2008 on the export and import of dangerous chemicals. A recast is used to consolidate legislative acts that have been amended more than once.

There will no substantive changes to the duties placed on business under the Regulation; rather the amendments introduced will mostly be to update it. Principally, it will -

- amend the Regulation to refer to the European Classification, Labelling and Packaging Regulation (EC) 1272/2008

- take account of procedural changes introduced by the Lisbon Treaty and
- provide for the transfer of technical aspects of operation of the Regulation, currently carried out by the Commission's Joint Research Centre, to the European Chemicals Agency.

The Regulation is likely to apply from October 2013. The domestic UK enforcement regulations (SI 2008 No. 2108) will need to be amended to reflect the recast Regulation.

#### **Proposal for a Directive on the safety of offshore oil and gas prospecting, exploration and production activities**

On 27 October 2011 the European Commission published a proposal for an EU-wide Regulation on the safety of offshore oil and gas prospecting, exploration and production activities.

On 19 September 2012, the European Parliamentary Committee on the Environment, Public Health and Food Safety voted for an amendment to transform the Regulation to a Directive. On 9 October 2012 the same proposal went before the Industry, Research and Energy Committee of the European Parliament, where the vote was also successful.

A Regulation on offshore health and safety would have implemented a European-wide safety regime for oil and gas activities offshore. It was seen to be a solution to the disparities that exist between laws in Member States. However, the proposal was met with much resistance, particularly from the UK industry association and both the Scottish and UK governments.

The new Directive would tackle the issue of disparity with much more flexibility in implementation. The effect would target countries where the standard is not as high as current North Sea practices, whilst maintaining a robust approach in the UK.

2014

Negotiations must take place with the European Council before the proposal goes to plenary vote, expected in December 2012. It is anticipated that the introduction of the Directive would take place in 2013-2014.

#### **Proposed Construction (Design & Management) Regulations**

The HSE has announced it will be re-drafting the Construction (Design & Management) Regulations for reissue in 2014.

Details of the amendments are expected to be presented to the HSE board in December 2012. They are likely to be based on the criticisms highlighted in Professor Löfstedt's 2011 report 'Reclaiming health and safety for all: An independent review of health and safety legislation'. This report recommended that an ongoing review of CDM 2007 should consider a clearer expression of duties, a reduction in bureaucracy and suitable guidance for small projects.

In an announcement in May 2012 the HSE indicated that the new Regulations may also be based closely on the requirements of the EU Temporary or Mobile Construction Sites Directive (92/57/EEC).

1 June 2015

#### **Potential changes to the Seveso II Directive (96/82/EC) ('Seveso II')**

The aim of the Seveso II Directive was to prevent major accidents at industrial sites storing or using dangerous substances and to limit the consequences if such an accident did occur. It introduced a tiered approach to controls; the larger the quantity of dangerous substances stored or used, the stricter the controls. Seveso II was extended in 2003 to cover risks arising from storage of explosives and ammonium nitrate, and risks arising from mining operations.

Currently the application of Seveso II is partly determined by reference to the Dangerous Substances Directive (67/548/EEC) and the Dangerous Preparations Directive (1999/45/EC)

(also known as DSD/DPD). A new EU Regulation on the Classification, Labelling and Packaging of Substances and Mixtures, (CLP) came into force on 20 January 2009. It will be phased in over a transitional period, ultimately replacing DSD/DPD in 2015. This will break the legislative link between Seveso II and the current classification system. A new method of determining the scope of the Directive will need to be found, which will require an amendment to Seveso II.

The Commission adopted a proposal on 21 December 2010 for a new directive ('Seveso III') that would be implemented by 1 June 2015. The main aim of the proposal is to address the consequences to the regulation of major-accident hazard sites from changes to EU legislation on the classification, labelling and packaging of chemical substances and mixtures. The main proposed changes are as follows:

- align Annex I to the Directive (defining the substances falling within its scope) to changes to the EU system of classification of dangerous substances to which it refers
- include corrective mechanisms to adapt Annex I in the future to deal with situations over time from the alignment where substances are included/excluded that do/do not present a major-accident hazard
- strengthen the provisions relating to public access to safety information, participation in decision-making and access to justice, and improve the way information is collected, managed, made available and shared
- introduce stricter standards for inspections of installations to ensure the effective implementation and enforcement of safety rules.

# REACH

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REACH (Registration, Evaluation, Authorisation and Restriction of Chemicals) is the regime for the control and regulation of chemicals in the EU. It is co-ordinated by the European Chemicals Agency (ECHA) but largely enforced in the UK by the Health and Safety Executive, in conjunction with other government agencies.

*REACH is designed to provide more information on the risks of chemicals and increase confidence in their safe use. Information about hazards and safe use will have to be passed down the supply chain using improved Safety Data Sheets.*

While the Regulations came into force on 1 June 2007, many of its provisions are being 'phased-in' over a period of years. Businesses in a wide range of sectors are affected; it is estimated that there are approximately 30,000 controlled substances being used in the EU. The Regulations require that companies register substances where they are being manufactured or imported (from outside the EU) in quantities exceeding one tonne per year.

Registration can be completed electronically using the REACH-IT tool. It involves submitting a 'dossier' containing information on the substance, its health and/or environmental risks and the precautions that have been taken to minimise those risks.

*Companies affected should be planning now for registration requirements that will soon be mandatory. Failure to comply is an offence, which in the UK can be punishable by unlimited fines. Directors can also be held personally liable for breaches.*

To benefit from the phased-in deadlines, manufacturers or suppliers had to pre-register their substances by 1 December 2008. 'Late pre-registration' is still available to companies who have started manufacturing or importing substances for the first time since 1 December 2008.

## REACH - Key dates

1 December 2010

### Phase 1

The general registration timeline is detailed below. On 1 December 2010, 'Phase 1' of the registration requirements came into force; companies manufacturing or importing the following must have registered:

- Substances in quantities exceeding 1000 tonnes per annum
- Substances in quantities exceeding 100 tonnes per annum and classified as very toxic to aquatic organisms under CHIP (Chemical (Hazard Information and Packaging for Supply) Regulations 2002) and
- Substances in quantities greater than 1 tonne per annum and classified under CHIP as Category 1 or 2 carcinogens, mutagens or reproductive toxicants.

1 December 2010

### Regulation 1272/2008 on Classification, Labelling and Packaging of Substances and Mixtures (CLP)

1 December 2010 was a key deadline under Regulation 1272/2008 on Classification, Labelling and Packaging of Substances and Mixtures (CLP). CLP introduced new packaging and labelling requirements. Substances covered by CLP should have been re-classified and re-labelled from 1 December 2010. Mixtures (e.g. paints or inks) must be re-classified and re-labelled by 1 June 2015.

Since 1 December 2010, manufacturers and importers have been required to make a Classification and Labelling notification to ECHA. For substances placed on the market on or after 1 December 2010, the deadline for the notification is one month following the date the substance was placed on the market.

If a substance has been on the market for a period prior to 1 December 2010 but taken off for a period prior to that date, the registration deadline is one month from the substance being placed back on the market after 1 December 2010.

*Tonnage thresholds do not apply to CLP. Accordingly, businesses normally outside the scope of REACH (on account of dealing in small quantities) will be affected.*

1 June 2013

**'Phase 2'**

From 1 June 2013, the threshold for registration of substances will decrease from 1000 tonnes to 100 tonnes per annum.

1 June 2018

**'Phase 3'**

From 1 June 2018, the threshold for registration of substances will decrease from 100 tonnes to 1 tonne per annum.



In 2012, five years after the introduction of REACH, the European Commission launched the REACH review process. As part of this the Commission undertook several thematic studies, focusing in particular on:

- The (nominal) risk caused by chemicals in 2012 compared to 2007 (a follow-up of the baseline study of REACH)
- Review of the European Chemicals Agency (ECHA) based on Article 75 of Regulation (EC) 1907/2006
- The REACH contribution to the development, commercialisation and uptake of products of emerging technologies
- Implementation and enforcement of restrictions in Member States
- Impact of the REACH regulation on the innovativeness of the EU chemical industry
- Inspections requirements for REACH and CLP
- Functioning of the European chemical market after the introduction of REACH
- Technical assistance related to the scope of REACH and other relevant EU legislation to assess overlaps
- Technical assistance to prepare the Commission report on operation of REACH
- Review of the registration requirements for 1 to 10 tonnes substances and polymers
- Assessment of health and environmental benefits of REACH
- Review of EU legislation (REACH) concerning nanotechnology.

The outcome of the REACH review is still awaited. In October 2012 the head of unit at the European Commission's environment directorate said the REACH review, originally planned for June, had been delayed until October. The launch of the REACH review outcome report is expected alongside a potential legislative proposal to amend REACH at a later stage. As foreseen in Article 138 of the Regulation and taking into account the Commission's right of initiative, the Commission may present a legislative proposal based on the review outcomes, after consideration of all the expected socio-economic effects through a proper impact assessment process, bearing also in mind potential impacts on the next registration deadlines (2013 and 2018).

# Bills before Parliament

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2012-2013

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## **Antarctic Bill**

The Antarctic Bill is presented as a Private Member's Bill. It has Governmental support and follows from a draft Bill consulted on by the previous Government in 2009. Part 1 of the Bill seeks to implement the 'Liability Annex' to the Protocol on Environmental Protection to the Antarctic Treaty that was agreed in 2005, making the UK the first to do so. This Annex aims to reduce the risks of environmental emergencies in Antarctica and to establish a polluter pays approach to such incidents. The Bill also makes a number of amendments to the Antarctic Act 1994 extending environmental protection in line with subsequent Treaty changes.

The Bill was presented to Parliament through the Private Members' ballot procedure on 20 June 2012 and had its Second Reading on Friday 2 November 2012. The Public Bill Committee met on 21 November 2012 where the Bill completed its committee stage. It is due to have its report stage and third reading on 18 January 2013.

2012-2013

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## **Cosmetic Surgery (Minimum Standards) Bill**

This Private Members Bill was introduced to Parliament on 17 July 2012 under the Ten Minute Rule. This allows an MP to make his or her case for a new bill in a speech lasting up to ten minutes. An opposing speech may also be made before the House decides whether or not the bill should be introduced. If the MP is successful the bill is taken to have had its first reading.

The purpose of the Bill is to establish minimum standards for the practice of cosmetic surgery, including non-surgical procedures; and for connected purposes. It is expected to have its second reading debate on 1 February 2013.

2012-2013

### **Energy Bill**

This Bill was presented to the House of Commons on 29 November 2012. It is expected to have its second reading at a date yet to be announced.

The Bill has numerous purposes. It intends to make provisions for reforming the electricity market to encourage low carbon electricity generation; in relation to the functions of the Office for Nuclear Regulation; about the government pipe-line and storage system and rights exercisable in relation to it; for the making of orders requiring regulated persons to provide redress to consumers of gas or electricity; about offshore transmission of electricity during a commissioning period; for imposing further fees in respect of nuclear decommissioning costs; and for connected purposes.

2012 - 2013

### **Enterprises and Regulatory Reform Bill**

This Bill received a first reading in the Commons on 23 May 2012 and proceeded to the House of Lords on 18 October 2012. If passed in its current format this Bill would result in changes to civil liability for breaches of health and safety legislation. A clause in the Bill would amend the Health and Safety at Work etc Act 1974 to remove strict liability in cases where there has been a breach of a statutory duty.

The intended effect of the amendment is that employers who have taken all reasonable precautions will not be liable to be sued for a technical breach of a statutory duty. The Government hopes that it will reduce the 'regulatory burden' on employers, and coincides with a number of other current ongoing initiatives on the removal of 'red tape'.

There was a clear division in the Commons at the vote, with 295 voting in favour of the proposal, and 215 voting against. It will now face consideration in the House of Lords.

2012-2013

**Plastic Bottles and Glasses (Mandatory Use) Bill**

This Bill was introduced to Parliament on 4 September 2012 under the Ten Minute Rule. It is expected to have its second reading debate on 1 February 2013.

The Bill's purpose is to require local authorities to impose mandatory use of plastic glasses and bottles in licensed premises. The Bill would require the Government to work with local authorities and licensing authorities to make the use of polycarbonate bottles as a replacement for glass bottles mandatory in premises with a history of violent incidents.

2012-2013

**Protection of Workers Bill**

This Bill is to create a specific offence relating to assault on those whose work brings them in face-to-face contact with members of the public. The new offence relating to assaults on public-facing workers will carry a maximum sentence of 12 months and a £10,000 fine.

The Bill would build on existing legislation to protect emergency workers in the course of their work, including the Emergency Workers (Obstruction) Act 2006 and the Emergency Workers (Scotland) Act 2005. It was introduced under the Ten Minute Rule as a Private Members Bill on 30 October 2012. It is expected to have its second reading debate on 1 February 2013.

2012-2013

**Scrap Metal Dealers Bill**

First reading in the House of Lords took place on 12 November 2012. This stage is a formality that signals the start of the Bill's journey through the Lords. The general debate on all aspects of the Bill is yet to be scheduled.



2012-2013

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The Scrap Metal Dealers Bill seeks to give local authorities powers to licence scrap metal dealers and carry out inspections. Local authorities would be able to refuse or revoke a licence from an unsuitable dealer.

Local authorities would also be able to charge fees for licensing to help cover costs. The new clauses would require a scrap metal dealer to clearly display their licence to operate and to produce proof of metals disposed of, as well as metals received.

#### **Smoke-free Private Vehicles Bill**

This Private Members Bill from the House of Lords was presented to the House of Commons on 3 September 2012. The second reading debate on 2 November 2012 was adjourned. It is now expected to resume on 1 February 2013.

The Bill will amend the Health Act 2006 to make provision for a ban on smoking in private vehicles where there are children present.

2012-2013

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#### **Wind Turbines (Minimum Distance from Residential Premises) Bill (HL)**

First reading of this House of Lords Bill took place on 14 May 2012. The general debate on all aspects of the Bill is yet to be scheduled.

The Bill is to make provision for a minimum distance between wind turbines and residential premises according to the size of the wind turbine.

# Recent consultations

The following is a selection of recent and ongoing consultations and the expected timetable for implementation of proposals, where applicable.

27 November 2012 –  
27 February 2013

## **Consultation on the commencement of the Road Safety Act 2006 s19 in relation to exemptions for speed limits for certain vehicle purposes**

This Department for Transport consultation proposes the commencement of the Road Safety Act 2006 s19 which would replace the Road Traffic Regulation Act 1984 s87 in relation to exemptions from speed limits for certain vehicle purposes. The commencement will allow certain other vehicle purposes to be included in speed limit exemption regulations, and prescribe a high speed training course that drivers must undertake before they are permitted to exceed speed limits.

It also considers regulations relating to five other exemptions from road traffic laws (related to signals, signalled crossings, certain signs and motorways hard shoulders) and includes proposals to amend some of these other provisions.

The consultation opened on 27 November 2012 and runs until 27 February 2013.

Closed

## **Consultation on the removal of the requirement for the HSE to approve first aid training and qualifications, and the content of associated guidance**

This consultation seeks views on the recommendation in Professor Löfstedt's report in 2011 relating to the regulation of first-aid at work. This includes removal of the Health & Safety Executive's (HSE) approval of first aid training and qualifications, reviewing the existing Approved Code of Practice, and the content of future guidance.

The current Health and Safety (First Aid) 1981 Regulations place a requirement on employers to make arrangements to ensure that their employees receive immediate attention if they are injured or taken ill at work. Removing the

Closed

requirement for HSE to approve first aid training and qualifications will mean employers can meet their first aid needs assessment whilst having greater flexibility in their choice of training provider.

New guidance will provide information for employers on how to select a competent training provider. HSE will provide a set of criteria against which employers can benchmark the performance of training organisations.

The consultation began on 22 October 2012 and ended on 3 December 2012

**Consultation on proposed regulations to implement Council Directive 2010/32/EU on preventing sharps injuries in the hospital and healthcare sector**

This consultation seeks views on the HSE's proposals to introduce new regulations to protect healthcare workers against the risk of injury from sharp medical instruments. The regulations are provisionally titled The Health & Safety (Sharp Instruments in Healthcare) Regulations 2013.

The new regulations will require employers in the healthcare sector to introduce arrangements for the safe use and disposal of medical sharps, to provide information and training to employees, and to record, investigate and take action following a sharps injury. The regulations will also introduce a duty on healthcare workers to promptly report any sharps injury to their employer.

The consultation seeks views on whether the proposed regulations enable healthcare businesses and workers to identify what they need to do; the initial assessment of the costs and benefits of the proposed changes; how the regulations should be supported by guidance; and who is best placed to provide that guidance.

This consultation opened on 8 August 2012 and ended on 8 November 2012.

Closed

### **Consultation on proposals to simplify and clarify RIDDOR reporting requirements**

A revision of the UK's occupational accident and disease reporting requirements has been proposed in an HSE Consultation on RIDDOR. Under the Reporting of Injuries, Disease and Dangerous Occurrences Regulations 1995 (RIDDOR) employers, self employed workers and those in control of work premises are under duties to report serious accidents in the workplace. Changes are proposed to provide clarity for businesses on how to comply with requirements, following criticism's made by Professor Löfstedt in 2011 and Lord Young in 2010 (the 'Common Sense, Common Safety' report).

The proposals include the removal of the duty on the self employed to self report, the removal of the requirement for employers to report dangerous occurrences outside of high risk sectors or to report most occupational diseases. The reporting requirement in relation to fatalities and major injuries will remain unchanged.

This consultation began on 2 August 2012 and ended on 28 October 2012.

Closed

### **Consultation on proposals to exempt some self-employed people from health and safety legislation**

This consultation is in relation to the proposal to exempt self employed workers from health and safety legislation following recommendations made by Professor Löfstedt in his 2011 report. The exemption would apply to self employed people who pose no potential risk to others in their work activities.

Three alternative methods of implementing this proposal are highlighted in the consultation document. They include a complete exemption for all self employed workers who pose no risk; an exemption subject to 'carved out' prescribed high risk, high hazard sectors; or an exemption for those solely in office-based activities.



Closed

The HSE made preference towards the second option, with a list of 'prescribed sectors' being under continuous review to ensure health and safety legislation continues to apply to sectors such as the offshore industry, construction and diving.

The consultation ran from 2 August 2012 to 28 October 2012. Implementation of any resulting legislation is expected by the end of 2013.

#### **Consultation on proposals to review HSE's Approved Codes of Practice (ACOPs)**

This consultation seeks views on HSE's proposals for the revision, consolidation or withdrawal of ACOPs for delivery by 2014. These include a proposal to withdraw the ACOP for the Management of Health and Safety at Work Regulations 1999 and replace it with a suite of more specific, updated guidance by 2013. It also seeks views on a proposal to limit all ACOP documents to a maximum length of 32 pages, other than in exceptional circumstances.

Proposals to revise, consolidate or withdraw ACOPs relate to dangerous substances and explosive atmospheres (ACOPs L134 – 138); legionella (ACOP L8); asbestos (ACOPs L127, L143); gas safety (ACOPs L56, COP20); hazardous substances (ACOP L5); workplaces (ACOP L24); management of health and safety (ACOP L21); agriculture (ACOP L116); and pipelines (ACOP L81).

Proposals to make minor amendments or no changes to ACOPs relate to diving (ACOPs L103 - 107); work equipment (ACOPs L22, L112, L114); lifting equipment (ACOP L113); confined spaces (ACOP L101); pressure systems (ACOP L122); hazardous substances - pottery production (ACOP L60); hazardous substances - lead (ACOP L132); quarries (ACOP L118); and worker involvement (ACOP L146).

The consultation began on 25 June 2012 and ended on 14 September 2012.

# HSE campaigns and initiatives

## Current

### European Healthy Workplaces Campaign

On 19 April 2012, the European Agency for Safety and Health at Work (EU-OSHA) launched a two-year Healthy Workplaces Campaign which will focus on the role of management leadership and workforce participation in improving workplace safety and health. The campaign covers over 30 European countries and involves a range of activities at national and European level, including the 11th European Good Practice Awards which highlight the best examples of managers and employees working together for risk prevention.

The Healthy Workplaces Campaign drives home the importance of leadership and team work at all levels and outlines the following main objectives:

- Promotion of the core message that workers and managers must work together to prevent risks for ethical, practical, legal and economic reasons.
- The provision of clear and simple guidance for employers to manage specific work-related risks in partnership with workers and their representatives.
- The provision of practical guidance, information and tools to promote a risk prevention culture particularly within small and medium enterprises.
- Fostering the inclusion of occupational safety and health management in organisations' corporate social responsibility policies.
- Laying the foundations for a more sustainable risk prevention culture in Europe.

For more information on effective leadership, involving your workforce and how to get involved visit [www.hse.gov.uk/campaigns/european/index.htm](http://www.hse.gov.uk/campaigns/european/index.htm).

Current

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### **Gas Safe Register Campaign**

This ongoing campaign is aimed at students and raising their awareness with regards gas safety. It explains that landlords, by law, have to ensure that gas appliances supplied in rented accommodation are safe to use. They also have to provide a copy of the landlord's gas safety check record either prior to moving in or within 28 days of the annual check being completed if there is an existing tenant.

The homepage ([www.hse.gov.uk/gas/gas-safe-register-campaign.htm](http://www.hse.gov.uk/gas/gas-safe-register-campaign.htm)) includes links to factsheets on the dangers of Carbon Monoxide and guidance on the use of gas appliances.

Current

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### **Health & Safety Toolbox**

The Health and Safety Toolbox launched by the Health and Safety Executive in November 2012 aims to bring together everything a small, low risk business could need to manage health and safety in one particular place.

It aims to make it easy for busy firms to find relevant guidance on specific risks. It has been suggested that the package of guidance which has been developed with the support of businesses will help business owners and employers avoid wasting time reading what they do not need to.

The full toolbox ([www.hse.gov.uk/toolbox/index.htm](http://www.hse.gov.uk/toolbox/index.htm)) includes links to sector specific guidance and an overview of relevant legal obligations for workplaces.

Current

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### **Hidden Killer Campaign**

This award-winning campaign aims to raise awareness of the risks of asbestos exposure and the types of products that typically contain asbestos fibres. It is aimed primarily at those working in the various trades.

## Current

While the dangers of asbestos are well known, its prevalence in everyday seemingly innocuous materials and products is less obvious. This campaign focuses on its 'hidden' nature.

The micro-site ([www.hse.gov.uk/asbestos/hiddenkiller/index.htm](http://www.hse.gov.uk/asbestos/hiddenkiller/index.htm)) contains guidance on what is needed in the way of licences, training and tools prior to working with asbestos. It also contains an interactive tool and quiz highlighting everyday household items that may contain asbestos parts. Additionally, the site highlights the right of workers to be informed if asbestos is in the building they are working on.

### **Key Programme 4 (KP4)**

In July 2010 the Health and Safety Executive's Offshore Division launched Key Programme 4 (KP4) targeting ageing and life extension (ALE) issues relating to offshore installations. November 2012 sees the publication of the KP4 interim report, which details the progress of the programme to date.

KP4 is a programme of targeted inspections which aim to improve management of ageing offshore assets and to identify best practice. An awareness of ALE issues is seen as a crucial aspect of offshore safety. It follows on from the KP3 Programme ran by the HSE in 2009 highlighting issues in asset integrity.

KP4 will run until December 2013 by which point all dutyholders will have been inspected and should be implementing long term installation plans. Following this, the intention is for the HSE to review the implementation of these plans, focusing particularly on the commitment of senior management personnel to maintaining asset integrity.

## Current

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### **Red Tape Challenge**

The UK Government's 'Red Tape Challenge' was launched in April 2011 with the intention of reducing the regulatory burden on UK business whilst maintaining adequate safeguards. The review encompasses consideration of both general cross-sector regulations (such as health and safety and environment) and examination of selected industries such as the Energy industry. Over 3000 regulations are currently targeted for abolition or reduction as part of the Red Tape Challenge process, with details of these to be identified by December 2013.

As part of the deregulatory agenda it has been announced that businesses classified as 'low risk' will become exempt from health and safety inspections from April 2013 under new proposals to be drawn up by the UK Government. A consultation on the statutory rules is anticipated. The new rules would target sectors such as shops, office, pubs and clubs, and would remove the requirement for routine inspections unless that particular business is known to have a poor safety record. High risk sectors will continue to be inspected.

The Government has stated that if a theme subject to review under the Red Tape Challenge is closed, any other comments shall continue to be considered as part of the wider deregulatory agenda if emailed to [redtapechallenge@cabinet-office.gsi.gov.uk](mailto:redtapechallenge@cabinet-office.gsi.gov.uk)

## Current

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### **Safe & Sound At Work Campaign**

This campaign is designed to help businesses improve worker consultation and involvement in relation to health and safety matters.

Employers already have statutory obligations to consult workers in relation to health and safety. This campaign is intended to help businesses learn how to involve their workers and also highlights the benefits of doing so, including lower injury rates and reduced insurance premiums.

## Current

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The HSE micro-site contains a step by step guide and information on subsidised training ([www.hse.gov.uk/involvement/doyourbit/index.htm](http://www.hse.gov.uk/involvement/doyourbit/index.htm)).

### **Step Change in Safety Workforce Engagement Toolkit**

On 5 September Step Change in Safety - an industry-based organisation dedicated to improving UK offshore safety – launched a new toolkit of guidance designed to improve workforce safety in the oil and gas industry and with aims of enhancing a ‘culture of safety’ at worksites.

The Workforce Engagement Toolkit is a document which provides practical guidance to companies to help encourage and improve engagement amongst all members of the workforce in an effort to enhance their safety culture. It aims to do so by helping companies identify areas in need of improvement and providing guidance on how that improvement can be facilitated.

The toolkit and related worksite survey can be accessed on the Step Change in Safety website ([www.stepchangeinsafety.net/about/workgroups/WorkforceEngagementToolkit.cfm](http://www.stepchangeinsafety.net/about/workgroups/WorkforceEngagementToolkit.cfm)).

## Current

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### **Vehicle Load Safety**

According to HSE, unsafe loads injure more than 1,200 people a year in the UK and cost businesses millions in damaged goods.

This campaign focuses on the securing of loads. It highlights the risks of shifting loads on transport vehicles, damaged lashings and mistaken reliance of curtains, which are merely for weather protection.

The HSE micro-site ([www.hse.gov.uk/workplacetransport/loadsafty/index.htm](http://www.hse.gov.uk/workplacetransport/loadsafty/index.htm)) provides detailed guidance and links to Department of Transport guidance on specific load types and vehicles.

# EU legislative process in brief

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Various kinds of EU legislation exists and it may not always be clear to whom they apply and when. The main types are:-

**Directives** do not automatically come into force in the UK; they must be implemented by legislation at a national level. Until they are so implemented, they are not directly effective against any individual or company. They may, however, be directly effective against a Government or Government body.

**Regulations** come into force in all EU Member States upon publication. That means that they apply to individuals and companies without legislation on a national level.

**Decisions** are directed towards specific Member States, companies or individuals. They are binding on those to whom they are addressed.

## Further Information

For further information on our health and safety services please contact Jan Burgess on +44 (0)20 7367 3539 or email [jan.burgess@cms-cmck.com](mailto:jan.burgess@cms-cmck.com)

Disclaimer – this calendar is provided by way of general guidance only and does not constitute legal or professional advice. While we aim for it to be as up-to-date as possible, some recent developments may miss our publication deadline and some dates may change at short notice. The calendar is not intended to cover every policy or legislative initiative, but only major health and safety issues.

# Health and Safety - what we do

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CMS Cameron McKenna is recognised as a leading firm in the area of Health and Safety. We provide specialist advice on regulatory compliance, prosecutions, investigations and corporate governance. We have specialised knowledge of the offshore and energy sector in particular, which faces greater challenges and regulation than most. However, our client base and expertise spans a broad range of sectors, including:

- Construction
- Communications
- Energy
- Global Health & Safety Advice
- Leisure
- Manufacturing
- Renewables
- Transport.

Regrettably, accidents at work can be serious and sometimes result in fatalities. Our clients appreciate the high level of attention and support we are able to offer during what can be a difficult time for any organisation. We are able to provide assistance with every aspect of incident response, including incident investigations, dealing with witnesses, defending prosecutions and advising senior management on relations with the Health & Safety Executive.

## **Emergency response team**

Our specialist team is on call to provide assistance and respond to incidents 24 hours a day. Our team is qualified to practise in England, Wales and Scotland but also regularly advises clients in relation to international working practices and health & safety matters in other jurisdictions. Our team's availability will shortly become easier to access with a dedicated emergency response number available 24/7 which will put you in immediate contact with a member of our team. Details of the emergency number will be published soon.



### **Kelvin TOP-SET senior investigators**

We have specialised knowledge and training to investigate serious accidents or near-miss events under the Kelvin TOP-SET incident investigation system. This is a well-known investigation qualification, regularly used by many industries in the UK and abroad. The system is designed to ensure a bespoke but swift and systematic investigation of any incident incorporating root cause analysis and identification of remedial measures.

#### **Our clients come to us for advice on:**

- Emergency Response and Crisis Management
- Health and Safety prosecutions
- Accident Inquiries
- Formal interviews and investigations undertaken by inspectors
- Corporate Manslaughter investigations
- Inquests and Fatal Accident Inquiries
- Appeals against Improvement and Enforcement Notices
- Compliance with UK and European regulatory requirements
- Drafting corporate Health and Safety policies and contract documentation
- Safety aspects of projects and property management
- Due diligence in corporate acquisitions/disposals
- Directors' and officers' personal liabilities
- Management Training Courses
- Personal injury defence
- Risk management and training.

## Recent experience

- Defending Health and Safety prosecutions of client companies.
- Appealing other types of enforcement action against companies (e.g. Prohibition Notices).
- Conducting numerous Coroners' Inquests and Fatal Accident Inquiries - including some of the most high-profile and complex Inquiries to have taken place in relation to offshore incidents.
- Obtaining the first ever award of expenses against the Crown in favour of a client company following a Fatal Accident Inquiry.
- Taking Appeals to the High Court of Justiciary.
- Taking Appeals on human rights issues to the Privy Council.
- Defending Judicial Reviews.
- Advising on forthcoming Health & Safety legislation.
- Assisting clients in consultations with the Health and Safety Executive and other regulatory bodies, including the Department for Energy and Climate Change.
- Advising clients in relation to Safety Cases, Corporate Governance issues and Directors' duties and liabilities.
- Undertaking transactional due diligence in relation to Health and Safety matters.
- Carrying out Health and Safety audits.
- Advising clients on incident investigation, legal privilege and dealing with HSE inspectors.
- Preparing and drafting incident investigation reports.
- Advising clients on media, public relations and reputational issues following incidents.

## For more information please contact



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