

Your World First



# EU and UK Health and Safety Calendar

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CMS Cameron McKenna

Winter 2013/14



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# 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 page 27.

The content is ordered as follows:

4\_New UK and EU Legislation in Force

8\_UK and EU Legislation Coming into Force

12\_REACH

16\_Bills in the 2013-2014 Parliament Session

18\_Current & Completed Consultations

21\_Current Campaigns and Initiatives

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.

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# New UK and EU Legislation in Force

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1 September 2013

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## The EU Biocides Regulation 528/2012 (EU BPR)

This Regulation ('the EU Biocides Regulation') concerns the placing on the market and use of biocidal products. Biocidal products are used by workers in a wide variety of industries to control organisms such as viruses, bacteria, fungi, insects and animals. Common examples of Biocidal products include disinfectants, pest control products and preservatives.

This Regulation 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.

This Regulation came into force on 1 September 2013, and revises and replaces the Biocidal Products Directive 98/8/EEC and the supporting UK Biocidal Products Regulations.

1 September 2013

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## The Biocidal Products (Fees and Charges) Regulations 2013

This Regulation establishes domestic arrangements for the competent authority to charge fees in relation to breaches of The EU Biocides Regulation.

This Regulation came into force on 1 September 2013.

1 September 2013

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### **The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013 (BPC Regulations)**

This Regulation establishes domestic administrative arrangements for the enforcement of The EU Biocides Regulation. They appoint competent authorities for biocides and provide details of the transitional arrangements for existing biocidal products.

These Regulations also provide support for EU Regulation (EC) No 1272/2008 on the Classification, Labelling and Packaging of substances and mixtures and EU Regulation (EU) No 649/2012 on the export and hazardous chemicals, for example, by updating their enforcement arrangements, appointing the competent authorities and designating the national authorities.

This Regulation came into force on 1 September 2013.

1 October 2013

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### **Enterprise and Regulatory Reform Act 2013**

The Enterprise and Regulatory Reform Act 2013 amended the Health and Safety at Work Act 1974, removing a worker's right under civil law to claim compensation following an accident or injury caused by their employer's breach of health and safety regulations, where no defence was available to the employer under the regulations (i.e. strict liability).

Prior to the introduction of the Enterprise and Regulatory Reform Act 2013, under the Health and Safety at Work etc. Act 1974, an employee who suffers injury at their work could claim under civil law for damages due to their employer's breach of a statutory duty. However, this strict liability position meant an employer could be held liable to provide compensation to an employee even if all suitable precautions were taken to protect that employee from injury.



The intention of the Government was to tackle the 'compensation culture' and protect employers from paying compensation where they did all that was reasonably expected to protect the health and safety of their employees.

The changes *only* effect strict liability in relation to civil claims (i.e. personal injury claims). Criminal and other methods of enforcement of health and safety law will not be affected and strict liability, where it currently exists, will remain.

The Act is subject to a staged implementation. However, Section 69 of the Enterprise and Regulatory Reform Act 2013 came into force on 1 October 2013.

1 October 2013

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### **The Health and Safety at Work etc, Act 1974 (Civil Liability)(Exceptions) Regulations 2013**

The Health and Safety at Work etc. Act 1974 (Civil Liability) (Exceptions) Regulations 2013 creates an exception to section 47(2) of the Health and Safety at Work etc. Act 1974, as amended.

The exception created relates to the exclusion of civil liability for breach of statutory duty for pregnant workers and workers who have recently given birth or are breastfeeding in relation to certain rights derived from 'the Pregnant Workers Directive' and 'the Agency Workers Directive'.

1 October 2013

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### **The Health and Safety (First Aid) Regulations 1981**

The Health and Safety (First Aid) Regulations 1981 have been amended to remove the requirement imposed on employers to seek approval from the Health and Safety Executive regarding the training and qualifications of their appointed first aid personnel.

1 October 2013

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It remains a legal requirement for employers to obtain first-aid needs assessment. Employers must ensure that suitable provision is made in accordance with this assessment.

However, employers are free to select a training provider as long as they are competent and have the right quality assurance systems. Training may be chosen through an approved centre by an awarding organisation such as Ofqual, SQA and the Welsh Government or by a voluntary aid society such as St John Ambulance, British Red Cross and St Andrew's First Aid.

### **Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR)**

Under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR), employers (and other people who are in control of work premises) are obliged to report all work related fatalities, serious injuries, diagnosed industrial disease and dangerous occurrences to the Health and Safety Executive.

The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 came into force on 1 October 2013.

The main changes include:

- Reportable injuries listed under 'major injuries' have been replaced with a shorter list of 'specified injuries'.
- Eight categories of reportable work-related illness have replaced the schedule which lists all types of industrial disease.
- The number of reportable injuries listed under 'dangerous occurrences' has been reduced.

The changes do not impact the reporting requirements for fatal accidents, accidents to members of the public or accidents which result in an employee being unable to carry out their work duties for a period of seven days or more.

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# UK and EU Legislation Coming into Force

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15 February 2014

## Heavy Fuel Oil (Amendment) Regulations 2014

Heavy Fuel Oil (HFO) is classified under the Classification, Labelling and Packaging (CLP) Regulation (EC 1272/2008) as 'Dangerous for the Environment'.

The Heavy Fuel Oil (Amendment) Regulations 2014 which come into force on 15 February 2014 will amend the Control of Major Accident Hazards Regulations 1999 (COMAH) and re-categorise Heavy Fuel Oil (HFO) as 'petroleum products'.

1 March 2014

## 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.

The recast PIC Regulation (EU 649/2012) will apply from 1 March 2014 replacing the current PIC Regulation 689/2008.

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

The domestic UK enforcement regulations SI 2008 No. 2108 will need to be amended to reflect the recast Regulation.



6 April 2014

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### **Amendments to the Registration, Evaluation, Authorisation and Restriction of Chemicals Enforcement Regulations 2008**

Following on from the Consultation on Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), the amendments will allow for the continued use of paint-strippers containing dichloromethane under certain conditions.

6 April 2014

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### **Miscellaneous Regulations to revoke the Docks Regulations 1988**

This Regulation revokes the Docks Regulations 1988 (SI/1988/1655), which impose duties for the management of workers' health, safety and welfare in relation to certain docks-related activities, and makes consequential amendments to other legislation.

2014

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

The Health and Safety Executive has announced it will be re-drafting the Construction (Design & Management) Regulations 2007 for reissue in 2014.

Initially, it was thought that this would take the form of a fine tuning exercise; but it now appears that a 'complete overhaul' of the Regulations is planned. Some proposed changes include: the removal of provisions relating to competence and the introduction duties for domestic projects.

However, the exact detail of the new regulatory package will not be known until it is presented to the HSE Board.

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 and
- to introduce stricter standards for inspections of installations to ensure the effective implementation and enforcement of safety rules.

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# 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 eleven 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 and by this date 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.

### 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

	<p>notification is one month following the date the substance was placed on the market.</p> <p>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.</p> <p><i>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.</i></p>
1 June 2013	<p><b>'Phase 2'</b></p> <p>From 1 June 2013, the threshold for registration of substances has decreased from 1000 tonnes to 100 tonnes per annum.</p>
1 June 2018	<p><b>'Phase 3'</b></p> <p>From 1 June 2018, the threshold for registration of substances will decrease from 100 tonnes to 1 tonne per annum.</p>

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 the 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 EU chemical industry
- Inspections requirements for REACH and CLP
- Functioning of the European chemical market after the introduction of REACH regulation
- 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 reports 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).

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# Bills in the 2013-2014 Parliament Session

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2013-2014

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## **Deregulation Bill**

The Deregulation Bill was announced in the Queen's speech on 9 May 2013. The main elements of the Bill are: measures which will reduce or remove burdens on businesses and Civil Society and so facilitate growth; measures which will reduce or remove burdens on public bodies, the taxpayer or individuals; good legislative housekeeping; and repeal of legislation that is no longer of any practical use. The proposals stem from the independent review of health and safety conducted by Professor Löfstedt, which questioned the inclusion of the self employed in health and safety legislation, 'whose work activities pose no potential harm to others'.

The Bill will exempt from health and safety law those self-employed workers whose work activities pose no potential risk of harm for others. Currently, the law imposes general duties on everyone at work, including the self employed to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that he and other persons (not being his employees) who may be affected thereby are not exposed to risks to their health and safety.

The most recent draft of the Deregulation Bill was published on 26 July 2013. A report was ordered by the House of Lords and House of Commons on the Deregulation Bill and was printed on 11 December 2013.

2013-2014

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## **Health and Social Care (Amendment) (Food Standards) Bill**

This Bill makes provision for the regulation of food standards in hospitals. It sets out the proposed requirement for government, industry, professional and



2013-2014

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other sector representatives to come together to agree standards for the procurement of healthy and sustainable food for patients in hospitals.

The Bill was introduced in the 2013-2014 session. The first reading took place on 14 May 2013. The third reading of the Bill was on 2 December 2013 and no amendments took place. The Bill now goes to the Commons for its consideration.

#### **Mesothelioma Bill**

The purpose of the Bill is to establish a payments/compensation scheme for those who have suffered diffuse mesothelioma as a result of asbestos exposure, and they are unable to recover from the relevant employer or insurer (where such parties cannot be found or no longer exist). The Bill will also make provision for the resolution of certain insurance disputes.

The Bill had its third reading on 7 January 2014. The Bill has now completed all its stages in both Houses and is awaiting Royal Assent.

2013-2014

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#### **Department of Energy and Climate Change (Abolition) Bill**

This Private Members Bill intends to make provision for the abolition of the Department of Energy and Climate Change and for its functions to be absorbed into the Department for Business, Innovation and Skill.

It is expected that the bill will have its second reading debate on 28 February 2014.

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# Current and Completed Consultations

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

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## Completed

### **Consultation on proposals for the consolidation of petroleum legislation**

This HSE Consultation (CD264) concerns the proposals to consolidate the current UK petroleum legislation. The new regulations will consolidate elements of two Acts and six pieces of secondary legislation into one document. The proposals intend to update and modernise the current rules, while making them simpler to understand and comply with.

The fundamental change proposed is to shift away from licensing and introduce a petroleum storage certificate which will not become invalid unless the site is closed, or a material changes take place. However, the licensing regime will remain in place for domestic premises.

The new petroleum legislation will maintain or improve existing health and safety requirements in relation to the regulation of petroleum.

The consultation began on 13 December 2013 ended on 7 February 2014.

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## Completed

### **Consultation on Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) – Dichloromethane paint strippers**

This Consultation sought views on the proposals from the HSE to amend the REACH Enforcement Regulations 2008 which would allow for the continued use of dichloromethane based paint strippers.

Completed

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Dichloromethane (DCM) is a very effective solvent often used by paint strippers due to its ability to effectively remove durable coatings quickly. DCM vapour evaporates easily and breathing in this vapour can be detrimental to health.

The amendment allows professionals to use dichloromethane based paint strippers if they have undertaken specific training requirements. Professional users who wish to purchase and use dichloromethane-based paint strippers will be required to show a mandatory certificate.

The Consultation ran from 4 November 2013 to 3 January 2014.

**Consultation on Draft Regulations to implement Article 30 of Council Directive 2012/18/EU on the control of major-accident hazards involving dangerous substances, amending Council Directive 96/82/ec**

This Consultation sought views on the proposals from the HSE to amend the Control of Major Accident Hazards Regulations 1999 which will re-categorise Heavy Fuel Oil (HFO) as a 'petroleum product' rather than 'dangerous for the environment.'

This amendment is an interim measure until these requirements are captured under the Control of Major Hazards Regulations 2015 which will be introduced on 1 June 2015 to implement Seveso III in full.

The Consultation began on 5 September and ended on 18 October 2013.

Completed

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**Consultation on proposal to consolidate and modernise explosive legislation**

This Consultation sought comment on the proposals to consolidate and modernise the explosives legislative

framework in the United Kingdom to make them easier to understand. The new Explosive Regulations will consolidate elements from one Act, ten pieces of secondary legislation and fifteen exemption certificates.

The HSE identified that much of the ACOP to the Manufacture and Storage of Explosive Regulations 2005 provides general, rather than specialist or practical advice. The proposals include withdrawing the ACOP to the MSER and develop an overarching principles document.

As part of this wider consultation, the HSE Consultation (CD257) sets out proposals to consolidate and modernise the legislative framework for acetylene into one document making them simpler to follow. The regulations currently consist of multiple sets of regulations and subsequent amendments.

The consultations began on 30 July and ended on 24 September 2013.

## Completed

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### **Consultation on draft advised Approved Code of Practice (ACOP) Managing and Working with Asbestos**

Consultation (CD259) sought views of the proposed consolidated version of the current Approved Codes of Practice (L127) (The management of asbestos in non-domestic premises) and L143 (Work with materials containing asbestos).

The new guidance incorporates the changes made by The Control of Asbestos Regulations 2012.

The Consultation began on 8 July and ended on 30 September 2013.

# Current 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 and
- 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)

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**Current****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.

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**Current****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.

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.

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.

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)).



Current

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

On 5 September 2012 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.

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**Current**

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**Construction Site Safety**

On February 2013 the HSE launched a national campaign targeted at reducing death injury and ill health on Britain's construction sites. Statistics indicate that 49 workers were killed and 2,884 major injuries were reported during 2011/2012. The national campaign aimed to raise standards, and to emphasise that poor standards are unacceptable and can result in enforcement action.

The month-long initiative saw the HSE visit a total of 2363 sites (where refurbishment or repair works were being undertaken) and also 2979 contractors. The HSE has now confirmed that nearly one in five construction sites it visited as part of the initiative have been subject to enforcement action.

The HSE carried out another major inspection targeting those working in the refurbishment sector. The inspections took place between 2 and 27 September 2013.

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**Current**

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**Make the Promise and Come Home Safe Initiative**

The farming industry has one of the highest rates of death and serious injury in the United Kingdom. The HSE reports that farmer is two and a half times more likely to die in the workplace than in a car accident.

The HSE states that the reasons for these increased risk is a combination of the fact that farmers are an aging workforce, many famers work alone and the machinery used is very powerful.

This initiative is producing health and safety guidance for farmers, organising free health and safety awareness days and providing advice through telephone or farm visits. In addition, the initiative encourages farmers to make the pledge to return safety for themselves and their families.

The initiative has received high profile support from the National Federation of Young Famers' Clubs and Co-operative Farms.

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# EU Legislation 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 07811 362201; or email [jan.burgess@cms-cmck.com](mailto:jan.burgess@cms-cmck.com)

If your company has a health and safety emergency, you can contact us on:

**0333 20 21 010 – Emergency Response Hotline (available 24 hours a day, 7 days a week)**

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# 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
- Health & Healthcare
- Energy
- Global Health & Safety Advice
- Hotel & 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. We are available for health & safety emergencies and advice; along with any other related urgent matters. In the event of an emergency the team will ensure a swift and efficient response to client queries, irrespective of the time of day or day of the week.

If your company has a health and safety emergency, you can contact us on: **0333 20 21 010 – Emergency Response Hotline (available 24 hours a day, 7 days a week)**

## 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.
- Advising clients in the immediate aftermath of an incident and providing emergency response services.
- Advising clients in relation to protestor action and possible responses thereto.
- Successfully defending environmental prosecution.

For more information, please contact:



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