

STRUCTURE AND QUESTIONNAIRE FOR THE PRACTICAL  
IMPLEMENTATION REPORT TO BE DRAWN UP BY THE MEMBER  
STATES REGARDING DIRECTIVE 89/391/EEC, ITS INDIVIDUAL  
DIRECTIVES, AND DIRECTIVES 2009/148/EC, 91/383/EEC, 92/29/EEC  
AND 94/33/EC

Under the provisions of Directive 89/391/EEC<sup>6</sup> (hereinafter the "Framework Directive"), and Directives 2009/148/EEC<sup>7</sup>, 91/383/EEC<sup>8</sup>, 92/29/EEC<sup>9</sup> and 94/33/EC<sup>10</sup>, every five years, the Member States shall submit a single report to the Commission on the practical implementation of the Directives concerned, indicating the points of view of the social partners. A list of all Directives concerned is given in Part C. Under Article 17a of the Framework Directive, this obligation covers the individual Directives adopted pursuant to its Article 16(1), of which there are 19 at present. The report shall assess the various points related to the practical implementation of the different Directives and, where appropriate and available, provide data disaggregated by gender. The first report shall cover the period from 2007 to 2012.

In accordance with Article 17a of the Framework Directive, the structure of the report, together with a questionnaire specifying its content, has been defined by the Commission in cooperation with the Advisory Committee on Safety and Health at Work (ACSH).

The structure of the report appears from the layout of the questionnaire which consists of two sections containing the issues and the questions which the national authorities are requested to address in the national report. Section I, entitled 'General Issues', covers the principles and points that are common to all Directives concerned, including the Framework Directive. The second section, entitled 'Specific Directives', deals with particular aspects of each Directive.

In accordance with Article 17a(3) of the Framework Directive, Member States are to transmit their national report to the Commission within 12 months of the end of the period that it covers. The report covering the period from 2007 to 2012 must consequently be transmitted at the latest by the end of 2013.

# QUESTIONNAIRE FOR DRAWING UP THE PRACTICAL IMPLEMENTATION REPORTS

## SECTION I - GENERAL ISSUES

1. Introduction: General data and information for United Kingdom (UK) (Great Britain and Northern Ireland). All data relates to UK except where stated in the footnote.

		06/07	07/08	08/09	09/10	10/11	11/12
Total workforce (000s) <sup>1 2</sup>	T	30,766	30,944	31,219	31,354	31,594	31,740
	M	16,691	16,786	16,927	16,931	17,071	17,102
	F	14,075	14,158	14,292	14,424	14,523	14,638
Persons in employment (000s) <sup>2 3</sup>	T	29,072	29,313	29,346	28,885	29,109	29,102
	M	15,708	15,862	15,818	15,402	15,620	15,569
	F	13,364	13,451	13,528	13,483	13,489	13,533
Number of employers <sup>4</sup> (000s) of which...	T	n/a <sup>4</sup>	1,723	1,732	1,707	1,701	1,784
Workers 1-9 (000s)		n/a <sup>5</sup>	1,496	1,499	1,478	1,477	1,550
Workers 10-49 (000s)		n/a <sup>5</sup>	186	191	187	182	191
Workers 50-249 (000s)		n/a <sup>5</sup>	33	33	33	33	35
Workers >250 (000s)		n/a <sup>5</sup>	9	9	9	9	9
Total number of self-employed persons (000s) <sup>2</sup>		3,783	3,829	3,782	3,856	3,958	4,126
Number of accidents at work resulting in an absence of more	T	274	299	246	231	200	212
	M	177	204	160	142	125	135

<sup>1</sup>Taken as the economically active (employed and unemployed).

<sup>2</sup>Source: UK Labour Force Survey (average for August-October each year, seasonally adjusted) <http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcn%3A77-276583> (table A01). The Labour Force Survey (LFS) is a survey of the population of private households, student halls of residence and National Health Service accommodation.

<sup>3</sup>Includes employees, self-employed, unpaid family workers and government supported training and employment programmes.

<sup>4</sup>Estimates based on the count of Value Added Tax (VAT) and/or Pay As You Earn (PAYE) tax based enterprises in the United Kingdom with one or more employee and relate to numbers as at March of each year.

<sup>5</sup>Estimates for 2006/07 are not directly comparable with later years as they are based on VAT.

than 3 working days (000s) <sup>6 7</sup>	F	97	95	86	89	75	77
Accident incidence rate (number accidents per 100,000 workers resulting in more than 3 working days) <sup>6 7</sup>		1 000	1 050	870	830	710	750
Accident rate of older workers (aged 55 or older) (number accidents per 100,000 workers resulting in more than 3 working days) <sup>6 7 8</sup>	T	920			830		
	M	950			890		
	F	890			750		
Number of fatal accidents at work <sup>9</sup>	T	265	249	194	152	184	186
	M	260	240	190	145	177	180
	F	5	9	4	7	7	6
Fatal accident incidence rate (number of fatal accidents per 100,000)		0.9	0.8	0.6	0.5	0.6	0.6

<sup>6</sup>Estimates based on Great Britain (GB) LFS:

(i) Estimates relate to GB only and do not include Northern Ireland. It is estimated that including Northern Ireland would increase the number of cases by around 3%, but have little impact on the rate per 100,000 workers

(ii) Since estimates are based on a sample survey, they are subject to uncertainty due to sample error. For more details see <http://www.hse.gov.uk/statistics/lfs/errors.htm>.

<sup>7</sup>Over 3-day absence injuries include all those sustained as a result of non-road traffic accidents, leading to more than three consecutive (working and non-working) days away from work.

<sup>8</sup>Sample numbers are too small to provide a robust annual estimated rate, so three years of data (2006/07-2008/09 and 2009/10-2011/12) have been pooled to provide an estimated average rate of the combined years. For more details see <http://www.hse.gov.uk/statistics/lfs/errors.htm#a15>.

<sup>9</sup>Numbers are based on fatal injuries to workers reported under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995. See <http://www.hse.gov.uk/statistics/sources.htm#riddor> for more details.

workers)							
Number of occupational diseases (000s) <sup>6 10</sup>	T	612	562	549	554	495	452
	M	302	272	275	250	235	197
	F	310	290	273	304	260	255
Incidence rate of occupational diseases per 100,000 workers <sup>6 10</sup>		2,090	1,860	1,810	1,850	1,640	1,500
Total number of labour inspectors <sup>11 12</sup>		2,610	2,530	2,640	2,650	2,560	2,420
Number of workers per labour inspector <sup>13</sup>		11,000	12,000	11,000	11,000	11,000	12,000
Total number of inspections per 100,000 workers		n/a <sup>14</sup>	n/a <sup>14</sup>	n/a <sup>14</sup>	n/a <sup>14</sup>	n/a <sup>14</sup>	n/a <sup>14</sup>
Total number of infringements that resulted in legal action <sup>15</sup>		746	740	746	644	700	715 <sup>16</sup>

<sup>10</sup>Estimate includes the number of workers who suffered an illness which started during the year and which they believed was caused or made worse by their work.

<sup>11</sup>Expressed as full-time equivalent inspector numbers, rounded to the nearest 10. The figure includes both inspectors from the GB Health and Safety Executive (HSE) and the Health and Safety Executive for Northern Ireland (NI) and the estimated number of health and safety inspectors in Local Authorities (LA) in GB and NI.

<sup>12</sup>Figures for HSE are for total inspectors regardless of function. The LA inspector number includes all LA inspectors with responsibility for health and safety at the workplace, although an LA inspectors' remit may be wider than just health and safety at work.

<sup>13</sup>Number rounded to the nearest 1,000.

<sup>14</sup>The number of inspections is not recorded in a comparable format between the enforcing authorities of GB and NI. In particular, HSE does not capture information on the number of inspection visits made in a manner which enables a simple count of visits for this regulatory activity. HSE does however hold information on the number of planned proactive inspections made in 2011/12. In the year from 1 April 2010 to 31 March 2011, HSE conducted 21,603 proactive inspections. This figure excludes inspections in major hazard industries (e.g. onshore and offshore petrochemicals) as inspections to assess compliance of industries in the major hazard sector are held against intervention plans and a separate count of inspections under these plans is not readily available.

<sup>15</sup>Number of cases for which legal proceedings has been instituted – each case can contain one or more breach.

<sup>16</sup>Provisional.

## 1.2 Description of any significant changes to the legal framework for health and safety at work in the Member State in the reporting period.

The significant changes to the legal framework have been:

In Great Britain and Northern Ireland:

- 1) The [Construction \(Design and Management\) Regulations 2007](#), and the [Construction \(Design and Management\) Regulations \(Northern Ireland\) 2007](#), came into force on 6 April 2007 and 9 July 2007 respectively and introduced additional requirements to ensure health and safety in construction work, including that the Regulations apply to all construction sites; projects for domestic clients are no longer notifiable; the planning supervisor role was replaced by a co-ordinator role to assist the client; an enhanced duty on clients to ensure health and safety arrangements are sufficient; and a new duty on designers to comply with the Workplace (Health, Safety and Welfare) Regulations 1992.
- 2) The [Work at Height \(Amendment\) Regulations 2007](#), and the [Work at Height \(Amendment\) Regulations \(Northern Ireland\) 2007](#), came into force on 6 April 2007 and 16 April 2007 respectively and extended the requirements to duty-holders providing instruction or leadership to one or more people engaged in caving or climbing by way of sport, recreation, team building or similar activities.
- 3) The [Control of Asbestos Regulations \(Northern Ireland\) 2007](#) came into force on 6 April 2007 and transposed the requirements of Directive 76/769/EEC as amended in so far as it relates to asbestos, Directive 83/477/EEC, Directive 90/394/EEC in so far as it relates to asbestos, and Directive 98/24/EC in so far as it relates to asbestos.
- 4) The [Coal Mines \(Control of Inhalable Dust\) Regulations 2007](#) came into force on 1 October 2007 and transposed the requirements of Directive 98/24/EC to control exposure to mines dust as a health hazard.
- 5) The [Control of Artificial Optical Radiation at Work Regulations 2010](#), and the [Control of Artificial Optical Radiation at Work Regulations \(Northern Ireland\) 2010](#), came into force on 6 April 2012 and 14 June 2010 respectively and transposed the requirements of Directive 2006/25/EC.
- 6) The [Control of Asbestos Regulations 2012](#), and the [Control of Asbestos Regulations \(Northern Ireland\) Regulations 2012](#), came into force on 6 April 2012 and 28 May 2012 respectively and fully transposed the requirements of Directive 2009/148/EC.<sup>17 18</sup>
- 7) The [Reporting of Injuries, Diseases and Dangerous Occurrences \(Amendment\) Regulations 2012](#) came into force 6 April 2012 and required that only injuries that lead to a worker being incapacitated for more than seven days have to be reported. Duty-holders must still keep a record of an accident if a worker has been incapacitated for more than three consecutive days.

---

<sup>17</sup>Explanatory Memorandum to the Control of Asbestos Regulations 2012 ([http://www.legislation.gov.uk/uksi/2012/632/pdfs/uksiem\\_20120632\\_en.pdf](http://www.legislation.gov.uk/uksi/2012/632/pdfs/uksiem_20120632_en.pdf))

<sup>18</sup>Explanatory Memorandum to the Control of Asbestos Regulations (Northern Ireland) 2012 ([http://www.legislation.gov.uk/nisr/2012/179/pdfs/nisrem\\_20120179\\_en.pdf](http://www.legislation.gov.uk/nisr/2012/179/pdfs/nisrem_20120179_en.pdf)).

In maritime sector:

- 1) The [Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Vibration at Work\) Regulations 2007](#) came into force on 23 February 2008 and transposed the requirements of Directive 2002/44/EC in respect of merchant ships and fishing vessels.
- 2) The [Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Noise at Work\) Regulations 2007](#) came into force on 23 February 2008 and transposed the requirements of Directive 2003/10/EC in respect of merchant ships and fishing vessels.
- 3) The [Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Carcinogens and Mutagens\) Regulations 2007](#) came into force on 1 March 2008 and transposed the requirements of Directive 2004/37/EC in respect of merchant ships and fishing vessels.
- 4) The [Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Work at Height\) Regulations 2010](#) came into force on 6 April 2010 and transposed the requirements of Directive 2009/104/EC in respect of merchant ships and fishing vessels.
- 5) The [Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Chemical Agents\) Regulations 2010](#) came into force on 6 April 2010 and transposed the requirements of Directive 98/24/EC in respect of merchant ships and fishing vessels.
- 6) The [Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Biological Agents\) Regulations 2010](#) came into force on 6 April 2010 and transposed the requirements of Directive 2000/54/EC in respect of merchant ships and fishing vessels.
- 7) The [Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Asbestos\) Regulations 2010](#) came into force on 10 January 2011 and transposed the requirements of Directive 2009/148/EC and Directive 98/24/EC in so far as it relates to asbestos in respect of merchant ships and fishing vessels.
- 8) The [Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Artificial Optical Radiation\) Regulations 2010](#) came into force on 10 January 2011 and transposed the requirements of Directive 2006/25/EC in respect of merchant ships and fishing vessels.

### **Reviews of the British health and safety framework:**

#### **Review of health and safety laws by Lord Young:**

In June 2010, the Prime Minister, Rt Hon David Cameron MP, appointed the Rt Hon Lord Young of Graffham as his adviser on health and safety law and practice. Lord Young subsequently undertook a review across government of health and safety laws and the growth of the compensation culture. His report '*Common sense, common safety*' was published in October 2010.<sup>19</sup>

Lord Young made a number of recommendations for improving the perception of health and safety, to ensure it is taken seriously by employers and the

---

<sup>19</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/60905/402906\\_CommonSense\\_acc.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/60905/402906_CommonSense_acc.pdf)

general public, while ensuring the burden on small business is as minimal as possible.

Details of delivery of the recommendations that fall to the Health and Safety Executive (HSE) to implement can be found in the 2010/11 HSE Annual Report.<sup>20</sup>

#### Further health and safety reform:

Following Lord Young's recommendations, on 21 March 2011, the government published plans for further reform of the British health and safety system in '*Good health and safety, good for everyone*'.<sup>21</sup>

This proposed:

- Launching an Occupational Safety and Health Consultants Register to ensure that businesses have access to competent and ethical advice.
- Concentrating health and safety enforcement activity on high risk areas and dealing with serious breaches of health and safety rules.
- Simplifying health and safety legislation and guidance.

#### Professor Löfstedt's review of health and safety law:

An independent review of health and safety law for the government, and to make proposals for simplifying the legislation was chaired by Professor Ragnar Löfstedt, a leading risk management specialist, between March and November 2011. On 28 November 2011, Professor Löfstedt published his review '*Reclaiming health and safety for all*'.<sup>22</sup> He found that the general body of British health and safety law was broadly fit for purpose, but emphasised that regulatory requirements are sometimes misunderstood and applied inappropriately, with this driven to a considerable extent by fear of being sued under common law. This focus was supported by evidence from business and responses to the review. The government's response to the review, also published on 28 November 2011, supported Professor Löfstedt's recommendations and set out the next steps to implementation.<sup>23</sup>

Action resulting from the review includes revoking regulations that have been judged to be redundant, consolidating a series of regulations, amending, consolidating or withdrawing 30 Approved Codes of Practice, consulting on proposals to exempt the self-employed from regulation where their work poses no risks to others, the establishment of an Mythbusters Challenge Panel to look into complaints regarding the advice given by non-regulators such as insurance companies, health and safety consultants and employers and, quickly assess if a sensible and proportionate decision has been made, and the establishment of an Independent Regulatory Challenge Panel to allow

---

<sup>20</sup><http://www.hse.gov.uk/aboutus/reports/1011/ar1011.pdf>

<sup>21</sup><https://www.gov.uk/government/policies/improving-the-health-and-safety-system>

<sup>22</sup>[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/66790/lofstedt-report.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/66790/lofstedt-report.pdf)

<sup>23</sup>[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/66794/lofstedt-report-response.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/66794/lofstedt-report-response.pdf)

for perceived cases of incorrect, over-application of health and safety legislation by HSE or local authority inspectors to be challenged.

### **1.3 Description of the arrangements for consultation and involvement of the social partners in the preparation of this report.**

#### Implementation of the directives in the UK:

Both the Confederation of British Industry (CBI), as the main organisation representing employers in the UK, and the Trades Union Congress (TUC), as the main organisation representing trade unions, have been consulted for their views on the implementation of the directives in scope of the report. The report was subsequently shared with the CBI and the TUC for their views on it. These have been recorded under Section I. The CBI and the TUC are the national social partners recognised for the purpose of compiling the report.

#### Implementation of the directives in the maritime sector:

The views of the National Maritime Occupational Health and Safety Committee (comprised of representatives of ship owners and trade unions) and of the Fishing Industry Safety Group (comprised of representatives from the UK fishing federations, the Seafish Industry Authority, UK government departments and agencies and charities) have been sought on the particular implementation of the directives in the maritime sector to assist with preparing the report.



## **2. Description of concrete measures taken to implement the health and safety Directives (relevant enforcement of the law, raising awareness, campaigns, guidance, etc.) in the reporting period.**

Great Britain = measures taken by HSE

Northern Ireland = measures taken by the Health and Safety Executive for Northern Ireland (HSENI)

Maritime sector = measures taken by the Maritime and Coastguard Agency (MCA)

The enforcing authorities use a mixed intervention approach with duty-holders in which enforcement of the law is only one factor, alongside the provision of good practice advice, the use of awareness campaigns and work with stakeholders to influence behaviour change. For example, HSE has developed a number of [sector strategies](#) implementing this mixed approach to maintain and improve health and safety performance in Great Britain. The campaigns listed below are also examples of this approach.

### **2.1 Assessment of risks at the workplace and definition of corresponding preventive and protective measures.**

Implementation measures include

Guidance and advice (the origins of some of these publications pre-date 2007 but they have been included as they have been re-published in the reporting period):

#### General (Great Britain):

- An electronic [risk assessment and policy template](#)
- 34 [Example Risk Assessments](#) for various types of business to show what approach the enforcing authority would expect a duty-holder to take
- Risk assessment tools for [offices](#), [shops](#), [classrooms](#) and [charity shops](#)
- Guidance on [welfare provisions at work](#)
- Guidance on [risks of lone working](#)
- Guidance on [preventing slips and trips at work](#)
- Guidance on [workplace transport safety](#)
- Guide to fire safety risk assessment in [transport premises and facilities](#)
- Guide to fire safety risk assessment in [animal premises and stables](#)
- Guide to fire safety risk assessment in [open air events and venues](#)
- Approved Code of Practice and guidance on [Health and Safety \(First-Aid at Work\) Regulations 1981](#)
- Basic questions on [first-aid at work](#)
- Basic advice on [first-aid at work](#)
- Guidance on [Health and Safety \(Safety Signs and Signals\) Regulations 1996](#)

General (maritime sector):

- Code of [Safe Working Practices for Merchant Seamen](#)
- Guide on [Fishing Vessel Safety](#)
- Guidance on risk assessment on fishing vessels

General (Northern Ireland)

- Basic guidance on [risk assessment](#)
- Approved Code of Practice and guidance on [Health and Safety \(First-Aid\) Regulations \(Northern Ireland\) 1982](#)
- [First-Aid at Work - Your Questions Answered](#)
- Guidance on [emergency first-aid at work](#)
- Guidance on [gaining and maintaining approval for first aid at work](#)
- Guidance on [Reporting of Injuries, Diseases and Dangerous Occurrences Regulations \(Northern Ireland\) 1997](#)

Topic specific (Great Britain):

Artificial optical radiation:

- Guidance on the [Control of Artificial Optical Radiation at Work Regulations 2010](#).

Asbestos:

- Guidance for [people carrying out asbestos surveys and people with specific responsibilities for managing asbestos in non-domestic premises under the Control of Asbestos Regulations 2012](#)
- A brief guide to [managing asbestos in buildings](#)
- A manual for [building, maintenance and allied trades of non-licensed asbestos work](#)

Biological agents

- Guidance on [blood-borne viruses](#)

Chemical agents:

- Approved Code of Practice and Guidance on the [Coal Mines \(Control of Inhalable Dust\) Regulations 2007](#)
- Guidance on [working safely with lead](#)
- Guidance on [working with substances hazardous to health](#)
- Guidance on [managing skin exposure risks at work](#)
- Guidance on [safety in motor vehicle repair](#)
- Guidance on [protecting lungs when using cut-off saws](#)
- Guide on the [control of respirable crystalline silica in quarries](#)
- Toolbox talk on [respiratory health of stoneworkers](#)
- Information sheet on the [Control of Substances Hazardous to Health Regulations 2002 and the wood-working industries](#)
- Information sheet on [dust control on cut-off saws used for stone or concrete cutting](#)

Construction:

- Approved Code of Practice and guidance on [Construction \(Design and Management\) Regulations 2007](#)
- A quick guide for clients on the [Construction \(Design and Management\) Regulations 2007](#)
- Guidance on [working in confined spaces](#)
- Guidance on [fire safety in construction](#)
- The [health and safety toolkit for the smaller construction contractor](#)
- Information sheet on the [provision of welfare facilities during construction work](#)
- Guidance on the [safe use of vehicles during construction work](#)

Explosive atmospheres:

- Guidance on [controlling fire and explosion risks in the workplace](#)
- Guidance on [fire and explosion hazards in the use of oxygen](#)
- Guidance on [effect of fire in pressurised tunnels](#)

Manual handling:

- Guidance on [choosing a welding set](#)

Mining and quarrying:

- Simple guide to the [Quarries Regulations 1999](#)

Noise:

- A brief guide on [controlling the risks from noise at work](#)

Offshore:

- Guide to the [Boreholes Sites and Operations Regulations 1995](#)

Pregnant workers:

- Frequently asked questions on [pregnant workers and risk assessment](#).
- Guidance on [entitlement for maternity leave and pay](#)

Temporary workers:

- Guidance on [protecting migrant workers](#), including [guidance in 19 different languages](#)
- Guidance on [health and safety in agriculture for workers from overseas](#)

Work equipment:

- A brief guide to the [Work at Height Regulations 2005 \(as amended\)](#)
- An open learning guide to the [Provision and Use of Work Equipment Regulations 1998](#)
- Simple guidance on the [thorough testing and examination of lifts](#)
- Simple guidance on the [thorough examination of lifting equipment](#)
- Guidance on [using work equipment safely](#)
- Guidance on [buying new machinery](#)
- Guidance on [health and safety in roof work](#)
- Guidance on [working on roofs](#)
- Guidance on [health and safety in saw-milling](#)
- Guidance on [chainsaws at work](#)
- Technical guidance on [safe use of lifting equipment offshore](#)
- Information sheet on [selection and management of mobile elevating work platforms](#)

Vibration:

- A brief guide to [hand-arm vibration at work](#).

Young workers:

- Guidance on [risks to young people at work](#)
- Guidance for duty-holders on the [health and safety basics for young people in work experience](#)

Topic specific (Northern Ireland)

Agriculture:

- Guidance on [health and safety in agriculture](#)
- Guide to [tractor safety](#)
- Leaflet on [safe equipment in farming](#)
- Leaflet on [preventing falls in farming](#)

Artificial Optical Radiation:

- Guidance on the [Control of Artificial Optical Radiation at Work Regulations \(Northern Ireland\) 2010](#)

Asbestos:

- Leaflet on [asbestos and safe maintenance](#)
- Leaflet on [asbestos toolkit](#)
- Leaflet on [managing asbestos in schools](#)
- Frequently asked questions on [managing asbestos in schools](#)
- Guidance on [medical surveillance for workers carrying out non-licensable work with asbestos](#)

Chemical agents:

- Brief guide to [Control of Substances Hazardous to Health Regulations \(Northern Ireland\) 2003](#)

Construction:

- The [health and safety toolkit for the smaller construction contractor](#)
- Guidance on [domestic clients](#)
- Guidance on [building a new farm building or renovating an existing farm building](#)
- Leaflet on [cancer and construction workers](#)
- Leaflet on [stress in construction](#)

Machinery:

- Guidance on [is your lift truck being used safely](#)

Maintenance:

- Guidance on [basic rules of safe maintenance](#)
- Guidance on [safe maintenance and hazards](#)
- Guidance on [safe cleaning of workplaces](#)
- Guidance for [contractors on maintenance duties](#)
- Guidance on [work at height maintenance activities](#)

Musculoskeletal disorders:

- Guidance on [prevention and management of musculoskeletal disorders in the workplace](#)
- Guide on [back and upper limb disorders in the workplace](#)
- Guide on [manual handling in the healthcare sector](#)

Psychosocial issues:

- Guidance on [mental wellbeing](#)

Young Workers:

- Guidance on [employing young people in the workplace](#)
- Leaflet on [be safe when you start](#)

Topic specific (maritime sector)

Artificial optical radiation:

- Marine Guidance Note on [Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Artificial Optical Radiation\) Regulations 2010](#)

Asbestos:

- Marine Guidance Note on [Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Asbestos\) Regulations 2010](#)

Biological agents:

- Marine Guidance Note on [Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Biological Agents\) Regulations 2010](#)

Carcinogens and mutagens:

- Marine Guidance Note on [Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Carcinogens and Mutagens\) Regulations 2007](#)

Chemical agents

- Marine Guidance Notes on [Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Chemical Agents\) Regulations 2010](#) and on [Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Chemical Agents\) \(Amendment\) Regulations 2012](#)

Noise

- Marine Guidance Note on [Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Noise at Work\) Regulations 2007](#)
- Marine Guidance Note on Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Noise at Work) Regulations 2007: [Procedure for seeking exemptions](#)
- Code of Practice for controlling risks due to noise on ships

Pregnant workers

- Marine Guidance Note on [New and Expectant Mothers: Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) Regulations 1997](#)

Psychosocial risks:

- Stress in seafarers

Vibration

- Marine Guidance Note on [Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Vibration at Work\) Regulations 2007](#)
- Marine Guidance Note on Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Vibration at Work) Regulations 2007: [Procedure for seeking exemptions](#)
- Marine Guidance Note on [mitigating the effects of shocks and impacts on small vessels](#)
- Code of Practice for controlling risks due to hand transmitted vibration on ships
- Code of Practice for controlling risks due to whole-body vibration on ships

Work at Height:

- Marine Guidance Notes on [Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Work at Height\) Regulations 2010](#) and on [Use of Equipment to Undertake Work Over the Side on Yachts and Other Vessels](#)

## Campaigns (Great Britain):

### Agriculture:

- The [Agriculture Revisited Initiative](#) was run from 2008-2012. This involved a number of communications and inspection related activities to help farmers address safety on farms more effectively.

### Asbestos:

- The '[Hidden Killer](#)' campaign was run in 2008/09. This was targeted at trades-people (plumbers, joiners, electricians, etc) and was aimed at raising awareness of how/where they may come across asbestos in the course of their day-to-day work activities. It included both web-based and hardcopy material, as well as radio and other media activities. Trade unions, trade associations and other partner organisations assisted in distributing information and raising awareness of the campaign. A smaller second phase of the campaign was run in 2010.
- In 2011, HSE worked with asbestos training organisations to run an exercise known as the [Asbestos Training Pledge](#). The training organisation committed to providing free asbestos awareness training for a period of time (4 weeks) to trades-people. The aim was for 4,000 hours of free training to be provided. In practice, this was considerably exceeded and over 13,000 hours of training was pledged.

### Biological agents:

- A [needle-sticks inspection](#) campaign in 2010/11 looked at how healthcare organisations managed risks from sharps injuries, including the risks of infections from blood-borne viruses. The initiative involved visits to 22 organisations and focused on six key areas – policies and procedures, risk assessment, instruction and training, active monitoring of control measures, reactive monitoring of sharps incidents and auditing. It was found that standards and level of compliance varied from one organisation to another. Consequently, HSE advised all relevant organisations that they need to ensure compliance with legislative requirements and outlined a number of measures for particular attention.

### Chemical agents:

- A '[Bad Hand Day](#)' campaign was run between 2006 and 2009 to raise awareness of the risks from dermatitis in the hairdressing and beauty sectors.
- A campaign was run in 2009 aimed at bakers to raise awareness of the risk of asthma from exposure to flour dust. A cartoon style poster and pocket card with simple messages was mailed to 40,000 premises.
- A 'Clear the Air' campaign was run in 2009 to raise awareness of the risks from exposure to respirable crystalline silica.
- A series of safety and health awareness days were held in car body workshops in 2008 to raise awareness of the risks of asthma and dermatitis from paint spraying.

### Construction:

- There is an annual inspection initiative focused on larger refurbishment projects and track-back in relation to the responsibilities of duty-holders under Directive 92/57/EEC (e.g. from the contractor on site to the designer or client involved in the project).



Dangerous substances and explosive atmospheres:

- A special inspection campaign over 2009-2011 looked at the use and the underground pipe-work of liquefied petroleum gas following a significant gas explosion in 2004 at ICL Plastics Ltd in Scotland. The programme covered a wide range of businesses from farms to foundries in manufacturing and the rural economy. During 2007-2012, there was also a rolling programme of targeted visits to sites with significant inventories of flammable substances. This led to electrical specialists advising on the suitability of maintenance of electrical equipment at four identified poor performing lower-tier hazard sites in Wales and South-West England in 2009/10. This programme then switched to the Midlands and Cheshire in England in 2010/11 and Merseyside in England and North Wales in 2011/12.

Maternity leave:

- Up until 2011, a maternity rights leaflet was included in Bounty (UK's largest parenting club) maternity information packs. These were provided to new mothers after birth. This gave advice to prospective mothers on their maternity leave entitlements and when to give notice to their employer.

Manual handling:

- In 2008, a 'Better Backs' campaign was run in the food manufacturing sector and a series of workshops on the handling of tyres.

Mines and quarrying:

- The [Target Zero](#) initiative is a 3 phase campaign to reduce accidents in the quarrying sector. Phase 1 reduced reportable injuries by 50% by 2005, with Phase 2 achieving a further 50% reduction in accidents from 2005-2012. Phase 3 which is active now aims to reduce accidents year on year by 15%. This phase is due for review soon.

Noise:

- The '[Buy Quiet](#)' campaign promotes consumer demand for low noise tools and machinery, and encourages the production and sale of low noise machinery. The long-term aim is that designers and manufacturers see commercial advantages in the production of quiet tools and machinery, and that noisy tools and machinery cease to be sold as lower noise counterparts are purchased in preference.

Offshore:

- [Key Programme \(KP\) 3](#) was a comprehensive appraisal of asset integrity management of offshore installations on the UK Continental Shelf between 2004 and 2007. This looked at the ability of an offshore asset, e.g. platform, to perform its required function effectively and efficiently while protecting health, safety and the environment. This work revealed significant issues regarding the maintenance of safety critical systems used in major accident hazard controls in the sector. A review of activity by the sector since the appraisal showed considerable improvement in compliance with required standards. [KP 4](#) is currently promoting awareness and management of the risks associated with ageing plant (ageing and life extension (ALE) issues) in the offshore oil and gas industry. Industry has reacted well to this initiative, with the majority of duty-holders positively engaging with the ALE concepts. Indeed, as a result of KP4, many duty-holders have undertaken independent reviews of



their integrity management practices in preparation for extending the life of already ageing offshore assets, and are developing long-term, installation-specific integrity management plans. However, the industry has still much to do to ensure that long-term plans anticipate and manage the effects of equipment and infrastructure degradation. A range of issues requiring improvement across the industry are identified in the programme's interim report.

#### Slips and trips:

- The '[Shattered Lives](#)' campaign run from 2007-2010 aimed at raising awareness of the consequences of a fall from height and to provide guidance on managing slips, trips and falls risks in the workplace. This included the online [Work at height Access equipment Information Toolkit \(WAIT\)](#) to help select the right access equipment for work at height and the online [Slips Trips E-Learning Package \(STEP\)](#).
- A '[Stop Slips in Kitchens](#)' campaign run in 2007 was aimed at people working and managing in kitchens.
- A Falls from Vehicles campaign was run in 2008. It was aimed at depot managers to increase their awareness of the risks of injury from falling from a vehicle during work activity.

#### Work Equipment:

- The '[Ladder Exchange](#)' campaign run by HSE over 2007-2011 and by the Ladder Association in 2012 enabled a user who had a ladder which was broken, damaged or bent to bring it along to a designated outlet to exchange it for a new one at a discounted price. The HSE-run phase of the campaign resulted in more than 8,000 un-safe ladders being removed from the workplace.

#### Workplace transport

- A 'Moving Goods Safely' campaign was run over 2007-2008 to reduce injuries from workplace transport.

#### Campaigns (Northern Ireland):

##### Agriculture:

- In 2011, HSENI launched the '[Stay Farm Safe](#)' campaign, aimed at promoting the safety of older farmers. Statistics from the previous 10 years identified that over half of the 61 farm related deaths in Northern Ireland occurred among farmers aged 65 or over with the main causes of death involving the handling of livestock, the use of machinery and falls from height.<sup>24</sup> The campaign, which was supported by the Ulster Farmers Union, was targeted at all those in the farming community who had an influence on older farmers such as partners, children, grandchildren and friends to reinforce the message of thinking twice about personal safety while carrying out daily farm work.
- HSENI continued to promote child safety on farms via the '[Be Aware Kids](#)' campaign which originally launched in 2004. The campaign encompasses key stage 1 and 2 primary school talks, calendar competitions and various guidance materials.

---

<sup>24</sup> From 1<sup>st</sup> April 2001 to 28<sup>th</sup> February 2011, there were 61 work-related deaths as a result of farm incidents. This figure is sourced from HSENI's operational database.

#### Asbestos:

- In 2009/10, HSENI ran the '[Hidden Killer](#)' campaign.
- In 2011, a '[Duty to Manage](#)' campaign was targeted at duty-holders to remind them of their legal obligation to manage the risks from work with asbestos. Over 60,000 premises received an information pack which incorporated a basic eight-step guide to help duty-holders manage risks. In support of the campaign HSENI and Northern Ireland District Councils carried out a series of inspections of non-domestic premises to check the level of compliance with asbestos regulations.
- In 2012, an [interactive asbestos training package](#) was launched. This 45 minute interactive lesson, with supporting activities and materials, is aimed at trade apprentices in the 16-19 age groups for delivery by college lecturers and other vocational education providers.

#### Chemical agents:

- In 2007, a half-day workshop was held to coincide with the 'Bad Hand Day' campaign held in Great Britain.

#### Maintenance:

- In 2011/2012, a '[Safe Maintenance](#)' campaign was run by HSENI and Northern Ireland District Councils to crack down on poorly planned maintenance that had the potential to kill and injure. Statistics gathered prior to the launch of the campaign highlighted that in 2010, in Northern Ireland, 30% of all workplace fatalities were related to maintenance activities. The key messages of the campaign were reinforced during inspections. Particular emphasis was given to work concerning exposure to asbestos, work at height and locking out machinery. Campaign support elements included seminars, guidance materials and an interactive online tool to encourage safe maintenance practices.

#### Manual handling:

- In 2010, a [Backs in Action](#) leaflet, aimed at manual handling in the healthcare sector, was produced and approximately 70,000 copies were distributed to Health Trusts, residential and private nursing homes, general practitioner surgeries, physiotherapists, care workers and private hospitals.

#### Safety alerts and bulletins (Great Britain):

Details of safety alerts and bulletins issued between 2008 and 2012 can be found on the [HSE website](#).

#### Safety alerts and bulletins (Northern Ireland):

Details of safety alerts and bulletins issued between 2009 and 2012 can be found on the [HSENI website](#).

## 2.2 General principles of risk prevention.

Implementation measures include:

Guidance and advice:

*General (General Britain):*

- [Health and Safety Made Simple](#) to take duty-holders through their basic duties to ensure health and safety at work.
- [The Health and Safety Toolbox](#), which builds on the basic duties explained in Health and Safety Made Simple to assist duty-holders with the identification, assessment and control of common risks in the workplace.

## 2.3 Involvement of preventive services, in the sense of Article 7 of Directive 89/391/EEC, in the risk prevention measures.

Implementation measures include:

Guidance and advice:

*General (General Britain):*

- Guidance on [getting specialist help with health and safety](#).
- [Examples of good, bad, poor and good external health and safety advice](#) for businesses.
- [HSE statement to providers of external health and safety assistance](#) on providing competent and fit for purpose health and safety advice.
- The Independent [Occupational Safety and Health Consultants Register](#) to help businesses find assistance with managing health and safety at work.

## 2.4 Information, instruction and training of workers.

Implementation measures include:

Guidance and advice:

*Topic specific (Great Britain):*

Construction:

- The [toolkit for leadership and worker involvement in the construction sector](#).

Noise:

- Guidance on [protecting your hearing at work](#).

Workplace transport

- Advice for workers on [preventing falls from vehicles](#)

## 2.5 Involvement of workers and their representatives (e.g. consultation, participation).

Implementation measures include:

### Guidance and advice:

#### General (Great Britain):

- HSE microsite on [consulting and involving workers in health and safety at work](#).
- Approved Code of Practice and Guidance on [Safety Representatives and Safety Committees Regulations 1977 \(as amended\) and Guidance on the Health and Safety \(Consultation with Employees\) Regulations 1996 \(as amended\)](#).
- Good practice for [all workplaces for involving workers in health and safety](#).
- A brief guide to [consulting employees on health and safety](#).
- A guide for [small businesses on involving workers in health and safety](#).

#### Topic specific (Great Britain):

- A guide to the [Offshore Installations \(Safety Representatives and Safety Committees\) Regulations 1989](#).
- Guidance on [how offshore workers can improve health and safety at work](#).
- [A toolkit on worker involvement in the construction industry](#).

### Campaigns (Great Britain):

- The [Workers Safety Advisor Challenge Fund](#) was run between 2004 and 2007. This provided funding for schemes to improve worker involvement and consultation in health and safety at work. In organisations that participated, the Fund helped to increase and engender positive attitudes to worker involvement in health and safety in their workplaces.
- The 'Do Your Bit' campaign run in 2010/11 subsidised a two-day introductory training course on workforce involvement in health and safety at work for 2,400 new safety representatives working in non-unionised workplaces. This course covered 'soft skills', risk assessment and workers' rights. A third day supported the practical implementation of the knowledge learnt on the introductory course through the application of simple tools to facilitate problem-solving. A further course was held to jointly-train safety representatives and their immediate line managers in 120 organisations to secure a more collaborative approach to ensuring health and safety at work.
- The Offshore Workforce Involvement and Consultation Inspection project was undertaken between April and September 2010. The aim was to assess compliance with the Offshore Installations (Safety Representatives and Safety Committees) Regulations 1989, and collect examples of best practice. The project concluded that there was good compliance with the Regulations and identified a range of good practice. The exercise also had

a positive effect of heightening the role of elected safety representatives within the sector.

## **2.6 Health surveillance**

Action on health surveillance continued during the reporting period, mainly as part of other measures mentioned in this section.

## **2.7 Has the Member State or the social partners taken any specific measures to support SMEs in implementing the Directives? Please describe these measures.**

Measures relevant to each Directive are covered in Section II.

## **2.8 Do SMEs have particular difficulties in following the requirements of the Directives? If yes, please describe them.**

Particular difficulties are covered in Section II.

## **3. Assessment of experience in the practical application of the basic principles mentioned in point 2.**

### Assessment of risks at the workplace and definition of corresponding preventative and protective measures:

Though risk assessment continues to be an accepted and mainly well practiced process we have found that in some areas, for example, work with chemical agents or with explosive atmospheres or in the construction sector, it remains a challenge for some duty-holders, particularly where the issues they are dealing with are highly complex or technical or require an integrated approach to risk identification and management. This seems to be a particular concern of smaller businesses, mainly as a result of pressures on their time, or their lacking 'in-house' expertise or the resources to buy in competent advice.

There remains concern about the amount of paperwork that is generated by the need to document the risk assessment. We have seen some evidence, for example, from inspections and stakeholder engagement work, to suggest that the duplication of the risk assessment requirement by the Directives has led to a perception amongst duty-holders that they are required to record multiple risk assessments rather than combining them into one document. We have seen this somewhat perpetuated by external consultants in their advice to duty-holders. Also we should not lose sight of the fact that risk assessment is not an end in itself but a means to an end and ultimately what we should be concerned about is the actual management and control of risks in the workplace by duty-holders.

### General principles of risk prevention:

This is similar picture to risk assessment: smaller businesses still have some challenges in understanding and applying the hierarchy of principles that are required in some areas.

### Involvement of preventative services, in the sense of Article 7 of Directive 89/391/EEC, in the risk prevention measures:

This has been more of a challenge for smaller businesses as sometimes they have not had the necessary 'in-house' expertise, the confidence take on the duty or the resources to buy in the competence that they require. It has been recognised that it can be difficult for businesses to know what health and safety advice they need and where to get it, with concerns expressed about the quality and proportionality of some of the advice provided by external consultants. The setting up of the Occupational Safety and Health Consultants Register is a means to provide businesses with a vehicle to access proportionate, professional advice from qualified practitioners.

### Information, instruction and training of workers:

We have not found any major problems with the practical implementation of this requirement.

### Involvement of workers and their representatives (e.g. consultation and participation):

Though there remain challenges with ensuring worker involvement, particularly around the reduction in the numbers of physical workplaces, the introduction of more diverse working patterns and the use of appropriate forms of consultation and participation, mainly in non-unionised workplaces, its application continues to be a key factor in maintaining workplace relations and contributing to improved health and safety performance. Trade Unions and their safety representatives have continued to make an effective contribution to ensuring workers have a say in deciding the arrangements for their health and safety.

### Health surveillance:

We have not found any major problems with the practical implementation of this requirement.

### **3.1 Give examples and indicators that demonstrate to what extent the Directives are either effective or ineffective in achieving their aims.**

The ultimate indicators to demonstrate the effectiveness of the health and safety system as a *whole* in the UK are the key health and safety outcome measures: workplace injuries and work-related ill-health.

Since 2006/07 there has been a significant fall in incidence rate for all of: fatal injuries to workers, self-reported workplace injuries, and self-reported work-related ill-health.<sup>25 26 27</sup> Consequently the estimated economic cost of workplace injuries and ill health to Great Britain has fallen significantly since 2006/07 (from an estimated £16.3 billion in 2006/07 to an estimated £13.4 billion in 2010/11).<sup>28</sup> Overall, UK performance is better than many other European countries in these key outcome areas.<sup>29</sup>

However, it is not possible to attribute these reductions to the directives themselves, though they may indeed be contributory. There are many other relevant factors which impact on the health and safety performance: some within the remits of the government and the enforcing authorities (for example, enforcement activity, non-regulatory approaches) and some not (for example the economic climate, the structure of the working population). This multi-factorial picture makes it difficult to determine with any confidence the effectiveness or otherwise of the directives in achieving their aims or to provide specific examples or indicators in relation to this. We would also make a wider point that legislation by itself has only a limited role in changing behaviour. This adds to the difficulty of demonstrating that the directives are either effective or ineffective in achieving their aims given the impact of other factors, such organisational culture, communication campaigns and sanctions, on the behaviour of duty-holders in ensuring safe and healthy workplaces.

### **3.2 What are the practical difficulties encountered in ensuring that the Directives achieve their aims? Please give examples.**

Practical difficulties encountered in ensuring that the Directives achieve their aims include:

#### Uncertainty over scope:

- The placement of duties on actors other than employers, given that purposes of the directives are to ensure health and safety in the workplace. Examples of this include:
  - The placement of duties exclusively on employers and not employment businesses in directives other than Directive 91/383/EEC has caused some confusion among duty-holders as to who is ultimately responsible for ensuring the safety and health of temporary workers.

<sup>25</sup> <http://www.hse.gov.uk/statistics/fatals.htm>

<sup>26</sup> <http://www.hse.gov.uk/statistics/causinj/>

<sup>27</sup> <http://www.hse.gov.uk/statistics/causdis/index.htm>

<sup>28</sup> <http://www.hse.gov.uk/statistics/pdf/cost-to-britain.pdf>

<sup>29</sup> <http://www.hse.gov.uk/statistics/european/index.htm>

- The placement of duties on clients by Directive 92/57/EEC. This has a much wider scope than the term 'employer' and brings within its boundary the category of private householders and the issue of whether it is appropriate to consider a private dwelling as a workplace for the purposes of the Directive, given that the normal employer-employee relationship will not apply in this situation.

#### Lack of or inadequate terms or definitions:

- The failure of some of the directives to define terms that they use has caused some confusion among stakeholders as the aim and extent of the directives. Examples of this include:
  - Directive 92/91/EEC has no definition of 'offshore accommodation' which has led to some uncertainty amongst the enforcing authorities and duty-holders as to what is intended by the Directive. This can be a particular issue when both sexes are present on installations that have limited space for accommodation.
  - Directive 94/33/EC uses the terms 'inexperience' and 'immaturity' and refers to work being beyond the physical or psychological capacity of a young person without defining what is meant by them.

#### Competence of duty-holders:

- The competence or capacity of some duty-holders to assess risks in the workplace, particularly where a hierarchy of risks is involved or there are links between different directives or the matters concerned are highly technical or scientific. Examples of this include:
  - Directive 2006/25/EC has introduced a highly scientific and technical approach to the management of risks from artificial optical radiation that is beyond the understanding of many duty-holders. We have, for example, found that welders are well aware of the risk of 'arc eye' but they cannot relate this risk to the complex mathematics and formulae used in the Directive.
  - Directive 1999/92/EC refers to 'ignition sources' in the assessment of explosive risks. Evidence from inspections suggests that some duty-holder have difficulty in understanding what this might cover.
  - Directive 1999/92/EC also applies a system of classification of places where explosions might occur. We understand that there are some difficulties in deciding how to apply the classification in relation to the extent of hazardous zones. Some duty-holders do not have the competence to think in 3 dimensions in terms of the zones, i.e. they tend to only think in terms of the area covered by the potential explosive release rather than the volume.

#### Administrative burdens:

- The ability of some duty-holders to cope with the administrative burden and bureaucracy of some of the directives, particularly those who are micro or small businesses. Examples of this include:
  - Complying with the various documentation requirements of the directives, particularly in relation to the recording of risk assessments.
  - Directive 92/57/EEC has introduced a substantial level of bureaucracy (checklists, plans, assessments, coordination arrangements, and



appointments) in relation to work on construction sites. There is no understanding by the Directive of the administrative burden generated by these requirements, and particularly the disproportionate impact on lower-risk construction projects. Concerns have been raised by some duty-holders about the time they had to spend on form-filling to select competent coordinators and contractors

#### Proportionality:

- The 'one-size-fits all' approach that is a common feature of the directives and which is imposed regardless of the level of risk presented to the workers involved. Examples of this include:
  - Directive 92/57/EEC makes no distinction between the risks to workers from the construction project and the proportionality of the administrative requirements imposed, particularly their practical application to lower-risk construction sites.
  - The blanket requirement to record the risk assessment and the burden that this imposes, particularly where tasks might be simple or repetitive and therefore continued recording of identical or similar risk assessments does not provide added benefit to the identification and control of the risk.
- This also raises a wider question about the proportionality of the requirements of the directives and whether they continue to constitute the minimum requirements envisaged in the Treaty, i.e. are they still the minimum necessary to manage risks or have they become 'good practices' which is a markedly different concept. We believe that this should be a fundamental question for the Commission's forthcoming comprehensive review of Directive 89/391/EEC and its individual and supplementary directives.

#### Casual factors:

- The interaction of work and non-work factors, such as the person's lifestyle and general health, in the causation of injuries and ill-health at work. Examples of this include:
  - The three main predictors of those who are likely to develop musculoskeletal disorders (MSD) are obesity, sedentary lifestyle, and presence of a previous MSD. There is little doubt that obesity and general fitness are factors that affect the working population and therefore work-related prevalence. However, duty-holders cannot be responsible for the lifestyle choices of their employees and so find it difficult to effectively manage work-related MSDs in those groups identified at higher risk by the National Health Service.
  - The use of Display Screen Equipment (DSE) outside work, in the form of laptops, tablets, games consoles and desktop computers, continues to increase and makes it more difficult to understand the causes of MSDs resulting from work-related DSE use and to design effective risk management policies.

### 3.3 What is the cumulative and interactive impact of the Directives (synergies, overlaps, contradictions, gaps)?

#### Synergies and overlaps:

We have not identified any synergies

#### Overlaps:

The basic obligations of Directive 89/391/EEC, namely the risk assessment, consultation and participation of workers, information, training and instruction of workers, health surveillance, and protective and preventative services requirements, overlap with other directives as follows:

##### Assessment of risks:

- 89/656/EEC, 90/269/EEC, 90/270/EEC, 92/58/EEC, 92/85/EEC, 92/91/EEC, 92/104/EEC, 94/33/EC, 98/24/EC, 1999/92/EC, 2000/54/EC, 2002/44/EC, 2003/10/EC, 2004/37/EC, 2006/25/EC, 2009/104/EC, 2009/148/EC

##### Consultation and participation of workers:

- 89/656/EEC, 90/269/EEC, 90/270/EEC, 92/57/EEC, 92/58/EEC, 92/91/EEC, 92/104/EEC, 98/24/EC, 2000/54/EC, 2002/44/EC, 2003/10/EC, 2004/37/EC, 2006/25/EC, 2009/104/EC

##### Information and training of workers:

- 89/656/EEC, 90/269/EEC, 90/270/EEC, 91/383/EEC, 92/57/EEC, 92/58/EEC, 92/85/EEC, 92/91/EEC, 92/104/EEC, 93/103/EC, 98/24/EC, 2000/54/EC, 2002/44/EC, 2003/10/EC, 2004/37/EC, 2006/25/EC, 2009/104/EC, 2009/148/EC

##### Health surveillance:

- 91/383/EEC, 92/91/EEC, 92/104/EEC, 98/24/EC, 2000/54/EC, 2002/44/EC, 2003/10/EC, 2004/37/EC, 2006/25/EC, 2009/148/EC

##### Protective and preventive services:

- 94/33/EC

Areas of overlap between other directives include:

Provision and maintenance of work equipment and devices:

- 89/654/EEC, 90/270/EEC, and 2009/104/EC

CE-marking of personal protective equipment:

- 89/656/EEC and 89/686/EEC

Provision and maintenance of respiratory equipment:

- 89/656/EEC, 98/24/EC, and 2009/148/EC:

Working time of young workers:

- 94/33/EC and 1999/63/EC

Arrangements for dealing with accidents, incidents and emergencies involving chemicals:

- 98/24/EC and 2012/18/EU

Mining safety:

- 92/104/EEC, 92/91/EEC, 98/24/EC, 1999/92/EC, and 2006/21/EC

Control of exposure to chemical agents:

- 98/24/EC, Regulation 1907/2006 on Registration, Evaluation, Authorisation and Restriction of Chemicals, and Regulation 1272/2008 on Classification, Labelling of Substances and Mixtures

Prevention of explosive atmospheres:

- 94/9/EC, 1999/92/EC, and 98/24/EC

Control of exposure to biological agents

- 2000/54/EC and 2009/41/EC

Prohibitions on the manufacture of asbestos and products containing asbestos:

- 2009/148 and Regulation 1907/2006

Use of safety signs

- 92/58/EEC, 92/104/EEC, 98/24/EC, 1999/92/EC, and 2009/104/EC

Safety on board fishing vessels

- 89/654/EEC, 89/656/EEC, 93/103/EC, and 97/70/EC

### Contradictions:

- Directive 92/29/EEC in relation to medical treatment on board vessels lists the specific treatments which must be carried in each category of medical stores. When Directive 2011/62/EU on the prevention of entry of falsified medicines into the supply chain comes into force, a wholesale dealer's licence will be required as: "persons procuring, holding, storing, supplying or exporting medicinal products are only entitled to pursue activities if they meet the requirements for obtaining a wholesale distribution authorisation in accordance with Directive 2001/83/EC" as amended by Directive 2011/62/EC. The current supply chain does not require that those supplying Category C stores required under Directive 92/92/EEC hold a wholesale dealer's licence. Some of the treatments required for Category C stores can only be supplied in the form of medicines which fall within the scope of Directive 2011/62/EU, which requires anyone supplying these medicines to hold a wholesale dealer's licence. A Category C store is required for vessels operating close to shore – many of which are operated by SMEs - and is also required to be packed inside life-rafts. This limits the number of outlets able to supply Category C stores. Most of the safety equipment required for such vessels can be supplied by local chandlers and Life-saving Appliances (LSA) service stations. If SMEs have to source their medical stores separately from other safety equipment, this places an additional administrative and financial burden on them. A high proportion of service stations for life-rafts are also SMEs and it is not possible for them to meet the standards required to obtain a licence for the supply of medicines.

### Gaps:

- Directive 92/104/EEC in relation to quarries falls short in terms of what we consider minimum standards with regard to necessary management structures to make clear where and with whom health and safety duties and associated competence requirements fall. Also, it was necessary to complement, in the UK's quarries regulatory regime, the Directive's requirements for excavations and tips insofar as where a significant hazard is identified a more detailed specialist geological assessment must be undertaken and where necessary its findings acted upon by the operator.

### 3.4 Summary and possible suggestions for changes to the Directives or for other measures to be taken at EU level?

Suggestions for changes to the Directives:

These are initial suggestions by the UK. Further suggestions may be provided later on.

#### Simplifications:

##### Directive 89/391/EEC:

- Adapt the risk assessment requirements of Article 9 to provide member states with the flexibility to determine in what circumstances a record of the risk assessment is necessary. The duty-holder would thus be required to carry out an assessment of risks to the health and safety of their employees but would only have to record the findings in those situations set by the member state.

##### Directive 90/270/EEC:

- Repeal Article 9 (protection of workers' eyes and eyesight). This perpetuates the misconception that the use of display screen equipment carries the risk of permanent damage to eyes or eyesight.

##### Directive 92/57/EEC:

- Amend the definition of 'client' in Article 2 (definitions) to exclude private householders.
- Amend the Directive to provide, through, for example, derogations or differing thresholds, flexibility for member states to determine the proportionality of the requirements in relation to lower-risk construction projects.

##### Directive 98/24/EC:

- Modify Article 5 (General principles for prevention of risks associated with hazardous chemicals) to provide a more logical approach to the ordering of the risk prevention principles. For example, 'reducing the quantity of chemical agents present at the workplace to the minimum required for the type of work concerned' is next to the last entry on the list whereas we would expect this to be after the first entry concerning elimination of the risks.
- Modify Article 7 (Arrangements to deal with accidents, incidents and emergencies) to provide member states with the flexibility to determine in what circumstances duty-holders should provide information on their emergency arrangements for hazardous chemicals to external accident and emergency services, given that this obligation already exists in relation to major hazard sites under Directive 2012/18/EU on the control of major-accident hazards involving dangerous substances.
- Modify Article 8 (Information and training of workers) to include security considerations as a factor in plant labelling requirements and the option that contents could be identified using a site only applicable bar code.

### Simplifications continued:

#### Directive 2000/54/EC:

- Modify Annex V (containment measures and containment levels) to enable duty-holders to select the most appropriate method for them for the disposal of animal carcasses as a containment method. Methods equally effective to incineration are now available, such as alkaline hydrolysis (also known as digester systems) and autoclaving (for smaller animal carcasses).

### Ensuring consistency:

#### Directive 92/29/EEC and 93/103/EC:

- Align the directives with the standards of the International Labour Organization's 2006 Maritime Labour Convention and 2007 Convention on Work in Fishing.
- Combine Directive 93/104/EC with Directive 97/70/EC on setting up a harmonised safety regime for fishing vessels of 24 metres and over.

#### Directive 2000/54/EC:

- Align Article 16 (special measures for industrial processes, laboratories and animal rooms) and Annexes V, and VI (containment for industrial processes) with the containment requirements of Directive 2009/41/EC on the contained use of genetically modified micro-organisms.

### Items for revision:

#### Directives 92/91/EC:

- Review Directive 92/91/EEC with Directive 2013/30/EU on safety of offshore oil and gas operations to ensure we have clarity and avoid duplication between the regimes established under the directives.

#### Directive 2000/54/EC:

- Review the continued suitability of Annex III entries (Community Classification List). In particular, explore the possibility of granting further derogations subject to a risk assessment.

#### Directive 98/24/EC:

- Review the limits for exposure to lead set out in Annex I and II, in the light of current scientific evidence.

#### Measures for repeal:

##### Directive 2006/25/EC:

- Repeal in its entirety. It is considered that the risks from artificial optical radiation can be adequately managed under the requirements of Directive 89/391/EEC.

##### Directive 2013/35/EU:

- Repeal in its entirety. It is considered that the risks from electromagnetic fields can be adequately managed under the requirements of Directive 89/391/EEC.

#### **4. What are the views of the social partners on the content of this report?**

##### The views of the Trades Union Congress are:

“In respect of the additions and changes to guidance in part 2 of section 1, the report omits those many examples of guidance that have been removed or reduced during the period, or the closure of the HSE Information line. We believe that overall there has been a fall in the level of guidance and support to both duty-holders and workers/workers representatives over this period.

In part 3.2, The TUC does not accept that there is any evidence for many of the hypothesis presented, in particular that the documentation requirements on risk assessments are a burden that makes it difficult to ensure that the directive achieves its aim. Quite the opposite. It is a tool to ensure that it does. The main practical difficulty is the lack of inspection and enforcement activity during the period.

In part 3.4 there has been no discussion with the social partners on these and the TUC certainly does not share the Government view on many of these. In particular the proposal in respect of 89/391/EEC on risk assessment which would completely undermine the directive by allowing deregulatory governments such as the UK to effectively opt-out of many of the requirements. In respect of 90/270/EEC the government proposal shows a misunderstanding of the nature of the requirement which is more about posture than damage to eyes. We also have concerns about some of the other proposals and would have hoped that the Government would have sought the views of the social partners before adopting them as policy.

##### Section II

As indicated earlier, the TUC does not support the Government view that changes are needed to Directive 89/391/EEC following the correct and welcome ECJ ruling in 2002. In respect of 89/654/EEC employers have difficulty in implementing this in regard to temperature because of the lack of any practical binding guidance on high indoor temperatures.

We have concerns over the lack of enforcement of a number of the regulations listed in pages 35 – 40 as resources are not sufficient. There is a serious problem in the UK within some sectors of workers having to provide their own PPE, in particular in construction. In addition the UK has a major problem with counterfeit PPE.

On 2004/37/EC, the TUC has, during the period, been running a campaign on carcinogens which has been critical of the lack of action by the Government to reduce exposure by removing carcinogens and we support the new carcinogens directive. We also believe that the HSE figures for the number of cases and deaths caused by workplace exposure are an underestimation and we have published a number of resources on this.

The TUC does not agree that the Directive 98/24/EC adequately addresses the risk from nanomaterials but we believe that is best addressed by extending REACH.

The UK Government did not fully implement the revisions to the Directive on asbestos during the period in question but did, at the end of the period, amend the GB regulations to seek to do so.

In conclusion the TUC believes that overall the UK has implemented the directives in terms of having domestic legislation which meets the minimum requirements within the directives in most cases, although we continue to have concerns over some aspects relating to health provision. We do not however believe that they have fully implemented them in that they do not have adequate arrangements to adequately enforce many of them, in particular in the occupational health field. As a result the UK is failing to apply all the directives in a proportional and effective way.”

#### The views of the Confederation of British Industry:

“The CBI welcomes the opportunity to comment on the practical implementation of European Directives on workers’ health and safety. The CBI is the premier lobbying organisation for UK business on national and international issues. We work with the UK government, international legislators and policymakers to help UK businesses compete effectively.

A key issue for CBI members is the volume and content of the legislation emanating from Brussels with health and safety being an EU competence. Regulation derived from Brussels has had a considerable impact on UK businesses. It is therefore vital that any EU directives which are practically implemented in the UK are proportionate, risk-based and evidence-based.

#### Section 2.1-2.5:

The CBI is broadly happy with the ways in which the UK government has worked with the social partners and other key stakeholders to ensure health and safety directives are effectively transposed into UK legislation. We ask that the HSE continues to provide clear, constructive guidance and advice for businesses around existing legislation and any future legislation.



### Section 3.2:

There are, however, a number of practical difficulties encountered when ensuring that the directives which fall under the framework directive achieve their aims, as highlighted in Section 3.2 of this report. The report rightfully underlines the lack of clarity that the CBI and its members have faced when dealing with complex legislation coming from Brussels. We are also pleased that the report brings to light the administrative burden which comes with complying with the directives and the negative impact this can have on UK firms.

The practical implementation report correctly criticizes the 'one size fits all' approach which features in the directives. Above all, businesses are particularly concerned about the topic-based nature of recent –and forthcoming – EU directives which have lacked a sound scientific basis and failed to adhere to the Commission's simplification agenda. These detailed regulations have significantly added – or threatened to add – to employers' compliance burden. The EU's focus should be on broad goals such as the overall reduction of work-related ill-health and accidents, rather than the introduction and revision of hazard-specific directives which risk fragmenting an otherwise holistic approach.

In contrast to the UK's risk-based, directional legislation, the topic based approach of EU legislation leads to prescriptive regulations which create additional, burdensome duties for employers with little evidence of any benefit. For example, the proposed harmonised classification of Nitric Acid as Acute Toxicity Category 1 and 2 has direct business consequences through triggering Seveso Directive (2012/18/EU) obligations – based on the H1 and H2 table entries in part 1 of that Directive. Our concern is that the classification of Nitric Acid as Acute Toxic will bring many operations in metal treatment/surface treatment into a complicated and costly control regime without actually reducing risk or exposure levels. This may have a significant business impact on many in the metal/surface treatment sector, especially SMEs.

Action must be taken at EU level to ensure that all legislation recognises the multifaceted nature of many health problems which are affected not only by work, but also by lifestyle. Section 3.2 is correct in pointing out instances in which work and non-related work factors have an impact on an employee's health and problems arise where an employer is expected to take responsibility for the lifestyle choices of their employee. The Display Screen Equipment regulations for example require employers to undertake workstation assessments, provide training on the risks from using visual display units and cover the cost of eye tests and any corrective devices. Employers were already required by the Management Regulations to assess and manage any risks to their employee's health and safety. Since the regulations were written there have been widespread changes to technology and working practices. Extensive use of display screen technology in leisure time, as well as the rise in flexible working and desk sharing, renders such prescriptive legislation out-dated and burdensome.

Finally, EU health and safety framework legislation gives a confusing message to employers who cannot be sure if it is grounded in solid evidence. Legislation can sometimes lead employees to be alarmed that certain aspects of their work could be harmful, despite clear evidence to the contrary. One example is the current revision of the Carcinogens and Mutagens directive whereby there is pressure for the Commission to introduce Respirable Crystalline Silica into the 2004/37/EC directive. This would be potentially very damaging to the manufacturing, minerals and chemicals industries, particularly via the adverse public perception of aggregates and cement being classed as “carcinogenic”. Whilst the International Agency for Research on Cancer (IARC) has classified RCS as ‘carcinogenic to humans’, the European Commission has *not* endorsed this as the scientific and medical evidence has long been the subject of dispute. For this reason, the CBI strongly opposes the inclusion of Respirable Crystalline Silica in the revision of the Carcinogens and Mutagens directive.

#### Section 3.3:

The EU regulations often ‘gold-plate’ employers’ existing responsibilities by duplicating what is already required under UK law. One such case is the Artificial Optical Radiation Directive 2006/25/EC, which was transposed into UK law despite HSE’s recognition that ‘the Directive is considered to bring no additional benefit to health and safety in the UK’<sup>30</sup>. The effect for businesses has been to introduce an additional compliance burden through supplementary risk assessments – although the risk was already being controlled adequately. It has also resulted in companies seeking costly advice on how they should comply, a consequence HSE correctly identified at the time.

#### Section 3.4:

The CBI fully supports the recommendations as laid out in Section 3.4. To highlight several, the proposal to allow member states the flexibility to determine in what circumstances a record of a risk assessment is necessary (Article 9 of Directive 89/391/EEC) is sensible and would be warmly welcomed by the CBI and its members. Similarly, we would urge the European Commission to approach its consultations into the classification of chemicals and other substances in a way which takes urgent business concerns into account, so that damaging legislation does not come into force.”

---

<sup>30</sup>HSE Board paper, HSE/09/56, 23 June 2009 ‘Implementation of the Artificial Optical Radiation Regulation Directive’  
<http://www.hse.gov.uk/aboutus/meetings/hseboard/2009/230609/p-jun-b09-56.pdf>

## SECTION II – SPECIFIC DIRECTIVES

Views are UK whole unless stated differently.

### **Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work**

(1) How is the practical implementation of the Directive being adapted to take account of changes in the nature of the working environment e.g. working at home, mobile workers, part-time work including multiple part-time jobs, more women, migrant workers and sub-contracting?

We have very little evidence to suggest that adaptation is taking place. A particular challenge is establishing if different groups are at a higher risk of harm than others. For example, UK statistics show that part-time workers have higher rates of injury but lower rates of ill health (particularly stress) than full-time workers. Although women have higher rates of work-related ill health (driven by stress), they have lower rates of injury than men. In addition, rates of work-related musculoskeletal disorders are similar between men and women.<sup>31</sup> Evidence is particularly scarce on home, mobile, and migrant workers and subcontractors. We believe that a fuller understanding of the picture concerning these groups is needed before questions around adaptation of the Directive can be pursued.

(2) In the light of practical experience, is the scope of the Framework Directive still appropriate e.g. non-application to certain groups?

Yes.

(3) To what extent does the practical implementation of the Directive make use of the possibility to adapt it to the size of undertaking and nature of the activities?

We believe that the possibility to adapt Directive to suit the size and nature of undertakings has been restricted by the 2002 judgement of the European Court of Justice, which ruled against the ability of member states to determine the extent of the risk assessment requirements.<sup>32</sup> We suggest that this flexibility would be restored if the Commission was to return to its original proposal<sup>33</sup> for what became Directive 89/391/EEC, which proposed that member states shall establish criteria to exempt undertakings from drawing up documents to fulfil the risk assessment obligation. While this proposal subsequently changed when the Council agreed Directive 89/391/EEC, we believe that it was always the intention of the Commission to provide flexibility for member states to determine when a written risk assessment is required.

---

<sup>31</sup> <http://www.hse.gov.uk/statistics/>

<sup>32</sup> Case C-5/00, Commission v Federal Republic of Germany, 7. February 2002 (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62000CJ0005:EN:PDF>)

<sup>33</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:1988:141:0001:0006:EN:PDF>

This position is supported by the High Level Group on Administrative Burdens (HLG) who issued an opinion on administrative burden reduction in the area of working environment/employment relations in May 2009, including a recommendation that the Commission exempt very small firms undertaking certain low risk activities from having to produce a written assessment of the risks to health and safety.<sup>34</sup> The Commission will be aware that a report investigating the potential impacts of this recommendation, undertaken by independent contractors, was published in autumn 2012, and that, amongst other things, it concluded that under certain conditions (including a suitable definition of low risk activities) an exemption from the documentation requirements for micro enterprises could lead to a small net benefit (5-60 million Euros over 10 years). The contractors also found that their investigations “provide some support for the HLG recommendation that decisions on exemptions be made at Member State level”.<sup>35</sup> We believe that this argument has particular merit on subsidiarity grounds, given that Member States are best placed to know the risks affecting the workers in their jurisdictions, and would urge the Commission to implement the recommendation as soon as possible.

(4) How does the practical implementation of the Directive take account of the need for cooperation between employers who share a workplace?

Great Britain and Northern Ireland:

If there is no controlling employer in charge of the workplace, then those using the workplace still need to agree arrangements for cooperation and coordination, for example, we sometimes find that a health and safety co-ordinator is appointed to meet the requirements of Article 6 of the Directive. Employers are encouraged to sign and document agreed cooperation arrangements.

Maritime sector:

The UK has introduced the concept of the “Company”, taken from the International Maritime Organization’s Safety Management Code (ISM Code)<sup>36</sup>, who has overall responsibility for managing safety on board ships, including coordinating the health and safety measures between all employers on board. Also all workers, including those employed by different employers, must comply with the ship safety management system. However, in some circumstances, for example, when a ship is in a dry dock, the shipboard safety management system would be superseded by shore-side systems.

(5) In the practical implementation of the Directive, have there been any significant changes in the work of the preventive and protective services?

No.

---

<sup>34</sup>[http://ec.europa.eu/dgs/secretariat\\_general/admin\\_burden/docs/enterprise/files/hlg\\_opinion\\_working\\_environment\\_09052009\\_en.pdf](http://ec.europa.eu/dgs/secretariat_general/admin_burden/docs/enterprise/files/hlg_opinion_working_environment_09052009_en.pdf)

<sup>35</sup><http://www.inspectmun.ro/site/Legislatie/ghiduri/17.%20Study%20on%20the%20consequences%20of%20the%20documentation%20of%20the%20risk%20.pdf>

<sup>36</sup><http://www.imo.org/OurWork/HumanElement/SafetyManagement/Pages/ISMCode.aspx>

(6) Has the Member State taken additional measures not included in the Directive? If yes, please describe them and give reasons why these additional measures were taken.

No additional measures have been taken in the reporting period.

(7) Has the Member State or the social partners taken any specific measures to support SMEs in implementing the Directive? Please describe these measures.

Specific measures taken to support SMEs in implementing the Directive include:

- From HSE:
  - [Health and Safety Made Simple](#).
  - [Health and Safety Toolbox](#).
  - [Involving your workforce in health and safety: Good practice for all workplaces](#).
  - [Involving your workers in health and safety: A guide for small businesses](#).
- From Health and Safety Executive for Northern Ireland (HSENI):
  - [“Protect your profit- health and safety pays” booklet](#)
- From social partners:
  - Advice on health and safety at work from the [Confederation of British Industry](#), the [British Chambers of Commerce](#), and the [Federation of Small Businesses](#).
  - Advice on workers’ rights under health and safety law from the [Trades Union Congress](#).

(8) Do SMEs have particular difficulties in following the requirements of the Directive? If yes, please describe them.

Particular difficulties of SMEs in following the requirements of the Directive include:

- Allocating sufficient time and resources to document the risk assessment, particularly where various activities are involved or they are complex or technical in nature.
- Accessing external occupational safety and health services and the cost of such services, particularly where assistance might be needed to evaluate and control multiple risks in the workplace. This is a common difficulty experienced across directives but has not been re-stated under each to avoid repetition.

**Council Directive 89/654/EEC of 30 November 1989 concerning the minimum safety and health requirements for the workplace (first individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)**

(1) In the light of practical experience, is the definition of a workplace in Article 2 still appropriate?

Yes.

(2) In the light of practical experience, are there provisions of the Directive that should be applied or disapplied to certain workplaces?

We believe that the present scope of the provisions is still correct.

(3) In the light of practical experience, are the details in Annexes 1 and 2 still appropriate for workplaces?

Yes.

(4) Has the Member State taken additional measures not included in the Directive? If yes, please describe them and give reasons why these additional measures were taken.

No additional measures have been taken in the reporting period.

(5) Has the Member State or the social partners taken any specific measures to support SMEs in implementing the Directive? Please describe these measures.

Specific measures to support SMEs in implementing the Directive include:

- From HSE:
  - Health and Safety Made Simple includes information on providing the correct [workplace facilities](#).
  - The Health and Safety Toolbox includes a section on organising the [workplace](#).
- From social partners:
  - Guidance on [toilet breaks](#) for safety representatives from the Trades Union Congress.
  - Guidance on [reducing slip and trip hazards in schools](#) from the National Union of Teachers.
  - Guidance on the [Workplace \(Health, Safety and Welfare\) Regulations 1992](#), on [hygiene and welfare](#), and on [heating and ventilation](#) from the National Association of Schoolmasters and the Union of Women Teachers.

(6) Do SMEs have particular difficulties in following the requirements of the Directive? If yes, please describe them.

We have no evidence that SMEs have any particular difficulties in following the requirements of the Directive.

**Directive 2009/104/EC of the European Parliament and of the Council of 16 September 2009 concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC – Codification of Directive 89/655/EEC, as amended by Directives 95/63/EC and 2001/45/EC**

(1) How do Member States in practice implement the requirement laid down in Article 4 whereby employers are to check the conformity of both old and new work equipment? How is it enforced?

The following legislation requires that equipment provided for use in the workplace conforms to essential health and safety requirements.

- Regulation 10 of the Provision and Use of Work Equipment Regulations 1998
- Regulation 10 of the Provision and Use of Work Equipment Regulations (Northern Ireland) 1999
- Regulation 12 of the Merchant Shipping and Fishing Vessels (Provision and Use of Work Equipment) Regulations 2006

Great Britain:

HSE's Product Safety Teams (PSTs) (four regional and one for the construction sector) are the main mechanism by which concerns about the design, construction and supply of goods into workplaces are dealt with. The PSTs are briefed by HSE's Safety Unit on their work, including an explanation of CE marking requirements. Where PSTs investigate products in scope of the relevant directives they, as a matter of routine, will verify the CE marking. If the CE marking is found to be inadequate the PST will take appropriate action. Enforcement activity has focused on high-risk sectors, including agriculture, construction and waste management.

Where another part of HSE undertakes proactive market surveillance of products, usually in the form of discrete projects, they will, as a matter of course, consider CE marking alongside other substantive issues, such as declarations of conformity, type-examination certificates, and user instructions. HSE provides specific advice to purchasers of work equipment about them making conformity and basic safety checks of new equipment.

Other jurisdictions:

HSENI has responsibility for the enforcement of the conformity requirements in Northern Ireland. The Office of Rail Regulation (ORR) has responsibility for the enforcement of the requirements in the UK rail sector. The MCA has responsibility for the enforcement of the requirements in the maritime sector.



(2) How in practice have Member States implemented the requirement for 'inspection' of work equipment and 'competence' to do so under Article 5 within their national laws/practices? Have these requirements caused any practical problems?

The following legislation requires that lifting equipment is examined before it is put into service; examined after installation and re-assembly; examined during its exposure to conditions which cause deterioration; and inspected at suitable intervals, all by a competent person:

- Regulation 9 of the Lifting Operations and Lifting Equipment Regulations 1998
- Regulation 9 of the Lifting Operations and Lifting Equipment Regulations (Northern Ireland) 1999
- Regulation 12 of the Merchant Shipping and Fishing Vessels (Lifting Operations and Lifting Equipment) Regulations 2006

The Regulations also require duty-holders to maintain evidence of the last examination when the equipment is used outside their undertaking.

The following legislation requires a person making a thorough examination of lifting equipment to notify the employer of any defect, which in their opinion, could be a danger to persons; and, where in his opinion, the defect might involve involving existing or imminent risk of serious personal injury, to send a copy of his report to the enforcing authority:

- Regulation 10 of the Lifting Operations and Lifting Equipment Regulations 1998
- Regulation 10 of the Lifting Operations and Lifting Equipment Regulations (Northern Ireland) 1999
- Regulation 14 of the Merchant Shipping and Fishing Vessels (Lifting Operations and Lifting Equipment) Regulations 2006

The following legislation requires the inspection of work equipment where the safety of the equipment depends on installation conditions:

- Regulation 6 of the Provision and Use of Work Equipment Regulations 1998
- Regulation 6 of the Provision and Use of Work Equipment Regulations (Northern Ireland) 1999
- Regulation 8 of the Merchant Shipping and Fishing Vessels (Provision and Use of Work Equipment) Regulations 2006

The following legislation requires the inspection of work equipment that needs to be assembled or installed before it is used after it is assembled or installed:

- Regulation 12 of the Work at Height Regulations 2005
- Regulation 12 of the Work at Height Regulations (Northern Ireland) 2005

The following legislation requires the inspection of 'fall protection measures' before they are used:

- Regulation 13 of the Work at Height Regulations 2005
- Regulation 13 of the Work at Height Regulations (Northern Ireland) 2005

The following legislation requires that the duty-holder shall not engage a person in any activity in relation to work at height or the use of work equipment for such activity unless they are competent to do so or if being trained, supervised by a competent person:

- Regulation 5 of the Work at Height Regulations 2005
- Regulation 5 of the Work at Height Regulations (Northern Ireland) 2005

Enforcement of the requirements is carried out by HSE, HSENI, ORR and MCA in their jurisdictions.

We have no evidence to suggest that these requirements have caused problems.

(3) How do Member states apply the concept of 'specific risk'? How have Member States in practice implemented Article 6 and have they ever enforced it?

We believe that the concept of 'specific risk', as enshrined in the Directive, needs to be clarified. Currently there is uncertainty as to its specific meaning.

(4) Has the Member State taken additional measures not included in the Directive? If yes, please describe them and give reasons why additional measures were taken.

No additional measures have been taken in the reporting period.

(5) Has the Member State or the social partners taken any specific measures to support SMEs in implementing the Directive? Please describe these measures.

Specific measures taken to support SMEs in implementing the Directive include:

- From HSE:

- The Health and Safety Toolbox includes a section on [machinery, plant and equipment](#).
- From MCA:
  - Guidance on the [application of the Merchant Shipping and Fishing Vessels \(Provision and Use of Work Equipment\) Regulations 2006 and the Merchant and Fishing Vessels \(Lifting Operations and Lifting Equipment\) Regulations 2006 to fishing vessels](#).
- From social partners:
  - [Toolbox talks](#) from the Access Industry Forum.

(6) Do SMEs have particular difficulties in following the requirements of the Directive? If yes, please describe them.

Though the scope of the Directive is quite broad, the requirements seem to be mainly aimed at those in the construction sector, which, we understand, make them difficult for duty-holders in other sectors to implement.

Particular difficulties of SMEs in following the requirements of the Directive in relation to work at height include:

- The lack of a definition of what constitutes 'work at height' in the Directive.
- The inhibition of window cleaning and basic maintenance work by the bureaucracy imposed by the Directive.
- The inclusion of stepladders alongside traditional ladders in the scope of the Directive and the extra compliance costs that this has imposed.

**Council Directive 89/656/EEC of 30 November 1989 on the minimum health and safety requirements for use by workers of personal protective equipment at the workplace (third individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)**

(1) What is the practical experience in ensuring that personal protective equipment is only used when risks cannot be avoided or sufficiently limited by technical means of collective protection?

The hierarchy of control whereby personal protective equipment (PPE) is provided and used as a last resort is explicit in guidance to duty-holders from the enforcing authorities.<sup>37</sup> This seems to be generally well understood and complied with. However, there is some limited evidence emerging of blanket PPE policies being instituted whereby, for example, protective clothing and head protection are worn at all times when on the basis of a risk assessment, this may not actually be necessary. These policies seem to be more likely in larger companies.

(2) What is the practical experience in ensuring that the workers are consulted before a decision is taken to use personal protective equipment, are informed of the risks against which the wearing of the personal protective equipment protects them, and are trained in using it?

Analysis of enforcement activity in the reporting period does show some failure by duty holders in, for example, the training of employees in the correct use of PPE. We are also aware that certain sectors have particular issues, such as in agriculture with temporary workers and the instruction and provision they receive. In Great Britain, HSE has focused its activity on higher risk sectors such as agriculture, waste and recycling, and construction and the information to inspectors on these sectors includes a focus on the requirements for the correct provision and use of PPE.

(3) How do Member States in practice implement the obligation of employers in accordance with Article 4 to check CE-marked personal protective equipment? How is it enforced?

The requirement on employers to provide CE-marked personal protective equipment is explicit in guidance to duty-holders from the enforcing authorities.<sup>38</sup> Where relevant, operational activities such as inspections and investigations will identify the use of PPE and check that only suitable and CE-marked equipment is being provided. A range of enforcement options are available to the enforcing authorities for failures to implement the

---

<sup>37</sup>HSE: Personal Protective Equipment at Work: A brief guide (<http://www.hse.gov.uk/pubns/indg174.pdf>); HSENI: Personal Protective Equipment at Work (Second edition) ([http://www.hseni.gov.uk/125\\_personal\\_protective\\_equipment\\_at\\_work\\_second\\_edition\\_.pdf](http://www.hseni.gov.uk/125_personal_protective_equipment_at_work_second_edition_.pdf)) ; and MCA: Marine Guidance Note on Working and Protective Gear for Fishermen (<http://www.dft.gov.uk/mca/mcga07-home/shipsandcargoes/mcga-shipsregsandguidance/marinenotices/mcga-mnotice.htm?textobjid=BF47785DFA41A36A>).

<sup>38</sup>See foot note 37

requirements ranging from verbal advice through to improvement and prohibition notices and ultimately prosecution. Feedback from enforcement activity does not suggest a particular problem. In Great Britain, HSE has worked closely with the authorities who enforce the requirements of Directive 89/686/EEC on the approximation of laws on personal protective equipment to ensure that unsafe and non-CE marked personal protective equipment does not reach the workplace in the first instance or is removed as soon as an issue is found.

(4) How do Member States in practice ensure compliance with the requirement set out in Article 4(2) regarding workers having to wear two or more articles of personal protective equipment?

Guidance is available to duty-holders on the correct use of personal protective equipment and the importance of ensuring its fit and compatibility with employees who have to use it.<sup>39</sup> Inspectors from the enforcing authorities are also trained to deal with concerns about this aspect during enforcement activity. Feedback shows minimal if any concerns with respect to compatibility, rather it is a failure to provide PPE and train employees in its correct use that seems to be the problem.

(5) Has the Member State taken additional measures not included in the Directive? If yes, please describe them and give reasons why these additional measures were taken.

No additional measures have been taken in the reporting period.

(6) Has the Member State or the social partners taken any specific measures to support SMEs in implementing the Directive? Please describe these measures.

Specific measures taken to support SMEs in implementing the Directive include:

- From HSE:
  - The Health and Safety Toolbox includes a section on [personal protective equipment at work](#).
- From social partners:
  - A training video produced by the Fishing Industry Safety Group to promote the use of personal flotation devices on fishing vessels.

(7) Do SMEs have particular difficulties in following the requirements of the Directive? If yes, please describe them.

We have no evidence that SMEs have any particular difficulties in following the requirements of the Directive.

---

<sup>39</sup>See foot note 37

**Council Directive 90/269/EEC of 29 May 1990 on the minimum health and safety requirements for the manual handling of loads where there is a risk particularly of back injury to workers (fourth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)**

(1) What is the practical experience in ensuring that the employer uses the appropriate means, in particular mechanical equipment, in order to avoid the need for manual handling of loads by workers?

Given the longer term trend in industrial activity towards greater automation and a decline in employment in those sectors that have traditionally relied on heavy manual work, we believe that exposure to some of the worst manual handling risks may be reducing. We also have evidence that duty-holders are investing in purpose-built lifting aids or transportation equipment or changing organisational processes to avoid the need for manual handling of loads by their workers. For example, this includes:

- The use of motorised tugs to move aircraft steps.
- The use of specialised wheel barrows in plant nurseries.
- The automation of manual packing of boxes.
- The adaptation of fork lift trucks to move large unusual barrels.
- The involvement of ergonomic experts, engineers and operators to design more efficient manual handling processes.

(2) What is the practical experience in ensuring that the employer organises workstations in such a way that manual handling of loads can be performed by workers as safely and healthily as possible when it cannot be avoided and that workers are consulted before such manual handling is carried out?

Experience generally suggests that duty-holders understand these requirements and have few problems in implementing risk control measures. However, it is also clear that small businesses are only slowly becoming familiar with the requirements.

(3) What is the practical experience in ensuring that workers receive proper training and information on how to handle loads correctly and the risks to which they might be exposed?

We have found that training centred on improving lifting/carrying techniques has been ineffective in changing worker behaviour, but training managers and workers to assess risks from manual handling tasks was effective in preventing work-related musculoskeletal disorders.

(4) Has the Member State taken additional measures not included in the Directive? If yes, please describe them and give reasons why these additional measures were taken.

No additional measures were taken in the reporting period.

(5) Has the Member State or the social partners taken any specific measures to support SMEs in implementing the Directive? Please describe these measures.

Specific measures taken to support SMEs in implementing the Directive include:

- From HSE:
  - The Health and Safety Toolbox includes a section on [manual handling](#).
  - Short guide on [manual handling](#).
  - [Assessment of Risks from Repetitive Tasks \(ART\) Tool](#).
  - Guidance on [reducing manual handling risks in carpet retail](#).

(6) Do SMEs have particular difficulties in following the requirements of the Directive? If yes, please describe them.

We have no evidence that SMEs have any particular difficulties in following the requirements of the Directive.

**Council Directive 90/270/EEC of 29 May 1990 on the minimum safety and health requirements for work with display screen equipment (fifth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)**

(1) Does the Directive need adaptation to take account of technological development? Please describe the changes needed.

Yes. The Annexes of the Directive may need to be reviewed in light of the changes in the design and use of workstations and computers, such as the increasing use of laptops and tablets and the evolution in the design of desktop computers, since the Directive was adopted in 1990.

(2) Are the exemptions specified in Article 1(3) of the Directive still appropriate?

Yes.

(3) Has the Member State taken additional measures not included in the Directive? If yes, please describe them and give reasons why these additional measures were taken.

No additional measures have been taken in the reporting period.

(4) Has the Member State or the social partners taken any specific measures to support SMEs in implementing the Directive? Please describe these measures.

Specific measures taken to support SMEs in implementing the Directive include:

- From HSE:
  - The Health and Safety Toolbox includes a section on [display screen equipment](#).

(5) Do SMEs have particular difficulties in following the requirements of the Directive? If yes, please describe them.

We have no evidence that SMEs have any particular difficulties in following the requirements of the Directive.



**Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (sixth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (codified version) – Codification of Directive 90/394/EEC**

(1) How easy do SMEs find it to understand the interfaces in the EU legal framework as it is implemented at national level concerning carcinogens or mutagens e.g. REACH, GHS and the chemical agents Directives?

We have found that SMEs have experienced difficulties with the use of Extended Safety Data Sheets, particularly with their size and complexity, as they cover all exposure scenarios and their risk management measures and therefore can be in excess of 100 pages.

(2) What is the practical experience of substituting carcinogens and mutagens for less hazardous ones in the workplace?

We have found no rising trends in the application of the substitution principle. This is probably due to the fact that substitution is very difficult to do and requires joint efforts between the duty-holder and supplier of the agent, taking into account such factors as the processes involved, financial viability and practicability of the necessary control systems. We understand that it is not simple for a single company to evaluate substitution effects or find alternatives.

(3) What proportion of current annual cancer deaths are attributable to occupational exposure to carcinogens and how many deaths per year does this equate to?

Research<sup>40</sup> indicates that approximately 8,000 cancer deaths could be due to work activities. This equates to 5.3% of current all cancer deaths each year.

(4) What proportion of annual incident cases (newly occurring cases each year) are attributable to occupational exposure to carcinogens and how many cases per year does this equate to?

Research<sup>41</sup> indicates that 4% or 13,500 new cases of cancer could be attributable to occupational exposure.

(5) Has the Member State taken additional measures not included in the Directive? If yes, please describe them and give reasons why these additional measures were taken.

No additional measures have been taken in the reporting period.

---

<sup>40</sup> <http://www.hse.gov.uk/cancer/research.htm>  
<sup>41</sup> <http://www.hse.gov.uk/cancer/research.htm>

(6) Has the Member State or the social partners taken any specific measures to support SMEs in implementing the Directive? Please describe these measures.

Specific measures taken to support SMEs in implementing the Directive include:

- From HSE:
  - The Health and Safety Toolbox includes a section on [harmful substances](#).
  - An [Occupational Cancer](#) microsite.
  - Guidance on [working with substances hazardous to health](#).

(7) Do SMEs have particular difficulties in following the requirements of the Directive? If yes, please describe them.

We have nothing to add to the issues raised above.

**Directive 2000/54/EC of the European Parliament and of the Council of 18 September 2000 on the protection of workers from risks related to exposure to biological agents at work (seventh individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) – codification of Directive 90/679/EEC24**

(1) In the light of practical experience, knowledge, technological, social and cultural developments, are the provisions of the Directive still appropriate?

We believe that three issues need to be addressed:

- 1) Annex V of the Directive provides the containment measures for health and veterinary care facilities, laboratories and animal rooms. One of the measures requires animal carcasses to be incinerated. Other equally effective means are now available to ensure that any biological agent in a carcass has been destroyed, such as alkaline hydrolysis (also known as digester systems), and autoclaving (for smaller carcasses). We believe it would be better if the Directive allowed the duty-holder to select the most effective and appropriate disposal method for their circumstances, according to the risks involved.
- 2) Annex III of the Directive provides the Community Classification List. The Directive provides that the list and the classification of biological agents must be examined regularly and revised on the basis of new scientific data. We believe that it is an appropriate time now to review the list as a number of new agents have emerged and the list should address these and taxonomical changes. We also believe that a review should particularly consider the biological agents classified in group 3 (\*\*) in the List. These are listed as agents that may present a limited risk of infection for workers because they are not normally infectious by the airborne route. This allows for some containment measures to be dispensed with in particular circumstances following a risk assessment. However, there are other agents in the List that would fall in this category, but are not marked for this derogation. We believe that it would be appropriate to review the use of asterisks to clarify where they should be applied, and also to ensure that member states can apply this approach, where appropriate, to any new agents that are identified.
- 3) There is some overlap with Directive 2009/41/EC on the contained use of genetically modified micro-organisms. In particular, Article 16 and Annexes V and VI of Directive 2000/54/EC provide the measures required to contain biological agents at different containment levels. These are similar to, but not identical to, the containment measures in Directive 2009/41/EC. The different approaches are potentially confusing to those who work with both wild type and genetically-modified biological agents. It would be useful to see if the two approaches could be better aligned.

(2) Does the Directive need adaptation to take account of the pattern of accidents or ill health? Please describe the changes needed.

It is not possible to obtain reliable data on the numbers of infections at work caused by incidental exposure to biological agents (including in healthcare).

There were 100 accidents/incidents reported in Great Britain (under the requirements of Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995) during the period of August 2006 to August 2010 related to high hazard work with biological agents. This constitutes in the region of 30 accidents per year for deliberate work with biological agents. In the same period, 12 cases of ill health were reported. We believe that accidents are relatively infrequent for those deliberately working with biological agents and in most cases have resulted in limited human impact.

A study by the HSE's Health and Safety Laboratory in 2012 looked at the human factors that lead to non-compliance with standard operating procedures in Containment Level 3 laboratories.<sup>42</sup> It found that many accidents/incidents involved underlying issues of complacency, lack of competence and poor supervision. Evidence collated in order to inform the transposition of Directive 2010/32/EU implementing the Framework Agreement on the prevention from sharp injuries in the hospital and healthcare sector concluded by HOSPEEM and EPSU showed that the majority of injuries that occurred could have been prevented if existing safe systems of work had been followed.

Based on this information, we do not believe that the Directive needs adaptation to take account of patterns of accidents or ill health. We believe that the priority should be compliance with existing requirements.

(3) Has the Member State taken additional measures not included in the Directive? If yes, please describe them and give reasons why these additional measures were taken.

No additional measures were taken in the reporting period.

(4) Has the Member State or the social partners taken any specific measures to support SMEs in implementing the Directive? Please describe these measures.

Specific measures taken to support SMEs in implementing the Directive include:

- From HSE:
  - The Health and Safety Toolbox includes a section on [micro-organisms](#).
- From Government's Advisory Committee on Dangerous Pathogens:
  - Guidance is available for SMEs who have workers who are incidentally exposed to biological agents. This guidance provides an easy to follow structure with [example risk assessments](#).

(5) Do SMEs have particular difficulties in following the requirements of the Directive? If yes, please describe them.

We have no evidence that SMEs have any particular difficulties in following the requirements of the Directive.

---

<sup>42</sup>HSE RR919 – Human factors that lead to non-compliance with standard operating procedures (<http://www.hse.gov.uk/research/rrhtm/rr919.htm>)

**Council Directive 91/383/EEC of 25 June 1991 supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship**

(1) Has the Member State used the provisions of Article 5(1) of the Directive to prohibit workers with a fixed-duration contract of employment or workers with temporary employment from being used for certain work which would be particularly dangerous for their safety or health? If yes, please give a list of these types of work.

No.

(2) What practical measures are taken to ensure that workers with a fixed-duration contract of employment or workers with temporary employment who are used for work requiring special medical surveillance are provided with such surveillance within the meaning of Article 5(2) of the Directive? Is this surveillance extended beyond the end of the employment relationship (as per Article 5(3) of the Directive)? What practical measures are taken to ensure that temporary workers and fixed-term workers are informed and trained on the subject of risks they may face at work in line with the specific requirements of the Directive, before they start any activity?

Great Britain:

HSE has issued guidance to user businesses and employment businesses about the requirements of the Directive.<sup>43</sup> Where small employment businesses do not have the expertise to provide health surveillance and the user business is already doing health surveillance for its own employees, HSE allows flexible arrangements to ensure temporary workers can join the user business's scheme. We do not have enough evidence to form a view on whether special medical surveillance, where it has been provided, is being extended beyond the end of the employment relationship. The requirement to provide information on risks and training is reinforced by requirements placed on employment businesses under the Conduct of Employment Agencies and Employment Businesses Regulations 2003 and (where applicable) legislation enforced by the Gangmasters Licensing Authority (GLA). There is no prescribed format for information provision, and HSE accepts a range of methods for this, depending on the level of risk to which the temporary workers are likely to be exposed. HSE adopts a pragmatic and proportionate approach to training, allowing its provision by whichever of the employment business or user business is best placed to provide it, taking into consideration the job-specific content of the training and the employment business's familiarity or otherwise with the user business's activities.

Maritime sector:

It is the experience of the MCA that, in the merchant navy, most employers have in place some form of continuous medical surveillance programme. This complements the fact that seafarers, whatever their employment status, are

---

<sup>43</sup> <http://www.hse.gov.uk/workers/agencyworkers.htm>

required to have a statutory fitness certificate which includes a medical examination at least every two years or every year for those under the age of 18. Whereas many seafarers are employed on short-term contracts, the application of the IMOSMC ensures that crew members are given training and information, including about any risks arising from their duties on board ship.

(3) What other action is taken by the labour inspectorate with regard to workers with fixed-duration contract of employment or workers with temporary employment?

HSE conducted an investigation in the Midlands in 2011/12 to assess the extent to which employment businesses were capable of meeting the information provision requirements of the Directive in respect of temporary workers who were also vulnerable due to their migrant worker status, and made a number of recommendations. These included

- Using employment businesses to get health and safety messages to agency workers, including migrant workers;
- Exploring the sharing of intelligence between HSE and the Employment Agency Standards inspectorate (EASi) to identify any poor performing businesses.
- Proposing a national intervention with employment businesses to ensure that workers are provided with PPE free of charge.
- Clarifying between EASi and HSE the use of 'implied contract' acceptance between employment businesses and their clients, in relation to health and safety responsibilities.
- Considering whether employment business/client contracts should clearly specify responsibility for the reporting of injuries, diseases and dangerous occurrences and the provision of PPE.
- Providing clear summary guidance to employment businesses, detailing their health and safety duties.
- Updating the guidance within the HSE Topic Inspection pack on Migrant Working.<sup>44</sup>

(4) Has the Member State taken additional measures not included in the Directive? If yes, please describe them and give reasons why these additional measures were taken.

No additional measures have been taken in the reporting period.

(5) Has the Member State or the social partners taken any specific measures to support SMEs in implementing the Directive? Please describe these measures.

Specific measures to support SMEs in implementing the Directive include:

- From HSE:
  - The Health and Safety Toolbox includes a section on [protecting agency or temporary workers](#).
- From social partners:

---

<sup>44</sup><http://www.hse.gov.uk/foi/internalops/fod/inspect/migrantworker.pdf>

- The production of model contracts and other documentation by trade associations to assist their employment business members in complying with the requirements of the Directive.

(6) Do SMEs have particular difficulties in following the requirements of the Directive? If yes, please describe them.

Particular difficulties of SMEs in following the requirements of the Directive include:

- We have found that SMEs have experienced some difficulty in meeting the requirement for equal treatment in respect of the provision of PPE where the user business does not supply this. This seems to be a particular problem in the agricultural sector where licensee revocations by the GLA, together with other reports, suggest that some labour providers (many of whom are SME employment businesses) and some SME labour users fail to grasp their responsibilities clearly in relation to the provision of PPE, but also in relation to the supply of information about risks to temporary workers, and in respect of providing instruction and training.
- Providing health surveillance for temporary workers who may only be employed for a relatively short period (1-5 days), including where the worker has had previous health surveillance under a different employer but the records are not available to the present employer.

**Council Directive 92/29/EEC of 31 March 1992 on the minimum safety and health requirements for improved medical treatment on board vessels**

(1) How many centres are designated in the Member State for providing workers with free medical advice by radio and other methods of communication (within the meaning of Article 6 of the Directive) and who is responsible for their operation?

There are two Radio Medical Advice (RMA) Centres in the UK, based within the emergency and accident departments of Aberdeen Royal Infirmary and Queen Alexandra Hospital in Portsmouth. These centres provide free radio medical advice 24 hours a day, 7 days a week. Calls are routed through Her Majesty's Coastguard who in the case of a medical emergency also advise on, and where necessary co-ordinate, medical evacuation.

The two RMA centres operate under a memorandum of understanding with MCA which meets the costs of supplying the service.

(2) What steps are taken in the Member States to ensure that the annual inspections (within the meaning of Article 7 of the Directive) are carried out?

Regulation 11 of the Merchant Shipping and Fishing Vessels (Medical Stores) Regulations 1995 requires that stores are inspected by a competent person at least once a year to ensure that:

- The ship is carrying the medical stores which it is required to carry under the Regulations
- Medical stores are correctly stored
- Any perishable medicines have been replaced

UK ships are subject to regular inspections either by MCA surveyors or (for small vessels) by certifying authorities authorised and audited by the MCA. Inspections include a check that medical stores are complete and up to date, and that appropriate records have been kept.

(3) Are the provisions of the Directive still appropriate or are changes needed, for example: the list of medical supplies and the centres designated by the Member State for providing workers with free medical advice by radio? Please suggest proposals for any changes.

We are satisfied that the Directive's requirements relating to the provision of radio medical advice remain proportionate and necessary. They provide sufficient flexibility to determine how such provision should be made, taking into account the structure of medical care provision. We are also satisfied with the requirements relating to the training of seafarers, inspection of medical stores and ship's doctors.

However, we believe that Article 2(3) of the Directive is out of step with the equivalent provision in the International Labour Organization's 2006 Maritime



Labour Convention (MLC)<sup>45</sup>, and 2007 Work in Fishing Convention (No. 188)<sup>46</sup>. The MLC requires a ship's hospital on every ship carrying more than 15 crew members on a voyage of more than 3 days (with scope for relaxing the requirement for a vessel operating exclusively on coastal voyages). Convention 188 requires a sick bay on vessels of 45 metres in length and over. We believe that Article 2(3) of the Directive should be brought into line with the MLC in respect of merchant ships and Convention No. 188 in respect of fishing vessels.

We also have a number of concerns about the requirements for the carriage of medical stores. The most serious concern is that in the Directive the minimum supplies to be carried are to be determined solely on the basis of the distance from shore that the vessel operates. We believe that these should be determined on the basis of risk, which, as well as distance from shore, will also be affected by the availability of adequate medical facilities, the type of operation of the vessel, its pattern of operation and its area of operation. We suggest that there should be a shortened list of treatments for small vessels which are never at sea for more than a short period, for example, three or five days.

The MCA has produced a paper setting this out in more detail, which has been discussed and agreed with the relevant social partners, and which it would be happy to share with the Commission. We believe that the list of mandatory medical treatments and equipment listed in Annex IV to the Directive should be reviewed and would like to see this based on the principles in this paper.

The sectoral employer social partners have also raised concerns about the amount of wasted drugs which have to be replaced each time they reach their expiry date, but have reportedly never, in the 15 years since the Directive was transposed, been used. We accept that the non-use of medications is not in itself an argument for not carrying them. However, the implications of not carrying them should be considered – for example will they save a life or relieve severe pain? If not, why do they need to be carried?

(4) Has the Member State taken additional measures not included in the Directive? If yes, please describe them and give reasons why these additional measures were taken.

No additional measures have been taken in the reporting period.

(5) Has the Member State or the social partners taken any specific measures to support SMEs in implementing the Directive? Please describe these measures.

No.

---

<sup>45</sup> <http://www.ilo.org/global/standards/maritime-labour-convention/lang--en/index.htm>

<sup>46</sup> [http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100\\_ILO\\_CODE:C188](http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C188)

(6) Do SMEs have particular difficulties in following the requirements of the Directive? If yes, please describe them.

We understand that small vessels (under 24 metres) have significant difficulties complying with the requirements for medicines for Category A and B vessels, mainly because of the quantity of different treatments required. Even for Category C vessels, we understand that there are difficulties – for example, the anti-haemorrhagic Ergometrine Maleate requires refrigeration. This is not available on many small vessels.

**Council Directive 92/57/EEC of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile construction sites (eighth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)**

(1) What is the experience of practical implementation of the scope of the Directive, including the definition of a construction site?

Concerns have been expressed over the wide breadth of the definition of a construction site in the Directive. For example, repairs, upkeep and maintenance are very broad terms; there is confusion over when to notify construction sites; and how small scale transient work on multiple sites and emergency works should be treated (the focus of the latter being on acting quickly rather than filling in paperwork).

Some maintenance and repair projects are let as framework contracts and it can be unwieldy to regard each piece of construction work as a mini-project. There are also concerns over multiple-projects where multiple principal contractors require access to the same plot of land. Views have also been expressed that the Directive does not fully address all procurement routes in relation to which organisations should carry out client duties. Some organisations also do not appreciate the wide applicability of the Directive and confuse 'not notifiable' with 'not applicable'.

Interim results of research into procurement of construction work by domestic clients would suggest that only 21% and 43% of householders regard maintenance and redecoration respectively as construction work.

(2) To what extent does the practical implementation of the Directive make use of the possibility to adapt it to the volume of work, work involving particular risks and the characteristics of the project?

We have adapted the notification threshold of the Directive (30 days/500 person days) in connection with the formal appointment of the co-ordinator and the drawing up of the health and safety plan.

The Approved Code of Practice (ACoP) to the Construction (Design and Management) Regulations 2007, which implement the Directive in Great Britain, is used to address practical adaptation of the Directive. For example, whereas the Directive states 'the project supervisor, or where appropriate the client, shall take account of the principles of prevention during the various stages of designing and preparing the project, in particular when architectural, technical and /or organisational aspects are being decided', the 2007 Regulations state that 'the amount of effort put into eliminating or reducing risks should depend on the degree of risk. The focus should be on issues that are known to have the potential to cause significant harm, and where there are known solutions that reduce the risks to everyone exposed.' The ACoP also makes clear that co-ordinators can be individuals or companies and that roles may be combined e.g. 'on simple projects one person should be able to provide all of the support that clients need, but a team approach will be more

common for larger or more complicated projects because of the workload and skills required.’ Some 28 examples are provided throughout the ACoP covering different sizes of project.

In practice some duty-holders are still doing too much, without adapting to the volume of work, the particular risks or characteristics of the project. It is therefore perhaps equally important to know what the various roles do not involve in relation to the different sizes and complexities of projects as well as what duty-holders should be concentrating on.

(3) What is the experience of practical implementation of the Directive with regard to the responsibilities of duty-holders?

We have found that:<sup>47</sup>

- Generally all duty-holders have showed positive change in their views on their commitment to protect the health and safety of construction site workers.
- Some showed a positive change in their views on the design of construction projects, while others felt costs had gone up, paperwork had not reduced, there was still a blame culture and there was still a need for better integration.

(4) Has the Member State taken additional measures not included in the Directive? If yes, please describe them and give reasons why these additional measures were taken.

Duties have been placed on designers because they have a key role in identifying risks/hazards before construction work begins and in managing them during the actual construction phase. Designers have to avoid foreseeable risks to health and safety, take account of general workplace requirements and provide sufficient information about the design to assist others in complying with their duties. Criteria are also set on appropriate levels of competence for duty-holders (individuals and organisations). This was because duty-holders wanted to satisfy themselves that those they appointed to handle construction work were competent to do so. This action has also served to underpin industry standards.

(5) Has the Member State or the social partners taken any specific measures to support SMEs in implementing the Directive? Please describe these measures.

Specific measures to support SMEs in implementing the Directive include:

- From HSE:
  - The [health and safety toolkit for the smaller construction contractor](#).
  - The publication of ‘[Busy Builder](#)’ leaflets to provide on advice on running a small construction project.
- From social partners:

---

<sup>47</sup>HSE RR920 – Evaluation of the Construction (Design and Management) Regulations 2007 (<http://www.hse.gov.uk/research/rrhtm/rr920.htm>)

- The running of the [Working Well Together](#) campaign to raise awareness of health and safety issues in micro and small construction businesses.
- [Federation of Master Builders' information](#) sheets to small builders on health and safety in construction work.
- The [ConstructionSkills guidance](#) on the 2007 Construction (Design and Management) Regulations.

(6) Do SMEs have particular difficulties in following the requirements of the Directive? If yes, please describe them.

We have found that the major problems relating SMEs understanding of the Directive are less to do with its requirements and more to do with clarity about the various roles required and ignorance (deliberate or otherwise) of what they need to do.<sup>48</sup> A report in 2011 by the Construction Clients Group and British Property Federation found that two-thirds of small or occasional clients were not aware of the Directive, and that two-thirds of occasional clients relied on contractors to ensure compliance with their obligations.<sup>49</sup> Where SMEs are aware of their obligations, concerns relate to them having the necessary structures and resources to obtain competent advice to assist them or them finding the time to carry out their obligations due to other pressures on their business. Around two thirds of all fatal and major injuries in the construction sector occur on small sites, i.e. where fewer than 15 people work, indicating that many SMEs are getting things wrong with sometimes fatal consequences and that the regulatory regime is not working well at that level.

---

<sup>48</sup>See foot note 47

<sup>49</sup>[http://www.pyetait.com/wp-content/uploads/2011/01/CCG\\_Research\\_into\\_CDM\\_Regulations\\_-\\_Main\\_Report.pdf](http://www.pyetait.com/wp-content/uploads/2011/01/CCG_Research_into_CDM_Regulations_-_Main_Report.pdf)

**Council Directive 92/58/EEC of 24 June 1992 on the minimum requirements for the provision of safety and/or health signs at work (ninth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)**

(1) Is the scope of the Directive still appropriate?

The existing exclusions are still appropriate. However, we believe that the scope could be further narrowed so that signs only apply to high hazard activities. It should be left to member states to define the particular circumstances applicable.

(2) Are there any practical problems in the relationship between the signs specified in the Directive and those specified in other international instruments?

We have no evidence to suggest any problems.

(3) Has the Member State taken additional measures not included in the Directive? If yes, please describe them and give reasons why these additional measures were taken.

No additional measures have been taken in the reporting period.

(4) Has the Member State or the social partners taken any specific measures to support SMEs in implementing the Directive? Please describe these measures.

- From HSE:
  - The Health and Safety Toolbox includes a section on [safety signs](#).

(5) Do SMEs have particular difficulties in following the requirements of the Directive? If yes, please describe them.

Though understanding the rationale behind the Directive, we believe that the provision of safety signs in the workplace may have led, in some circumstances, to an over emphasis on the identification of hazards at the expense of action being taken to eliminate them. An example would be spillages at work, where a sign has been put up to highlight the hazard but no action taken to address it.

**Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)**

(1) In the light of practical experience, knowledge, technological, social and cultural developments, are the provisions of the Directive still appropriate?

Yes.

(2) Have any new guidelines or information material been published or campaigns been run since the previous report?

Guidance on new and expectant mothers was updated in 2012 to incorporate further information on risk assessment for pregnant workers.<sup>50</sup>

(3) Has the Member State taken additional measures not included in the Directive? If yes, please describe them and give reasons why these additional measures were taken.

No additional measures were taken in the reporting period.

(4) Has the Member State or the social partners taken any specific measures to support SMEs in implementing the Directive? Please describe these measures.

- From HSE:
  - The Health and Safety Toolbox includes a section on [protecting new and expectant mothers](#).

(5) Do SMEs have particular difficulties in following the requirements of the Directive? If yes, please describe them.

We have no evidence that SMEs have any particular difficulties in following the requirements of the Directive.

---

<sup>50</sup> <http://www.hse.gov.uk/mothers/index.htm>

**Council Directive 92/91/EEC of 3 November 1992 concerning the minimum requirements for improving the safety and health protection of workers in the mineral-extracting industries through drilling (eleventh individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)**

(1) What is the practical experience of implementing the Directive, particularly with respect to:

- The competence of the staff, the responsible person and supervisors/managers
- First aid facilities
- Escape and rescue facilities
- Protection from fire, explosions and health-endangering atmospheres
- Safety equipment maintenance
- Carrying out relevant safety drills at regular intervals
- Health surveillance

We have identified no difficulties with duty-holders compliance with these requirements.

- Work permit

We believe that some work is still required by duty-holders to ensure that permit to work systems are effectively supervised and managed by them. We also believe that there is scope to improve the interaction of workers with such systems as a means to improve their effectiveness.

- Offshore accommodation

We understand that the undefined nature of the requirement has created some confusion among duty-holders as to what is intended in relation to the provision of offshore accommodation.

(2) In the light of practical experience, knowledge and technological developments, are the provisions of the annex still appropriate?

We suggest that the Annex to the Directive could be improved by:

- Clarifying that the maintenance of the offshore asset is within the scope of the maintenance requirements.
- Stating that only one person should sleep in a cabin at any one time, with no more than 2 beds per cabin when workers are separated by shift. Also there should be separate arrangements for men and women.

The Annex covers occupational safety and health as well as major hazard control requirements. If the requirements related to these two areas were separated out, this might make it easier to understand what is required in each particular area. The annex might also be improved by moving from three parts to two so that the requirements for onshore and offshore drilling are covered separately. Alternatively, a single table could be produced which



outlined all the requirements, highlighting when they applied (e.g. solely to offshore or onshore or to both).

With the recent adoption of Directive 2013/30/EU on the safety of offshore oil and gas operations<sup>51</sup>, many of the improvements we would have suggested to Directive 92/91/EEC have been addressed. However, we do recommend that consideration be given to:

- Extending the scope of Directive 92/91/EEC to cover gas storage.
- Introducing notifications for onshore wells to ensure that the enforcing authority can inspect well designs before operations commence.
- Requiring onshore wells to be subject to the additional assurance of examination by an independent well examiner.
- Requiring well operators to provide the enforcing authority with weekly well reports so that the latter can effectively monitor the work activities of the well.

(3) Has the Member State taken additional measures not included in the Directive? If yes, please describe them and give reasons why these additional measures were taken.

No additional measures have been taken in the reporting period.

(4) Has the Member State or the social partners taken any specific measures to support SMEs in implementing the Directive? Please describe these measures.

No.

(5) Do SMEs have particular difficulties in following the requirements of the Directive? If yes, please describe them.

Most of the companies engaged in extraction through drilling in the UK are large organisations rather than SMEs.

---

<sup>51</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:178:0066:0106:EN:PDF>

**Council Directive 92/104/EEC of 3 December 1992 on the minimum requirements for improving the safety and health protection of workers in surface and underground mineral-extracting industries (twelfth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)**

(1) What is the practical experience of implementing the Directive, particularly with respect to:

- The competence of the staff, the responsible person and supervisors
- Work permits
- Health surveillance
- Escape and rescue facilities

We have identified no difficulties with duty-holders compliance with these requirements.

(2) In the light of practical experience, changes in knowledge and technological developments, are the provisions of the annex still appropriate?

We believe that there is some scope for simplifying the annex of the Directive by applying Directive 89/654/EEC to mine and quarry surfaces.

(3) In the light of practical experience, is there any overlap or contradiction with other Directives, for example the ATEX-Directive 99/92/EC? If yes, please explain.

We have no experience to report of contradictions. In theory there are some overlaps with other directives but we have no experience that they have caused problems for duty-holders. The main overlaps are with:

- Directive 89/391/EEC (the requirements covering assessment of risk; consultation and participation of workers; information and training of workers; and health surveillance).
- Directive 92/91/EEC (in relation to onshore mining: the requirements covering production of a safety and health document; protection from fire, explosions and health endangering atmospheres; escape and rescue facilities; and communication, warning and alarm systems. There is also duplication in the minimum safety and health requirements set out in the Annex).
- Directive 1999/92/EC (the requirements covering the prevention of and protection against explosions; assessment of explosion risks; coordination and the explosion protection document)

(4) Has the Member State taken additional measures not included in the Directive? If yes, please describe them and give reasons why these additional measures were taken.

No additional measures have been taken in the reporting period.

(5) Has the Member State or the social partners taken any specific measures to support SMEs in implementing the Directive? Please describe these measures.

Specific measures taken to support SMEs in implementing the Directive include:

- From HSE:
  - The establishment of the Mining Industry Safety Leadership Group. The group includes senior representatives from employers and trade unions in the mining industry. This provides a forum to develop and implement a health and safety strategy in mining.
  - Twice-yearly meetings of the Quarries National Joint Advisory Committee.
- From social partners:
  - The [Safequarry.com](http://Safequarry.com) site developed and managed by the Mineral Products Association and supported by the Mineral Industry Sustainable Technology (MIST) Program. The site is part of a package designed to encourage the sharing of health and safety knowledge across the quarrying industry. It is freely available to all and provides valuable advice on safety and health protection for workers in the industry.

(6) Do SMEs have particular difficulties in following the requirements of the Directive? If yes, please describe them.

We have no evidence to suggest that SMEs have particular difficulties in following the requirements of the Directive.

**Council Directive 93/103/EC of 23 November 1993 concerning the minimum safety and health requirements for work on board fishing vessels (thirteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)**

(1) What is the practical experience with the requirements of the Directive, and is the scope of the Directive still appropriate, particularly with respect to the length of vessels concerned?

We have come to the view that the requirements of the Directive do not form a coherent package to ensure the safety of those working on fishing vessels. In particular, the limitations on application of the Directive (15 metres for new vessels and 18 metres for existing vessels) bear no obvious relationship to the risks involved.

As a result the UK has extended the following requirements of the Directive to existing vessels of 15m and over:

- The skipper to maintain adequate vessel stability and for the supplied stability information to be observed.
- The main engines which are controlled from inside the engine room to also have control positions outside the engine room.
- The provision of an emergency electrical power source for three hour operation of:
  - Internal communications, fire detectors and emergency signals.
  - Navigation lights and emergency lighting.
  - Radio apparatus.
  - The fire pump.
- The maintenance of refrigeration plants or compressed air systems.
- The provision of grab rails and life lines in passageways.
- Fall protection of openings.
- Protection at height.
- The fitting of gates on stern trawlers.
- The provision of personal protective equipment.
- Maintenance of electronic aids to navigation.

The 2007 ILO Convention on Work in Fishing takes a much more comprehensive approach to safety on fishing vessels with generic requirements for all vessels, and more detailed, prescriptive requirements for larger vessels. However, crew accommodation standards apply only to vessels built after the Convention comes into force, whereas the Directive contains some (albeit limited) requirements for existing vessels over 18 metres.

Any changes to the Directive should therefore aim to bring it into line with the standards of the Convention, where applicable, to avoid conflicts, and to ensure that Member State fishing vessels are not at a competitive disadvantage compared to international comparators. It is nevertheless recognised that where existing EU standards are higher than ILO standards, the EU standards should be maintained.

We also believe that the regulation of the construction and equipment of vessels under 15 metres should remain at member state level, since vessels of this size are generally operating domestically.

As a minimum, any review of Directive 93/103/EC should take into account Directive 97/70/EC on setting up a harmonised safety regime for fishing vessels of 24 metres in length and over<sup>52</sup>, its amending Directive 2002/35/EC<sup>53</sup>, the standards of the 1977 Torremolinos Convention for the Safety of Fishing Vessels<sup>54</sup> and the hardware requirements of the ILO Convention on Work in Fishing, to ensure consistency across the board.

We would prefer that for vessels of between 15 and 24 metres, there should be consistent and comprehensive standards, which take account of Directive 93/103/EC and the ILO Convention on Work in Fishing and which could form the basis of the construction and equipment of fishing vessels of this size. This would be beneficial to the shipbuilding industry supplying the European fishing market.

The UK has a Code of Safe Working Practice for the construction and use of this size of vessel<sup>55</sup> which we would be happy to offer as the basis for discussion. This Code does not yet include in full the hardware standards of the Convention on Work in Fishing.

For ships 24 metres and above, we suggest that the standards of Directive 97/70/EC should be combined with that of Directive 93/103/EC and the hardware standards of the Convention on Work in Fishing to provide a single set of standards for this type of vessel.

(2) What is the trend in the number of vessels and the various types of workers covered by the Directive?

Due to the economic pressures on the industry, small vessels are increasingly operating further from shore with very small crews, or being operated single handed. This increases the risk of accidents and the potential for very serious consequences when an accident or dangerous incident occurs.

There is also a trend towards smaller fishing vessels comprising a larger percentage of the UK fleet.

There is also greater use of catamaran designs among smaller vessels, which means that vessel lengths have remained similar but vessels are broader and therefore larger.

---

<sup>52</sup><http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1998:034:0001:0029:EN:PDF>

<sup>53</sup><http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:112:0021:0033:EN:PDF>

<sup>54</sup><http://www.imo.org/about/conventions/listofconventions/pages/the-torremolinos-international-convention-for-the-safety-of-fishing-vessels.aspx>

<sup>55</sup>MCA: The Fishing Vessels Code of Practice for the Safety of Small Fishing Vessels ([http://www.dft.gov.uk/mca/msn\\_1813\\_amended\\_5.pdf](http://www.dft.gov.uk/mca/msn_1813_amended_5.pdf)).

The majority of fishermen working in the UK industry are not employed, but are paid on the basis of a share of the catch (known as “share fishermen”), with self-employed status. Also a small but significant number of non-UK nationals are now employed in the UK fishing fleet, due to difficulties in recruiting from traditional fishing communities.

(3) What steps has the Member State taken to encourage the provision of and attendance of training?

We have separate policies towards mandatory and voluntary training. In respect of mandatory training checks on the training of crew are carried out during surveys and inspections and if crew are found not to have undertaken the necessary training, they are required to undertake this training within three months or the vessel risks detention. Crew are given three months as training courses are not always immediately available. Many insurers take the view that not undertaking mandatory training may invalidate a policy.

The MCA, with its partner Seafish<sup>56</sup> (an organisation established by an Act of Parliament to support the seafood industry in a sustainable and profitable future), also provides a voluntary training programme comprising courses in:

- Navigation.
- Watch Keeping.
- Stability.
- Engineering.
- Radio Operation.
- Damage Control.

These courses lead to a voluntary Skippers Certificate for vessels under 16.5 metres registered length. From July 2008, these courses have been provided free of charge. Between July 2008 and June 2011 (which is the latest period for figures) we will have trained around 3,500 fishermen. In April 2012, the MCA and Seafish launched refresher courses on the mandatory basic safety training. These courses are also free. Figures on uptake are not yet available.

(4) In the light of practical experience, knowledge and technological developments, are the provisions of the Directive still appropriate?

We would suggest the following alterations to the provisions of the Directive:

- The provision of adequate sanitary facilities should be required on all vessels operating for more than a few hours at a time, regardless of size, for reasons of hygiene, food safety and the safety of fishermen.
- Testing and marking of lifting and hauling equipment should be mandatory for all fishing vessels.
- The requirements on the ventilation of working spaces should be extended to cover measures to protect against the risks from enclosed spaces (e.g. carriage of oxygen meters/atmosphere testing equipment).
- For new vessels only, measures to be taken to protect workers from noise risks should be extended to include vibration risks.

---

<sup>56</sup> <http://www.seafish.org/>

(5) Has the Member State taken additional measure not included in the Directive? If yes, please describe them and give reasons why these additional measures were taken.

No.

(6) Has the Member State or the social partners taken any specific measures to support SMEs in implementing the Directive? Please describe these measures.

Measures taken to support SMEs in implementing the Directive include:

- From MCA:
  - A [Fishermen's Safety Guide](#).
  - A pilot scheme, run in Scotland and Northern Ireland, to work with fishermen to develop improved risk assessments. The Scottish Fishing Federation is now running a similar scheme providing assistance to members on completing risk assessments.
- From Seafish:
  - Safety training courses for fishermen. This is mandatory for all new entrants to the industry. It includes guidance on risk assessments.

(7) Do SMEs have particular difficulties in following the requirements of the Directive? If yes, please describe them.

Particular difficulties of SMEs in following the requirements of the Directive include:

- Many fishing ports do not allow sufficient space for the use of accommodation ladders/gangways, so requiring their carriage, while sensible, does not in itself improve safety.
- The size of fishing vessels limits the options for safe working areas/access routes etc.

## **Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work**

(1) In the light of practical experience, knowledge, technological, social and cultural developments, are the provisions of the Directive still appropriate?

We believe that Article 5 (1) of the Directive, the requirement that the employment of children in cultural, artistic, sports or advertising activities shall be subject to prior authorisation by the competent authority in individual cases, ought to expressly confer on Member States the choice of having a system of individual or group authorisation.

(2) Have any new guidelines or information material been published or campaigns been run since the previous report?

### Great Britain:

Guidance for duty-holders on the risks to young people at work and what the law requires to manage them was published in 2008.<sup>57</sup> In 2012, HSE began the process of reviewing this guidance with the aim of providing clarity to duty-holders on the areas of the law that we know cause problems for them. This includes risk assessment requirements for young people, confusion on where the responsibility lies for protecting young people on work experience and interpretation of the specific factors of the Directive and the requirements of Annex I. The intention is to publish revised guidance in 2013. Guidance on maximum weekly working hours for young workers has also been produced for employers.<sup>58</sup>

A public consultation on proposals to reform legislation for the protection of children employed in cultural, artistic, sports or advertising activities was held in England and Wales between May 2012 and August 2012. At the end of the reporting period point no changes had been made.

### Northern Ireland:

A new booklet, "[Be safe when you start](#)", developed in collaboration with local school children, was published in 2012 by HSENI. The publication is aimed at young people entering the workplace for the first time.

(3) According to Articles 5(3), 7(3), 8(5), 9(2), 10(3), 10(4) and 13, Member States can authorise derogations under certain conditions. Have such derogations been granted and, if so, how many? What were the reasons for the derogations?

The derogations in Articles 5(3), 7(3), 8(5), 9(2), 10(3), 10(4) and 13 have been allowed for in the relevant transposing legislation.<sup>59</sup> These were granted

---

<sup>57</sup><http://www.hse.gov.uk/youngpeople/>

<sup>58</sup><https://www.gov.uk/maximum-weekly-working-hours/weekly-maximum-working-hours-and-opting-out>

<sup>59</sup>Article 5(3): Section 37(1) of the Children and Young Persons Act 1963; Article 7(3): Regulation 19(3) of the Management of Health and Safety at Work Regulations 1999 and Regulation 19(3) of the Management of Health and Safety at Work Regulations (Northern



to reflect the employment opportunities that were available to young people at the time the Directive was adopted.

In relation to the derogation in Article 5(3), children need authorisation from the local authority, in the form of a licence, to allow them to take part in employed performance, sport or advertising activities. Numbers of licences granted are not available. The age restriction in the derogation was questioned in responses to the public consultation referred to above. Whilst it is recognised that younger children may be more vulnerable, and therefore need greater protection, we feel this should be decided on a case by case basis. An arbitrary discrimination against children simply because they are under aged 13 seems unfair and unnecessary – especially to children.

The derogations in Article 2(2), 4(2) and 10(2) have also been allowed for in the relevant transposing legislation.<sup>60</sup> The derogation in Article 4(2) is subject to authorisation by local authorities, for example, through a licence or local byelaws, to allow children to take part in performance, sport or advertising activities. Numbers of licences granted are not available.

(4) What is the incidence rate for fatal accidents among young people per 100.000 workers for each year of the reporting period? What is the incidence rate for accidents among young people causing absence of more than three working days per 100.000 workers for each year of the reporting period?

Over the reporting period, it is estimated that each year between 1,000 and 3,000 young people in Great Britain sustained a workplace injury resulting in more than 3 days absence from work. This is equivalent to between 290 and 750 such injuries per 100,000 young workers each year. For the period 2006/07 to 2011/12, the number of fatalities of young workers (i.e.16 and 17

---

Ireland) 2000; Article 8(5): the Children (Protection at Work) Regulations 1998, the Children (Protection at Work) (No. 2) Regulations 2000, Regulation 17(1) of the Working Time (Amendment) Regulations 2002 and Regulation 19(1) of the Working Time (Amendment) Regulations (Northern Ireland) 2003; Article 9(2): Regulations 15, 16, 17(2), 17(4) of the Working Time (Amendment) Regulations 2002 and Regulations 16, 17, 19(2) and 19(4) of the Working Time (Amendment) Regulations (Northern Ireland) 2003; Article 10(3): Regulations 10(2) and 11(3) of the Working Time Regulations 1998 and Regulations 10(2) and 11(3) of the Working Time Regulations (Northern Ireland) 1998; Article 10(4): Regulations 10(2), 10(3), 11(3), 11(8) and 26 of the Working Time Regulations 1998, Regulations 10(2), 10(3), 11(3), 11(8) and 26 of the Working Time Regulations (Northern Ireland) 1998, Regulation 17(3) of the Working Time (Amendment) Regulations and Regulation 19(3) of the Working Time (Amendment) Regulations (Northern Ireland) 2003; and Article 13: Regulations 27(1) and 27(2) of the Working Time Regulations 1998, Regulations 27(1) and 27(2) of the Working Time Regulations (Northern Ireland) 1998, Regulations 17(1), 17(2) and 17(4) of the Working Time (Amendment) Regulations 2002 and Regulations 19(1), 19(2) and 19(4) of the Working Time (Amendment) Regulations (Northern Ireland) 2003, Regulations

<sup>60</sup> Article 2(2): Section 51 of the Health and Safety at Work etc. Act 1974, Section 47 of the Health and Safety at Work (Northern Ireland) Order 1978, Regulation 2(2) of the Management of Health and Safety at Work Regulations 1999 and Regulation 2(2) of the Management of Health and Safety at Work Regulations (Northern Ireland) 2000; Article 4(2): Sections 18(2) and 18(3) and of the Children and Young Persons Act 1933 and Section 560(1) of the Education Act 1996; and Article 10(2): Regulations 11(3) and 11(8) of the Working Time Regulations 1998 and Regulations 11(3) and 11(8) of the Working Time Regulations (Northern Ireland) 1998.

year olds) was very small. An average of two per year for the period mentioned. Also, our employment data is received by age-band with the lowest level being age-band 16-19. Therefore it is not possible to produce a rate at this level.

(5) Has the Member State taken additional measures not included in the Directive? If yes, please describe them and give reasons why these additional measures were taken.

No additional measures have been taken in the reporting period.

(6) Has the Member State or the social partners taken any specific measures to support SMEs in implementing the Directive? Please describe these measures.

- From HSE:
  - The Health and Safety Toolbox includes a section on [protecting young workers](#).

(7) Do SMEs have particular difficulties in following the requirements of the Directive? If yes, please describe them.

Particular difficulties of SMEs in following the requirements of the Directive include:

- We have detected some uncertainty amongst duty-holders about whether a risk assessment is required specifically for a young person at work and whether this assessment should be repeated for each subsequent young person employed for work or undertaking work experience.
- Uncertainty over how to assess such things as immaturity, lack of understanding, or physical and psychological capacity to carry out tasks.
- In the maritime sector, employers see the Directive as an obstacle to the recruitment of new entrants to the sector, for example, to work on domestic passenger ships.

**Council Directive 98/24/EC of 7 April 1998 on the protection of the health and safety of workers from the risks related to chemical agents at work (fourteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)**

(1) How easy is it for employers, especially SMEs, to understand what they need to do to comply with the EU legal framework concerning chemical agents e.g. REACH, GHS and the Carcinogens and Mutagens Directive?

We have found that SMEs have experienced difficulties with the use of Extended Safety Data Sheets, particularly with their size and complexity, as they cover all exposure scenarios and their risk management measures and therefore can be in excess of 100 pages.

(2) What practical difficulties have Member States experienced in implementing indicative occupational exposure limit values?

We have not experienced any difficulties in implementing indicative occupational exposure limit values.

(3) What is the practical experience of substituting hazardous chemical agents for less hazardous ones in the workplace?

While we have seen some successful examples of this, such as water-based paints replacing solvent-based paints for vehicle finishes, we have found no rising trends in the application of the substitution principle. This is probably due to the fact that substitution is very difficult to do and requires joint efforts between the duty-holder and supplier of the agent, taking into account such factors as the processes involved, financial viability and practicability of the necessary control systems. We understand that it is not simple for a single company to evaluate substitution effects or find alternatives.

(4) In the light of practical experience does the Directive adequately address the risks from nanomaterials?

Yes, although we believe that some data gaps remain to be filled.

(5) Has the Member State taken additional measures not included in the Directive? If yes, please describe them and give reasons why these additional measures were taken.

No additional measures were taken in the reporting period.

(6) Has the Member State or the social partners taken any specific measures to support SMEs in implementing the Directive? Please describe these measures.

Specific measures to support SMEs in implementing the Directive include:

- From HSE:

- The Health and Safety Toolbox includes a section on [harmful substances](#), including information on [workplace exposure limits](#), [dust](#) and [lead](#).
- Guidance on [working with substances hazardous to health](#).
- New [Lead](#) and revised [Control of Substances Hazardous to Health](#) microsites on the HSE website.
- [Information sheets](#) on controlling risks hazardous to health in the agriculture, baking, beauty catering, cleaning, engineering, hairdressing, printing, motor vehicle repair, welding and woodworking sectors.

(7) Do SMEs have particular difficulties in following the requirements of the Directive? If yes, please describe them.

We have nothing to add to the issues raised above.

**Directive 1999/92/EC of the European Parliament and of the Council of 16 December 1999 on minimum requirements for improving the safety and health protection of workers potentially at risk from explosive atmospheres (fifteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)**

(1) What is the practical experience of managing the interfaces between this Directive and Directive 94/9/EC?

We have no evidence to suggest that duty-holders have any major difficulties with managing the interfaces between Directive 1999/92/EC and Directive 94/9/EC, principally because of the willingness of suppliers of new electrical equipment to provide information on its appropriate use. We have found that the carrying out of a risk assessment does assist duty-holders to understand the requirements of the directives.

We have found that issues tend to arise with second hand equipment where they may be uncertainty about whether this is still useable or needs to be replaced, particularly if a duty-holder purchases plant with equipment that pre-dates Directive 94/9/EC or if the right discussion is not had with the supplier.

(2) What is the practical experience of reducing administrative burdens on employers by making use of the provisions of Article 8 on combining the explosion protection document with other documents?

Guidance to duty-holders makes clear that the risk assessment required under the Directive can be combined with other documentation, where this is appropriate, e.g. where multiple documents under different directives might be required.<sup>61</sup> However, the creation and retention of documents by SMEs remains a problem in assessing the benefit provided by this provision.

(3) What have been the experiences of the Member State with the non-binding Guide of good practice referred to in Article 11? In particular, is this Guide sufficiently clear for users?

The non-binding guide has been little used by duty-holders as they have tended to rely upon the Approved Code of Practice to the Dangerous Substances and Explosives Atmospheres Regulations 2002 for guidance on implementing the requirements of the Directive.<sup>62</sup>

(4) To what extent have employers in the Member State been provided with relevant information, pursuant to Article 12?

Alongside the Approved Code of Practice referenced above, duty-holders have also been issued with a wide range of guidance on [flammable and explosive substances](#), much of which predates the introduction of the Directive.

---

<sup>61</sup> HSE Approved Code of Practice to the Dangerous Substances and Explosives Atmospheres Regulations 2002 <http://www.hse.gov.uk/pubns/priced/l138.pdf>

<sup>62</sup> See foot note 61

(5) Has the Member State taken additional measures not included in the Directive? If yes, please describe them and give reasons why these additional measures were taken.

No additional measures have been taken in the reporting period.

(6) Has the Member State or the social partners taken any specific measures to support SMEs in implementing the Directive? Please describe these measures.

Specific measures to support SMEs in implementing the Directive include:

- From HSE:
  - The Health and Safety Toolbox includes sections on [electrical](#) and [fire safety](#).
  - A brief guide to [controlling fire and explosion risks in the workplace](#).
- From social partners:
  - Guidance produced by the British Compressed Gas Association, UK Liquid Petroleum Gas, British Coatings Federation and Solvents Industry Association for their members.

(7) Do SMEs have particular difficulties in following the requirements of the Directive? If yes, please describe them.

Particular difficulties of SMEs in following the requirements of the Directive include:

- A limited understanding of both risk assessment and the hierarchy/priority order set out in Articles 3 and 4 of the Directive, let alone the more technical requirements such as consideration of the full range of electrical ignition sources, e.g. lightning or radio frequency ignition from phone masts.
- The lack of definitions of terms used in the Directive seems to be a problem. This leads to issues of both over-and under-implementation. In certain circumstances we have found that duty-holders have concluded that they are required to carry out sophisticated failure frequency probability analyses whereas the actual requirement, for example in Article 4, is to take account of likelihood of ignition.
- Difficulties in deciding how exactly to apply Annex I of the Directive on the extent of the hazardous zones. Some duty-holders appear unable to think in 3 dimensions in terms of hazardous areas – they tend only to think in terms of the area covered by a potential release rather than the volume (i.e. how high a release of dangerous substance vapour may reach).
- Ensuring continued maintenance of equipment.
- Securing the services of a competent person or understanding what competence requirements are needed to provide the explosives safety verification required under Section 2.8 of Annex II of the Directive.
- Dealing with the overlaps with other emergency escape requirements, including the fire precautions requirements of Directive 89/391/EEC.
- Providing signs to identify hazardous zones required under Article 7 of the Directive.

**Directive 2002/44/EC of the European Parliament and of the Council of 25 June 2002 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (vibration) (sixteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)**

(1) What experiences has the Member State had in relation to the application of the national law transposing the Directive, particularly in small and medium-sized enterprises?

Great Britain and Northern Ireland:

We have found that the transposing regulations have been most effective in those sectors (e.g. energy, mineral extraction, heavy engineering, and construction) where hand-arm vibration is clearly recognised as a significant health risk. The introduction of the Regulations led to a rapid recognition within affected sectors that some things could be improved fairly quickly, for example, maintenance of suspension seat components, the replacement of seats at appropriate intervals, the control of vehicles' speed and the maintenance of roadways in workplaces. There have also been significant improvements in the availability of lower vibration equipment. Action by the hire industry to upgrade their hire products with lower vibration equipment has greatly reduced exposure in the construction and utilities industries.

The most common problem for duty-holders, and not exclusive to SMEs, has been the focus on extensive measurement, when a brief assessment could have been undertaken to identify and put in place control measures much earlier. These failures appear to relate to the complexity and inflexibility of the measurement provisions of the Directive or not following available guidance.

Maritime sector:

We have found that "slamming" on small fast commercial vessels is a greater problem than steady vibration and this is not adequately catered for by the measurement of exposure provisions of the Directive. In certain weather conditions, our experience is that those working on vessels may exceed the exposure limits within thirty minutes.

(2) According to Article 10, Member States can under certain conditions authorise derogations from compliance with the limit values for whole-body vibrations. Have such derogations been granted and, if so, how many? What were the reasons for the derogations?

The derogations are allowed for in the transposing legislation but no duty-holder, so far, has applied to use of them.

(3) What is the practical experience of the Member State in implementing the requirement for health surveillance laid down in the Directive?

Great Britain and Northern Ireland:

We have found that duty-holders who make a suitable and sufficient risk assessment usually identify the need for health surveillance but may be slow

to introduce it unless they have existing civil compensation claims in the court system.

Maritime sector:

We have noticed that large organisations operating small fast vessels are setting up health surveillance systems.

(4) Please describe the Member States' experiences with the practical implementation of the provisions of Article 5(3), which states that workers must not be exposed above the exposure limit values. What information does the Member State have about any sectors and types of work where the exposure limits are likely to be exceeded?

Great Britain and Northern Ireland:

We have found that many employers work up to the vibration limit value without attempting to reduce exposure to vibration effects. Sectors where exposure limits are likely to be exceeded include manufacturing, energy extraction, construction, and waste and recycling.

Maritime sector:

As stated in the answer to question 1, in the maritime sector, the exposure limits cannot be complied with on small fast vessels due to them being subject to “slamming” effects.

(5) Has the Member State taken additional measures not included in the Directive? If yes, please describe them and give reasons why these additional measures were taken.

No additional measures were taken in the reporting period.

(6) Has the Member State or the social partners taken any specific measures to support SMEs in implementing the Directive? Please describe these measures.

Measures taken to support SMEs in implementing the Directive include:

- From HSE:
  - The Health and Safety Toolbox includes a section on [vibration](#).
  - The establishment of a Noise and Vibration Partnership Group by HSE to raise awareness/promote good practice in the management of risks associated with noise and vibration in the workplace in SMEs.
  - The publication of guidance on the [control of back-pain risks from whole-body vibration](#).
  - The availability of a [Whole-Body Vibration Calculator](#).

(7) Do SMEs have particular difficulties in following the requirements of the Directive? If yes, please describe them.

Particular difficulties of SMEs, though not exclusive to them, in following the requirements of the Directive include:



- Understanding when and how to do measurements for vibration risk. We understand that they find the mathematical formulae used in the Directive far too complex to follow.
- Being supplied with inadequate or out of date vibration data on plant equipment. This has prevented them from making informed choices regarding the safety of potential purchases or to understand what control measures will be necessary to mitigate the risks from vibration during actual use. This might be helped if suppliers provided better data on the vibration life profile of equipment and how this might be affected by usage over time.

**Directive 2003/10/EC of the European Parliament and of the Council of 6 February 2003 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (noise) (seventeenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)**

(1) To what extent does the Member State make use of the provision in Article 3(3) to use weekly noise exposure levels in place of the daily noise exposure level?

Great Britain and Northern Ireland:

We have found that duty-holders, across sectors, have reacted positively to the use of weekly averaging. It has led to some industries, such as recycling, implementing noisy/quiet work day rotation practices.

Maritime sector:

This provision is available to duty-holders but we have no data on uptake.

(2) What is the practical experience of ensuring that, in the risk assessment, the employer gives particular attention to:

- the level, type and duration of exposure, including any exposure to impulsive noise?
- any effects concerning the health and safety of workers belonging to particularly sensitive risk groups (e.g. young people, pregnant workers)?

In Great Britain, for example, the assessment and control of risks from noise at work is addressed as part of the Noise Topic Inspection Pack issued to HSE inspectors. This guides inspectors through the expectations for duty-holders identification and management of risks from noise at work, including how exposure should be assessed in the risk assessment (e.g. setting out when action values will be acceded and the measures planned to manage the risk). We have found that this is usually the case. However, in some instances, we have found that the risk assessment is based upon inadequate information or old exposure data which under-represents the risks involved.

The topic pack does not differentiate between different groups of employees, as it clear that risks to any affected employees should be identified and managed, as appropriate. We have found that pregnant workers often draw the attention of their employers to risks from high noise and most employers seem to try to address the issues raised. Anecdotal evidence suggests that younger people appear to be avoiding jobs where there is high exposure to noise.

- any effects on workers' health and safety resulting from interactions between noise and work-related ototoxic substances, and between noise and vibration?

We have no practical experience to report on this point.

(3) According to Article 11, Member States can under certain conditions authorise derogations from the use of personal protective equipment and

compliance with the limit values. Have such derogations been granted and, if so, how many? What were the reasons for the derogations?

Two derogations have been granted to the Police, who have secured approval for exemptions from the use of hearing protection in relation to the use of firearms and for operations where there is a need for use of explosives to secure entry to premises.

(4) Has the Member State taken additional measures not included in the Directive? If yes, please describe them and give reasons why these additional measures were taken.

No additional measures have been taken in the reporting period.

(5) Has the Member State or the social partners taken any specific measures to support SMEs in implementing the Directive? Please describe these measures.

Measures taken to support SMEs in implementing the Directive include:

- From HSE:
  - The Health and Safety Toolbox includes a section on [noise](#).
  - The establishment of a Noise and Vibration Partnership Group to raise awareness/promote good practice in the management of risks associated with noise and vibration in the workplace in SMEs.
  - The publication of practical guidelines on the [control of noise at work in music and entertainment](#).
  - The availability of [daily and weekly noise exposure and hearing protection calculators](#).

(6) Do SMEs have particular difficulties in following the requirements of the Directive? If yes, please describe them.

Particular difficulties of SMEs, though not exclusive to them, in following the requirements of the Directive include:

- Understanding when and how to do measurements for noise risk. We understand that they find the mathematical formulae used in the Directive far too complex to follow.
- Being supplied with inadequate or out of date noise emissions data on plant equipment. This has prevented them from making informed choices regarding the safety of potential purchases or to understand what control measures will be necessary to mitigate the risks from noise during actual use. As an example of this, HSE commissioned its Health and Safety Laboratory, in 2012, to examine seventy-three sets of noise emission instructions obtained from manufacturers and suppliers of fourteen different categories of tools and machines. The report found that information contained in sixty sets of instructions (82%) were judged to be defective because they lacked or had incomplete data on noise emission values, safe operating conditions, residual risks or noise control

measures.<sup>63</sup> This might be helped if suppliers provided better data on the noise life profile of equipment and how this might be affected by usage over time.

---

<sup>63</sup> HSE RR962 – Survey of noise emission and risk information supplied with a range of work machinery (<http://www.hse.gov.uk/research/rrhtm/rr962.htm>)

**Directive 2006/25/EC of the European Parliament and of the Council of 5 April 2006 on the minimum health and safety requirements regarding the exposure of workers to risks arising from physical agents (artificial optical radiation) (nineteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)**

(1) What are the practical experiences of implementing the provisions of Article 4 concerning determination of exposure and assessment of risks?

The provisions of the Directive have only been in force domestically for a limited time and we do not have enough information to provide an adequate assessment of the implementation of Article 4 of the Directive. However, prior to transposing the Directive we were alerted to the fact that SMEs were very concerned at having to assess levels of emissions from all sources of artificial optical radiation, when the vast majority were judged to be safe (informed by the absence of any previous injuries and ill health data). There was also the concern that a risk assessment was still required though a satisfactory assessment may already have been carried out in accordance with the requirements of Directive 89/391/EEC. SMEs were concerned that they would have to review perfectly acceptable risk assessments with the added complexity of assessing exposure levels to come to the same conclusion – namely that risks were already being properly managed. To avoid this unnecessary duplication and complexity, risk assessments under the Directive are only required where risks have not already been assessed and managed under Directive 89/391/EEC.

(2) In particular, what is the practical experience with respect to measurement and/or calculation of exposure only when necessary?

As above, due to the limited time that the provisions have been in force domestically, we do not have sufficient data to provide an adequate assessment of the measurement and calculation of exposure by duty-holders.

(3) Please describe the Member State's experience of the practical implementation of the provisions of Article 5(4) which states that workers must not be exposed above the exposure limit values. Does the Member State have any information about any sectors and types of work where the exposure limits are likely to be exceeded?

In Great Britain, HSE has taken enforcement action in the manufacturing, healthcare and printing sectors based on the failure of duty-holders in these sectors to undertake risk assessments (this would have been required under Directive 89/391/EEC anyway so Directive 2006/25/EC has not provided additional benefit in this regard). We have no information about any other sectors or types of work where exposure limits are likely to be exceeded.

(4) Has the Member State taken additional measures not included in the Directive? If yes, please describe them and give reasons why these additional measures were taken.

No additional measures have been taken in the reporting period.

(5) Has the Member State or the social partners taken any specific measures to support SMEs in implementing the Directive? Please describe these measures.

HSE has produced guidance for employers on the Control of Artificial Optical Radiation at Work Regulations 2010.<sup>64</sup>

(6) Do SMEs have particular difficulties in following the requirements of the Directive? If yes, please describe them.

Particular difficulties of SMEs in implementing the requirements of the Directive include:

- The complexity of carrying out measurements to assess emissions from all sources of artificial optical radiation, including understanding the formulae used in the Directive.
- The duplication of risk assessments already required under Directive 89/391/EEC.
- Understanding what health surveillance means in practice under the Directive, particularly as there are no recognised tests for ongoing surveillance of eye and skin conditions and long term surveillance following an accidental over-exposure is not considered scientifically appropriate.

The Directive has been particularly criticised by the British Chamber of Commerce in its 2011 report '*Health and Safety – A Risky Business*' which stated that 'the Directive was ill-conceived and seeks to tackle a 'problem' for which there is no epidemiological evidence. It imposes regulatory burdens whilst doing nothing to protect people from harm'.<sup>65</sup> The EEF, the British Manufacturers' Organisation, has also criticised the Directive as bringing no additional benefit to work protection.<sup>66</sup>

---

<sup>64</sup><http://www.hse.gov.uk/radiation/nonionising/employers-aor.pdf>

<sup>65</sup><http://www.britishchambers.org.uk/policy-maker/policy-reports-and-publications/policy-europe/export-12.html>

<sup>66</sup>[http://www.eef.org.uk/releases/uk/2009/EEF\\_calls\\_for\\_review\\_of\\_Optical\\_Radiation\\_Directive.htm](http://www.eef.org.uk/releases/uk/2009/EEF_calls_for_review_of_Optical_Radiation_Directive.htm)

**Directive 2009/148/EC of the European Parliament and of the Council of 30 November 2009 on the protection of workers from the risks related to exposure to asbestos at work<sup>43</sup> (Codification of Directive 83/477/EEC, as amended by Directives 91/382/EEC and 2003/18/EC)**

(1) Please provide information about the practical guidelines for the determination of sporadic and low-intensity exposure required by Article 3(3).

Information on what activities are and are not covered by Article 3(3) is provided in the Code of Practice and guidance on work with material containing asbestos published by HSE.<sup>67</sup> This seeks to identify those activities where exposure will likely be sporadic and of low intensity. However, given the nature of the risks and the activities involved, it is not possible for this to be absolutely definitive and employers will still need to consider such things as the friability and condition of asbestos-containing materials.

(2) Please provide information about the practical actions taken and lessons learned regarding the provisions of Article 15 which establishes that firms must provide evidence of their ability in the field of carrying out demolition or asbestos removal work.

Contractors undertaking higher risk demolition and removal work involving asbestos must have a licence from HSE or HSENI. In order to be issued with a licence, the contractor must demonstrate that they have a high level of understanding of the risk of exposure to asbestos and its control; have appropriate management and planning procedures in place; and have a suitably trained workforce. If a contractor meets the criteria, they are granted a licence (usually for a period of three years). During the period of the licence, inspection visits are undertaken to monitor the performance of the contractor. The UK's licensing system was in place some years before the requirement in Article 15 became law. No difficulties or issues have been identified regarding the licensing scheme.

(3) Please provide the number of notifications made for each year by employers on the basis of Article 4(2) (notification before work starts). How is enforcement of this requirement carried out?

Between 30,000 and 35,000 notifications are received each year from licensed contractors. Notification is a requirement of the asbestos licensing

---

<sup>67</sup> HSE: Work with materials containing asbestos ([http://www.hseni.gov.uk/1143\\_work\\_with\\_materials\\_containing\\_asbestos.pdf](http://www.hseni.gov.uk/1143_work_with_materials_containing_asbestos.pdf)). The Control of Asbestos Regulations 2012 came into force on 6 April 2012 and replaced the Control of Asbestos Regulations 2006. The ACoP referred to is currently being reviewed as part of a wider review of HSE's guidance and ACoPs and therefore has not been updated to reflect the changes made in the revised regulations. In practice, the changes are fairly limited and mean that some types of non-licensed work with asbestos now have additional requirements, i.e. notification of work, medical surveillance and record keeping. The ACoP has been approved for use in Northern Ireland.

system. In Great Britain, for example, a representative sample is followed-up by a visit from a HSE inspector to monitor the performance of the licensed contractors. This information is used when the licence is reviewed for renewal. Failure to notify will result in a range of sanctions, include revocation of the licence.

The changes brought about by the Control of Asbestos Regulations 2012 and the Control of Asbestos Regulations (Northern Ireland) 2012 requires some non-licensed work to now be notified. However, it is too early to provide information on practical compliance with this requirement as the Regulations only came into force in April 2012 and no analysis of notifications has yet been made.

(4) Please describe the Member State's experiences regarding the provisions of Article 10 which determines the measures to be taken when the limit values set out in Article 8 are exceeded. Please provide an estimate of the number of workers exposed to such situations for each year in the reporting period and any difficulties in practical implementation.

Great Britain:

There are around 550 firms who are licensed to undertake higher-risk removal and demolition work with asbestos (where the limit values set out in Article 8 could be exceeded). However, it is not possible to provide information to answer this question as HSE does not hold records of exposure levels.

Maritime sector:

We are not aware of any seafarers on UK ships who have been subject to exposure above the limit values set out in Article 8 in the reporting period. There has been an international ban on the use of asbestos and asbestos containing products on ships since 2012 and the use of asbestos or asbestos containing products have been prohibited, except for limited purposes, for over 30 years now. However there are recent cases of new-build ships from shipbuilding yards in the Far East and Turkey on which asbestos or asbestos containing products have been found, despite the shipyard providing documentation stating the contrary. The MCA is currently looking into this issue.

(5) Please provide information about the practical actions taken for the establishment of individual health records (Article 18) and the availability and maintenance of the register established by Article 19.

As indicated in the answer to question 2, licensed contractors, i.e. those undertaking high-risk work with asbestos, are required to demonstrate that they have effective record-keeping arrangements in order to be granted a licence. This includes the records required under Article 18 and the maintenance of the register required under Article 19. They must demonstrate that they continue to update and maintain these records in order for the licence to be renewed.



(6) Has the Member State taken additional measures not included in the Directive? If yes, please describe them and give reasons why these additional measures were taken.

No additional measures were taken in the reporting period.

(7) Has the Member State or the social partners taken any specific measures to support SMEs in implementing the Directive? Please describe these measures.

Measures taken to support SMEs in implementing the Directive include:

- From HSE:
  - The Health and Safety Toolbox includes a section on [asbestos](#).

(8) Do SMEs have particular difficulties in following the requirements of the Directive? If yes, please describe them.

Particular difficulties of SMEs, though not exclusive to them, in following the requirements of the Directive include:

- Trying to interpret some of the terms (for example “non-friable” and “deterioration of non-degraded materials”) that are used (but not defined) in the Directive.
- Understanding such things as the “control limit” when SMEs, in practice, are not normally equipped to either measure levels or to understand the results of measurements.