

Your World First



UK and EU Health and Safety Calendar

CMS

January 2019

Introduction

This calendar covers some of the key dates for proposed and existing health and safety legislation in the **UK** and **EU** (colour-coded accordingly). For a brief explanation of the different types of EU legislation, please refer to the end of this calendar. The content is ordered as follows:

1. New **UK** and **EU** Legislation in force
2. Bills in the 2017-2019 Parliament session
3. The Definitive Guideline on Health and Safety Offences, Corporate Manslaughter and Food Safety and Hygiene Offences: Update
4. REACH
5. Current and completed consultations
6. Current and completed campaigns and initiatives

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

1. New UK and EU Legislation in Force

29 November 2018

The Building (Amendment) Regulations 2018 (SI 2018 No. 1230)

The amended Regulations give legal effect to the combustible materials ban announced in the summer. The ban means combustible materials will not be permitted on the external walls of new buildings over 18 metres above ground level containing flats, new hospitals, residential care premises, dormitories in boarding schools and student accommodation.

21 April 2018

The Personal Protective Equipment (Enforcement) Regulations 2018 (SI 2018 No. 390)

These Regulations provide for the enforcement of Regulation (EU) 2016/425 of the European Parliament and the Council of March 2016 on personal protective equipment ('PPE'). It came into force on 21 April in the UK and Europe, repealing Directive 89/686/EC.

Employers have duties in relation to the provision and use of PPE. It is equipment that protects employees against health and safety risks in the workplace, PPE includes items such as safety helmets, gloves, eye protection, high-vis clothing, safety footwear, safety harnesses and respiratory protective equipment. The new Regulations put increased obligations on producers, importers, suppliers and distributors to ensure the PPE they supply meets the necessary standards.

The key changes made by the Regulations are as follows:

- Categorisation has been changed from product related to risk related
- Categorisation has been changed for certain product categories, for example, Hearing Protection has now been moved to category III as 'harmful noise' from category II

21 April 2018

- PPE is to be provided with an EC Declaration of Conformity
- New EU Certificates shall have a 5 year expiry date following which renewal is required

The Gas Appliances (Enforcement) and Miscellaneous Amendments Regulations 2018 (SI 2018 No. 389)

From 21 April 2018, new gas appliances and fittings used to burn gaseous fuels must comply with the new Gas Appliance Regulations if they are to be imported or sold into EU countries.

The Regulation aims to improve the safety of gas appliances supplied within the EU and addresses failings not caught by the Gas Appliances Directive 2009/142/EC.

EU suppliers, manufacturers, distributors and retailers will be impacted by the new changes brought about by the Regulations.

1 April 2018

The Pneumoconiosis etc. (Worker's Compensation) (Payment of Claims) (Amendment) Regulations 2018

This Regulation came into force on 1 April 2018. This Regulation makes amendments to The Pneumoconiosis etc. (Workers' Compensation) (Payment of Claims) Regulations 1988.

The effect of this regulation is to increase the amount of compensation paid under the Pneumoconiosis etc. (Workers' Compensation) Act 1979.

1 January 2018

Ionising Radiation Regulations 2017 (IRR17)

The IRR17 came into force on 1 January 2018. They replaced the existing IRR99 regulations, due to the implementation of the EU Basic Safety Standards Directive.

For those working with ionising radiation, the biggest change relates to how employers submit information to the HSE.

This relates broadly to industry and specifically to those that use X-ray devices, radioactive substances and devices containing such substances, as well as working with radon gas.

1 January 2018

Regulation (EU) 2017/852 of European Parliament and of the Council of 17 May 2017 on Mercury

As previously reported in the last calendar, this Regulation establishes conditions concerning the appropriate usage and storage of mercury effective from 1 January 2018. It applies to any mercury containing mixtures and compounds, the manufacture, use and trade of any mercury containing products, restricts the use of dental amalgam and dictates management of any mercury waste to ensure optimum protection of human health and the environment. Its aim is to fill the gaps in existing EU mercury legislation and to ratify the Minamata Convention on Mercury.

It was implemented in the UK via the Control of Mercury (Enforcement) Regulations 2017. The consultation on the Regulations closed on 21 November 2017.

2. Bills in the 2017-2019 Parliament Session

2017-2019

Carbon Monoxide (Detection and Safety) Bill 2017-2019

According to MP Eddie Hughes, in recent years over 25 people die each year due to carbon monoxide related incidents, 264 people were hospitalised last year and 4000 people go to A&E each year with symptoms of carbon monoxide poisoning. Carbon monoxide is undetectable to the human senses but is easily noticeable by detectors costing less than £15. The Bill proposes to make carbon monoxide detectors mandatory in new build properties and rented properties from social housing to the private rented sector. It further proposes, for the fire authority to have an explicit duty to promote carbon monoxide safety, thereby enshrining current best practice into law.

The Bill was proposed post Grenfell disaster where 80 people tragically lost their lives due to unsatisfactory housing safety.

It had its first reading on Wednesday 13 September 2017 under the Ten Minute Rule, which allows MP's to make their case for a new bill in a speech not exceeding ten minutes. The second reading of the bill was expected on Friday 27 April 2018 however, it was withdrawn.

2017-2019

Fire Safety Information Bill 2017-2019

Briefly, the Bill aims to establish requirements for fire safety information of occupants of certain buildings, including high-rise residential buildings. The purpose of the Bill is to require the responsible person for all high-rise residential buildings to hold an annual meeting for all residents to inform them of the fire risk assessment and to address all fire safety issues that may be raised. Currently, the responsible person for any high-rise building is required to have fire risk assessments for the building carried out 'regularly'.

The Bill was proposed post Grenfell disaster where 80 people tragically lost their lives due to unsatisfactory housing safety.

The Bill had its first reading in the House of Commons on 20 March 2018.

Nuclear Safeguards Bill 2017-2019

Briefly, the Bill aims to establish a domestic nuclear safeguards regime by:

- Creating a legal framework for the operation of nuclear safeguard regimes in the United Kingdom as a replacement for the framework set out from the United Kingdom's membership to the European Atomic Energy Community (Euratom), used previously;
- Amending the Energy Act 2013 by replacing the current nuclear safeguards purposes of the Office of Nuclear Regulation;
- Providing the Secretary of State with powers to make nuclear safeguards regulations, setting out the details of domestic regimes for nuclear safeguards; and
- Providing the Secretary of State with regulation-making powers to amend certain legislation, which reference parts of existing agreements on nuclear safeguards between the United Kingdom and the International Atomic Energy Agency.

Following agreement by both the House of Commons and the House of Lords, the bill received Royal Assent on 26 June and is now an Act of Parliament.

3. The Definitive Guideline on Health and Safety Offences, Corporate Manslaughter and Food Safety and Hygiene Offences: Update

It has been over two years since the publication of the *'Health and Safety Offences, Corporate Manslaughter and Food Safety and Hygiene Offences Definitive Guidelines'* for courts in England and Wales, which came into force on 1 February 2016. The Guidelines apply to all offences sentenced after this date, regardless of the date of the offence itself.

It was predicted prior to the coming into force of these Guidelines that they would dramatically increase fines for the relevant offences and this has now been seen coming to fruition. In 2016/17, 593 cases were brought. Numerous fines have been levied against companies in excess of £1 million.

In its latest annual injury and ill health statistics, the HSE published that fines increased to £69.9 million in 2016/17. Notably, twenty big fines made up £30.7 million of the cumulative figure. Further, reports indicate that there has been a significant increase in the number of custodial sentences and suspended sentences received by individuals. In all circumstances, the courts are placing a significant emphasis on ensuring that sentences for health and safety breaches have a real impact upon the charged party.

Prosecutions of companies setting the tone since 1 July 2017:

Date of Conviction	Defendant	Fine	Charges	Narrative	Trial/Plea
5 September 2017	Food manufacturing company	£1 million	s.3(1) of the Health and Safety at Work Act 1974	An electrical contractor was undertaking wiring work while standing on a stepladder supplied by the company. The worker fell and sustained fatal injuries. The HSE's investigation found the company failed to properly plan the workplace activity. The Environmental Health Officer's investigation found no barriers had been put in place to prevent falls from the platform.	Guilty plea
19 September 2017	Food retail company	£2.5 million	ss.2(1) and 3(1) of the Health and Safety at Work Act 1974	A contractor was hired to replace air conditioning filters within a unit at the company's warehouse. He fell three metres from a platform through a suspended ceiling and sustained fatal injuries.	Unknown

13 October 2017	Energy company	£1.35 million	ss.2(1) and 3(1) of the Health and Safety at Work Act 1974	An employee from an inspection organisation attended the company's power station to verify a pressure test being undertaken. During the test, a valve on a pressure test rig was pressurised above the safe working limit and failed. The failure caused the hose and metal fitting to whip round and hit the inspection employee on the leg. The impact caused serious compound fractures which resulted in amputation of part of the leg.	Guilty plea
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<p>16 October 2017</p>	<p>Manufacturing and plant hire companies</p>	<p>Manufacturing company: £2 million</p> <p>Plant hire company: £1.8 million</p>	<p>ss.2(1) and 3(1) of the Health and Safety at Work Act 1974</p>	<p>An employee of the manufacturing company was working from a mobile elevated platform. He removed lifting attachments from the top of a concrete panel, which weighed around 11 tonnes. The panel dropped and hit the platform, causing the employee and other concrete panels to fall. The employee was crushed to death. the HSE's investigation showed the frame used to secure the panel was not connected properly to the pallet, and there was no system in place for pre-use checks. Further to that, the pallets were found to be in a poor condition and the concrete panels were not secured properly in the finishing area. The HSE also found insufficient planning of the work activity had occurred.</p>	<p>Guilty plea</p>
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17 November 2017	Rail company and cleaning company	Rail company: £1 million Cleaning company: £1.1 million	ss.2 and 3 of the Health and Safety at Work Act 1974	A cleaning employee was electrocuted after falling on a 750-volt line during her shift. An investigation by the Office of Rail and Road found protection boards were not being used. They concluded key failures were a reliance on paperwork rather than checking what actually happened on site. It was found there was a failure to provide adequate training and supervision.	Unknown
22 November 2017	Manufacturing company	£1.2 million	ss.2(1) and 3(1) of the Health and Safety at Work Act 1974	An HGV driver making a delivery to the company's site was killed when a forklift truck overturned when lifting items from the HGV's trailer. The HSE's investigation found the forklift truck was overloaded and visiting delivery drivers were not kept at a safe distance from loading and unloading operations.	Guilty plea

30 November 2017	Construction company	£3 million	ss.2(1) and 3(1) of the Health and Safety at Work Act 1974	A company employee was killed while demolishing redundant processing machinery. A large metal hopper collapsed, knocking him from the structure he was standing on. The HSE investigation found the company failed to ensure the workplace activity was undertaken safely in that the hopper was not supported before it was cut from the structure, there was no edge protection for safe working at height and the employee's harness was not being used.	Unknown
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23 February 2018	Aviation manufacturing company	£1.1 million	s.3(1) of the Health and Safety at Work Act 1974	A pilot was ejected while preparing to take off from an RAF base. His parachute failed to deploy and the pilot was pronounced dead shortly after arriving at hospital. The company designed and manufactured the ejector seat. The HSE's investigation found a mechanical fault led to the failure of the parachute deployment mechanism. The company was made aware of the fault in the 1990's by two aircraft manufacturers.	Guilty plea
7 March 2018	Manufacturing company	£1 million	ss.2(1) and 3(1) of the Health and Safety at Work Act 1974	A delivery driver was killed when he was struck by a forklift truck at the company's site. The HSE found the company had failed to properly manage workplace transport in the yard area and had unsafe systems of work in place.	Guilty plea

26 March 2018	Healthcare provider	£2 million	s.3(1) of the Health and Safety at Work Act 1974	The provider was prosecuted following the deaths of two patients. The HSE's investigations found a series of management failings leading up to both deaths. This included a failure to control risks and failures in planning.	Guilty plea
18 April 2018	Engineering companies	Both companies each received a fine of £1 million	s.2(1) and 3(1) of the Health and Safety at Work Act 1974	An employee of one of the companies was working on an energy plant, unloading a large heating pipe from a trailer with a colleague. During the re-positioning of the pipes while offloading, two pipes fell, one of which fell on the employee causing fatal injuries.	Guilty plea

17 May 2018	Manufacturing company	<p>£1.6 million</p> <p>This amount includes £800,000 in relation to the Legionnaires' incident and £800,000 in relation to the explosion.</p>	s.2(1) and s.3(1) of the Health and Safety at Work Act 1974	<p>The company was prosecuted for two incidents taking place at the same site within one year. Five people fell seriously ill following a Legionnaires' disease outbreak caused by the company's failure to effectively manage its water cooling systems in the factory.</p> <p>Secondly, an employee suffered from serious burns when he was recovering a part that came loose from production rollers at the manufacturing plant. The part came into contact with an electrostatic grid creating a spark and causing a dust explosion. The HSE found that the company failed to put adequate measures in place to protect operators from explosion risks, despite explosions occurring in the past.</p>	Guilty plea
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14 June 2018	Healthcare Provider	£3 million	S3(1) of Health and Safety at Work Act 1974	<p>The provider was prosecuted following the death of a patient, who died after contracting Legionnaire's disease. The HSE's investigation found the provider had failed to conduct necessary controls to monitor the water system at the healthcare facility, which subsequently resulted in the build up of legionella. It was also found in the investigation that employees responsible for controls had not been provided adequate training.</p>	Guilty plea
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11 September 2018	Logistics company	£1.5 million	S2(1) Health and Safety at Work Act 1974	A worker died when he was trapped between a trailer and his vehicle, while attempting to attach a trailer to his vehicle. The trailer was parked upon a slight slope, which was enough to allow it to roll forward trapping the employee. An investigation by the HSE found safety management arrangements for coupling trailers to vehicles failed to take account of the slope.	Guilty plea
17 September 2018	Construction companies	Both companies each received a fine of £1.4 million	S3(1) Health and Safety at Work Act 1974	A contract worker's foot became trapped in a large rotating screw while upgrading water treatment works. The worker had three toes amputated as a result. The HSE's investigation found that neither companies had properly planned or managed the commissioning works which were being undertaken.	Unknown

20 September 2018	Construction company	£1.25 million	S3(1) Health and Safety at Work Act 1974	<p>The construction company was the principal contractor in relation to remedial work carried out on flats it had built a few years earlier. During the works to an external wall, live flues of gas boilers were removed, damaged and blocked which exposed the residents to a risk of carbon monoxide poisoning. The HSE investigation found that the construction company, as principal contractor, had failed to ensure that an adequate system of work was in place to manage the risks from working around the live flues.</p>	Guilty plea
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<p>6 November 2018</p>	<p>Construction companies</p>	<p>The first company was fined £1.2 million. The second company was fined £60,000.</p>	<p>The first company was in breach of s2 Health and Safety at Work Act 1974. The second company was in breach of s2 and s3 Health and Safety at Work Act 1974</p>	<p>Two employees of the first company were injured after being called to a gas escape, which had been caused by employees of the second company when they damaged a gas main during construction work. During the repair by the employees of the first company, the gas ignited causing the injuries. The HSE's investigation found that the second company had not followed safe digging techniques when excavating around the pipeline which led to the gas main being damaged by a mechanical excavator. The first company then did not follow their own procedures or recognised safe systems of work when repairing the gas main.</p>	<p>Guilty pleas</p>
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27 November 2018	Transport company	£2.3m	S2 and s3 Health and Safety at Work Act 1974	A bus driver employed by the company pulled off at speed, striking a parked bus and driving across a grass verge which resulted in the death of two people. The police investigation found that there was no mechanical fault with the bus. The company was found to have dealt inadequately with numerous complaints about their employee's driving and had ignored warnings to ensure he reduced his hours of work due to the effect of fatigue on his standard driving.	Guilty plea
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The number of company directors and other senior personnel being sentenced for health and safety failings is on the rise. Recent HSE statistics have shown that 46 senior personnel were prosecuted under section 37 of the Act in 2015-2016. Of those, twelve directors were sentenced to immediate or suspended jail terms. The Guidelines provide judges with a starting point when sentencing companies and individuals for health and safety offences. Since coming into force, at least 23 individuals have received either an immediate or suspended custodial sentence. The Guidelines have lowered the threshold for custodial sentences, meaning that even 'low culpability' offences can result in 26 weeks' imprisonment.

Sentencing of individuals setting the tone since 1 July 2017:

Date of Conviction	Defendant	Sentence	Charges	Narrative	Trial/Plea
31 October 2017	Ex-director	12 months in prison, suspended for two years, disqualified for being a director for eight years and ordered to pay prosecution costs of £11,500	S2(1) of the Health and Safety at Work Act 1974	An employee died after becoming tangled in a waste sorting machine. The investigation revealed that there was no safe system of work for using the machine. The machine itself was in a dangerous state. The safety guards on the machine were missing and there was no emergency stop button.	Guilty plea

4. REACH

REACH etc (Amendment etc) (EU Exit) Regulations 2019 (SI 2019/Draft)

These draft Regulations were laid in exercise of legislative powers under the European Union (Withdrawal) Act 2018 in preparation for Brexit. The draft Regulations propose to amend and revoke subordinate legislation and retained direct EU legislation relating to REACH in order to correct deficiencies in retained EU law to ensure that the EU legislation will operate effectively in the domestic context after the UK leaves the EU. The Regulations will come into force on exit day.

Guidance for businesses in a no-deal Brexit

On 18 November 2018, the HSE updated its guidance on preparations for the proposed Brexit implementation period, which helps businesses prepare for all Brexit scenarios.

The update involves additional REACH guidance for businesses in the event of a no-deal Brexit and the EU REACH Regulation is brought into the UK.

Due to the possibility that the role businesses undertake within EU REACH may change, the guidance urges businesses to review their roles within the EU and UK REACH regimes. The guidance provides actions that businesses should take in order for them to maintain or gain access to the EU/European Economic Area (EEA) and UK market if there is a no-deal Brexit.

HSE outlines potential scenarios and offers guidance.

HSE also provides information on UK REACH after the UK leaves the EU in a no-deal scenario, which includes guidance on:

- New registrations;
- Authorisations;
- Safety data sheets;

- Restrictions;
- PPORD exemptions;
- Only representative provision; and
- UK REACH-IT

Post-Brexit UK equivalent for CE mark

The Government has announced a post-Brexit UK-specific equivalent to the CE mark, to be known as the UKCA mark (UK Conformity Assessed) to be used for certain goods being placed on the UK market if we leave the EU without a deal.

The CE mark is applied to goods as a declaration that they meet the essential safety, health and environmental requirements of all relevant EU Directives. It must be applied before goods are placed on the market or put into service within the EU single market.

All of the EU Directives which require CE marking have already been implemented in UK law. These UK laws will continue to apply, and until they are amended, the relevant products will continue to require CE marking. However, a post-Brexit UK Government may amend the various product safety legislation and require UKCA marking instead for goods in the UK market. To check whether you will need to use the new UKCA marking, the Government has issued guidance on “trading goods regulated under the ‘New Approach’ if there is a no deal Brexit”. The rules around the new UKCA marking will mirror those which currently apply for the application of CE marking.

The Government has said that additional guidance in relation to placing products requiring the UKCA marking on the UK market will also be published.

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

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

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

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

Besides Registration, REACH introduces requirements of evaluation, authorisation and information exchange. Evaluation allows authorities to require registrants or occasionally downstream users, to provide further information as regards their dossier to examine proposals for testing and check compliance with the registration requirements or conduct substance evaluations if there are suspicions that a substance may pose a risk to human health or the environment. Applications for authorisation are required where affected companies use and place in the market, substances with properties of very high concern. Sharing information about substances imported, manufactured, used in the EU and placed on the market is a fundamental aspect of REACH. The two mechanisms for data sharing are substance information exchange forums (SIEFs) for existing substances and injury for new substances. Risk reduction measures should be developed by manufacturers and/or importers for all known uses of chemicals, including downstream uses. Details of these should be provided to their suppliers encouraging information exchanges.

As of June, the registration of phase-in substances is complete. Companies should continue to constantly monitor additions to the REACH scope via the ECHA's website, as the list of harmful substances is continuously growing. Failure to comply is an offence, which in the UK can be punishable by unlimited fines. Directors can also be held personally liable for breaches.

REACH – KEY DATES

1 June 2018

'Phase 3'

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

REACH has been subject to a 'REFIT' evaluation following the second review of the Regulation by the European Commission. Under REACH, the Commission is required to report on the achievement of the Regulation's objectives every five years.

Before the implementation of REACH, there were concerns that chemicals being used and marketed in the European Union were not being managed or investigated properly. The aim of REACH is to address these concerns by shifting the burden of the responsibility from the regulators to those manufacturing and/or importing goods containing chemicals. The World Summit for Sustainable Development is due to take place in 2020 and REACH needs to achieve its objectives to ensure it promotes the EU as a frontrunner in improving the protection of human health and the environment and promoting alternatives to animal testing.

The REFIT evaluation has allowed the Commission to present an action plan for a potential overhaul of the Regulation, including simplifying authorisation procedures, assisting SMEs with compliance and strengthening enforcement. The review has taken place in parallel with the fitness check on the most relevant chemicals legislation, excluding REACH.

The latest REFIT results were published on 5 March 2018 in a Commission report, alongside a comprehensive evaluation report. The Commission report acknowledges that achievement of REACH objectives has been lagging behind initial expectations, although it notes that a steady improvement has been made. Supply chain costs in relation to registration and communication of information have been higher, up approximately EURO.9 billion more than the originally anticipated EUR1.7 billion. The findings state these higher costs are justified by the results observed and benefits that are beginning to materialise, but more efficiency is required in dealing with the information passing through the supply chain, particularly for SMEs. The EU executive has said that *'the estimated scale of potential benefits for human health and the environment remains in the order of EUR200 billion over 25-30 years'*.

The report notes the key issues that have impeded the progress of REACH objectives and improvements have been identified. These improvements include extended Safety Data Sheets, evaluation, authorisation and restriction. Issues requiring the most urgent action have been recognised as:

1. non-compliance of registration dossiers;
2. simplification of the authorisation process;
3. ensuring a level playing field with non-EU companies through effective restrictions and enforcement; and
4. clarifying the interface between REACH and other EU legislation, in particular on occupational safety and health (OSH) and waste.

Further measures such as training, guidance documents and pilot projects may be proposed by the EU executive by as early as 2019.

5. Current and Completed Consultations

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

Completed

CD286 – Review of the Adventure Activities Licensing Authority (AALA)

The Health and Safety Executive (HSE) reviewed the delivery and scope of the AALA on behalf of the Department for Work and Pensions. The review aimed to ensure the provision of licensing adventure activities is delivered in a sensible, proportionate and cost effective manner.

Adventure Activities Licensing legislation is separate from and additional to the Health and Safety at Work etc. Act 1974. However, the criteria in which adventure activity providers are assessed are the same as that required under health and safety at work law.

The aim of adventure activities licencing was to provide assurance to the public. It was also expected that young people would also enjoy outdoor activities without being exposed to the risks of death or disabling injury.

The licence scheme was reviewed under the consultation as it was found to be a cost and burden to businesses and added little to the health and safety of young people undertaking adventure activities.

The consultation began on 12 January 2018 and ended on 9 March 2018.

Complete

CD283 - Consultation on implementing new and revised Workplace Exposure Limited

The Health and Safety Executive (HSE) consulted on the implementation of new and revised Indicative Occupational Exposure Limit Values (IOELVs) for thirty-one chemical substances to help protect workers from the ill-health effects of exposure to hazardous substances in the workplace.

The consultative document sets out HSE's proposals for establishing workplace exposure limits for the substances listed in the 4th Indicative Occupational Exposure Limit Values (IOELVs) Directive 2017/164/EU, in order to implement it in Great Britain.

The consultation began on 10 November 2017 and ended on 2 February 2018.

Complete

Revised Requirements for Radiological Protection: Emergency Preparedness and Response

The Euratom/European Union Basic Safety Standards Directive 2013 (BSSD 2013) establishes updated safety requirements for the radiological and nuclear sector. It sets out five work streams namely: emergency preparedness and response, medical exposure, public exposures, occupational exposures, and air and space crew.

The consultation related to implementing the emergency preparedness elements of the BSSD 2013. It aimed to inform and seek the views of the public on the government's proposals regarding:

- *Outcome-focused planning* whereby planning efforts are to focus on places where impacts of an emergency are most likely to be felt, most severe or where the potential benefit is greatest;
- *Commensurate planning* that will aid the civil and defence nuclear and radiological sectors to prepare for the full range of emergencies through proportionate and flexible planning. Where emergencies are more severe or likely, more detailed plans should be created;
- *A graded approach* to be implemented ensuring that the most comprehensive emergency response and preparedness requirements are focused on the most hazardous activities;
- *Transparency and Consistency* in threshold calculations to ensure that all planning decisions can be justified due to proportionate planning as well as standardising key elements of the methodology regarding planning countermeasures and distances;
- *Flexibility* in planning and responding to radiological and nuclear emergencies to facilitate pragmatic and effective decisions; and
- *Continuous Improvement* by updating the supporting Code of Practice that aims to guide duty holders in fulfilling the requirements of the regulations, to account for changing good practice without amending the underlying regulatory regime.

The Consultation closed on 15 November 2017. The deadline for the Directive to be implemented into UK law was 6 February 2018.

6. Current and Completed Campaigns and Initiatives

Current

European Healthy Workplaces campaign 2018-2019

The campaign for 2018-2019 is: 'Healthy workplaces manage dangerous substances'.

Workers are exposed to dangerous substances in many European workplaces and such exposures are more common than most people realise and, in fact, may occur in almost all workplaces.

More information can be found on the EU Healthy Workplaces microsite: healthy-workplaces.eu/

Current

Go Home Healthy campaign

The HSE continues its 'Go Home Healthy' campaign, providing guidance and information on the HSE's three areas of priority: occupational lung disease, musculoskeletal disorders and work-related stress.

The campaign aims to reduce cases of work-related ill-health. Employers have been urged to 'shine a light' on hazards in their workplaces, and to do the right thing, expressed by the hashtag #workright.

The HSE's microsite, provides further information for both employees and employers. It includes links to guidance, case studies, videos and thought leadership.

More information can be found on the HSE's Go Home Healthy microsite: www.hse.gov.uk/gohomehealthy/

Current

Healthy Workplaces Manage Dangerous Substances

The European Agency for Safety and Health at Work ('EU-OSHA') has launched a campaign to highlight the risks that workers face from dangerous substances. The two-year campaign, called '*Healthy Workplaces Manage Dangerous Substances*' will promote the best ways to deal with the risks posed by dangerous substances, from those found in bakeries, to those substances found on building sites.

The campaign hopes to dispel the common misunderstandings around dangerous substances and raise awareness of the importance of preventing risks from those substances. It also aims to promote risk assessment practices by providing information on practical tools and encouraging good practice. The risk assessment focus would be on eliminating or substituting dangerous substances and the hierarchy of prevention methods adhered to by following the correct legislative measures.

The campaign will also aim to heighten awareness of the risks linked to exposure to carcinogens, target workers who are at particular risk and increase knowledge of the legislative framework as well as highlighting policy developments.

More information can be accessed on the EU Healthy Workplaces microsite: healthy-workplaces.eu/en/what-issue

Current

Healthy Work Places for All Ages

Stemming from the EU-OSHA's Healthy Workplaces Campaign 2016 -2017, the healthy workplaces for all ages

campaign encourages employers to account for diversity and ensure that elderly workers get the support they require in the context of an ageing workforce.

Estimates show that by 2030, 30% or more of the workforce in many European countries will be aged 55-64. As retirement age increases, efforts must be made to ensure healthy and safe conditions throughout working life.

The campaign promotes the following:

- Health in later life is affected by working conditions in earlier life;
- Holistic approach to occupational safety and health (OSH) management;
- Human resources (HR) policies; and
- Rehabilitation and policies on return to work.

The aim is to clarify the common misconceptions regarding the elderly working population. For instance, key cognitive elements required for work in the work place do not show any degradation until the age of 70. Further, the campaign aims to inform employers on the legislation regarding this issue.

More information can be accessed on the HSE microsite: [healthy-workplaces.eu/](https://www.hse.ie/eng/health/healthy-workplaces/eu/)

Current

Vehicle Load Safety campaign

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

This campaign focuses on the securing of loads. It

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

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

'Make the Promise. Come Home Safe' campaign

With 3 deaths per month, the farming industry has one of the highest rates of death and serious injury in the UK. The HSE reports that a farmer is two and a half times more likely to die in the workplace than in a car accident. The HSE notes that the following factors are responsible for this increased risk: farmers are an ageing workforce; many farmers work alone; and the machinery used is very powerful.

Seeking to mitigate this risk, this initiative produces health and safety guidance for farmers, organises free health and safety awareness days and provides advice through telephone or farm visits. In addition, it encourages farmers to make the pledge to return safely for themselves and their families.

The campaign focuses on encouraging farmers to share their promise by working with stakeholders to reach new farmers and act as ambassadors. Farmers are encouraged to host events such as get-togethers and question answer sessions.

The initiative has received high profile support from the National Federation of Young Farmers' Clubs and Co-operative Farms. More information can be accessed on the HSE microsite www.hse.gov.uk/agriculture/makethepromise/index.htm.

Current

Hidden Killer / Beware Asbestos campaign

Asbestos is the single biggest cause of occupational-related deaths in the UK. Therefore, the HSE's Beware Asbestos campaign, launched in 2014, aims to encourage safe working practices among those workers most at risk, i.e. tradespeople working on small sites and projects in the construction and maintenance industries.

In order to raise awareness and encourage safer working practices, HSE teamed up with TradePoint (the trade-only outlet of B&Q) to distribute free asbestos safety kits directly to tradespeople in the UK, which included free Type 5 safety overalls.

Another key feature of the campaign was the introduction of a free Beware Asbestos web app designed to help tradespeople easily identify where they could come into contact with asbestos and give them tailored help on how to deal with the risks.

More information can be accessed on the HSE microsite: www.hse.gov.uk/asbestos/tradesperson.htm.

Current

Safe & Sound at Work (do your bit)

The campaign aims to provide a new website and training for small to medium sized enterprises (SMEs) to help improve worker involvement through active engagement. The aim is to illicit essential input from staff through communication and consultation.

Employees often have the best understanding of risks in their workplace and thoroughly influence health and safety through their actions. Involving employees has

Completed

shown to lower accident rates and increase productivity, efficiency and quality in many cases.

The Campaign is underpinned by:

- The Health and Safety (Consultation with Employees) Regulations 1996; and
- The Safety Representatives and Safety Committees Regulations 1977;

which both set out employer's duties to consult their workforce on health and safety issues.

The following HSE microsite provides more information:

www.hse.gov.uk/involvement/doyourbit/index.htm.

Good Hygiene is Good for Business Campaign

This campaign was run by the Eastbourne Borough Council with the help of the Food Standards Agency (FSA). It aimed to ensure that food businesses maintain an adequate level of hygiene by keeping a written record of their own food safety management system.

The Food Hygiene Rating Scheme is run by local authorities in England, Wales and Northern Ireland in association with the FSA.

Businesses are given a food hygiene rating following a planned inspection by a food safety officer. Advertising the rating to costumers, rewards better performing businesses and incentivises businesses with poor food hygiene to improve. The food safety officers provide advice, promote tools to help better food hygiene and help businesses implement them.

EU Legislation in Brief

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

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

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

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

Further Information

For further information on our health and safety services please contact Jan Burgess on +44 (0)1224 267151 or 07811 362201; or email jan.burgess@cms-cmno.com

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

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

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

Health and Safety – what we do

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

- Construction
- Communications
- Energy
- Global health and safety advice
- Leisure, hotels and sports
- Manufacturing
- Renewables
- Transport

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

Emergency Response Team

Our specialist team is on call to provide assistance and respond to incidents 24 hours a day. Our team is qualified to practice in England, Wales and Scotland but also regularly advises clients in relation to international working practices and health and safety matters in other jurisdictions. We are available for health and safety emergencies and advice; along with any other related urgent matters. In the event of an emergency the team will ensure a swift and efficient response to client queries, irrespective of the time of day or day of the week.

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

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

Kelvin TOP-SET Senior Investigators

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

Our clients come to us for advice on:

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

Recent Experience

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

For more information, please contact:



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