
EXPLANATORY NOTE

(This note is not part of the Order)

1. This Order amends the Health and Safety at Work etc. Act 1974 (“the Act”) with the aim of modernising and improving the corporate structure of the bodies responsible for regulating health and safety in Great Britain. It abolishes the Health and Safety Commission and the Health and Safety Executive, replacing them with a single Health and Safety Executive (“the Executive”) exercising the combined functions of those bodies.

2. The Executive comprises up to 12 members appointed by the Secretary of State. The Executive appoints a Chief Executive and the other staff of the Executive.

3. Article 2 abolishes the existing Health and Safety Commission and Executive. Articles 4 to 20 amend the Act to provide for the establishment and the functions of the new Executive.

4. Article 5 replaces sections 11 to 13 of the Act with three new sections. Section 11 confers functions on the new Executive. Section 12 confers functions on the Secretary of State. The functions reproduce the functions conferred by the existing Act, save that the Secretary of State is prohibited from giving directions as to the enforcement of the relevant statutory provisions in a particular case. Section 13 reproduces the powers currently in sections 11(6) and 13 of the Act.

5. Article 6 amends section 14 of the Act to allow the new Executive to investigate, authorise other people to investigate or direct inquiries.

6. Article 10 inserts two new subsections ((4A) and (4B)) into section 18 of the Act. The new subsection (4A) allows the Executive to issue guidance to the local authorities but requires it to consult them. Subsection (4B) requires the Executive and the local authorities to work together to establish best practice and consistency in the enforcement of health and safety law.

7. Other articles of the Order make minor and consequential amendments of the Act.

8. Schedule 1 to the Order substitutes a new Schedule 2 into the Act. This Schedule sets out the constitution of the Executive. Paragraph 2 provides for the Chair of the Executive and up to eleven other members to be appointed by the Secretary of State. Three members of the Executive must be appointed following consultation with employers’ associations, and likewise, three must be appointed following consultation with employees’ associations. One member of the Executive must be appointed following consultation with organisations representing local authorities. Up to four others may be appointed following consultation with professional bodies and the devolved administrations. Members of the Executive will not be civil servants.

9. Paragraphs 3 to 6 of Schedule 2 set out how members hold their offices, their remuneration and how they can be removed from office. Paragraph 7 requires the Executive to consult with the Secretary of State before making or revising its procedure dealing with conflicts of interest; and it must publish a summary of its rules and procedures.

10. Paragraph 8 of Schedule 2 provides for the appointment of the Chief Executive and staff of the Executive. Both the Chief Executive and staff will be civil servants.

11. Paragraph 9 of Schedule 2 enables the Executive to authorise its members and staff to carry out its non-legislative functions. Particular provision applies for authorising the performance of its enforcement functions in particular cases. Any authorisations made under that paragraph are to be published.

Draft Legislation: This is a draft item of legislation and has not yet been made as a UK Statutory Instrument. This draft has been replaced by a new draft, The Legislative Reform (Health and Safety Executive) Order 2008 ISBN 978-0-11-080873-4

12. Schedules 2 and 3 to the Order set out transitional and consequential provisions.