

HEALTH AND SAFETY EXECUTIVE (POWERS) BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Health and Safety Executive (Powers) Bill as introduced in the House of Commons on 24 June 2015 (Bill 25).

- These Explanatory Notes have been prepared by the Health and Safety Executive with the consent of James Cleverly, the member in charge of the Bill, in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill. So where a provision of the Bill does not seem to require any explanation or comment, the Notes simply say in relation to it that the provision is self-explanatory.

Table of Contents

Subject	Page of these Notes
Overview of the Bill	3
Policy background	3
Legal background	3
Territorial extent and application	3
Commentary on provisions of Bill	4
Commencement	5
Financial implications of the Bill	5
Parliamentary approval for financial costs or for charges imposed	5
Compatibility with the European Convention on Human Rights	5
Related documents	5
Annex A - Territorial extent and application	6

Overview of the Bill

- 1 The Bill confers powers on the Health and Safety Executive ("HSE") to provide services and facilities otherwise than for the general purposes of Part 1 of the Health and Safety at Work etc. Act 1974 ("HSWA") with the consent of the Secretary of State, and to charge for such services and facilities in line with regulations made by the Secretary of State.

Policy background

- 2 The existing powers and functions of HSE are, subject to one exception, limited so that they must be carried out for the general purposes of Part 1 of HSWA. The general purposes relate to the protection of the health and safety of people either at work, or affected by it, in Great Britain and the control of the use of dangerous substances. HSE's powers and functions are, therefore, largely limited to Great Britain.
- 3 In April 2013, HSE underwent a Triennial Review, which was published in January 2014. The Government's response was published the following June. The report recommended that "over the next few years, HSE must actively seek further opportunities to commercialise and to deliver working with and through others". The Government accepted this recommendation.
- 4 There is potential for HSE to use its expertise both within Great Britain and overseas and to charge for the provision of that expertise. The new power will enable HSE to provide services and facilities outside the general purposes of HSWA and therefore outside Great Britain, thereby assisting HSE in implementing the recommendation set out above. HSE will have the power to charge for any services or facilities that it provides.

Legal background

- 5 HSE is a non-departmental public body with Crown status, established under section 10 of HSWA. HSE's constitution is found in Schedule 2 of HSWA and its general powers and functions are set out in sections 11, 13 and 14 of that Act. Section 11(1) contains a general duty for HSE to "do such things and make such arrangements as [HSE] considers appropriate for the general purposes of this Part."
- 6 Section 13 of HSWA contains various HSE powers. With one exception, these relate to the general purposes of Part 1 of HSWA. Section 13(6) enables HSE to provide services or facilities, with or without payment, otherwise than for the general purposes of Part 1, to a government department or public authority in connection with the exercise of that department's or authority's functions. This is the only power in HSWA for HSE to act outside the general purposes of Part 1, and it requires HSE to act in connection with the functions of another body.

Territorial extent and application

- 7 Clauses 1 and 2(2) extend to England and Wales and Scotland. Clauses 2(1) and 3 extend to England and Wales, Scotland and Northern Ireland.

Commentary on provisions of Bill

Clause 1: Powers of Health and Safety Executive

- 8 Clause 1 inserts new subsections (6B) and (6C) into section 13 of HSWA. Subsection (6B) enables HSE to provide services or facilities outside the scope of Part 1 of HSWA. Subsection (6C) provides for the power in subsection (6B) to be subject to the consent or authorisation of the Secretary of State.

Clause 2: Charges

- 9 Clause 2 amends section 43(2) of HSWA so that regulations under that section cannot be made in respect of the new power in section 13(6B). This is because regulations in respect of the new power will be made under section 43ZA, also inserted by clause 2. Section 43ZA(1) enables HSE to charge for the provision of services and facilities under section 13(6B). The Secretary of State may make regulations under section 43ZA(2), which will make provision about the charges, and may require HSE to charge amounts fixed or determined under the regulations.

Clause 3: Extent, commencement and short title

- 10 In addition to setting out the territorial extent and short title of the Bill, clause 3 provides for the substantive part of the Bill to be brought into force on a date fixed by the Secretary of State in regulations.

Commencement

- 11 Clauses 1 and 2 will come into force on a day fixed by the Secretary of State in regulations. Clause 3 will come into force on the day on which the Bill receives Royal Assent.

Financial implications of the Bill

- 12 It is expected that the costs of any acts by HSE because of the new power to provide services and facilities created by the Bill will be met out of charges raised under the new power to charge and, therefore, the Bill is not expected to have any impact on public funds.

Parliamentary approval for financial costs or for charges imposed

- 13 The power to provide services and facilities has the potential to involve additional public expenditure, even though HSE expects to use its power to charge to recover its costs. A Money resolution will be needed to cover this expenditure.

Compatibility with the European Convention on Human Rights

- 14 Because this is a Private Member's Bill, there is no requirement to make a statement under section 19(1)(a) of the Human Rights Act 1998 about the provisions of the Bill and Convention rights. HSE has nevertheless considered whether the Bill raises potential Convention issues and has concluded that it does not engage Convention rights.

Related documents

- 15 The following documents are relevant to the Bill and can be read at the stated locations:
 - Triennial Review Report: Health and Safety Executive:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/275233/hse-function-form-governance-triennial-review.pdf
 - Government Response to the Triennial Review of the Health and Safety Executive:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/323221/govt-resp-triennial-review-hse.pdf

Annex A - Territorial extent and application

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion required?	Extends to Scotland?	Legislative Consent Motion required?	Extends to Northern Ireland?	Legislative Consent Motion required?
Clause 1	Yes	Yes	No	Yes	No	No	No
Clause 2(1)	Yes	Yes	No	Yes	No	Yes	No
Clause 2(2)	Yes	Yes	No	Yes	No	No	No
Clause 3	Yes	Yes	No	Yes	No	Yes	No

These Explanatory Notes relate to the Health and Safety Executive (Powers) Bill as introduced in the House of Commons on 24 June 2015 (Bill 25)

HEALTH AND SAFETY EXECUTIVE (POWERS) BILL

EXPLANATORY NOTES

These Explanatory Notes relate to the Health and Safety Executive (Powers) Bill as introduced in the House of Commons on 24 June 2015 (Bill 25).

Ordered by the House of Commons to be printed, 17 September 2015.

© Parliamentary copyright 2015

This publication may be reproduced under the terms of the Open Parliament Licence which is published at www.parliament.uk/site-information/copyright

PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS

LONDON - THE STATIONERY OFFICE LIMITED

Printed In the United Kingdom by The Stationery Office Limited

£ FOR TSO USE

These Explanatory Notes relate to the Health and Safety Executive (Powers) Bill as introduced in the House of Commons on 24 June 2015 (Bill 25)