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Dear Sir,

1. I am writing to you about the practical implications of a number of the changes that came about from 1 January 1975 when the provisions in Schedule 2 to the Health and Safety at Work etc Act 1974 (Commencement No 1) Order 1974 came into operation. These provide inter-alia for the Health and Safety Commission to take over most of the existing health and safety at work responsibilities and functions of Ministers, except as regards matters relating exclusively to agricultural operations. I think it will be helpful if I make clear how I see the relationships between the Commission and myself and other Ministers.
2. You will be well aware of the provisions of the Act and, in particular Section II which imposes on the Commission a general duty to do such things and to make such arrangements as it considers appropriate for the general purposes of the Act. Those general purposes are set out in the Act in Section I(1). The Commission is also given other specific duties which (without attempting to interpret the Act) include:
 - (1) to assist and encourage those concerned with any of the general purposes of Part I of the Act,
 - (2) to make arrangements for research and the publication of its results, for training and information, and to encourage research and the provision of training and information by others,
 - (3) to make arrangements to ensure that persons concerned are provided with an information and advisory service and are kept informed of and adequately advised on matters relevant to any of the general purposes,
 - (4) to give such guidance to local authorities as may be required,
 - (5) to submit proposals for regulations to the Minister having the responsibility to make regulations (see paragraph 8 below) under any of the relevant statutory provisions. Similar considerations will apply in relation to approved codes of practice.



- (6) to submit to Ministers particulars of what it proposes to do for performing its functions and to act in accordance with proposals approved by Ministers. The annual proposals which will form the basis of the Commission's application for the grant-in-aid for the following year should be submitted to me. So should the proposals which will form the basis of the so-called RESC forecasts of future expenditure which will also have to be submitted each year. Modifications of these proposals should be submitted to me. On the other hand, proposals about specific matters which are the responsibility of other Ministers (see in particular paragraph 8 below) should be submitted direct to them. The accounts required by paragraph 14 of Schedule 2, and other detailed financial arrangements, will be the subject of a financial memorandum on which my officials are now working.
- (7) to give effect to any directions given to it by a Secretary of State. Formal directions will be given by the Secretary of State responsible for the matter to which the direction relates, after consultation with me in the case of any direction by another Minister. This is to ensure that you do not receive conflicting directions or any which might be incompatible with your approved programme and budget. For the same reason directions relating to the organisation, structure or efficiency of the Commission or Executive will come from me, after consultation as appropriate with any other Minister involved.

Section 13 of the Act sets out some particular aspects of the general powers which Section 11(6) gives to the Commission to do anything for the purposes of its functions; and empowers it also to perform functions on behalf of others in specified circumstances. These powers include:

- (a) powers to make agreements for others to perform functions of the Commission or of the Executive on their behalf, such as for example the agency agreement made by the Commission with the Secretary of State for Scotland for the Scottish Industrial Pollution Inspectorate to perform functions in relation to emissions into the atmosphere in Scotland.
- (b) powers to make agreements to perform functions of Ministers, government departments and other public authorities on their behalf, provided this can appropriately be done by the Commission. An example of this type of agreement is the assumption by the Commission of my responsibilities under the Employers' Liability (Compulsory Insurance) Act 1969 about which I wrote to you on 6 January,
- (c) powers to provide any services or facilities required by a government department or a public authority even though they are not required for the general purposes of Part I of the Act.

Subsection 11(5) places upon the Executive the duty to provide any Minister, at his request, with information about its activities in connection with any matter with which he is concerned. The Executive must also on request provide any Minister with advice on any matter not related to the general purposes of Part I of the Act with which he is concerned and on which the Executive has relevant expertise eg, the advice hitherto given by the Alkali Inspectorate on general questions of air pollution.



I should draw your attention to two matters closely related to your responsibilities but which are not within your remit, firstly consumer safety, and second the structural safety of buildings. It is not intended that your duties should extend to cover the safety of products sold to the public, as distinct from those sold or supplied for use at work. Some articles and substances though designed for use at work may be used in other circumstances and although some overlap may be unavoidable, administration and enforcement of consumer protection legislation is outside your responsibilities. As regards the structural safety of buildings, it was, as you know, necessary to include building regulation provisions in the Act since they are essentially a corollary to the provisions of Part I. The structural safety of buildings and building regulation matters generally, remain the responsibility of the Departments concerned with building controls.

As you know arrangements were made for the Alkali and Clean Air Inspectorate, the Explosives Inspectorate, the Factory Inspectorate, the Mines and Quarries Inspectorate, the Nuclear Installations Inspectorate, the Employment Medical Advisory Service, the Safety in Mines Research Establishment, the British Approvals Service of Electrical Equipment in Flammable Atmosphere and certain scientific and administrative staff to be transferred to the Executive on 1 January 1975.

You are aware that the Secretary of State for the Environment has asked the Royal Commission on Environmental Pollution to review the efficacy of the methods of control of air pollution and to consider the relationship between the relevant authorities. It may be that the Royal Commission will make recommendations which would involve changes in the responsibilities of the Commission or the functions of the Alkali Inspectorate. I would therefore ask the Commission to ensure that the Director of the Executive does not make changes in the organisation of the Alkali Inspectorate which would make it difficult to change the present arrangements if Ministers subsequently decided in the light of the report of the Royal Commission that this was desirable. Ministers have in any case undertaken that this inspectorate will not be broken up but will remain an identifiable group.

The services and personnel that now form the Health and Safety Executive have come from a number of Departments. In some cases the Secretaries of State in charge of those Departments will continue to exercise such responsibilities as remain with Ministers from 1 January 1975, though of course subject to the limitations referred to in paragraph 2(6) and (7) above. Similar considerations will apply in some areas covered for the first time by health and safety legislation. Ministerial functions will be exercised by Ministers other than the Secretary of State for Employment in the following matters.

- (1) the Secretaries of State for the Environment, Scotland and Wales will ensure and be answerable to Parliament for the adequacy of measures taken by the Commission for the control of the emission into the atmosphere of noxious or offensive substances from prescribed classes of premises. They will exercise the Secretary of State's powers to make regulations on these matters.



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- (2) The Secretaries of State for Energy and Scotland will have responsibilities similar to those in sub-para (1) above in relation to licensing of nuclear installations.
 - (3) The Secretary of State for the Environment will have similar responsibilities in relation to matters which concern the transport of dangerous substances by road. Further guidance will be issued later about responsibility for other aspects of the transport of dangerous goods.
 - (4) The Home Secretary will be answerable to Parliament for the security aspects of the controls over explosives and other substances which might be used for subversive purposes, except where the substances concerned eg nuclear materials are the concern of another Minister. The Home Secretary will make any regulations in this field concerned exclusively with security aspects.
 - (5) The Secretary of State for Trade will make any regulations exclusively concerning the design, safety standards incorporated in the construction, testing and operational use of ships, hovercraft and aircraft; this does not include the safety of workers engaged in their building or repair.
 - (6) In the case of regulations concerned exclusively with coal mines, the Secretary of State for Energy will exercise the Secretary of State's powers jointly with the Secretary of State for Employment.
 - (7) Any proposals for regulations to be made under Part III of the Act should be made to the Secretaries of State for the Environment and Scotland. There are separate regulations for the two countries made under separate building control legislation.
9. I am sending copies of this letter to the Secretaries of State for Energy, the Environment, Home Affairs, Prices and Consumer Protection, Scotland, Trade and Wales, the Minister of Agriculture and the Lord Privy Seal.

Michael Foot
