



IRELAND

Regulation (EC) No. 765/2008

National Sector Specific Market Surveillance Programme

2010-11

February 2010

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Horizontal Summary

Introduction:

This document is Ireland's National Sector Specific Market Surveillance Programme, covering the years 2010 and 2011, in respect of market surveillance of products that come within the scope of Community harmonisation legislation, as required by Article 18(5) of Regulation (EC) No. 765/2008.

Organisation of Market Surveillance:

In Ireland responsibility for Community harmonisation legislation is dispersed across various Government Departments and State Agencies. There is no central body responsible for market surveillance and no single piece of overarching market surveillance legislation. Responsibility for Community harmonisation legislation is allocated to Government Departments according to competence. Market surveillance responsibilities are conferred on authorities through primary legislation in the case of chemicals and secondary legislation implementing Community harmonisation legislation for the other sectors. Please see the organigram in Annex I for details of legislative and market surveillance responsibility for Community harmonisation legislation considered to come within the scope of Regulation (EC) No. 765/2008.

Ireland has a limited manufacturing sector and therefore does not have many notified bodies. It is also not a significant point of first import for imported products. Market surveillance authorities undertake risk based and reactive market surveillance and get involved in specific priority projects. Ireland is heavily reliant on other MS's laboratories and test facilities.

Regarding the control of imported products from third countries Ireland's market surveillance authorities, working closely with Revenue's Customs Service, will fulfil obligations under Article 27-29.

The Department of Enterprise, Trade and Employment attends the Senior Officials Group on Standardisation and Conformity Assessment (SOGS) and led negotiations on behalf of Ireland for the New Legislative Framework. The Department has coordinated Ireland's notifications under Regulation (EC) No. 765/2008.

Co-operation and Co-ordination:

To fulfil the requirement of Article 18(1) the Department of Enterprise, Trade and Employment established a national Market Surveillance Forum in May 2009. Represented at the Forum are Government Departments responsible for Community harmonisation legislation, market surveillance authorities, Revenue's Customs Service, and the Irish National Accreditation Board (INAB). The establishment of the Forum has centralised the issue of market surveillance in Ireland, and has been a significant and useful development. It has provided co-ordination of the individual, separate sectors within one platform and allowed for important debate and communication between authorities on common issues – such as preparation for entry into force of Regulation (EC) No. 765/2008 throughout 2009. The Department of Enterprise Trade and Employment provides a secretariat role to the Forum and communicates guidance from the SOGS sub group on market surveillance.

Regarding EU co-ordination and co-operation, EU Commission ADCO and Expert working groups will continue to be a valuable platform. Ireland intends to continue to attend and contribute to priority groups. The National Consumer Agency is a member of PROSAFE and will continue to play an active role in this group. Ireland looks forward to the possibility of the remit of PROSAFE widening to cover industrial and environmental products.

The National Consumer Agency and the Health and Safety Authority cover, between them, the majority of consumer and industrial products. They have a dual market surveillance role for certain Regulations where professional goods migrate to the consumer, such as Personal Protective Equipment, Machinery and Gas Appliances. Informal co-operation and co-ordination mechanisms exist between the Agencies.

Revenue's Customs Service is not designated with a market surveillance function because it's competence does not extend to expertise in specific sectors of products. It is reliant on the market surveillance authorities and will facilitate them through controlling imports based on specific information received. In this regard it has access to documentation relating to imports from third countries and information associated with customs declarations can be profiled in order to target products that are likely to present a risk. Co-operation between the market surveillance authorities and Revenue's Customs Service is essential for carrying out appropriate checks on products at the point of import.

Duration of programme:

This is a biennial programme, covering 2010 and 2011.

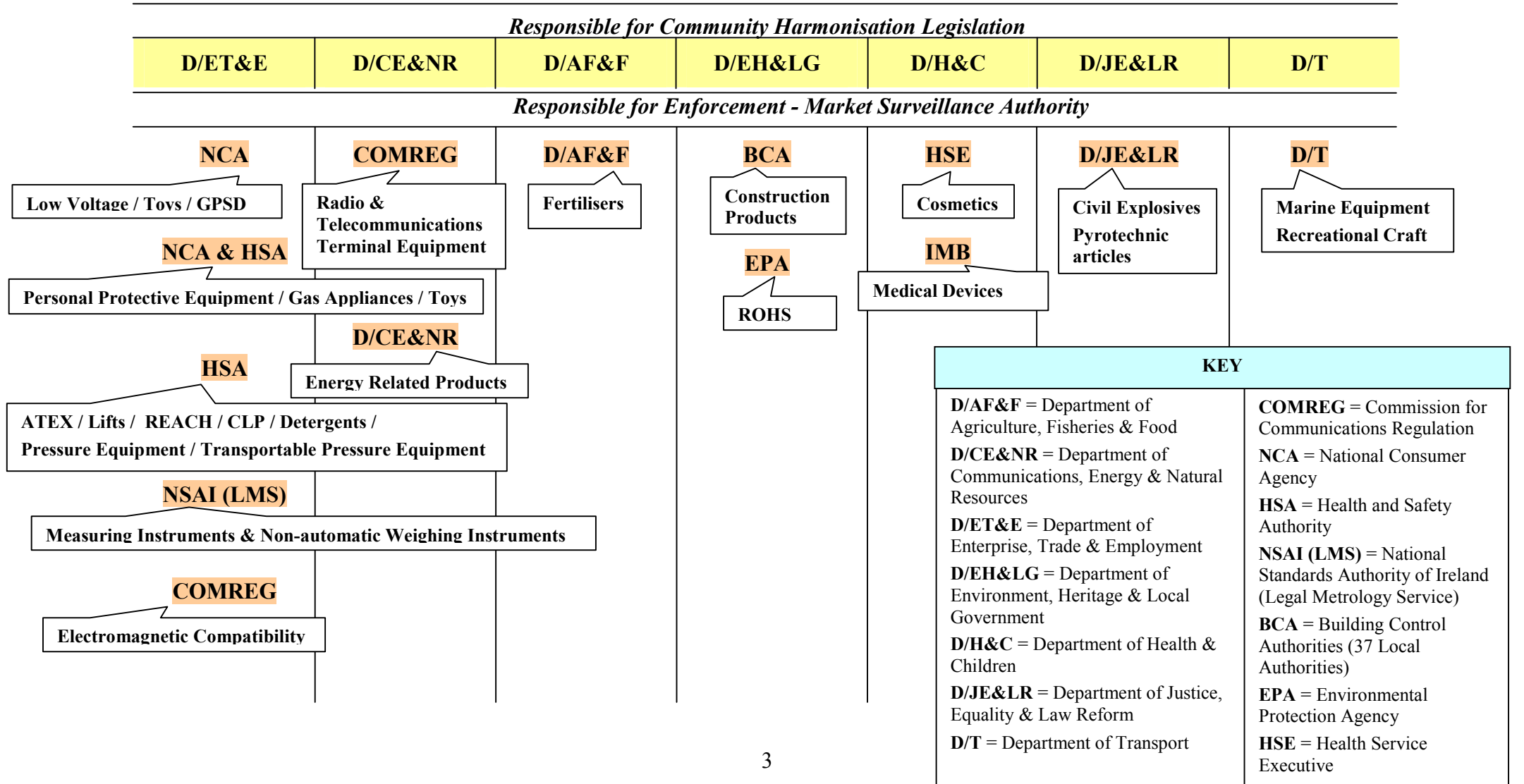
Horizontal priorities:

As stated, market surveillance is sectorally organised with no central control. The Market Surveillance Forum has provided a central platform to consider common market surveillance issues. The horizontal priorities for the Forum for 2010 – 11 are:

1. To consider the need for national legislation to ensure that market surveillance authorities have strengthened powers to deal with products that present a serious risk in accordance with Regulation No 765/2008 and to ensure that Ireland's legislative framework meets the obligations of that Regulation. (Legislation to be made by individual sectors).
2. To agree common co-operation and co-ordination protocols between the market surveillance authorities and Revenue's Customs Service.
3. To consider participation in cooperation and coordination initiatives with other Member States and third countries.
4. To extend the use of, and consider the no. of RAPEX notification points to ensure that the requirements under Article 22 are met.
5. To facilitate and manage the access to, use of, and training associated with the roll out of ICSMS – the General Information Support System re. Article 23.
6. To continue to consider market surveillance structures and mechanisms in Ireland.

Annex I: Organigram of Market Surveillance Responsibility

Regulation (EC) No. 765/2008



Annex II: Sectoral Market Surveillance Programmes

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A. Department of Agriculture, Fisheries and Food

Fertiliser Sampling and Labelling Inspections Public Narrative Document

Member State: *Ireland*

Surveillance Authority : *Minister for Agriculture, Fisheries and Food*

Planning Year: *2010-2011*

Person responsible for the sectoral NMSP: *G. Lohan, Agricultural Inspector*

E Mail Address: *gerry.lohan@agriculture.gov.ie*

1. Objective:

The objective of the plan is to ensure, insofar as is feasible within the existing legal, organisational and resources framework, that an effective market surveillance programme is in place to meet the requirements of Regulation (EC) 2003/2003. This Regulation is transposed into Irish law in Statutory Instrument (SI) No. 384 of 2005. (Non-EEC fertilisers are regulated under SI No. 248 of 1978).

2. Structure and responsibilities:

The market surveillance activities shall be carried out by the Department inspectorate, including authorised officers of the Department of Agriculture, Fisheries and Food, supported as appropriate, by scientific experts from other authorities, in particular the State Laboratory which is the official laboratory designated to carry out sample analyses.

3. Organisation:

a. Human resources:

The inspectorate/authorised officers are direct employees of the Ministry of Agriculture, Fisheries and Food. The primary statutory responsibilities of this inspectorate include carrying out, on behalf of the Minister, the implementation and enforcement of legislation regarding import, manufacture and storage of fertiliser products, and activities relating to the placing of fertiliser products on the market.

b. Technical resources:

The inspectorate receives annual updates in training on sampling and transport of samples to the appropriate testing laboratory.

c. Financial resources:

All activities are performed within the existing Departmental budgets, which are subject to national economic restrictions on Government spending.

4. General monitoring approach:

a. Planned and routine inspections are carried out on sites with most inspections carried out on a risk assessment basis, established on results from previous test results.

b. Reactive inspections are taken where it is suspected that non-compliant manufacture, import, storage or placing of products on the market occurs.

Intervention inspections, supported by Gardai (police) and/or Customs officials (at points of import) are made where deemed necessary, to initiate seizure, detention and disposal where appropriate.

5. Setting of priorities:

The following factors will be used to set priorities;

a. Identification of premises:

Identification and updating of locations involved in manufacture, importation, storage, transport and sale of fertilisers will be carried out on an annual basis. This will require regular updating from other regulatory authorities.

b. Assessment of premises and sites:

- i. Activity relating to manufacture, processing, storage, transport or sale.
- ii. Knowledge of the legislation pertaining to activities.
- iii. Compliance with record keeping.
- iv. Recording and maintaining results of previous inspections
- v. Frequency of previous inspections or date of last inspection
- vi. Requirement for involvement of other agencies
- vii. Cost benefit factors of inspections.
- viii. Resource capacity of inspectorate (time, human and budget resources).

c. Setting priorities:

- i. Allocation of available resources including time, personnel and budgets.
- ii. Selection of target premises and sites for inspection.
- iii. Establishing frequency and target dates for inspection and sampling.
- iv. Selection of type of inspection and sampling.

6. Horizontal co-operation:

Other organisations, agencies and regulatory authorities and agencies, including those of other Member States may be involved in the programme by providing information or assistance as agreed.

7. Time period:

The planned inspection programme will generally run on an annual basis for high and medium priority targets, but may involve a two to four year programme for low priority targets.

8. Non-compliant products/placing on the market:

Legislation in the form of Statutory Instrument 384 of 2005 transposing Regulation (EC) 2003/2003 allows for withdrawal, seizure, detention and in certain cases forfeiture and destruction of non-compliant products. Penalties of up to €3,000 or six months imprisonment, or both, are specified in the legislation.

B. Department of Communication, Energy and Natural Resources

Energy Related Products Public Narrative Document

Member State: *Ireland*

Surveillance Authority : *Minister for Communications, Energy and Natural Resources*

Planning Year: *2010-2011*

Person responsible for the sectoral NMSP: *Damien Clarke, Assistant Principal, Energy Efficiency Division*

E Mail Address: damien.clarke@dcenr.gov.ie

Telephone: *+353(01)6782626*

1. Objective:

The objective of the plan is to ensure that an effective market surveillance programme is in place to meet the requirements of Regulation 765/2008, insofar as it applies to energy related products regulated under Directive 92/75/EEC and 2009/125/EC.

2. Structure and responsibilities:

Market surveillance activities will be carried out by the Energy Efficiency Division of the Department of Communications, Energy and Natural Resources, Sustainable Energy Ireland, other State agencies as appropriate and under contract by market players as necessary.

3. Organisation:

a. Human Resources:

The Energy Efficiency Division of the Department of Communications, Energy and Natural Resources is responsible for all aspects of implementation of the Energy Labelling Directive in Ireland and for market surveillance aspects of the Ecodesign Directive.

b. Technical Resources:

Sustainable Energy Ireland is Ireland's national energy agency and has technical expertise concerning energy efficiency matters. However, SEI does not have the technical capacity to test products in accordance with the requirements of the Ecodesign and Energy labelling Directives. Such testing will be outsourced to suitable market players.

c. Financial Resources:

A specific budget for 2010 has been requested for market surveillance activities in connection with the above Directives and confirmation of this is pending.

4. General monitoring approach:

The approach to monitoring and surveillance activities will include:

a. Proactive inspections:

Including planned and routine inspections of retail sites for compliance with the Energy labelling Directive with regard to affixing of valid and correct labels in the specified positions on products and the accompaniment with products of valid and

appropriate product fiches. Inspections may include announced or unannounced inspections.

b. Reactive inspections:

Including acting on complaints from the public or affected parties, and information received from customs authorities or other member states' market surveillance authorities.

c. Product testing:

Products covered by implementing measures under the Ecodesign and Energy Labelling Directives will be tested for compliance with the requirements of those Directives and implementing measures at such frequency as is specified in those instruments.

5. Setting of Priorities:

The Ecodesign Directive and its implementing measures are specific on the nature and scale of product testing required and thus discretion does not arise.

The Energy labelling Directive is not specific as regards the level of product testing required to monitor whether products covered by the Directive and its implementing measures are entitled to claim the energy efficiency level stated on the energy label and product fiche accompanying the product concerned. A number of products will be selected annually for testing. Where products are tested for compliance with the Ecodesign Directive, and such products are also covered by the Energy labelling Directive, such testing will be considered to satisfy the test requirements of both Directives.

The following factors will be used to set priorities for inspection of retail sites for compliance with the requirements of the Energy labelling Directive;

a. Identification of retail sites selling relevant products:

Maintenance of a database of retail sites selling products covered by implementing measures / delegated acts under the Energy Labelling Directive and logging details of inspections and their findings and follow-up actions.

b. Risk assessment:

Risk factors include:

- i. Compliance record of sites
- ii. Scale of operations / turnover of sites
- iii. Corporate / ownership structure of site i.e. multi-national outlet vs single store
- iv. Results of previous inspections
- v. Frequency of previous inspections or date of last inspection
- vi. Cost benefit factors of inspections.
- vii. Resource capacity of market surveillance authority (time, human and budget resources).

c. Setting priorities

- i. Allocation of available resources including time, personnel and budgets.
- ii. Selection of target sites for inspection
- iii. Selecting frequency and target dates for inspection.

6. Horizontal Co-operation:

Other organisations, agencies and regulatory authorities and agencies, including those of other Member States may be involved in the programme by providing information or assistance or joint inspections / product tests, as agreed.

7. Time Period:

The planned inspection and product testing programme will generally run on an annual basis for higher priority targets.

8. Informing undertakings:

A dedicated webpage will be established in the first quarter of 2010 listing relevant legislation and containing summaries of the obligations of affected parties. A general guidance note concerning energy labelling will also be prepared summarising retailers' obligations, penalties for non-compliance and the market surveillance regime.

The internationally traded goods nature of products affected by the Ecodesign Directive make provision of information on the obligations of manufacturers of those products less practical from a national viewpoint.

9. Non-compliant products:

Legislation transposing the relevant Directives allows for withdrawal, seizure, detention and in certain cases forfeiture and destruction of non-compliant products. Penalties and associated appeals procedures are also specified in the transposing legislation.

C. Department of Health and Children

Cosmetics Public Narrative Document

Member State: *Ireland*

Surveillance Authority : *Minister for Health and Children*

Planning Year: *2010/11 (Note: function transferring to Irish Medicines Board during 2010, which may affect programme.)*

Person responsible for the sectoral NMSP: *John Keegan, Principal Officer*

E Mail Address: *medicines_unit@health.gov.ie*

1. Objective:

The objective of the plan is to ensure, insofar as is feasible within the existing legal, organisational and infrastructural framework, that an effective market surveillance program is in place to meet the requirements of Regulation 765/2008, insofar as may apply to cosmetics regulated under Directive 76/768/EEC, as transposed by European Communities (Cosmetic Products) Regulations 2004 (as amended).

2. Structure and responsibilities:

The Competent Authority for cosmetic products in Ireland is currently the Department of Health and Children, though this function will transfer to the Irish Medicines Board during 2010. RAPEX Alerts are routed through this Department but market surveillance activities shall be carried out by Environmental Health Officers of the Health Service Executive. Testing of samples will be carried out by the Public Analyst's Laboratory.

3. Organisation:

a. Human Resources:

The Competent Authority for cosmetic products in Ireland is currently the Department of Health and Children, though this function will transfer to the Irish Medicines Board during 2010. RAPEX Alerts are routed through this Department but enforcement is carried out by the Environmental Health Officers.

b. Technical Resources:

Testing of samples is carried out by the Public Analyst's Laboratory.

c. Financial Resources:

It is likely that all activities will have to be performed within the existing Departmental budgets, which are subject to national economic restrictions on Government spending.

4. General monitoring approach:

Due to the limited resources available, it has been decided to take a pragmatic approach to monitoring and surveillance activities and to combine these activities with existing inspection programs where possible. This will include:

a. Proactive inspections:

Including planned and routine inspections of sites where cosmetics are stored and sold.

b. Reactive inspections:

Including acting on information received from complaints from the public, accidents, customs or police or other market surveillance authorities. Investigations may be conducted in conjunction with the National Consumer Agency.

5. Setting of Priorities:

During different periods over the course of the year, priority will be given to concentrating on a specific hazards that are common to specific products.

6. Horizontal Co-operation:

Other organisations, agencies and regulatory authorities and agencies, including those of other Member States may be involved in the programme by providing information or assistance as agreed.

7. Time Period:

The planned inspection programme will generally run on an annual basis for high and medium priority targets.

D. Department of Justice, Equality and Law Reform

Explosives and Pyrotechnic Articles Public Narrative Document

Member State: *Ireland*

Surveillance Authority : *Minister for Justice, Equality and Law Reform*

Planning Year: *2010/2011*

Person responsible for the sectoral NMSP: *JK Coates, Senior Government Inspector of Explosives*

E Mail Address: *jcoates@justice.ie*

1. Objective:

The objective of the plan is to ensure, insofar as is feasible within the existing legal, organisational and infrastructural framework, that an effective market surveillance program is in place to meet the requirements of Regulation 765/2008, insofar as may apply to explosives for civil uses regulated under Directive 93/15/EEC, and pyrotechnic articles regulated under Directive 2007/23/EC.

2. Structure and responsibilities:

The bulk of market surveillance activities shall be carried out by the explosives inspectorate of the Department of Justice, Equality and Law Reform, supported, as appropriate, by inspectors from other agencies or authorities.

3. Organisation:

a. Human Resources:

The explosives inspectorate is a part of the Crime 4 Division of the Department of Justice, Equality and Law Reform. The primary statutory responsibilities of this inspectorate include carrying out, on behalf of the Minister, the implementation and enforcement of explosives legislation regarding, import, manufacture, storage and transport of all explosives. Inspectors are also appointed under the Carriage of Dangerous Goods legislation responsible for road check enforcement and examination specialist driver training for the carriage of UN Class 1 goods.

b. Technical Resources:

There is no notified body for explosives or pyrotechnic articles in Ireland. Very limited explosive testing and evaluation is possible within existing resources.

c. Financial Resources:

It is likely that all activities will have to be performed within the existing Departmental budgets, which are subject to national economic restrictions on Government spending.

4. General monitoring approach:

Due to the limited resources available, it has been decided to take a pragmatic approach to monitoring and surveillance activities and to combine these activities with existing inspection programs where possible. This will include:

a. Proactive inspections:

Including planned and routine inspections of sites where explosives are imported, manufactured, stored, sold, or transported. Inspections will include announced and unannounced inspections

b. Reactive inspections:

Including acting on information received from complaints from the public, accidents, customs or police or other market surveillance authorities. Accident investigation may be conducted in conjunction with the Health and Safety Authority who have regulatory responsibility for the use of explosives in the workplace.

c. Precautionary Principle:

This approach will be taken, for example if it is suspected that illegal manufacture import, storage or sales are taking place, or dangerous products are on the market. Intervention inspections, supported by Gardai (police), if necessary, will be made to initiate seizure, detention and destruction where appropriate to prevent danger to the public from arising.

5. Setting of Priorities:

The following factors will be used to set priorities;

a. Identification of undertakings:

Identification and updating of undertakings and locations involved in manufacture, importation, storage, transport and sale of explosives and pyrotechnics. This will require regular updating from local authorities and other regulatory authorities.

b. Risk assessment of undertakings and sites:

Risk factors include:

- i. Explosive hazards and degree of risk involved, taking into account explosive quantity and type and location.
- ii. Activity and degree of risk involved , whether manufacture, processing, storage , transport or sale.
- iii. Competence of undertakings including training, experience and qualifications of the managers and personnel of the undertakings.
- iv. Knowledge of the legislation of the undertakings.
- v. Compliance record of undertakings.
- vi. Results of previous inspections
- vii. Frequency of previous inspections or date of last inspection
- viii. Requirement for involvement of other agencies
- ix. Cost benefit factors of inspections.
- x. Resource capacity of inspectorate (time, human and budget resources).

c. Setting priorities

- i. Allocation of available resources including time, personnel and budgets.
- ii. Selection of target undertakings for inspection
- iii. Selection of type of inspection
- iv. Selecting frequency and target dates for inspection.

6. Horizontal Co-operation:

Other organisations, agencies and regulatory authorities and agencies, including those of other Member States may be involved in the programme by providing information or assistance as agreed.

7. Time Period:

The planned inspection programme will generally run on a biennial basis - particularly for low priority targets, with the high and medium priority targets subject to annual review.

8. Informing undertakings:

The explosives inspectorate already carry out active liaison, advice, guidance and consultation with the main undertakings involved in the explosives industry. Meetings are held with particular interest groups (manufacturers, professional operators, mining groups, transport drivers, importers etc.). Technical and legal advice and guidance on explosives legislation is exchanged by meetings, E mail, website notices etc. Health and Safety information is provided to the public and professionals by the Health and Safety authority and general consumer information is provided by the National Consumer Agency.

9. Unsafe and un-compliant products:

Explosives legislation transposing the relevant Directives, allows for withdrawal, seizure, detention and in certain cases forfeiture and destruction of the unsafe or un-compliant products. Penalties and associated appeals procedures are also specified in the explosives legislation.

E. Department of Transport

Maritime Sector: Marine Equipment and Recreational Craft

Public Narrative Document

Member State: *Ireland*

Surveillance Authority: *Minister for Transport*

Planning Year: *2010-2011*

Person responsible for the sectoral NMSP: *Michael Klyne, Marine Surveyor,
Marine Survey Office, Department of Transport*

E Mail Address: *michaelklyne@transport.ie*

1. Objective:

The objective of the plan is to ensure, insofar as is feasible within the existing legal, organisational and infrastructural framework, that an effective market surveillance program is in place to meet the requirements of Regulation 765/2008, insofar as may apply to marine equipment regulated under Directive 96/98/EC (as amended) and recreational craft regulated under Directive 94/25/EC (as amended).

2. Structure and responsibilities:

The Marine Survey Office of the Department of Transport, shall carry out market surveillance activities in respect of marine equipment and recreational craft, supported, as appropriate, by other agencies and authorities.

3. Organisation:

a. Human Resources:

The Marine Survey Office (MSO) is a line division of the Department of Transport. The MSO deals with the inspection, survey, certification and licensing of vessels and vessels radio equipment; the examination and certification of seafarers competencies; enforcement of standards by way of audits on organisations and facilities and prosecutions for breaches of regulations.

b. Technical Resources:

There is no notified body for marine equipment or for recreational craft in Ireland at present.

c. Financial Resources:

All activities will have to be performed within the existing Departmental budgets, which are subject to national economic restrictions on Government spending.

4. General monitoring approach:

A pragmatic approach to monitoring and surveillance activities will be taken and it is intended to combine these activities with existing inspection and survey programmes where possible. This will include:

a. Proactive inspections:

Planned market surveillance activity including planned and routine inspections and surveys of recreational craft and marine equipment – such inspections will include announced and unannounced inspections.

b. Reactive inspections:

Including acting on complaints or information received from the public, accident investigation reports, Customs, Coast Guard, other market surveillance authorities, intelligence from the Garda Síochána or information on RAPEX, etc.

Accident investigation may be conducted in co-operation with other agencies including, for example, the Garda Síochána, the Marine Casualty Investigation Board, the Health and Safety Authority and the Department of Justice, Equality and Law Reform (in respect of Marine Equipment (Pyrotechnics)).

Follow up inspections and investigations will be undertaken where appropriate.

c. Precautionary Principle:

This approach will be taken if it is suspected that dangerous recreational craft or marine equipment are likely to be placed on the market. Inspections, supported by Customs (at points of import) or the Garda Síochána if necessary, will be made to initiate seizure and detention to prevent danger to the public or risk to the environment.

5. Priorities:

a. Approach for Setting Priorities:

From 2010, it is intended to develop a targeted profiling framework for the market surveillance of both marine equipment and recreational craft. This will be based on national intelligence, RAPEX notification and advice from other market surveillance authorities.

b. Risk Evaluation:

Levels of risk and prioritisation of inspections will be assessed using the following criteria:

- i. The profiling framework outlined at (a) above;
- ii. Information received from European monitoring and information systems such as RAPEX, MARED and CIRCA;
- iii. Information collected on the compliance record of operators and importers;
- iv. Results of previous inspections as well as the frequency and dates of all previous inspections;
- v. Requirement for involvement of other agencies;
- vi. The resources available to the Marine Survey Office, taking account of the cost benefit factors of each individual inspection.

6. Horizontal Co-operation:

Other organisations, agencies and regulatory authorities, including those of other Member States (through use of RAPEX, MARED and CIRCA information systems),

may be involved in the operation and development of the market surveillance programme by providing information or assistance as appropriate to the circumstances. These agencies (in Ireland) may include, Customs, Garda Síochána, the National Consumer Agency, the National Standards Authority of Ireland, the Department of Justice, Equality and Law Reform, the Health and Safety Authority and the Marine Casualty Investigation Board.

7. Time Period:

The planned inspection programme will run on a two-year basis commencing in the period January to June 2010.

8. Informing stakeholders:

The Marine Survey Office already carries out active liaison, advice, guidance and consultation with the main stakeholders involved in the maritime industry. It is proposed that details of market surveillance requirements in respect of recreational craft and marine equipment, the offences and penalties involved will be published and made available to the public and stakeholders on the Department of Transport website: www.transport.ie

Marine Notices will be used to keep the Maritime industry and the public informed of the updated market surveillance framework. Marine notices are issued by the Department to convey information to authorities, organisations and agencies across the maritime sector. Marine Notices are published on the Department of Transport website and this website will remain an important method for dissemination of information on this and other matters.

9. Unsafe and non-compliant products.

a. Recreational Craft

National legislation, transposing the relevant Directive, already allows for withdrawal, seizure, and detention of unsafe or non-compliant products. Offences, Penalties and associated appeals procedures are also specified in this legislation; the European Communities (Recreational Craft) Amendment Regulations 2004 (SI No. 422 of 2004) provides for a fine of up to €3,000 for a person convicted in court of contravening any of the regulations.

It is intended to amend these regulations in 2010 in the light of Regulation (EC) No. 765/2008.

b. Marine Equipment

National legislation (the marine equipment regulations (SI No. 40 of 1998) and the European Communities (Marine Equipment) Regulations 2009 (SI No. 259 of 2009)) empower the Minister for Transport to direct the withdrawal, prohibition or restriction of the sale and use of equipment which may compromise the health and safety of passengers or crew or which may damage the environment. The Minister may also revoke (or refuse to grant) the safety certificate of any ship on which non-compliant marine equipment has been placed.

It is intended to amend these regulations in 2010 in the light of Regulation (EC) No. 765/2008.

F. Building Control Authorities

Construction Products Articles Public Narrative Document

Member State: *Ireland*

Surveillance Authority : *37 Local Authorities.*

Planning Year: *2010-2011*

Person responsible for the sectoral NMSP: *A Egan, Building Control Authorities*

E Mail Address: *adam_egan@environ.ie*

1. Objective:

The objective of the plan is to ensure, insofar as is feasible within the existing legal, organisational and infrastructural framework, that an effective market surveillance program is in place to meet the requirements of Regulation 765/2008, insofar as may apply to Construction Products regulated under Directive 89/106/EEC dated 21 December 1988.

2. Structure and responsibilities:

The market surveillance activities are carried out by the Building Control Activities of the 37 Local Authorities in Ireland, who are designated for enforcement of the Construction Products Directive 89/106/EEC

3. Organisation:

a. Human Resources:

The building control authorities are part of each Local Authority. The primary statutory responsibilities of these Authorities include enforcement of the Buildings Regulations, Construction Products Directive, parts of the Building Energy Performance of Building Directive. In relation to Market Surveillance of Construction Products, the powers of Building Control Authorities are set out in Regulations SI 198 of 1992, they include the powers to obtain access to premises to examine, test or inspect products, request documentation regarding the performance of the product, take a samples of the product, request the Minister to prohibit or restrict the use of a product and prosecute offences under these Regulations.

b. Technical Resources:

The testing and evaluation of potentially faulty products is carried out by approved bodies.

c. Financial Resources:

In general, all activities will have to be performed within the existing Local Authority budgets, which are subject to national economic restrictions on Government spending. However where certain documentation or information is not available the Building Control Authority may require that tests are performed by an approved body at the cost of the manufacturer, his agent or the person who placed the product on the market.

4. General monitoring approach:

There are limited resources available, spread over 37 separate Local Authorities. The Authorities generally carry out inspections on a reactive basis for the purposes of the Construction Products Directive, including acting on information received from complaints eg from the public, public bodies, contractors, designers, customs or police or other market surveillance authorities etc.

Any products identified as non-compliant are subject to the provisions of S.I. No 198 of 1992.

5. Setting of Priorities:

The following factors will be used to set priorities;

a. Identification of products:

This is dependant on market intelligence and the knowledge of inspectors.

b. Risk assessment of products:

Risk factors include:

- i. End - use of products eg safety implications of products
- ii. Extent of use of product
- iii. Products known to contain certain materials not in compliance with the regulations.
- iv. Compliance record of products
- v. Results of previous inspections
- vi. Frequency of previous inspections or date of last inspection
- vii. Requirement for involvement of other agencies
- viii. Cost benefit factors of inspections.
- ix. Resource capacity of inspectorate (time, human and budget resources).

c. Setting priorities:

- i. Allocation of available resources including time, personnel and budgets.

6. Horizontal Co-operation:

Other organisations, agencies and regulatory authorities and agencies, including those of other Member States may be involved in the programme by providing information or assistance as required.

7. Informing undertakings:

The Local Authorities already carry out active liaison, advice, guidance and consultation with the shareholders in the construction industry, professional organisations and the public.

8. Unsafe and un-compliant products:

S.I. 198 of 1992 (as amended) provides for the removal of non-compliant products from the market and destroyed, if a Court so decides following legal action.

G. Commission for Communications Regulation

R&TTE and EMC Directives Public Narrative Document

Member State: *Ireland*

Surveillance Authority: *Commission for Communications Regulation (ComReg)*

Planning Year: *2010/2011*

Person responsible for the sectoral NMSP: *Gerard Costello, Compliance Engineer with responsibility for Market Surveillance*

E Mail Address: *gerard.costello@comreg.ie*

The Commission for Communications Regulation (ComReg) is the statutory body charged with regulating the telecommunications and postal sectors in the Irish State. To this end, ComReg is responsible for enforcing the European Communities (Radio Equipment and Telecommunications Terminal Equipment) Regulations, 2001 (SI No 240 of 2001) and the European Communities (Electromagnetic Compatibility) Regulations, 2007 (S.I. No 109 of 2007)

R&TTE Directive

Background

The Radiocommunications and Telecommunications Terminal Equipment Directive (R&TTE) encompasses all products using the radio frequency spectrum (e.g. car door openers, mobile telephones, broadcast transmitters, etc.) and all equipment attached to public telecommunications networks (e.g. ADSL modems, telephones, telephone switches). The Directive defines rules for the placing on the market and putting into service of Radio and Telecommunications Terminal Equipment and its broad aim is to ensure the safety, protection and free movement of radio and telecommunications equipment throughout the member states of the EU.

The Government have decided that ComReg should be charged with the implementation and application of the R&TTE Directive as transposed into SI 240 of 2001.

EU Decision 768/2008 - Common Framework for the Marketing of Products, and EU Regulation 765/2008 on accreditation and market surveillance come into force on 1st January 2010, this makes set levels of participation in market surveillance mandatory and any administration that does not have sufficient procedures in place can incur fines from the European Commission.

Scope & Requirements:

There is a requirement for ComReg to ensure that R&TTE products placed on the Irish market comply with the essential requirements of the Directive in terms of:

- The protection of the health and safety of the user.
- The protection requirements with respect to electromagnetic compatibility.
- The effective use of spectrum allocated so as to avoid harmful interference.
- That it interconnects with networks and does not harm them etc.

There are a number of EU Commission European wide initiatives under which NRA's can share and exchange information to enhance effectiveness and avoid duplication of testing and investigations. There is a requirement for ComReg to engage with other NRA's and use these IT systems (CIRCA, ICSMS and RAPEX)

Deliverables & Timelines:

- Ensure that the Directives for which ComReg has responsibility as enforced in line with EU Decision 876/2008 - Common Framework for the Marketing of Products, and EU Regulation 765/2008 on accreditation and market surveillance. – Q1 2010
- Continue to establish and maintain contacts with other national regulatory bodies e.g. Revenue's Customs Service, Director of Consumer Affairs etc. Continue to educate relevant bodies in respect of the requirement to market compliant equipment. - Ongoing
- Attend scheduled ADCO meetings with other NRAs.
- Attend scheduled TCAM meetings with other NRAs.
- Arrange ComReg's participation in the EU-wide market surveillance campaign. Q2 2010
- Arrange ComReg's participation in the EU-wide market surveillance campaign. Q2 2011
- Notified Body appointment and re-accreditation under the R&TTE Directive.
- Conduct Desktop Market Surveillance on a pre-determined number of targeted products - Ongoing
- Track relevant market surveillance statistics. Ongoing 2010/2011
- Arrange for technical testing of suspect products – Ongoing
- Where appropriate, prepare written Directions for issue by the Commissions in respect of non-complaint products – Ongoing
- Maintain ComReg registration with the relevant IT systems (as listed below) to enhance participation with other NRA's and expand ComReg's knowledge base. - Ongoing
- CIRCA – Communication & Information Resource Centre Administrator
- ICSMS – Information & Communications System for Market Surveillance
- RAPEX – European Rapid Alert System

Progress to Date:

- Participation in EU-wide market surveillance campaign.
- Increased number of successful investigations.
- Fostering awareness within industry of the R&TTE Directive.
- Hosting of the Summer 2009 R&TTE Administrative Cooperation meeting.

- Desktop Market Surveillance initiated to include agreements with eBay on information exchange.

Constraints:

Work volume associated with all aspects of R&TTE requires full-time attention. This is not always possible due to interference investigation and enforcement commitments.

EMC Directive

Background:

The EMC Directive governs the electromagnetic emissions from equipment in order to ensure that, in its intended use, such equipment does not disturb radio and telecommunication as well as other equipment. The Directive also governs the immunity of such equipment to interference and seeks to ensure that this equipment is not disturbed by radio emissions normally present when electrical/electronic equipment is used as intended.

The Government have decided that ComReg should be charged with the implementation and application of the EMC Directive as transposed into SI 109 of 2007.

- EU Decision 768/2008 - Common Framework for the Marketing of Products, and EU Regulation 765/2008 on accreditation and market surveillance come into force on 1st January 2010, this makes set levels of participation in market surveillance mandatory and any administration that does not have sufficient procedures in place can incur fines from the European Court of Justice.

Scope & Requirements:

There is a requirement for ComReg to ensure that any products or placed on the Irish market complies with the essential terms of the Directive to ensure that:

- The equipment is designed and manufactured so that the electromagnetic disturbance it generates does not exceed the level above which radio and telecommunications equipment or other equipment cannot operate as intended;
- The product/equipment itself has a level of immunity to the electromagnetic disturbance, which allows it to operate without unacceptable degradation of its intended use.

Deliverables & Timelines:

- Establish and maintain contacts with other national regulatory bodies e.g. Revenue's Customs Service, Director of Consumer Affairs etc - Continue to educate relevant bodies in respect of the requirement to market compliant equipment.
- Attend scheduled working group meetings with other NRA's – Ongoing.
- Attend TC16 meetings hosted by the Electro-Technical Council of Ireland
- Conduct desktop surveillance on a pre-determined number of targeted products - Ongoing
- Arrange for technical testing of suspected products – Ongoing
- Arrange ComReg's participation in the EU-wide market surveillance campaign. Q2 2010
- Arrange ComReg's participation in the EU-wide market surveillance campaign. Q2 2011
- Track relevant market surveillance statistics. Ongoing 2010/2011

- Notified Body appointment and re-accreditation under the EMC Directive.
- Where appropriate, prepare written Directions for issue by the Commissions in respect of non-complaint products - ongoing
- Progress to Date:
- Participation in EU-wide market surveillance campaign.
- Increased number of successful investigations.
- Fostering awareness within industry of the EMC Directive.
- Desktop Market Surveillance initiated to include agreements with ebay on information exchange.

Constraints:

Work volume associated with all aspects of EMC requires full-time attention. This is not always possible due to interference investigation and enforcement commitments.

H. Environmental Protection Agency

Restriction on the Use of Certain Hazardous Substances in Electrical and Electronic Equipment (RoHS) Public Narrative Document

Member State: *Ireland*
Surveillance Authority : *Environmental Protection Agency*
Planning Year: *2010 - 2011*
Person responsible for the sectoral NMSP: *Fiona Quinn Waste Policy Unit, DEHLG*
E Mail Address: *Fiona.Quinn@environ.ie*

1. Objective:

The objective of the plan is to ensure, insofar as is feasible within the existing legal, organisational and infrastructural framework, that an effective market surveillance programme is in place to meet the requirements of Regulation 765/2008, insofar as it may apply to Directive 2002/95/EC of the European Parliament and of the Council of 27 January 2003 on the restriction of the use of certain hazardous substances in electrical and electronic equipment (RoHS).

2. Structure and responsibilities:

The market surveillance activities are carried out by the Resource Use Unit of the Environment Protection Agency (EPA) the competent authority for the enforcement RoHS Directive under the Waste Management (Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment) Regulations 2005, S.I. No. 341.

3. Organisation:

a. Human Resources:

The Core Prevention Team within the Resource Use Unit of the EPA is tasked with the enforcement of RoHS. A strategy is being implemented including information provision, investigation of complaints, consideration of producer reported breaches and sampling/testing of products on the market. There are extensive product recall powers provided for under S.I. 341. Information on guidance is available at www.rohs.ie

b. Technical Resources:

Testing of products is carried out by suitably approved third party laboratories.

c. Financial Resources:

All activities will have to be performed within the existing Agency budget, which is subject to national economic restrictions on Government spending.

4. General monitoring approach:

The EPA operates a risk based approach to the enforcement of environmental legislation. This approach makes the best use of available resources by focusing on products that pose the highest environmental risk. The EPA currently carry out product inspections and where deemed necessary contract out analysis of materials or components on a annual basis. Inspections are carried out on a proactive and reactive basis. In the 2008/09 period 51 products tested the majority of which were found to be compliant. Any products identified as being non-compliant are the subject of ongoing enforcement actions with relevant producers, retailers and supply chain

players. In most cases non-complaint products are removed voluntarily from the market.

5. Setting of Priorities:

The following factors will be used to set priorities;

a. Identification of undertakings:

This is based on market intelligence and the knowledge of the inspection team. Additionally, certain products or product ranges are jointly chosen and inspected by members of the RoHS Enforcement Network on an annual basis.

b. Risk assessment of undertakings and sites:

Risk factors include:

- i. Products known to contain materials of high concern
- ii. High volume products
- iii. Short life products
- iv. Consumer products unlikely to be recycled
- v. Compliance record of undertakings.
- vi. Results of previous inspections
- vii. Frequency of previous inspections or date of last inspection
- viii. Requirement for involvement of other agencies
- ix. Cost benefit factors of inspections.
- x. Resource capacity of Agency (time, human and budget resources).

c. Setting priorities

- i. Allocation of available resources including time, personnel and budgets.
- ii. Selection of target undertakings for inspection
- iii. Selection of type of inspection
- iv. Selecting frequency and target dates for inspection.

6. Horizontal Co-operation:

Other organisations, agencies and regulatory authorities and agencies, including those of other Member States may be involved in the programme by providing information or assistance as required. The EPA is an active member of the RoHS Enforcement Network and liaises with other members of the Network in enforcement activities.

7. Time Period:

The inspection programme runs on an annual basis.

8. Informing undertakings:

The Agency conduct active liaison, advice, guidance and consultation with the main stakeholders. Meetings are held with particular interest groups (manufacturers, retailers, importers etc.). Technical advice and guidance is provided on the EPA website and by notices etc. Health and Safety information is provided to the public and professionals by the Health and Safety Authority and general consumer information is provided by the National Consumer Agency.

9. Unsafe and un-compliant products:

Products are removed from the market using the powers of S.I. 341 and if necessary legal action is taken. Thus far, only one direction has been made by the EPA for product withdrawal from the market and the recall of the product from the customer.

I. Health and Safety Authority

Machinery, PPE, ATEX, Lifts, Gas Appliances, PED, TPED, REACH, CLP, Detergents Public Narrative Document

Member State: *Ireland*

Surveillance Authority : Health and Safety Authority (HSA)

Planning Year: *2010-11*

Person responsible for the sectoral NMSP: Paula Gough, Programme Manager,
Prevention Services

E Mail Address: Paula_Gough@hsa.ie

1. Objective:

The objective of the plan is to ensure, insofar as is feasible within the existing legal, organisational and infrastructural framework, that an effective market surveillance program is in place to meet the requirements of Regulation 765/2008, insofar as may apply to:

- Machinery
- Personal Protective Equipment
- Equipment for use in Explosive Atmospheres (ATEX)
- Lifts
- Gas Appliances
- Pressure Equipment (PED)
- Transportable Pressure Equipment (TPED)
- REACH
- CLP
- Detergents

2. Market Surveillance Authority:

a. Structure and responsibilities:

Market surveillance activities will be carried out by the Health and Safety Authority (HSA), supported, as appropriate, by inspectors from other agencies or authorities.

The primary statutory responsibilities of the Health and Safety Authority under the Safety, Health and Welfare at Work Act 2005 and the Chemicals Act 2008 are to promote, encourage and foster the prevention of personal injury, occupational ill health, dangerous occurrences at work and the safe and suitable use of Chemicals. In addition the Authority has a legislative remit to make adequate arrangements for the enforcement of the relevant statutory provisions.

b. Resources:

Market Surveillance inspections will be carried out by inspectors engaged in the enforcement of occupational health and safety legislation and chemical legislation.

c. Technical Resources:

All inspectors are qualified to third level in a scientific discipline. The Authority does not operate any testing facility and very limited testing and evaluation is possible within existing resources.

d. Financial Resources:

Activities will have to be performed within the existing budgets, which are subject to national economic restrictions on Government spending.

3. General monitoring approach:

Due to the limited resources available, it has been decided to take a pragmatic approach to monitoring and surveillance activities and to combine these activities with existing inspection programmes where possible. This will include:

- Proactive inspections:
- Including planned and routine inspections of workplaces where products subject to Regulation 765/2008 are used, imported or distributed.
- Reactive inspections:
- Including acting on information received from complaints from the public, accidents, customs or police or other market surveillance authorities.
- Seizure and Destruction of Products:
- This precautionary approach will be taken, for example if it is suspected that the manufacture, import, storage or sales of dangerous product are taking place and there is good reason to believe that the required corrective action will not take place. Intervention inspections, supported by Gardai (police), if necessary, will be made to initiate seizure, detention and destruction where appropriate to prevent danger to the public from arising.

4. Setting of Priorities:

The Authority has an extensive data base linking employers and their associated economic activity.

- **Pro-active inspections** will focus on those who manufacture, adapt or import equipment used in the workplace and subject to the Regulation; also on those who are engaged in an activity which is the subject of any EU /bilateral cross border surveillance programme that Ireland has joined. The priority of these will be determined by factors such as:
 - severity of the hazard or level of risk
 - the economic activity is one that the HSA had identified as being of interest but had yet to engage with

- existing concerns about the product or competence of the economic operator which have already led to HSA involvement
- **Reactive inspections** will be prioritised on the basis of issues arising from:
 - accidents or dangerous occurrences
 - complaints
 - results of occupational safety related inspections
 - requests for information

5. Horizontal Co-operation:

Other organisations, agencies and regulatory authorities and agencies, including those of other Member States may be involved in the programme by providing information or assistance as agreed.

6. Time Period:

The planned inspection programme will generally run on an annual basis for high and medium priority targets, but may involve a two year program for low priority targets.

7. Informing undertakings:

The Health and Safety Authority already carries out inspections of workplaces, provides advice and takes enforcement action where necessary. The Authority has both a formal and informal consultation process for the production of Codes of Practice Guidance and information sheets. In addition the Authority has advisory committees for several high risk sectors and regional advisory committees of the Authority made up of the relevant stake holders. There are also sectoral partnerships in place. The Authority will inform undertakings through these channels and through other liaison structures currently in place along with its website , and newsletter.

8. Unsafe and un-compliant products:

Product safety legislation transposing the relevant Directives, allows for withdrawal, seizure, detention and in certain cases forfeiture and destruction of the unsafe or un-compliant products. Penalties and associated appeals procedures are also specified in the legislation.

J. Irish Medicines Board

Medical devices Public Narrative Document

1. Objective:

The objective of the plan is to ensure, insofar as is feasible within the existing legal, organisational and infrastructural framework, that an effective market surveillance program is in place to meet the requirements of Regulation 765/2008, insofar as may apply to medical devices regulated under Directives 90/385/EEC, 93/42/EEC (as amended) and 98/79/EC.

2. Structure and responsibilities:

The market surveillance activities shall be carried out by the Human Products Safety Monitoring Department and the Compliance Department of the Irish Medicines Board.

3. General monitoring approach:

The aim of market surveillance activity is to ensure that medical devices placed on the Irish market do not compromise the health and safety of patients /users or other persons and that the devices placed on the market, or put into service in Ireland are in compliance with the relevant legislation.

The market surveillance activities conducted by the Irish Medicines Board in its role as Competent Authority for medical devices in Ireland are primarily sector specific in nature and include the following activities:

- a. Implementation of the requirements of the legislation in relation to post market surveillance for medical devices.
- b. Device specific post market surveillance projects involving specific product families.
- c. Post market surveillance audits of manufacturing sites in Ireland
- d. Audits of the Irish Notified Body for medical devices

4. Horizontal Co-operation:

Horizontal co-operation is achieved through involvement with the Compliance and Enforcement (COEN) Working Group. The work programme for COEN is approved by the EU Competent Authorities on an annual basis. The European Commission is made aware of the work programme. Audits of manufacturers based in Ireland are also conducted further to requests from other Member States. The Irish Medicines Board contributes to development of best practice in post market surveillance across EU Member States and works with other EU Competent Authorities to develop harmonization in approach to post market surveillance.

5. Time Period:

The proactive audit programme is updated annually, while some proactive compliance projects may run over a longer timeframe.

6. Informing undertakings:

The Irish Medicines Board holds regular meetings with stakeholders to provide updates on their work. Information is also provided to the public and healthcare professionals through the provision of guidance information, newsletters and safety and advisory notices on the IMB website.

Detail of post market surveillance projects and device families for audit are made available to the public in our annual reports and also through the newsletter published three times per year. Information on projects may be disseminated through industry links such as Irish Medical Device Association.

7. Unsafe and un-compliant products:

Enforcement actions and penalties are outlined in national legislation transposing the relevant Directives in conjunction with the IMB Act 1995 (as amended) and are used when required.

K. National Consumer Agency

1. Objective:

The National Consumer Agency (NCA) is the competent authority in Ireland for the market surveillance of non-food consumer products under the following European Directives:

- General Product Safety Directive 2001/95/EC
- Low Voltage Directive 73/23/EEC as amended
- Toy Safety Directive 88/378/EEC
- Personal Protective Equipment Directive 89/686/EEC as amended
- Gas Appliances Directive 90/396/EEC
- Machinery Directive 2006/42/EEC – non food consumer products prescribed by the Minister under Art 19 of Machinery Regulations*

If the Agency is of the opinion that a product presents a hazard to the consumer it has the power to direct companies to withdraw or recall products from the Irish market and can prosecute them if they do not comply with our instructions. The Courts can impose fines of up to €3,000 and/or up to 6 months imprisonment. However, in the majority of cases operators cooperate with the Agency and prosecution would be the last resort.

2. Structure and Responsibilities:

The Agency carries out its functions by:

- following up on complaints received from consumers received directly by the Agency and via its consumer helpline and from other parties,
- by raising consumer awareness through information on its website, press releases, publishing information booklets, etc,
- by organizing regular information meeting (and mail shots) with the economic operators and their representative bodies,
- by carrying out targeted surveillance activities often in cooperation with other regulatory bodies in Ireland, e.g. Customs
- by engaging in joint surveillance initiatives with other Member States (e.g via Prosafe)
- and by acting as the single RAPEX contact point for Ireland.

RAPEX stands for the Rapid Exchange System for Non-Food Products. This rapid alert system covers all products likely to be used by consumers except for food and medicines (which have similar but separate systems). This system ensures rapid communication between Member States if an item is found to be unsafe. Any company/business conducting a recall must inform the national authorities of their member state, which in turn informs the rest of the European Union through RAPEX. The NCA's work reduces the likelihood of consumers encountering unsafe products.

3. Organisation:

a. Human Resources:

Market surveillance activities are carried out by the Product Safety Team, which currently consists of 7 officers dealing with product cases and a Rapex contact point who acts as the liaison for notifications received from the European Commission and economic operators in Ireland. Additional resources can be called upon as required.

b. Technical Resources:

The Agency can call upon relevant expertise as required. e.g. in the testing of products. The Agency has established a close working relationship with other regulatory bodies including the National Standards Authority of Ireland, which is the body responsible for standards development in Ireland. The Agency also has an in-house Legal advisor.

c. Financial Resources:

All market surveillance activities are financed from the annual budget allocated by the Government to the Agency.

4. General Monitoring Approach:

a. Proactive inspections:

The NCA's proactive campaign of market surveillance will revolve around the participation in European joint actions and national sector-specific projects. The three national market surveillance projects planned for 2010, which were selected, following a risk analysis, are 1) gas regulators; 2) swim armbands and 3) blind cords. The European joint action will be confirmed in due course by the Prosafe network in association with the European commission.

b. Reactive inspections:

The NCA will monitor and react as appropriate to complaints received directly to the Agency and to its call centre under all Directives under its remit. It will also respond to notifications received through the European-wide RAPEX system. It will also respond to any information received from Customs or other agencies on potentially unsafe products.

c. Precautionary Principle:

The NCA will, in accordance with the powers conveyed upon it, take all measures necessary to prevent potentially unsafe non-food consumer products being placed on the market. This may involve the prevention of products being placed on the market until further investigations/tests are carried out.

The NCA will continue its communications to consumers and traders through its dedicated website: www.consumerconnect.ie. To complement the various guides already published, the NCA intends to issue a guide for traders regarding their obligations under product safety law. Advertising campaigns in the national media will continue as issues arise and a workshop(s) will take place for stakeholders on product safety issues.

5. Setting of Priorities:

The NCA organises market surveillance on a risk-based approach and responds to product safety complaints received directly and through its call-centre. All complaints are investigated and where a serious risk to consumers is established, notifications are sent to other member states via the RAPEX system, (RAPEX described above).

The NCA strives to follow European best practice in product safety market surveillance by participating in joint actions between member states. The NCA is currently participating in a Prosafe/EMARS II Project which aims to deliver training on market surveillance and to enable a more consistent approach to market surveillance across Europe by enforcement bodies.

The NCA cooperates with Revenue's Customs Service to monitor identified products at the point of entry.

6. Horizontal co-operation:

The NCA co-operates with other national and international organisations, agencies and regulatory authorities as necessary to perform its functions.

7. Time Period:

The NCA's plan will run on an annual basis for high priority projects but may continue into a second year.

8. Informing Undertakings:

Stakeholders are kept abreast of legislative and standard developments through regular mail shots and advertising via various media, such as the NCA's dedicated website. Product recalls are uploaded to the NCA's website as they occur and traders and their representative bodies are informed on a regular basis.

9. Unsafe and un-compliant products:

Products found to be non-compliant under product safety legislation are prevented from being placed on the market or removed from the marketplace. Notices are placed on the NCA's website alerting consumers to the dangers.

The NCA has the power to direct an operator to remove the product from the market and failure to do so can result in prosecution.

*** Under REG 19 (2) of Machinery Regulations:** "the National Consumer Agency shall be the competent authority for any product or partly completed machinery that may be prescribed by the Minister under this paragraph". The Minister has yet to prescribe products under this Regulation.

L. National Standards Authority of Ireland (Legal Metrology Service)

**MEASURING INSTRUMENTS (Directive 2004/22/EC and 2009/23/EC)
Public Narrative Document**

Member State : *Ireland*
Surveillance Authority : *Legal Metrology Service, NSAI*
Planning Years : *2010-2011*
Person responsible for the Sectoral NMSP: *Pat Farragher, Director, Legal Metrology Service, NSAI*
e-mail address: pat.farragher@nsai.ie;

1. Objective:

The market surveillance plan has been developed to ensure effective compliance with the requirements of Directive 2004/22/EC on measuring instruments and Directive 2009/23/EC on non-automatic weighing instruments.

2. Structure and responsibilities:

The Legal Metrology Service, NSAI has been charged with the responsibility for market surveillance through national regulation. Investigative powers have been given to authorised officers who report to the Director of Legal Metrology who has powers to withdraw, recall and dispose of non-compliant instruments and prosecute non-compliant operators.

3. Organisation:

a. Human Resources:

The role of market surveillance is incorporated into the activities of the Legal Metrology Service which is already charged with inspection of measuring instruments in trade use.

b. Technical Resources:

Those needed for physical testing at the operational level are available to the Legal Metrology Service and it is not envisaged that in-depth type approval tests which are normally conducted under laboratory conditions will be undertaken.

c. Financial Resources:

Market surveillance activities will be performed within existing operations budget which is unlikely to be increased in the current financial and economic climate.

4. Approach:

Proactive inspections are routine in the operation of the Legal Metrology Service to ensure measuring instrument in trade use comply with legal requirements. These checks will be used to identify location and compliance of individual measuring instruments being put into use on the market. Reactive investigations will be carried out where complaints are raised by third parties in relation to any product covered by the Directives. For each Directive specific product categories have been selected for a targeted proactive action each year based on current knowledge of products covered

by the Directives. The targeted actions will involve investigations moving back through the distribution chain to the manufacturer.

5. Priority setting:

Information will be gathered through routine inspections to identify the market operators responsible for making instruments available on the market. A risk based inspection strategy will be used to identify the products of greatest risk.

6. Horizontal Co-operation:

The plan will take account of initiatives and actions to be undertaken by other metrology services co-ordinated by WELMEC (organisation of European Legal Metrology Authorities) and if necessary the plan can be reviewed to take account of any joint actions.

7. Time Period:

It is intended that the programme will operate on an annual basis at which time it will be reviewed and updated unless agreement is reached with other authorities on joint actions as mentioned in point 6 above, which if it occurs will result in a review of the programme, most likely in the proactive targeted actions.

8. Information dissemination:

Information on the programme will be disseminated through meetings with suppliers and trader group representatives and publicised through media interviews, website etc.

9. Non-compliant products:

The risk addressed in metrological legislation in trade use is metrological integrity which if breached will generally result in fiscal detriment. National metrology legislation allows for non-compliant products to be withdrawn, recalled and disposed of, if necessary. Where breaches are identified prosecutions may also be taken against the liable economic operators.