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HEALTH AND SAFETY COMMISSION

Proposals for the Anthrax Prevention Order 1971 etc. (Revocation) Regulations 2004

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Issue

1. Proposal for the Minister to make the Anthrax Prevention Order 1971 etc. (Revocation) Regulations 2004. HSC and DWP Ministers agreed a proposal for this revocation in the Autumn of 2003.

Timing

2. Routine.

Recommendation

3. That the Commission:

a) endorses the draft regulations (Annex 1); and

b) agrees that the Chair submits the regulations to Jane Kennedy under the cover of the letter at Annex 2, recommending that she agrees the making of the regulations, signs the printed copy and lays them before Parliament.

Background

4. Occupationally acquired anthrax has historically been a problem in the textile industry through exposure to contaminated animal products from countries where anthrax is naturally endemic. The Anthrax Prevention Order 1971(APO) was introduced to address this issue. Cutaneous anthrax is the most common type of infection, resulting from skin contact with infected animals hides or products. It accounts for more than 95% of all cases, but effective antibiotic treatment means few deaths occur from this type of infection. There have been only 17 cases of human anthrax notified in the UK since 1981. In December 2001 a construction worker contracted cutaneous anthrax, possibly from an exposure to anthrax spores in horse-hair plaster, but the source was never established. The most recent case involving a textiles worker occurred in Bradford in August 2000; the

worker was thought to have developed cutaneous anthrax after cutting his arm at work. All were successfully treated with antibiotics and made a full recovery.

5. Since the introduction of the APO, the industry and the direction of health and safety legislation (i.e. more goal setting), has changed. In October 1995, HSC were asked to consult, in accordance with Section 37(3) of the Deregulation and Contracting Out Act 1994, on the revocation of a range of provisions, including the APO and its associated legislation. In 1996 HSC consulted on, and agreed that, in principle, the APO and its associated legislation be removed without replacement. However, because of concerns expressed by industry during the consultation HSC deferred setting a date until further discussions had taken place with industry. HSE has since worked with industry to assist and embrace this change. After many years of hard work, industry now accepts that the APO and associated legislation may be removed without replacement and without detriment to standards of health and safety at work.

6. In September 2003, HSC fully endorsed the proposal for the revocation of the APO and associated legislation (paper HSC/03/34). DWP Ministers also agreed to the revocation. HSE has subsequently been working on the legal mechanisms for the revocation of the APO and the development of a model risk assessment in consultation with industry.

Argument

7. HSC endorsed the arguments put forward for revocation (paragraph 11 of the Regulatory Impact assessment (RIA) at Annex 3 summarises the arguments detailed in HSC/03/34). In November 2003 DWP Ministers agreed that work on revoking regulations could be initiated.

8. The APO operates by prohibiting or placing conditions on the importation of animal hair products likely to be infected with anthrax (chiefly goat hair, but including mohair, cashmere and wool) from countries where anthrax is endemic, eg. the Sudan. However, the health and safety provisions contained in the APO are sufficiently addressed by the regulatory framework of the Control of Substances Hazardous to Health Regulations 2002 (COSHH). COSHH provides the mechanism for assessing the risks posed by all biological agents in the workplace. Anthrax (*bacillus anthracis*) is classed as a biological agent, and is thus subject to the requirements of COSHH.

9. The primary reasons behind the proposed revocation of the APO are that it imposes an unnecessary second tier of import control for the majority of imports of goat hair products. Most of the APO requirements relating to paperwork and packaging are now contained in Defra's Products of Animal Origin legislation, which take precedence over the APO. The APO's application is also restricted; for example, it does not cover the import of potentially contaminated wool from countries other than Egypt and Sudan, and these gaps in coverage mean that potentially infected material can legitimately pass into the UK. There is a danger that importers feel they have adequately mitigated the risk from the material if they comply with the APO, which may not necessarily be the case. The risk posed by these imports will be adequately covered by COSHH.

10. The proposed draft regulations revoke the APO, as well as the Anthrax Prevention Act 1919 (Repeals and Modifications) Regulations 1974, the Anthrax Prevention Order

1971 (Exemptions) Regulations 1982 and the Health and Safety (Miscellaneous Modifications) Regulations 1993 (Regulation 2).

11. It is proposed that the regulations will be made under the Health and Safety at Work Act etc. 1974 (HSWA). HSE solicitors have confirmed that the terms of the formal consultation on revocation of the APO in 1996 were broad enough to satisfy the HSWA requirement to consult on proposed regulatory changes. The implementation of COSHH in the industry will lead to higher standards of health and safety. To further promote these improvements HSE has produced a model risk assessment targeting the textiles industry. This model risk assessment will contain advice on controlling the risks associated with working with possibly anthrax-contaminated material within the COSHH framework. This risk assessment will be available from the Confederation of British Wool Textiles and from HSE's Textiles web site.

Consultation

12. Industry (employee and employer) representatives have been consulted on numerous occasions on the proposal for revocation of the APO. HSC's Textile Industry Advisory Committee (TEXIAC) last considered the issue in May 2003 and agreed that revocation of the APO would not reduce the level of protection for employees.

13. HSE colleagues in policy and operations; Department for Environment, Food and Rural Affairs; HM Customs and Excise; Cabinet Office; Home Office; Foreign and Commonwealth Office and Ministry of Defence have been consulted on the original proposal to revoke the APO, and been given the opportunity to comment on the draft regulations. Local Authorities Coordinators of Regulatory Services (LACoRS) has also been consulted on the proposed revocation.

Presentation

14. When HSC agreed to the revocation of the APO at its September 2003 meeting, the Commission asked HSE to ensure an effective communication strategy was implemented when revocation takes place to inform interested parties and highlight the existing COSHH standards in place to ensure the health and safety of workers and others.

15. HSE inspectors will be visiting all the relevant premises prior to the revocation of the APO to fully explain the changes, and ensure that the requirements of COSHH as detailed in the model risk assessment are taken forward instead of the APO requirements.

Costs and Benefits

16. HSE would not expect to see a lowering of standards of health and safety due to the revocation of the APO. HSE anticipates an improvement over time as the textile industry moves to complying solely with COSHH principles of risk assessment. The improved standards would be of minimal cost to industry, who will need to refocus their efforts on their duties under COSHH. The attached partial RIA (Annex 3) provides further information.

Financial/Resource Implications for HSE

17. Costs of current work to revoke the APO are within agreed budget, costing approximately £ 9k for staff time spent on revocation this year. There will be a likely financial saving to HSE of between £6,700 - £13,300 per year (ten year present value of £60,000 - £121,000), resulting from HSE no longer needing to administer the APO and its exemption schemes, nor pay for sampling and testing of certain imported goat hair. HSE will continue to provide advice and support to industry as they establish the systems enabling them to comply with their duties under COSHH.

Environmental Implications

18. None

Other Implications

19. Of the 14 firms currently engaged in processing goat hair, almost all employ less than 50 people. Removing the APO will therefore impact more on SMEs than large firms; however as detailed in paragraph 13 HSE is working with each firm to ensure that any potential impact of the revocation of the APO is minimised.

Action

20. HSC to endorse the draft regulations, and to send the draft regulations to the Minister asking her to sign the regulations and lay them before Parliament.