

Health and Safety Executive Board		HSE/14/41	
Meeting Date:	21 May 2014	FOI Status:	Open
Type of Paper:	Below the Line	Exemptions:	
TRIM Reference:	2014/177509		

AGENCY AGREEMENTS UNDER SECTION 13(1)(B) OF THE HEALTH AND SAFETY AT WORK ETC. ACT 1974 AND EQUIVALENT NORTHERN IRELAND LEGISLATION RELATING TO NON-AGRICULTURAL PESTICIDES

Purpose of the paper

1. To:
 - (a) Advise the Board that work is underway to revise and update Agency Agreements (AAs) in relation to evaluation, approval, enforcement and fees & charges for non-agricultural pesticides in Great Britain (GB), and to establish a new Agreement covering similar functions (other than enforcement) in Northern Ireland (NI); and
 - (b) Seek the Board's agreement for the Chair, on behalf of the Board, to sign the AAs setting out the functions HSE carries out in relation to non-agricultural pesticides on behalf of Ministers, Devolved Administrations and other Government Departments.

Background

2. Part III of the Food and Environment Act 1985 (FEPA) introduced the principle of statutory controls on pesticides and provided the overall legal framework for the control of pesticides in the UK. FEPA was implemented in GB by the Control of Pesticides Regulations 1986 (COPR).
3. Before a non-agricultural pesticide can be advertised, sold, supplied, stored or used it must first be approved under COPR. HSE administers the regulatory approvals scheme under Agency Agreements with the relevant Ministers and Government Departments.
4. This paper is not concerned with agricultural pesticides, which are now largely controlled under the EU Plant Protection Products Regulation. HSE administers this and the rump of COPR-controlled agricultural commodity substances under separate Agency Agreements.

Argument

5. The EU Biocidal Products Regulation (EU 528/2012 – the BPR) replaced the previous Biocidal Products Directive 98/8/EC on 1 September 2013. Products controlled under COPR are now in scope of the BPR, and are systematically being

moved across to this regime. However, transitional arrangements are in place such that COPR, and hence the supporting AAs, will need to be retained for some years.

6. The 2013 HSE annual review of AAs identified the non-agricultural pesticides AAs, which have been in place since 1997, as requiring substantial updating to reflect the post-devolution reorganisation of Ministerial responsibilities and organisational changes within HSE.

7. Additionally, officials in the Department of Agriculture & Rural Development in NI (DARD NI) have recently agreed that HSE should take over responsibility for approval of COPR products in NI. This is desirable because it will corral all UK non-agricultural pesticides approval under HSE, and is consistent with the position for plant protection and biocidal products. This work will be fully cost recoverable and a new AA with DARD NI specifying this will be needed. Enforcement in NI will remain the responsibility of NI authorities.

Devolved Administrations

8. The 1997 AAs were agreed prior to devolution, and so do not reflect the post-devolution landscape. Updating the AAs provides an opportunity to ensure the Devolved Administrations are fully signed up to the current arrangements for non-agricultural pesticides. We will continue to engage the Devolved Administrations, as well as other relevant Government Departments, on the proposed new AAs.

Action

9. The Board is invited to:

- (a) Note that work is underway to revise and update the existing AAs in relation to non-agricultural pesticides, and establish a new AA covering NI; and
- (b) Agree that the Chair may sign the new AAs on behalf of the Board, with a view to the AAs having effect from 1 July 2014.

Paper clearance

10. This paper has been cleared by Jane Willis.