

## **COMMITTEE FOR AGRICULTURE & RURAL DEVELOPMENT INQUIRY INTO BETTER REGULATION**

### **EVIDENCE FROM THE HEALTH & SAFETY EXECUTIVE FOR NORTHERN IRELAND (HSENI)**

#### **1. Introduction**

HSENI is a Non-Departmental Public Body sponsored by the Department of Enterprise, Trade and Investment (DETI). HSENI has responsibility for the regulation of health and safety at work.

HSENI's mission is to significantly reduce the number of work-related fatalities, injuries and cases of ill health in Northern Ireland.

**Annex 1** sets out the different sectors for which regulatory responsibility falls to either HSENI or Northern Ireland Local Councils.

#### **2. Regulation applying to the farming sector**

The main Health and Safety law which applies to all workplaces including farming is the Health and Safety at Work (Northern Ireland) Order 1978 and the other significant legislation includes: The Provision and Use of Work Equipment Regulations (Northern Ireland) 1999, The Agriculture (Safety of Children and Young Persons) Regulations (Northern Ireland) 2006, The Agriculture (Safeguarding of Workplaces) Regulations (Northern Ireland) 1989 and The Work at Height Regulations (Northern Ireland) 2005. The suite of regulation also includes Approved Codes of Practice and guidance. Details of general health and safety legislation, Approved Codes of Practice and guidance can be found at <http://www.hse ni.gov.uk/resources/legislation.htm> and resources covering the full range of agriculture activities and issues are available at <http://farmsafe.hse ni.gov.uk>

#### **3. HSENI's approach to transposing regulation**

Health and safety at work is a transferred matter. However, successive Ministers have taken the view that the statutory protection of Northern Ireland workers should be no less than that extended to Great Britain workers and that the obligations imposed on Northern Ireland business shall be no greater than those imposed in Great Britain.

Consequently, Northern Ireland health and safety law, although separate, closely follows that of Great Britain. With rare exceptions, Northern Ireland health and safety legal provisions, both primary and subordinate, correspond to, and are drawn from, Great Britain provisions. HSENI is resourced accordingly, with a small legislative team.

Where EU directives require transposition into national law, it is a key corporate target for HSENI to submit its proposals to DETI for the making of regulations within six months of the corresponding regulations being made in Great Britain. As part of EU-wide monitoring of member states' performance, HSENI also reports to OFMDFM, through DETI, on the transposition of relevant directives.

HSENI's proposed regulations are always the subject of appropriate consultation. The current HSENI practice is for the consultation to attach, and refer to, the GB Impact Assessment. This assessment is prepared in GB by policy experts and qualified economists, and can normally be applied, proportionally, to Northern

Ireland. HSENI will provide equivalent NI costs and draw attention to any other NI factors that we consider relevant. Consultees are invited to draw our attention to any specific NI concerns that we may have overlooked. HSENI continues to regard this approach as the best way to deliver on the September 2012 Devolution Memorandum of Understanding requirement that regulations implementing EU Directives produce consistency of effect across the UK.

#### ***4. HSENI's approach to achieving regulatory compliance and reducing serious injury within the farming sector***

HSENI adopts an integrated approach of promotion, education and advice and enforcement as part of a strategy to reduce deaths and injuries in the farming sector and to achieve regulatory compliance. This is underpinned by the use of partnership working, risk based targeted interventions and an integrated approach to behavioural change.

##### ***4.1 Promotion***

Promotion is seen as a key aspect of incident reduction. By raising awareness of the key risks, the implications of incidents, and the measures that can be practicably taken to prevent incidents, health and safety key messages and concepts are kept in the mind of those at risk. Examples of the promotion work carried out by HSENI include the 'Moment of Truth' Farm Safety television and radio campaign, press advertising, internet and social media message targeting, and high volumes of materials and articles provided to the press (most notably the farming press).

##### ***4.2 Education and Advice***

Specific, simple and practicable information packs - targeted at the key risk areas - have been developed and distributed via a range of channels. These have been supplemented with video and multimedia materials (e.g. 'Survivor Story' videos, Child Safety DVD's and Child Safety videos via YouTube). The content of such material is developed with input from industry representative bodies to ensure practicality and applicability and to encourage industry buy-in.

Information is also provided via talks, seminars and practical awareness days to groups of farmers, rural community groups and school children. For example, in 2014/15 HSENI delivered farm safety presentations to children in over 80 rural primary schools.

Working with others is also a key element of the education and advice component. For example DARD has also developed and run the successful Farm Safety Awareness training programme which has had in excess of 4000 participants.

##### ***4.3 Enforcement***

HSENI has a range of sanctions available to help in the enforcement of health and safety legislation. The formal sanctions range from Improvement Notices (IN)<sup>1</sup> to

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<sup>1</sup> An improvement notice may be issued by an Inspector specifying a time period for the rectification of a breach of legislation.

Prohibition Notices (PN)<sup>2</sup>. INs and PNs issued to companies and individuals are published on HSENI's website which serves as a deterrent to flouting health and safety at work rules. In the most serious cases of injury or breach of regulations, where appropriate, HSENI may also pursue prosecution via the courts. HSENI has used all of these enforcement approaches in recent years in the farming sector.

Over recent years HSENI has carried out over 1000 farm advisory visits each year. During these visits HSENI inspectors aim in the first instance to promote and provide advice and information to farmers. Only where there is serious imminent risk or repeated breaches do inspectors employ statutory powers of enforcement such as the Notices above or prosecution. The threat of formal enforcement remains an important motivating factor for some and a final means of ensuring compliance for others.

HSENI aims to ensure through promotion, information and advice, and via its partner bodies, that the standards expected in relation to farm safety are clear and in what circumstances enforcement action will be taken.

HSENI also strives to ensure a fair and transparent approach to enforcement. For example Power Take Off (PTO) shafts found unguarded attract a Prohibition Notice as they can cause serious injury and death. HSENI believes farm safety standards can be driven up by initially ensuring the industry understands for the reasoning for enforcement action, by providing clear advanced notice of enforcement expectations, by allowing time for farmers to ensure that they are compliant, and finally by ensuring consistent application thereafter.

#### **4.4 Partnership Working**

A key aspect of HSENI approach to farm safety was the formation of the Farm Safety Partnership launched in May 2012 by Ministers Foster and O'Neill. The Partnership brings together key stakeholders with an interest in farm safety in Northern Ireland and is made up of representatives from HSENI<sup>3</sup>, the Department of Agriculture and Rural Development (DARD), the Ulster Farmers' Union (UFU), The Northern Ireland Agricultural Producers Association (NIAPA), the National Farmers' Union Mutual (NFUM), and the Young Farmers' Clubs of Ulster (YFCU).

Since its formation, the Partnership has worked tirelessly to combine resources and work closely with the farming community to develop a culture of safety-first on local farms. Its core aim is to drive up health and safety standards and significantly reduce work-related deaths, injuries, and illnesses on farms.

All of the members are committed to promoting key farm safe messages and to continue to do all that they can to inform, influence, coerce, enforce, motivate, and advise rural communities. Partners contribute dependent on their resources, skills and competencies and agree on priority areas of work which are set out in action plans. A copy of the 2014-2017 Action Plan can be accessed at:

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<sup>2</sup> A prohibition notice prohibits a work activity with immediate effect if the inspector is of the opinion that the work activity presents a risk of serious personal injury.

<sup>3</sup> HSENI is a Non-Departmental Public Body sponsored by the Department of Enterprise, Trade and Investment (DETI) and it therefore represents the interests of that Department in the Partnership.

[http://www.hse ni.gov.uk/taking\\_the\\_next\\_step\\_to\\_safer\\_farms.pdf](http://www.hse ni.gov.uk/taking_the_next_step_to_safer_farms.pdf).

#### **4.5 Risk based targeted interventions**

As indicated above there is a significant raft of health and safety legislation which potentially could be applied to farm work activities. However, rather than trying to apply all applicable legislation concurrently HSE NI has adopted an approach of focusing on those aspects most likely to achieve a reduction in the number of deaths and serious injuries.

HSE NI has therefore focused much of its efforts over the past 5 years on the areas which have caused the most deaths and serious injuries. These are Slurry, Animals, Falls and Equipment, along with Child Safety. Other areas, whilst importantly not ignored, are not prioritised. HSE NI has also avoided, where possible, requirement for complex and detailed forms and paperwork; instead preferring to seek evidence of compliance and good practice. The priority for HSE NI is achieving the right outcomes in terms of farm safety.

#### **4.6 Behavioural Change**

A key aspect of the approach to improve farm safety has been through the use of a Behavioural Change Model. *Michie et al 2011* developed a best practice framework for developing and implementing behaviour change interventions. This model can be simplified into 3 key areas where interventions can be developed and deployed which, used in conjunction, are more likely to cause behavioural change, improve safety standards and in turn compliance with health and safety legislation.

- *Capability* relates to an individual's capacity to work safely in terms of knowledge and skills.
- *Motivation*, the processes that energize and direct safe behaviors are also critical to good decision making and includes habits, emotional responses, as well as analytical decision-making.
- *Ability* relates to the factors that lie outside the individual's control that make the behaviour possible or prompt it, for example having suitable equipment, infrastructure or appropriate societal expectations.

HSE NI and partners have developed a number of actions and interventions in the Farm Safety Action Plan to address these three key areas.

#### **5. Conclusion**

As outlined above, HSE NI's approach to implementing legislation and regulating farm safety is designed to achieve the aim of the relevant legislation (i.e. to reduce the instances of death, injury and ill health of those who work in the industry or are affected by it) rather than simply achieving compliance with specific legislative requirements. It is HSE NI's opinion that this approach will result in a more sustainable improvement in serious incident rates in the farming sector.

#### **6. Further information**

HSENI officials are available to explain any of this evidence in more detail in person to the Committee or to provide any further information required by the Committee.

**HSENI**  
**31 July 2015**

## **ANNEX 1**

### **Enforcement Responsibilities**

**The division of enforcement responsibilities between HSENI and the District Councils is detailed below.**

#### **HSENI**

- Factories
- Building sites
- Farms
- Motor vehicle repairs
- Mines and quarries
- Chemical plants
- Schools and universities
- Leisure and entertainment facilities (owned by District Councils)
- Fairgrounds
- Hospitals and nursing homes
- District Councils
- Fire and police
- Government departments
- Railways
- Any other workplace not listed under District Councils

#### **District Councils**

- Offices
- Retail and wholesale shops
- Tyre and exhaust fitters
- Restaurants, take away food shops, mobile snack bars and catering services
- Hotels, guest houses residential homes, etc
- Wholesale and retail warehouses
- Leisure and entertainment facilities (privately owned)
- Exhibitions
- Religious activities
- Undertakers
- The practice or presentation of the arts, sports, games, entertainment or other cultural or recreational activities
- Therapeutic and beauty services
- Animal care