

Robin J. Balmain
H.M. CORONER



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BLACK COUNTRY CORONER'S DISTRICT
(SANDWELL • DUDLEY • WALSALL
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Date: 18 September 2009

Our Ref: RJB/BAP

Your Ref:

RULE 43 REPORT

Dear Secretary of State

Stuart Raymond DYSON Deceased

On the 10TH day of September, 2009 I concluded the Inquest into the death of Stuart Raymond DYSON.

The cause of death was 1a. Multisystem Organ Failure, 1b. Disseminated Carcinoma of Colon (Previously Operated) and the verdict of the Jury was "it was more likely than not Mr. Dyson's death from cancer was caused or contributed to by his exposure to depleted uranium during his service in the First Gulf War".

I also announced my intention to make a report under rule 43 of the Coroners (Amendment) Rules 2008.

This rule provides that where the evidence at an Inquest gives rise to a concern that circumstances creating a risk of other deaths will occur or will continue to exist in the future, and in the coroner's opinion, action should be taken to prevent the occurrence or continuation of such circumstances, or to eliminate or reduce the risk of death created by such circumstances, the coroner may report the circumstances to a person who may have power to take such action.

I am therefore reporting this matter to you in accordance with rule 43 a copy of which I enclose.

The evidence giving rise to a concern that circumstances creating a risk of other deaths occurring or continuing to exist in the future is as follows:

- a. Mr. Dyson was a soldier who was exposed to depleted uranium in the First Gulf War.
- b. Colonic cancer is primarily a disease of the elderly and is rare in people of Mr. Dyson's age.
- c. On impact depleted uranium burns to a fine aerosol of minute uranium oxide particles which are ingestible and respirable.
- d. Depleted uranium particles are significantly radioactive.
- e. There is no evidence of colon cancer in the deceased family.

H.M. CORONER

18 September 2009

Continuation

- f. The depleted uranium particles ingested and respired by Mr. Dyson were likely to have delivered high localized doses of radiation particularly to his colon.
- g. It is likely that radiation has been focused into the nuclear DNA of cells in Mr. Dyson's colon causing damage leading to the cancer.

In my opinion action should be taken to prevent the occurrence or continuation of the circumstances that I have referred to or to eliminate or to reduce the risk of death created by the circumstances. The reasons for this are as follows:

- a. There is an obvious risk to service personnel if depleted uranium munitions continue to be used as the circumstances that have led to Mr. Dyson's death can clearly impact on a large number of other military personnel.
- b. The risks of radiation from ingestion and respiration of depleted uranium equally apply to civilians in areas of conflict.
- c. The findings of the jury clearly demonstrate a clear causal link between the use of depleted uranium and the risk of those affected developing malignancies.

In accordance with rule 43, a copy of this report is being sent to the Lord Chancellor and all of the other properly interested persons identified at the Inquest together with other people I believe may find it useful or of interest. A list of recipients can be found in the Schedule attached. Your response to this report will also be shared with those listed.

The Lord Chancellor may send a copy of the report and response to any person who the Lord Chancellor believes may find it useful or of interest. In addition, the Lord Chancellor may publish a full copy or a summary of the report and response (unless I have decided otherwise in response to a written representation about the release and publication of your response).

Rule 43A requires that you give a written response within 56 days of the day the report is sent. If you are unable to respond within that time, you may apply to me for an extension. The response is to contain details of any action that has been taken or which is proposed will be taken whether in response to this report or otherwise, or an explanation as to why no action is proposed.

If there are circumstances where you do not want your full response to be shared with the recipients listed in the Schedule attached, or for a copy of it to be published, you may make a written representation to me at the time of giving your response. Instead of releasing or publishing your full response it may be possible to share or publish a summary in accordance with rule 43A.

Yours faithfully

R.J. Balmain
H.M. Coroner

To: Mr. Bob Ainsworth M.P.
Secretary of State for Defence

CORONERS, ENGLAND AND WALES

Re Care Worker Stuart Raymond DYSON deceased

The Coroners (Amendment) Rules 2008

SCHEDULE

1. Mrs. Dyson
2. Professor Busby
3. The Gulf War Veterans Association
4. The Royal British Legion
5. The Coroners Society of England and Wales
6. The Lord Chancellor

15th June 2008

15th June 2008

17th July 2008

(1) In the exercise of powers conferred on the Lord Chancellor by section 12 of the Coroners Act 1988 (the "1988 Act") and section 12 of the Coroners (Amendment) Act 2008 (the "2008 Act"), the Lord Chancellor has made the following Rules in exercise of the powers conferred on him by section 12 of the 1988 Act and section 12 of the 2008 Act.

(2) The Rules are to be read as if they were made by the Lord Chancellor in exercise of the powers conferred on him by section 12 of the 1988 Act and section 12 of the 2008 Act.

(3) A report under paragraph (1) may not be made with respect to a person who has been found guilty of a crime under section 16 or 17A of the 1988 Act, unless the coroner making the report is satisfied that it is in the public interest to do so.

(4) A coroner may make a report under paragraph (1) in respect of a person who has been found guilty of a crime under section 16 or 17A of the 1988 Act, if the coroner is satisfied that it is in the public interest to do so.

(5) The coroner making the report under paragraph (1) —

(a) shall send a copy of the report to —

(i) the Lord Chancellor and

(ii) any person who has been named in a notice under section 12 of the 1988 Act;

(b) may send a copy of the report to any person who the coroner believes may be a person of interest.

(6) If a coroner makes a report under paragraph (1)(a), the Lord Chancellor may —

(a) send a copy of the report, or a summary of it, in such manner as the Lord Chancellor may think fit;

(b) send a copy of the report, or any summary of it, to any person who the Lord Chancellor believes may be a person of interest, or a person who has been named in a notice under section 12 of the 1988 Act.

Enacted by the Lord Chancellor

15th June 2008

2008 No. 1652

CORONERS, ENGLAND AND WALES

The Coroners (Amendment) Rules 2008

Made

16th June 2008

Laid before Parliament

26th June 2008

Coming into force

17th July 2008

The Lord Chief Justice, with the agreement of the Lord Chancellor, makes the followings Rules in exercise of the powers conferred by section 32 of the Coroners Act 1988(1).

These Rules may be cited as the Coroners (Amendment) Rules 2008.

1. The Coroners Rules 1984(2) are amended in accordance with rules 2 and 3.
2. For rule 43 substitute—

"Prevention of future deaths

43.—(1) Where—

- (a) a coroner is holding an inquest into a person's death;
- (b) the evidence gives rise to a concern that circumstances creating a risk of other deaths will occur, or will continue to exist, in the future; and
- (c) in the coroner's opinion, action should be taken to prevent the occurrence or continuation of such circumstances, or to eliminate or reduce the risk of death created by such circumstances,

the coroner may report the circumstances to a person who the coroner believes may have power to take such action.

(2) A report under paragraph (1) may not be made until all the evidence has been heard except where a coroner, having adjourned an inquest under section 16 or 17A of the 1988 Act, does not resume it.

(3) A coroner who intends to make a report under paragraph (1) must announce this intention before the end of the inquest, but failure to do so will not prevent a report being made.

(4) The coroner making the report under paragraph (1)—

- (a) must send a copy of the report to—
 - (i) the Lord Chancellor; and
 - (ii) any person who has been served with a notice under rule 19; and
- (b) may send a copy of the report to any person who the coroner believes may find it useful or of interest.

(5) On receipt of a report under paragraph (4)(a)(i), the Lord Chancellor may—

- (a) publish a copy of the report, or a summary of it, in such manner as the Lord Chancellor thinks fit; and
- (b) send a copy of the report to any person who the Lord Chancellor believes may find it useful or of interest (other than a person who has been sent a copy of the report under paragraph (4)(b)).

Response to report under rule 43

43A.—(1) A person to whom a coroner sends a report under rule 43(1) must give the coroner

- a written response to the report containing—
- (a) details of any action that has been taken or which it is proposed will be taken whether in response to the report or otherwise; or
 - (b) an explanation as to why no action is proposed
- within the period of 56 days beginning with the day on which the report is sent.
- (2) On receipt of a response under paragraph (1), the coroner—
 - (a) must send a copy of the response to—
 - (i) the Lord Chancellor; and
 - (ii) except where paragraph (6) applies, any person who has been served with a notice under rule 19; and
 - (b) except where paragraph (6) applies, may send a copy of the response to any person who the coroner believes may find it useful or of interest.
 - (3) Except where paragraph (6) applies, on receipt of a response under paragraph (2)(a)(i), the Lord Chancellor may—
 - (a) publish a copy of the response, or a summary of it, in such manner as the Lord Chancellor thinks fit; and
 - (b) send a copy of the response to any person who the Lord Chancellor believes may find it useful or of interest (other than a person who has been sent a copy of the report under paragraph (2)(b)).
 - (4) A person giving a response under paragraph (1) may make written representations to the coroner about—
 - (a) the release, under paragraphs (2)(a)(ii) or (b) or (3)(b), of a copy of the response; or
 - (b) the publication, under paragraph (3)(a), of the response.
 - (5) Representations under paragraph (4) must be made to the coroner no later than the time when the response is given under paragraph (1).
 - (6) On receipt of representations under paragraph (4), the coroner may decide that the response should not—
 - (a) be released in full under paragraphs (2)(a)(ii) or (b) or (3)(b); or
 - (b) be published in full under paragraph (3)(a).
 - (7) If paragraph (6) applies—
 - (a) the coroner must prepare a summary of the response; and
 - (b) paragraphs (2) and (3) apply to the summary of the response prepared by the coroner as they apply to the response received under paragraph (1).

Extension of time

43B. A coroner may extend the period of 56 days mentioned in rule 43A(1) (even if an application for extension is made after the time for compliance has expired)."

3. After rule 57 insert—

"Supply of information concerning the death of children to Local Safeguarding Children Boards

57A.—(1) Paragraph (2) applies if an inquest is to be held into the death of a deceased person or a post-mortem examination of the deceased's body is to be made under section 19 of the 1988 Act and the coroner has reason to believe that the deceased was or may have been under the age of 18 at the time of death.

(2) The coroner must, within 3 working days beginning with the date on which the coroner makes a decision to hold an inquest into the death of the deceased or to direct or request a post-mortem examination of the body under section 19 of the 1988 Act, secure that the appropriate Local Safeguarding Children Board is notified of the death.

(3) A coroner may supply information to a Local Safeguarding Children Board for use for the purposes of its functions.

(4) In this rule—

"the appropriate Local Safeguarding Children Board" means the Board established under section 13(1) of the Children Act 2004(3) within whose area the body of the deceased is lying;

"information" means any information that is