

Health and Safety Executive		Operational Circular	
		OC 124/11	
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Target Audience:
All HSE Inspectors

HEALTH AND SAFETY (ENFORCING AUTHORITY) REGULATIONS 1998:A-Z GUIDE TO ALLOCATION

This OC contains guidance derived from questions raised on enforcement allocation and other matters. The contents should assist inspectors and others in resolving questions which may arise, although the interpretation given is subject to judicial decision in any particular case.

INTRODUCTION

1. Previous OCs on the Health and Safety (Enforcing Authority) Regulations 1998 (HS(EA) Regulations) (**see Appendix 1**) have referred to a number of particular situations and given a clear steer as to the correct enforcing authority. Over the years, a mass of further information has accumulated informally and has been used in answering enquiries. This OC consolidates all this information in one location, in the form of a simple alphabetical guide given at **Appendix 2**, to provide a quick reference tool. It cannot deal with every situation, but will be reviewed and updated regularly as guidance on new situations accumulates.
2. It is anticipated that the guide will be helpful to enforcement liaison officers (ELOs) and also to other staff who have to decide on a regular basis to which enforcing authority a phone call, complaint or accident should be directed. The guide will also be issued to local authorities (LAs) as a local authority circular (LAC).
3. This OC also summarises the essentials of the HS(EA) Regulations and lists other guidance. Any questions should be directed to ELOs in the first instance, or if urgent, and the ELO is unavailable, directly to the Enforcement Liaison Section of CACTUS.

PRIME CONSIDERATIONS

4. Regulation 4(1) makes HSE responsible for enforcement against a county council, any other local authority as defined in reg.2, a parish council in England or a community council in Wales or Scotland, a police authority, a fire authority, the Ministry of Defence or a visiting force, the United Kingdom Atomic Energy Authority and the Crown (but not any part of premises occupied by HSE or any activity carried on there).
5. While HSE is the enforcing authority for any part of the premises occupied by the county council etc, it is not necessarily the enforcing authority if the county council etc do not themselves occupy the premises. The enforcing authority in such cases would be determined by the main activity carried on within those premises, the LA being the enforcing authority where the main activity is specified in schedule 1 (with HSE

responsible, in such cases, for the enforcement of any schedule 2 activities that may occur from time to time).

6. The LA enforce for those main activities listed in the Regulations schedule 1 which are not carried out by any of the organisations listed in para 4 above.
7. Activities listed in the Regulations schedule 2 are for HSE to enforce in premises, even if the LA otherwise has responsibility for enforcement in premises because the main activity carried out there is listed in schedule 1.
8. Regulation 5 provides arrangements enabling responsibility for enforcement to be transferred by agreement between HSE and the LA, or by the Commission.
9. HSW Act s.6 and the Supply of Machinery (Safety) Regulations 1992 (as amended), fall to HSE for all work activities.
10. The Electrical Equipment (Safety) Regulations 1994 (and certain other regulations made under the Article 100A Directive) make HSE responsible for enforcement in connection with electrical equipment designed for use or operation by persons at work, and for such equipment in use in non-domestic premises. The trading standards officer has enforcement responsibilities for consumer products.
11. The common parts of **domestic** premises fall to HSE, as does any work activity carried out at domestic premises where there is no independent means of access other than from the domestic areas of the property.

ANNOTATION OF INSTRUCTION

12. OC 124/7 - **note** 'See also OC124/11'.

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APPENDIX 1
(para 1)
OTHER GUIDANCE ON THE HEALTH AND SAFETY (ENFORCING AUTHORITY)
REGULATIONS 1998

- OC 124/7** *The Health and Safety (Enforcing Authority) Regulations 1998.*
- OC 124/8** *The Health and Safety (Enforcing Authority) Regulations 1998: reg.5 transfers and reg.6 assignments.*
- OC 124/9** *The Health and Safety (Enforcing Authority) Regulations 1998: main activity concept.*
- OC 124/10** *The Health and Safety (Enforcing Authority) Regulations 1998: motor vehicle repair.*

Appendix 2
(paras 1 and 2)

SUBJECT	EA	COMMENTS
Accommodation 1 Hotel, guest-houses, hostels	LA	
2 Bail hostels run by Probation Service where people are required to stay by the courts	LA	HSE for hostels operated and staffed by LA employees.
3 Permanent or temporary caravan/camping sites	LA	HSE for caravan/camp site operated by HSE-enforced occupier on his/her own premises where it is not a separate business but a minor activity, e.g. farmer.
		HSE for incidents concerning individual long-term tenants where caravan is being used as domestic residence rather than holiday accommodation.
		LA for site operator.
		HSE for LA-operated sites, and at temporary caravans/offices at construction activities.
4 Temporary fixed or mobile accommodation provided for casual farm workers or construction sites	HSE	Where the accommodation provided is not a separate business but a minor activity.
5 Privately run homes or centres where the main activity is the provision of sheltered residential accommodation for chronic disabled	LA	HSE where the main activity is residential training of physically/mentally disabled.
6 Bed and breakfast accommodation	HSE	Private dwellings, in which one or 2 bedrooms are let out, do not cease to be 'domestic premises'. and enforcement remains with HSE. LA if this is the main activity in non-domestic premises.
7 Holiday lets	HSE	Occasional arrangement between owner occupier and lessee, where the property essentially remains 'domestic premises'.
	LA	Where temporary or permanent accommodation is provided for more than 20 weeks.
legislation other than the relevant statutory provisions of HSW Act	TSO	General Product Safety Regulations 1994. Products within properties including

		household goods which are covered in the hire of the property. Caravan manufacturers, site operators letting out caravans, are subject to the Consumer Protection Act 1987 (CPA). Under CPA s.10 the caravans should be 'reasonably safe'. Furniture and Furnishings (Fire Safety) Regulations 1988, as amended 1989 and 1993.
	LA	General legislation relating to housing and public health provisions.
8 Domestic premises	HSE	Confined to peripatetic work activities or their effects.
business activity	HSE	LA for Sch 1 activities where the activity is carried out in part of the premises where clientele have separate access/egress without recourse to passing through the domestic accommodation.
rented domestic accommodation	HSE	The management of domestic property by a housing association doesn't alter the fact that it is 'domestic premises'.
Houses in multiple occupation (HMOs)	HSE	LAs only enforce housing legislation etc.
9 Nursing homes, residential care homes and dual-registered homes	HSE and LA	See ' nursing homes and residential care homes '.
Acupuncture	LA	HSE when carried out under the supervision or control of a registered medical practitioner, a dentist registered under the Dentist Act 1984, a physiotherapist, osteopath or a chiropractor. (Sch 1 para 8). HSE when carried out in domestic property.
Aerodrome activities (Not airport , see below)	LA	Where the main activity is the practice or presentation of the arts, sports, games entertainment or other cultural or recreational activities. (Sch 1 para 9).
	HSE	Where the main activity is business flights. See Memorandum of Understanding with the Civil Aviation Authority under 'Airports' below.
Agricultural activities	HSE	Reg.2(1)(a) defines this as including horticulture, fruit growing, seed growing, dairy farming, livestock breeding and keeping, including the management of livestock up to the point of slaughter or export from Great Britain, forestry, the use of land as grazing land, market gardens and nursery grounds and the preparation of land for agricultural use. (Sch 2 para 7).

		<p>But these activities are not defined as 'agricultural activities' when carried out at a garden centre or other shop. (Reg. 2.(1)(b)). LA enforced.</p> <p>For this purpose 'livestock breeding and keeping' does not include activities the main purpose of which is entertainment. (Reg 2.(1)). Thus 'open farms' visited by the general public would be LA enforced.</p>
Agricultural shows	HSE	<p>Any activity at an agricultural show which involves the handling of livestock or the working of agricultural equipment. (Sch 2 para 7). Horses do not fall within definition of 'livestock' unless used for any agricultural activity, e.g. ploughing.</p> <p>LA where no agricultural activity, unless part of a farm and not a separate legal entity.</p>
Aircraft (civil) activities	HSE	<p>Activities on during aircraft turnround, including refuelling, cargo and baggage loading and unloading, internal and external aircraft cleaning, maintenance activities etc.</p>
	CAA	<p>Occupational health and safety of the flight crew and cabin crew on aircraft. Health of passengers on aircraft. Further internal guidance will be produced in due course. Contact CACTUS Transportation Section for further assistance if required.</p>
Air Force (incl Royal Auxiliary Air Force)	HSE	<p>'Off-site' premises associated with RAF bases and run by SIF (Services Institute Fund) e.g. bowling alleys, have no Crown Immunity. Sch 1 activities will be enforced by the LA.</p>
Airports	HSE	<p>The common parts of land within the perimeter of an airport (except airport car parks), which are not within a building or to which passengers are admitted but other members of the public are not admitted (reg.3(4)(b)), i.e. 'air-side' to which only passengers and airport employees have access.</p> <p>See the Memorandum of understanding with Civil Aviation Authority and associated annexes listed on the CAA's website for guidance the boundary between CAA and HSE. Guidance on the type of accidents investigated by the Department for Transport's Air Accident Investigation Branch are listed on their website (via Accident Investigation shown on the Department of Transport's homepage).</p> <p>Accidents reported to AAIB are not reportable under RIDDOR, though HSE may wish to investigate a small subset of these accidents to establish if health and safety law has been breached (e.g. where a vehicle strikes a parked aircraft, but also injures a pedestrian). Joint HSE/AAIB investigations are unlikely, because AAIB's locus is only to prevent recurrence; they have no punitive powers. Further guidance can be obtained from the Transportation Section of CACTUS.</p>
	LA	<p>Separately occupied premises and common parts within a building to which members</p>

		of the public have access. Airport car parking facilities. (Sch 1 para 14).
All terrain vehicles (ATVs and quad bikes)	HSE	Agriculture and forestry, and where used by fire services, electricity companies, water companies, the MOD and other HSE enforced activities.
	LA	Leisure activities.
Animals, birds or other creatures	LA	In connection with the care, treatment, accommodation or exhibition except as below.
	HSE	Where the main activity is horse breeding or horse training at a stable, or is an agricultural activity or veterinary surgery (Sch 1 para 11). Handling of livestock (Sch 2 para 7), fish, maggot and game breeding except in a zoo (Sch 2 para 10). Research.
Arboriculture	HSE	
Army (including Territorial Army)	HSE	
Art galleries	LA	HSE where LA owned/administered.
Asbestos work	HSE or LA	Falls to normal enforcing authority for the premises except when it is a construction activity. In this case allocate as Construction except that all work on maintenance or removal of asbestos from pipes, boilers or parts of heating or water systems in LA-enforced buildings fall to LA even in segregated areas.
Bakery	HSE	LA where the 'manufacturing' activity is in support of a single shop and the bakery is not the main activity.
Banks	LA	
Beach activities	LA	For the practice or presentation of the arts, sports, games, entertainment or other cultural recreational activities except where the main activity is the exhibition of a cave to the public. (Sch 1 para 9). Catering services, consumer services or other Schedule 1 activities. Note LA boundary extends to low water mark.
Beauty parlours	LA	Including, for example, electrolysis.
Bed and breakfast		See ' accommodation '.
Birds		See ' animals, birds or other creatures '.
Boarding kennels	LA	
Boats (ships)	HSE	Where the main activity is ship building or repairing.
MoU		<i>The memorandum of understanding (MoU) between the Health and Safety Executive</i>

		<p>(HSE), The Maritime and Coastguard Agency (MCA) and the Maritime Accident Investigation Branch (MAIB) for Health & Safety Enforcement activities etc at the water margin and offshore (file 780) summarises types of crafts covered by this agreement and the inspection and enforcement responsibilities which apply.</p> <p>The Merchant Shipping Act 1995 s.313 defines a ship as 'every description of vessel used in navigation'. For the purposes of the MoU, a ship is considered to be used in navigation if it operates on the sea or on waters listed in the Annex to Merchant Shipping Notice MSN 1719(M) 'Categorisation of Waters', and subsequent revisions.</p> <p>Examples of some of the boats and activities where HSW Act may be enforced by HSE or LAs are detailed below.</p>
1 Passenger operations water taxis, ferries: hotel/restaurant boats (no more than 12 passengers)		Location: waters listed in Annex to MSN 1719(M).
	MCA/ MAIB	<p>Subject to Small Commercial Vessels Code 1994 or equivalent navigation authority standard.</p> <p>Any vessel carrying more than 12 passengers must be certificated by MCA as a passenger vessel.</p>
		Location: inland waters not listed in Annex to MSN 1719 (M)
	HSE/ LA	<p>It is expected that the boat and equipment would comply with the relevant MCA Code for vessels operating on inland waters.</p> <p>The main activity will determine whether LAs will be the enforcing authority for HSW Act legislation.</p>
2. Hire craft a) Hired to public for leisure use	LA	<p>Location: inland waters (i.e. all waters other than the sea).</p> <p>The hiring out, together with the winter maintenance, of pleasure craft for use on inland waters. (Sch 1 para 10)). Responsible for enforcing HSW legislation in relation to the hiring activity and the results of hiring out a poorly maintained boat.</p>
	HSE	Location: other waters than inland waters.
	MAIB	<p>Location: any waters.</p> <p>MCA provides advice both directly and via District Marine Safety Committees on standards of safety for amateur boaters.</p> <p>Boats may be certified by the Navigation Authority.</p>
b) Hired to an organisation which		Location: any waters.

will conduct a work activity, e.g. a school party with teacher in charge of boat	HSE/ MAIB	Boats may be certified by the Navigation Authority. HSE/LAs responsible for enforcing HSW legislation in relation to the hiring activity and the results of hiring out a poorly maintained boat. MCA to advise as necessary on adequacy of training for operation of boat.
c) Hired with crew, e.g. chartered for reception, or by professional master for commercial operation	MCA/ MAIB	Location: any waters. See Note 1 'passenger operations' above.
3 Sailing instruction (associated with adventure activities for young persons)		
a) Commercial operation catering for under 18 yrs (includes a voluntary organisation selling more than 3 days adventure activities to non members)		Location: sea waters listed in Annex to MSN 1719(M) and other waters above 100 metres wide.
	MAIB	Boat and equipment to comply with appropriate MCA statutory Code, equivalent navigation authority standard, or, for non- regulated pleasure vessels, Coastguard guidance. Centre would be licensed under Adventure Activity Licensing Regulations 1996 (AALR). The Licensing Authority has no enforcement powers.
	LA	LA is the enforcing authority for EA Regs Sch 1 para 9 activities. The LA duties are extended by AALR to cover activities conducted remote from a base where that base is allocated to them.
b) Provision for under 18 yrs by educational authority/local authority		Location: sea waters listed in Annex to MSN 1719(M) and other waters above 100 metres wide.
	MAIB	Boat and equipment to comply with appropriate MCA statutory Code, equivalent navigation authority standard, or, for non- regulated pleasure vessels, Coastguard guidance.
	HSE	HSE will be the AALR enforcing authority for educational providers and for all centres run by LAs, as well as those who retain domestic premises as a base for peripatetic and remote working.
c) Provision by a school or college for its own pupils or students	HSE	Location: any waters. Activity is not required to be licensed but HSW Act applies to work activity of teachers.
	MAIB	Coastguard responsible for safety of non-regulated pleasure craft.

d) Provision by voluntary organisation with volunteer boatman and/or instructors		Location: any waters. No work activity and vessels not commercially operated.
	MAIB	Coastguard responsible for safety of non-regulated pleasure craft. MAIB or the navigation authority may still investigate accidents.
4 Permanently moored ship	LA	Activities on ships which are permanently moored in an estuary which is within the LA boundary and which are used for such purposes as restaurants, public houses, theatres, museums, exhibitions or residential accommodation. HSE would be the enforcing authority where the mooring is beyond the LA boundary.
5 Marinas		See 'marinas'.
6 Chain ferries	MCA	Currently under Agency Agreement with HSE. (SIM 7/1999/09) HSE retains enforcement responsibility for manually-operated ferries.
Bouncy castles	LA	Where they are not part of a fairground (defined).
Bowling alleys	LA	Including those 'off-site' premises run by SIF (Services Institute Fund-associated with RAF bases) and any that may be run by the King George V Fund for Sailors. These are charitable organisations linked with MOD bases but with no Crown Immunity).
Builder's merchants	LA	
Building societies	LA	
Bungee jumping	LA	Bungee jumping is regarded as the practice of a recreational activity and is allocated to the LA for enforcement (Sch 1 para 9), unless this activity is at premises enforced by HSE . See OC 331/2 I for guidance.
reverse bungee jumping	HSE	Apparatus falls within definition of 'fairground equipment'.
Cafes	LA	
Camp sites		See ' accommodation '.
Campus of university etc	HSE	The campus should be taken as meaning the grounds associated with buildings or other facilities, in which the main activity is education, occupiers or buildings within those grounds will therefore fall to HSE. Separately occupied premises within the campus where the main activity falls within Schedule 1 (e.g. bank, shop) may be considered for transfer to the LA under reg.5.
Canal operation	HSE	
Caravan sites		See ' accommodation '.

Car parks	HSE	LA for car parking facilities within the perimeter of an airport. (Sch 1 para 14), and those belonging to premises where the enforcing authority is the LA.
Car hire	LA	Main activity likely to be 'office activities'. See ' motor vehicle repair ' for alternative scenarios.
Car wash/valet services (main activity)	HSE/ LA	Consumer service carried out in 'non-shop' premises, therefore falls to HSE by default. Considered suitable for reg.5 transfer by agreement.
Carnivals		See ' Street carnivals/parties '
Cash and carry	LA	(Sch 1 para 1).
Catering services	LA	Where catering services are provided in part of the premises separately occupied by a separate occupier these will be separate premises allocated to LAs, unless they are in premises occupied by the specific bodies covered by reg.4(3) when HSE will be responsible for such activities. (reg.4.(2)). Premises providing 'In flight catering' will be LA -enforced where such activities are the main activity of an undertaking at premises.
		Where catering is a minor activity carried on by the same occupier it will be inspected by the authority responsible for the premises as a whole, e.g. factory canteen incidental to a manufacturing activities for HSE.
Catteries	LA	
Cattle markets	HSE	Enforcement responsibility for 'the management of livestock up to the point of slaughter or export from Great Britain' is allocated to HSE by virtue of the definition of 'agricultural activities' in reg.2 and the provisions of Sch 2 para 7. This activity would include anything that is done in relation to livestock at a market. Note 'livestock' does not include horses (except for the purpose of an agricultural activity e.g. ploughing).
	LA	Separate activities within Schedule 1.
Caves (exhibition of cave to the public)	HSE	(Sch 1 para 9).
Channel tunnel	HSE	(reg.3.(5)(a)).
Child care, playgroup, nursery facilities and after school clubs	LA	In non-domestic premises that are not part of a school and are independently run. (Sch 1 para 15).
	HSE	Where provided in separate premises within a school premises under control of

		independent operator.
	HSE	Where provided in school premises under control of education authority or LA.
	HSE	Pre-school child care activities in domestic premises. Since such premises require to be registered with the LA there seems little point in introducing a separate enforcing authority for those instances where the facilities are inherently part of the domestic house and there is no separate access/egress. Regulation 5 transfer may be considered.
	Note	It is recognised that some pre-school child care premises offer an element of education. It is helpful to consider the provision of compulsory education as a guiding principle for premises where this occurs to determine who is the correct enforcing authority; compulsory education begins in the term after a child reaches 5 years of age.
Chiropody	LA	Except under the supervision or control of a medical practitioner.
Churches		See ' religious activities '.
Cinemas	LA	
Circuses	LA	
Cleaning contractors	HSE/LA	Enforcing authority depends on the main activity carried out at the premises. See also ' peripatetic activities '.
Clubs (private)	LA	Arts, sports, games, entertainment or other cultural or recreational activities. Note Where there is no employment, there should be no intervention by an enforcing authority in the sporting or other activities of private clubs, except in reaction to serious incidents or follow-up of complaints. Where there are known to be employed or self-employed persons working in a private club, plans for any preventative inspection should be based solely on the risks arising from the employment activities. These general principles need to be qualified where members of the public who are not club members, or their invited guests are put at risk by the clubs activities. HSC Guidance HSC(G)1 contains further advice (see OC 331/3). See ' child care, playgroup, nursery facilities and after school clubs '.
Colleges	HSE	The colleges of collegiate universities such as Oxford or Cambridge, are considered to fall to HSE as the main activity is education despite there also being a large element of residential accommodation.

Common parts - domestic premises	HSE	(Reg.3(1)). Such premises will include lobby areas and common staircases of blocks of flats. Only relates to common parts of 'domestic property' so it does not affect LA enforcement in hotels, guest houses and hostels etc.
Computer software production	LA	Within definition of 'office activities' (reg.2(1)).
Concert halls (not LA- owned)	LA	
Construction		'Construction work' and 'contractor' have the meaning assigned to them by the Construction (Design and Management) Regulations 1994 (CDM Regs) reg.2(1).
	HSE	A building or construction site, i.e. premises where the only activities being undertaken are construction work and activities for the purposes of or in connection with such work. Reg.3(5)(c).
	HSE	The following activities carried on in any premises by persons who do not normally work in the premises, Sch 2 para 4(a)(i-iii), as follows: (i) - All notifiable construction projects. CDM Regs defines a project as being notifiable if the construction phase exceeds 30 days or involves more than 500 person days of construction work, or
		(ii) - Where the whole or part of the work to be undertaken by the contractor at the premises is to the external fabric or other external part of a building or structure, Note: Fabric is the basic structure, the walls, roof and floor. 'Other external part' refers to something other than the fabric. An external door, for example, is a fixture believed to fall within this description. A door also forms part of the structure, and its construction or repair etc falls within the definition of 'construction work'.
	HSE	(iii) - Where the construction work is carried out in a physically segregated area of the premises, the activities normally carried out in that area have been suspended for the purpose of enabling the construction work to be carried out, the contractor has authority to exclude from that area persons who are not attending in connection with the carrying out of the work and the work is not the maintenance of insulation on pipes, boilers or other parts of heating or water systems or its removal from them.
	LA	Non-notifiable construction work which is entirely internal to the building and which is

		not separated off from the normal operations of the premises where the LA is the enforcing authority for that class of premises.
	LA	Where the only work carried out in a segregated area of LA- enforced premises is the removal or maintenance of insulation on heating or water systems.
	LA	In general, the erection and dismantling of temporary stages, grandstands and other temporary platform arrangements used by the entertainment industry are not construction operations. The specific requirements of the various regulations made under HSW Act will not apply to this kind of work. Similarly the CDM Regs do not apply to these kinds of structure. (HSG195: The Event Safety Guide).
Cosmetic services	LA	Except where they are carried out under the supervision or control of a registered medical practitioner, a dentist, physiotherapist, osteopath or chiropractor.
Consumer services (provided in a shop)	LA	Except when dry cleaning or radio and television repairs are the main activity (Sch 1 para 6). Where consumer service is not provided in a shop default to HSE . HSE where the main activity is geared to the Trade rather than the public consumer.
Container depots	HSE	Where the main activity is the storage of goods in the course of transit to or from dock premises, an airport or a railway. Sch 1 para 1(a).
Council premises	HSE	Premises occupied by the council itself, including any part occupied by other persons for the purpose of providing services at the premises for the specified body.
	LA/HSE	Separate council-owned premises sublet to others will depend on the main activity carried out within those premises, e.g. LA would enforce within shops in council-owned shopping mall or sports centre with HSE responsible for enforcing any duties on the LA.
Council activities, i.e. county council other local authority, parish council or a community council, unitary authority.	HSE	For the activities of these bodies and those of their officers or employees wherever they happen to work, e.g. an LA refuse collection activity at supermarket premises for which the LA is the enforcing authority. HSE will also enforce for common parts of multi-occupied premises for which the bodies have duties under the relevant statutory provisions but which may not be occupied by that body, e.g. common parts of LA-owned market. Separate occupiers in the market will be enforced by the LA .
Courier services	LA HSE	Office activity. Peripatetic activity.
Courts	HSE	Crown and Magistrates' Courts, HM Coroners' Courts and Scottish Courts including District Courts.

Crèches (at HSE-enforced premises)	HSE	
Crèches (at separately run establishments)	LA	
Crematoria	HSE	
Crown premises and activities other than HSE	HSE	Including that part of the premises occupied by other persons for the purpose of providing services at the premises for the specified body. (Reg.4).
Dairy farms	HSE	
Day care centres	HSE	Non-residential where day care is main activity.
Day nurseries		See ' child care '.
Delivery personnel	HSE	Unless work activity on LA-enforced premises. Includes milk/paper deliveries etc. See ' peripatetic activities '.
Dental laboratories	HSE	
Dentists	HSE	Including those within retail outlets and offices.
District councils		See ' council premises '.
Dock premises	HSE	Defined by The Docks Regulations 1998 reg.2(1) as 'any dock, wharf, quay, jetty or other place at which ships load or unload goods or embark or disembark passengers, together with neighbouring land or water which is used or occupied, or intended to be used or occupied, for those or incidental activities, and any part of a ship when used for those or incidental activities'. Reg.22 allocates dock premises to HSE.
	LA	Some 'docks' may have activities carried on within them which would normally fall to the LAs for inspection, e.g. pubs, shops, clubs, warehouses or offices. The LA will be the enforcing authority for such activities provided they are not carried out within 'dock premises' as defined.
Doctors' surgeries	HSE	
Domestic premises (where work activity is also carried out there)	HSE	Where activity is carried out within domestic house. If there is separate access/egress to a dedicated room used for carrying out the business and the main activity falls within Schedule 1 then responsibility would fall to the LA .
Dry cleaning	HSE	LA for dry cleaning in coin-operated units in launderettes and similar premise. (Sch 1 para 7.) A dry-cleaning business within a supermarket operated by supermarket staff would

		fall to the LA on the main activity of that supermarket. HSE would be the enforcing authority for the dry- cleaning activity (except coin operated) if those staff were employed by an independent company.
Education	HSE	
After school clubs		See ' child care, playgroup, nursery facilities and after school clubs '.
Electricity systems	HSE/LA	The installation, maintenance or repair of the consumer's installation, up to the output terminals of the supply meter, will fall to the enforcing authority for those premises.
	HSE	Work on the electricity supplier's side of the output terminals of the supply meter in any premises. Sch 2 para 4(c). Reg.2(1) (definition of 'electricity system').
Embalming	HSE	Except where the main activity is that of an undertaker. See 'funeral undertaker' .
Employment agency workers	NOTE	If inspectors become aware of any incident in which: a) a worker is either killed or sustains a reportable major injury whilst at work; and b) that worker was employed (or effectively employed) by an employment agency at the time of the incident, they should arrange for the Employment Agency Standards Inspectorate of the Department of Trade and Industry to be informed as quickly as possible. This does not apply to incidents involving registered nurses or midwives supplied by agencies. See OC 84/4 for further information.
Entertainment (public)	LA	HSE have responsibilities where the LA is the duty holder and for specific Schedule 2 activities in premises, e.g. fairgrounds, broadcasting, recording, filming, and any activity at an agricultural show which involves the handling of livestock or the working of agricultural equipment.
Estate agents offices	LA	HSE when out of the office and not in LA-enforced premises.
Exhibitions and exhibition centres	LA	Where the main activity is the display or demonstration of goods for the purpose of offer or advertisement for sale. (Sch 1 para 2).
Factories	HSE	
Fairgrounds	HSE	'Fairground equipment' means any fairground ride, any similar plant which is designed to be in motion for entertainment purposes with members of the public on or inside it or any plant which is designed to be used by members of the public for entertainment purposes either as a slide or for bouncing upon, and in this definition

		<p>the reference to plant which is designed to be in motion with members of the public on or inside it includes a reference to swings, dodgems and other plant which is designed to be in motion wholly or partly under the control of, or to be put in motion by, a member of the public". (HSW Act s.53, as amended by the Consumer Protection Act 1987).</p> <p>'Fairground' means such part of premises as is for the time being used wholly or mainly for the operation of fairground equipment, other than a coin-operated ride, non-powered children's playground equipment, swimming pool slide, go-kart, or plant to be used by members of the public for entertainment purposes for bouncing upon. (Reg.2(1)(b)).</p>
		A tethered passenger balloon should be treated as 'fairground equipment'.
	LA	Equipment such as coin-operated children's rides outside shops, bouncy castles at pubs, hotels and other LA-enforced premises; and independent go-kart tracks.
	HSE	<p>Street fairs.</p> <p>Fairgrounds and amusement parks.</p> <p>Fairgrounds forming a discrete part of premises otherwise allocated to LA, e.g. holiday camps or motor sport event.</p>
Film and video broadcasting, recording or filming activities	HSE	<p>Such activity in any premises occupied by a radio, television or film undertaking. (Sch 2 para 3).</p> <p>See also 'radio broadcasting/radio, TV and film making'.</p>
Fire Authority premises activities	HSE	Reg.4(3)(e) including any part occupied by other persons for the purpose of providing services at the premises for the specified body.
Fish breeding (except zoos)	HSE	<p>(Sch 2 para 10).</p> <p>Includes 'fish farming'.</p>
Fishing vessels - loading and unloading	HSE	The Loading and Unloading of Fishing Vessels Regulations 1988 reg.8.
Football stadia	LA	Unless LA-run.
Forestry work	HSE	
Funeral directors	LA	HSE where the main activity is embalming or the making of coffins. (Sch 1 para 12).
Furniture storage/removal	HSE	e.g. Pickfords.
Game breeding	HSE	LA when carried out in a zoo.
Garages	HSE/LA	see ' motor vehicle repairs '.

Garden centres	LA	Note - The interpretation of 'agricultural activities' does not include such activities at a garden centre or other shop. (Reg.2 (1)(b)).
Gas systems	HSE	The installation, maintenance or repair of any gas system, or any work in relation to a gas fitting carried on at any premises by persons who do not normally work in the premises. (Sch 2 para 4(b)).
	LA	Where the above work is carried out by a person who normally works at a premises allocated to the LA. See LAC 33/6.
Gas, natural or town-gas	HSE	Where the main activity is the sale or storage. (Sch 1 para 1(c)).
Golf clubs/courses	LA	HSE where LA owned.
Go-karting/pro-karting	LA	HSE at fairground. HSE responsible for HSW Act s.6 matters.
Government offices and depts	HSE	LA for HSE offices.
Graveyards	HSE	Where the premises is separate from the church or is an LA- administered graveyard attached to a church.
	LA	Where attached to and administered by a church.
Grooming parlours	LA	
Guest houses	LA	See ' accommodation '.
Hairdressers	LA	
Hair transplanting	LA	
Health authorities/Trusts offices and residential accommodation	LA	Hospitals are HSE. NHS Executive offices are Crown and therefore enforced by HSE .
Health clubs	LA	
Health and Safety Executive offices	LA	HSE would be responsible for enforcement at the laboratories carrying out work for them.
Hire company	LA	HSE if major activity is hire to the trade.
Holiday activities in schools	HSE	Adventure Activities Licensing Authority.
Holiday camp	LA	Except that any fairground in a holiday camp will fall to HSE.
Home workers	HSE	Unless the work is carried out in a dedicated area (with separate access/ egress from house) where the activities would fall within Schedule 1, e.g. 'office activities'.

Horse breeding and training	HSE	See also ' riding stables '.
Horticulture	HSE	LA when activities are carried out in garden centre or other shop. Reg.2 (1)(a) and (b).
Hospitals	HSE	Reg.3(5).
Hostels	LA	
Hotels	LA	
Hunt kennels	LA	Kennels operated by a hunt will fall to the LA as 'accommodation of animals' unless they are a minor activity within a larger undertaking such as a farm estate.
Inns	LA	
Insurance companies	LA	Office activities.
Ionising radiations, e.g. X-ray, industrial radiography	HSE	Work with ionising radiation carried out on any premises by persons who do not normally work in the premises (with exceptions). The exceptions normally relate to work with modern smoke detectors, beta lights (e.g. fire exit signs) and other type approved equipment. Sch 2 para 4(d).
	LA	Work with ionising radiations carried on in LA-enforced premises by the staff who normally work there, together with contractors work in such premises on equipment excepted above.
	HSE	The use of ionising radiations for medical exposure. Sch 2 para 5. 'Medical exposure' is defined in the Ionising Radiations Regulations 1985 as the purpose of his medical or dental examination or treatment which is conducted under the direction of a suitably qualified person and includes any such examination or treatment conducted for the purpose of research. In some small therapeutic clinics it may be that the only significant hazard is an x-ray set. In these circumstances the entire premises should be transferred to HSE under reg.5.
	HSE	Any activity in premises occupied by a radiography undertaking in which there is carried on any work with ionising radiations. Sch. 2 para 6. This is intended to cover premises where ionising radiations are used or stored but which otherwise may fall to LAs under Schedule 1, e.g. because the main activity of the premises may be an office.
Laboratories	HSE	Where this is the main activity on the premises.
Laser shows/display	LA	The practice or presentation of the arts, sports, games, entertainment or other cultural

		activities. (Sch 1 para 9) and other Schedule 1 activities. Otherwise HSE , e.g. education, research.
Launderettes (coin operated only)	LA	Including coin-operated dry cleaning.
Laundries and dry cleaning (not coin operated)	HSE	
Leisure/cultural activities	LA	Schedule 1 para 9 allocates a wide range of premises to LAs for example sports facilities, cinemas, circuses, racecourses, riding schools etc. Cultural activities will include non- educational pursuits such as dance schools, other than those attached to schools.
	HSE	Where the main purpose of the premises is educational or vocational training similar to that provided in the mainstream educational system, such premises will remain with HSE including their evening use for leisure purposes.
Livestock markets		See ' cattle markets '.
Local Enterprise Councils (LECs)		See ' Training & Enterprise Councils '.
Mail order	LA	Office and warehouse activities.
Marinas	LA/HSE	Dependent on the main activity/place of activity. Widely held view is that they are so closely associated with the leisure industry that unless the main activity was boat building/repair or the premises was a dock, they would fall to the LA. Refuelling activities would be LA as might be catering/retail activities.
Massage parlours	LA	
Metal stockholders	LA	Metal stockholders will normally fall to the LA in terms of the sale or storage of goods for retail or wholesale distribution. (Sch 1 para 1). These premises or appropriate parts, may be transferred to HSE under local transfer arrangements, where there is complex equipment on site or significant processing of the material.
Miniature railways	HSE	Miniature railways are those railways having a gauge less than 350 mm which are not statutory railways. (The only statutory miniature railway at the moment is the Wells and Walsingham Railway). Miniature railways on discrete sites or within fairgrounds and amusement parks will be HSE inspected. Where the miniature railway is located within a leisure site, or a discrete site, it may be considered for transfer to the LA .

Mine	HSE	Any activity in a mine. (Sch 2 para 1).
Mobile vendors	LA	While a vehicle is parked in connection with the sale from it of food, drink or other articles the vehicle together with its pitch shall be regarded as separate premises and the LA will be the enforcing authority. (Reg.3(3)).
Mobile workshops	HSE	
Motor car exhausts, sale and fitting	LA	Where the main activity carried on in premises is the sale and fitting of motor car exhausts. (Sch 1 para 1).
Motor sport	LA	
Motor vehicle repair	HSE/ LA	See detailed guidance in OC 124/10 or LAC 23/13. DIY garage workshops attached to Halfords or similar outlets will be enforced by LA on the basis that the main activity at the overall premises is the sale of goods.
Museums	LA	HSE will enforce at LA museums.
National Trust	LA	HSE for agricultural activities. HSE where the main activity at the premises is essentially a working factory or farm, even though they are open to the public.
Navy (Incl RNVR)	HSE	
Night clubs	LA	
Notifiable installations	HSE	The Notification of Installations Handling Hazardous Substances Regulations 1982.
Nurseries (pre-school)	LA	Except if LA run or within domestic house. See ' child care, playgroup, nursery facilities and after school clubs '.
	HSE	Under the Children's Act 1989 there is a legal category of schools registered for children age 3-5 years called 'nursery schools' which require qualified teachers and provide structured education. These fall to HSE.
Nursing homes	HSE	Homes registered under the Registered Homes Act 1984 s.21 in relation to England and Wales, and the Nursing Homes Registration (Scotland) Act 1983, in Scotland, have as their main activity, the provision of nursing or medical care. Registration itself will thus allocate these premises to HSE.
Dual-registered homes		See ' residential care homes '.
Offshore installations	HSE	(Reg.3(5)(b)).

Office activities	LA	Where the main activity is an office activity. HSE for LA, Crown premises, offices within premises where HSE is the enforcing authority.
Old peoples' homes		see 'nursing homes/residential care homes'.
Parachuting	LA	A demarcation of responsibility has been agreed between HSE and the Civil Aviation Authority (CAA) for safety of non-employees, including the public, involved with or affected by parachuting. Serious or fatal incidents/accidents are subject to a British Parachute Association Board of Enquiry who report to the CAA. OC 801/2 and Supplement provide further guidance. Incidents/complaints referred to the LA should be discussed with the ELO in the first instance.
Parcel carriers		See ' warehouses '.
Peripatetic activities	HSE	LA enforcement responsibility extends only to HSW matters relevant to the premises they are inspecting, they have no locus to discuss peripatetic work except such work that is carried out within the premises enforced by that LA.
Pesticides	HSE/LA	Fall to respective enforcing authority for premises. LAs enforce Food and Environment Protection Act 1985/Control of Pesticides Regulations 1986 in respect of the use of pesticides in domestic premises. Note: MAFF/SOAFD operate a Wild Life Incident Investigation Scheme (WIIS) (See OC 301/14). There is enforcement overlap here, e.g. when investigating the death of a domestic pet, a WIIS officer may decide that the work done by a pest control company has put children at risk as well as pets, making it more matter for HSE. Also incidents involving bees are another overlap area, if hives are adversely affected by spray drift, then it may be appropriate for MAFF/SOAFD to take the lead.
Petrol stations	PLA	Petroleum Licensing Authority. Petroleum Consolidation Act (Enforcement) Regulations 1979.
	LA	HSW Act.
Pipelines	HSE	Any activity in relation to a pipeline within the meaning of the Pipelines Safety Regulations 1996 reg.3.
Playgroups	LA	See ' child care, playgroup, nursery facilities and after school clubs '.
Police Authority premises and activities	HSE	Reg.4(3)(d) including any other part of premises occupied by other persons for the purpose of provided services at the premises for the specified body.

Pony trekking	LA/ HSE	The enforcing authority will depend on the main activity. May be subject to the Adventure Activities Licensing Regulations 1996.
Post offices	LA	Premises offering service to the public (post office counters). All letter sorting.
	HSE	Parcel sorting.
Postal deliveries	HSE	Except road traffic accidents (police) or accidents on LA- enforced premises (LA).
Private house	HSE	Unless it is an LA-enforced activity in separate part of a house not involving domestic part, i.e. no access through house.
Probation services	HSE	Probation offices in courthouses unless exclusively for probation service. Probation and probationary workshops and probation home visits and probationary service.
	LA	Probation offices away from court-houses. Probation hostels and probationary accommodation.
Public places		Specific legislation, e.g. relating to nuisance - dust/noise, unsafe buildings, etc is available for enforcement by the LA and will take precedence over general HSW Act and its relevant statutory provisions enforceable by the relevant enforcing authority.
Quarry	HSE	Any activity in a quarry other than a quarry in respect of which notice of abandonment has been given under the Mines and Quarries Act 1954 s.139(2). (Sch 2 para 1).
Quarry edges	LA	Under the Environment Protection Act 1990.
Race courses	LA	
Radio broadcasting	HSE	(Sch 2 para 3).
Radio & television repair	HSE	Where this is the main activity. (Sch 1 para 6).
Railway operation	HSE	A railway is defined by the Transport and Works Act 1992 (TWA) as a system of transport employing parallel rails which provide support and guidance for vehicles carried on flanged wheels, and, form a track which is either of a gauge of at least 350 mm. or crosses a carriageway, but does not include a tramway. Minor tramway sections on an otherwise conventional railway are not excluded.
	HSE	Common parts in a railway station or terminal or in a goods yard which is served by a railway. (Reg.3(6)). LAs, by virtue of Sch 2 para 12, cannot enforce activities relating to the operation of a railway. Therefore HSE is also the enforcing authority for any activity in a railway

		control office (including railway ticket offices) relating to the operation of a railway.
		LAs , however, are the enforcing authority for the office activities, defined by reg.2, of these premises.
Recreational activities (not fairgrounds)	LA	
Religious activities	LA	Premises where the main activity is all forms of religious worship, evangelical and church social events. Church run accommodation, e.g. hostels. HSE where the main purpose is education or training (both vocational and non-vocational) or medical (hospitals run by a religious order).
Removal companies	HSE	
Residential accommodation		See ' accommodation '.
Residential care homes	LA	Where the main activity is the provision of residential accommodation.
	HSE	Homes run by LAs.
		Dual-registered care homes. The provision of qualified nursing care distinguishes a nursing home from a residential care home so, when determining the most appropriate enforcing authority, it is necessary to consider carefully the main activity, this should focus on the main purpose for which an organisation uses a premises. The time spent caring for patients or residents, or the number of beds, cannot be the sole indicators of allocation, however they are factors which may need to be taken into account. Where nursing/medical care is the main activity, HSE will be the enforcing authority.
		To decide if nursing care is the main activity it may be helpful to consider the following.
		National Care Homes Association, represents mainly residential care homes. Registered Nursing Homes Association, represents only registered nursing homes, including some dual registered homes. Independent Health Care Association, represents private hospitals and some nursing homes.
		Medical care - nursing homes would involve clinical decisions relating to the dispensing of drugs (usually via a local GP as an in-house doctor is unlikely).
		Nursing homes will require staff to be on duty at all times. Mobility of patients - nursing involves much more manual handling, bathing and

		<p>toileting of patients as the patients mobility is more often than not significantly impaired due to ill health.</p> <p>Nursing homes may use medical devices such as drug infusion devices.</p> <p>Nursing homes will need to take measures to control infection risks and will often have to make arrangements for the disposal of clinical waste.</p> <p>Nursing homes include registered mental nursing homes. In such homes, patients will include the mentally ill and infirm including, in some cases, those sectioned under the Mental Health Act.</p>
		<p>To decide if residential care is the main activity it may be helpful to consider the following.</p> <p>People in residential care homes will have various degrees of dependence from rehabilitation of alcoholics to the elderly. It is undesirable to set down strict guidelines across this range.</p> <p>Residential care homes differ from nursing homes in that those in residence are likely to have much more mobility, be in better health and enjoy many of the same pursuits as those living in their own homes. This said, it is normal for people to take responsible risks and people living in residential care homes are entitled to do the same where they are competent to do so.</p>
Restaurants	LA	
Riding stables	LA	HSE where the main activity is horse breeding or horse training.
Road haulage depot		See ' warehouses - transport depot '. [int link to warehouse transport depot]
Saunas	LA	
Schools	HSE	See ' education '.
Scrambling (motorcross)	LA	
Section 6 (HSW Act)	HSE	
Security guards	HSE/LA	Falls to respective enforcing authority for premises concerned.
Separate occupancies		Regulation 3(2) provides for each part of non-domestic premises separately occupied by a different occupier to be separately allocated according to the main activity of that separate occupancy. Separate parts of a building occupied by the same firm, e.g. a factory in one part with its office in another, do not have different occupiers and hence will not be separately allocated.

Sewage and by-products	HSE	Where the main activity is the sale or storage. (Sch 1 para 1(c)).
Sheltered housing (private)	LA	See ' accommodation '.
Ships (see boats)		
Shops	LA	Includes consumer services in shop premises but not dry cleaning or radio/television repair. (Sch 1 para 6).
Ski slopes	HSE	Any activity in relation to a ski slope, ski lift, ski tow or cable car. (Sch 2 para 9).
Skin piercing	LA	HSE where carried out in domestic premises.
Solaria	LA	
Societies	LA	See ' clubs '.
Sports stadia	LA	HSE if LA-owned.
Steel stockholders	LA	See ' metal stockholders '.
Stock car racing	LA	
Street carnivals/parties	LA	Those organised by local residents etc on a voluntary basis will be outside the scope of HSW Act. Where the event does involve a work activity then the main activity will almost always be leisure and recreation. Events taking place in 'closed street' may be considered to be under separate occupancy and will fall to the LA .
	HSE	Events taking place on open streets more generally will be reserved to HSE . HSE will be responsible for any reserved activities, e.g. fairground rides, broadcasting, and the activities of the emergency services. In addition, if the employer of those working at the event is the LA itself then HSE would enforce. This situation should not be common as it is thought that most LAs subcontract to event organisers.
Street vendor (individual)	HSE	Where the sale is not carried on in non-domestic premises, e.g. flower seller.
Student residences	LA	HSE where residence is on campus. See ' campus of university '.
Substance or preparation dangerous for supply	HSE	Where the main activity is the sale or storage for wholesale distribution of any substance or preparation dangerous for supply. (Sch 1 para 1(b)).
Sunroofs	LA	Where the main activity carried on in premises is the sale and fitting of motor car sunroofs. (Sch 1 para 1).

Tattooing	LA	In LA-enforced premises.
	HSE	When carried out in domestic house.
Taxi company	LA	Office activities. Peripatetic activities to HSE.
Telecommunication circuits within building	HSE/ LA	LA will be the enforcing authority for all work relating to telecommunications in LA-enforced premises.
Telecommunication masts on roof tops	HSE	Are usually owned and operated by persons remote from building as a separate business in what amounts to separate premises on the roof top and therefore do not form part of the common services or facilities referred to in the definition of 'common parts'. Telecommunication masts owned and operated by occupiers of building are usually confined to police and fire brigade HQs, Radio/TV stations for which HSE is the enforcing authority.
Telephone exchanges	LA HSE	Manual exchanges. Automatic exchanges.
Theatres	LA	Theatres with technically advanced stage equipment may be considered for transfer to HSE under reg.5. Where a theatre production involves the structural alteration of the fabric of the theatre building, the Construction (Design and Management) Regulations 1994, enforced by HSE, will apply.
Therapeutic treatment	LA	Except where they are carried out under the supervision or control of a registered medical practitioner, or dentist, a physiotherapist, an osteopath or a chiropractor. (Sch 1 para 8).
Timber merchants	LA	
Training & Enterprise Councils (TECs)	LA	These are now private limited companies and no longer Crown Bodies.
Transport depot	HSE	Where the main activity does not fall to the LA by virtue of Sch 1 para 1.
TV repairs	HSE	Where this is the main activity.
Tyre and exhaust fitting	LA	Where the main activity carried on in premises is the sale and fitting of motor car tyres. (Sch 1 para 1).
University campus	HSE	See ' campus of university '.

Undertakers	LA	HSE where embalming or the manufacture of coffins is the main activity.
United Kingdom Atomic Energy Authority premises and activities	HSE	Including any other part of the premises occupied by other persons for the purpose of providing services at the premises for the specified body. (Reg.4).
Vehicle valeting/washing/tuning	HSE transfer LA	Premises involved solely in vehicle valeting/washing or tuning. While these are consumer services, they are not carried out in shop premises and are therefore not covered by Sch 1 para 6, so that HSE will be the enforcing authority. Such premises may be considered for transfer to the LA under reg.5.
Warehouses		
1 Wholesale and retail warehouses	LA	Including warehouses which are part of a business of a transport undertaking. Deciding main activity at some transport company premises can be difficult. Where the premises are used as a vehicle garage and general haulage depot the main activity is unlikely to be storage for wholesale or retail purposes and HSE will enforce.
2 Freight forwarding (sea freight forwarders and air cargo agents)	HSE/ LA	Dependent on whether the main activity where the goods are handled is storage so as to fall within Schedule 1 para 1.
3 National post activities	HSE	Pick-up, transport and delivery of mail and parcels. Depots rather than warehouses. Fast turn-round rather than storage.
4 Courier activities other than national post activities	HSE	Pick-up, transport and delivery of letter and mail-type parcels and packages by firms other than national post. Depots rather than warehouses. Fast turn-round rather than storage over time.
5 Parcel carriers whose business extends beyond those of a courier activity	HSE/LA	Some specialist carriers of non-mail type parcels and packages, may be closely allied to the wholesale/retail industry. The LA would be the EA if the main activity at the premises was to fall within Sch 1 para1.
	HSE	Some courier/parcel carrier activities may be subject to Carriage of Dangerous Goods by Road Regulations 1996.
6 Transport depot	HSE	Where the main activity is not subject to Sch 1 para 1.
7 Manufacturers' warehouses	HSE	Part finished/finished goods in warehouse operated by manufacturer within curtilage of manufacturing premises.
	HSE	Part finished goods stored in off-site warehouse controlled by manufacturer.
	LA	Finished goods in off-site warehouse controlled by manufacture, where main activity is the storage of these goods pending their distribution.

8 Bonded warehouse	HSE	
9 Container depots	HSE	Where the main activity is the storage of goods in the course of transit to or from dock premises, an airport or a railway. Sch 1 para 1(a).
10 Warehouses containing dangerous substances	HSE	Where the main activity is the sale or storage for wholesale distribution of any substance or preparation dangerous for supply, Sch 1 para 1(b).
Water	HSE	Where the main activity is the sale or storage of water. Sch 1 para 1(c).
Window cleaners	LA/ HSE	Dependent on the enforcing authority for the premises. See also ' peripatetic activities '.
Windscreen - sales and fitting	LA	Where the main activity carried on in premises is the sale or fitting of motor car windscreens. (Sch 1 para 1). See also ' peripatetic activities '.
Zoos	LA	(Sch 1 para 11).