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To  
All FOD Inspectors with Agriculture responsibilities

## TOILET AND WASHING FACILITIES IN AGRICULTURE

This OC provides guidance further to that in HSE's approved code of practice (ACoP) L24 *Workplace health, safety and welfare* on the provision of toilet and washing facilities in agriculture.

### BACKGROUND

1 The standard to which inspectors dealing with agriculture should normally work when considering toilet and washing facilities is laid down in the Workplace (Health, Safety and Welfare) Regulations 1992 reg.20 and in the ACoP paras 192- 209.

2 Inspectors should note that although the Regulations apply to 'all workplaces', they do not place any requirements on the self employed. Inspectors cannot therefore use the regulations or ACoP to require toilet and washing facilities on the typical self-employed only farm, or those comprising partnerships with no employed staff. Whenever staff, whether full or part-time, permanent or casual, are employed then the Regulations apply. Inspectors should note that allegedly self-employed family members often in fact meet the tests for employment and wherever this is the case, inspectors should apply the Regulations. [See paras 9 to 11](#) for information on using HSW Act s.3.

### DISCUSSION

#### Toilet facilities within dwellings

3 In some cases employees may be asked to use toilet and washing facilities in their own houses, or in the employer's house. Given the realities of agricultural work, and the financial situation in farming, the Agriculture/Wood Sector does not consider that this practice should be prevented totally. However, there are problems:

- (1) unless very well managed, the arrangements for employer's houses may quickly fail;
- (2) toilet facilities in farmworkers' houses are often limited and access may involve passing through other areas of the house; and
- (3) initial washing may take place in the kitchen.

4 Although the Sector is not aware of any cases of ill health resulting from this practice it is not acceptable to expect someone contaminated with faeces, birth products, etc to use the toilet or wash in these circumstances. However, where there is only a single employee on the premises at any time it may be acceptable for that person to use the facilities in their own home or the home of the employer, provided that:

- (1) the home selected for use is adjacent to the site;
- (2) the toilet and washing facilities are accessible from the outside, ie with no need to enter the house, and the washing facilities are not in areas used for food preparation;
- (3) the facilities are available during all working hours, including times when the normal occupant of the house is absent, and
- (4) there are firm and recognised management arrangements, which have been communicated to the member of staff involved, for replenishing paper, soap, towels, etc and cleaning the toilets and washing facilities.

5 Where there is more than a single member of staff, some may live away from site. In such cases, separate toilets at a convenient place will be required. However, if:

- (1) proper arrangements, preferably in writing and including replenishment of soap, paper, cleaning, etc, are made for staff to use the attached toilets as described above; and
- (2) employees are content with the arrangements; and
- (3) management appear to have the ability and will to make the arrangements work properly;

then inspectors should accept such arrangements where up to 3 people are employed.

### **Remote worksites**

6 For remote worksites used irregularly, ie work at a set of buildings or other facility such as animal handling pens, dips, etc, portable toilets are acceptable, with proper management arrangements for the main periods of work. For example, work at a grain store or other remote buildings may be very seasonal or short lived - perhaps 3-4 weeks at harvest followed by odd parts of days, with another few days at cleaning down. In this case, a toilet should be provided during the harvest period, but no special arrangements need be made for other times, provided a vehicle is available and the employer accepts that staff can travel back to the main site to use facilities provided there. If the employer does not accept this then inspectors should insist on other arrangements.

7 Washing facilities at remote worksites will be required during the main periods of work, and clean running water (or clean containerised water if running water is not available), with soap and towels and a receptacle for the water, will be adequate. At other times, if staff are likely to be in contact with chemicals or micro-organisms, eg from fumigation activities, sheep dipping, or muck handling, identical facilities will be needed.

8 Where produce is harvested by casual or gang labour permanent or temporary toilet and washing facilities should be provided in or very close to the harvest site during the entire period of work. Management arrangements for cleaning, replenishing soap and paper, etc will need to be devised and tightly controlled for this group of staff.

### **Enforcement guidance**

9 Where no staff are employed as noted in para 2, there is no duty on the self employed

under the Workplace Regs. Although HSW Act s.3 is relevant to the self employed it does not contain requirements on welfare. However, if there is a health risk resulting from the lack of washing facilities, enforcement action may be pursued under COSHH (reg.7), with respect to inadequate control, or, where appropriate, HSW Act s.3.

10 This legislation should be used **if** inspectors can establish a risk to health from exposure to hazardous substances (including micro-organisms) exacerbated by the absence of facilities. For example, in some cases in agriculture, inspectors will be able to argue that washing facilities are necessary for health reasons, eg to remove soil, manure, chemicals, etc. In such a case, inspectors would need to establish and obtain evidence that there is a health risk resulting from the **lack** of washing facilities.

11 The Sector does not believe that health risks can be used as an argument to require **toilet** facilities as there is no health risk created simply by the lack of such facilities. HSW Act s.3 should therefore not be used where there are no toilets provided on a farm with self-employed persons only.

### ACTION BY INSPECTORS

12 The Agriculture/Wood Sector view is that where toilet or washing facilities in accordance with the Regulations or the extra information provided in this note are not provided, inspectors should take improvement notice action. Where existing facilities are not properly managed, including not being available during all working hours, similar action should be taken. Local factors should be taken into account.

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