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AFQ Inspectors
Specialist Group Inspectors

ENFORCEMENT RESPONSIBILITY FOR MILITARY AIR SHOWS AND SIMILAR EVENTS

This SIM describes how the various activities at military air shows and similar events, can be allocated to enforcing authorities under the Health and Safety (Enforcing Authority) Regulations 1998 (HS(EA) Regulations) and highlights recent changes in the allocation of the construction work during show build up and break down.

BACKGROUND

1 Historically, commercial air shows, even when carried out on military bases, have been allocated to local authorities (LAs) for enforcement of health and safety legislation. Such air shows were considered to fall within the definition of the HS(EA) Regulations Schedule 1 paras 2 and 9, their purpose being for the display or demonstration of goods at an exhibition and/or entertainment and recreation. Premises-based issues still remained allocated to HSE throughout the show, since the land and premises at MOD bases belongs to the Crown, as did the construction phases at the beginning and end of the shows.

2 However, in the light of a number of accidents and incidents at air shows and similar events, a more complicated interpretation of the HS(EA) Regulations has emerged.

CURRENT POSITION

3 Whilst the MOD would be specifically allocated to HSE as enforcing authority in accordance with HS(EA) Regulations reg.4(1)(a) and (b), reg.3(1) allocates Schedule 1 activities to the LA. Regulation 3(2) then allows each part of a multi-occupancy site to be allocated separately. Further, reg.3(4) would, in this instance, allocate the common parts to HSE (as they are the enforcing authority for all other parts of the premises). Finally, reg.4(2) states that 'where premises are mainly occupied by a body specified in paragraph (3) (*of regulation 4, eg the Crown*) and are partly occupied by another person for the purpose of providing services at the premises for that body (*eg a catering contractor running a mess*), the Executive shall be the enforcing authority for the part of the premises occupied by that other person.' The implication of this latter regulation is

that where such a premises is occupied by another person and they are **not** providing such a service, then HSE is not necessarily the enforcing authority and that person can be allocated separately.

4 In practical terms, this means that on an MOD site, HSE is the enforcing authority for that site, for organisations providing services to the main occupier and for the common parts. Organisations on-site which are not providing services to that main occupier can be allocated in the normal way, in accordance with the HS(EA) Regulations. As these shows are normally organised by a separate organisation or charity rather than the MOD, and they are not providing services for the main occupier they will be allocated to the LA.

5 So, for example, for a commercial air show being run on an RAF site, the enforcing authority dealing with the organisation of the show would be the LA. HSE would retain the enforcing authority role for any activities by the RAF and any foreign service personnel; and the common parts, along with any other specific activities normally allocated to HSE, eg fairgrounds. All other organisations and activities that would normally be associated with such a show, such as any leisure or entertainment activities, bouncy castles and other inflatables (which on their own do not constitute a fairground), music, food and drink vendors, etc, can be allocated separately, most probably to the local authority.

6 There will be occasions when the MOD organisation on site is actually the organiser of the show, or it is being organised on their behalf, as well as being the host. In such cases, HSE would have the lead for the management of health and safety at the show, though other occupiers on the site would be allocated as described above.

CONSTRUCTION WORK AT AIR SHOWS

7 The allocation of construction work during the setting up and dismantling of such shows is also problematic. It has been argued that during the setting up and dismantling phases of such shows and exhibitions, the sites are one large construction site to which the Construction (Design and Management) Regulations 1994 (CDM Regulations) applies and therefore should fall to HSE to enforce in its entirety. However, HSE has rejected this interpretation and this line is supported by relevant guidance contained in HSG195, *The Event Safety Guide*. Part of page 60 reads as follows:

'In general, the erection and dismantling of temporary stages, grandstands and other temporary platform arrangements used by the entertainments industry are not construction operations. The specific requirements of the various regulations made under the Health and Safety at Work etc Act (HSW Act), specifically for construction, will not apply to this kind of work. Similarly, the Construction (Design and Management) Regulations 1994 do not apply to these kinds of structure.'

8 The majority of the structures which are erected for such shows would fall into this general category. Inspection of this *construction work* will therefore fall to the LA. There will however, occasionally be some specific structures which fall outwith the types of structure to which the *Event Safety Guide* page 60 refers. For example, at some commercial airshows companies have erected 3-storey, steel framed buildings which

take several weeks to construct, requiring a number of different contractors and many people to carry out the work. Such a structure is clearly of a different category and could be considered a discrete construction project in itself, subject to CDM Regulations and hence allocated to HSE.

CIVIL AVIATION AUTHORITY AND MARITIME AND COASTGUARD AGENCY

9 A further point to note is that the Civil Aviation Authority (CAA) has no role in relation to military aircraft and their use. So whilst military air shows will tend to use the internationally agreed safety guidelines enforced by the CAA, HSE will be the enforcing authority for such military flying. Similarly, the Maritime and Coastguard Agency (MCA) generally do not enforce merchant shipping law against naval vessels, so where there is any involvement of naval vessels or personnel in marine festivals HSE will be the enforcing authority for such activities.

ACTION BY INSPECTORS

10 HSE inspection of the MOD is governed by the MOD/HSE General Agreement of 1996, last reviewed in 2000. For information on the General Agreement see [SIM 7/2001/46](#). [OC 335/1](#) gives further detailed advice on MOD inspection. Staff involved in the inspection of MOD activities should be aware of the FOD Health and Safety Policy Supplement No 02.

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