

ANNEX O (ANNEX B)**ARRANGEMENTS FOR INSPECTION OF HM SHIPS, SUBMARINES AND AUXILIARIES BY HSENI INSPECTORS****INTRODUCTION**

1 HSENI may wish to visit to inspect relevant aspects of the MOD health and safety organisation, which may include HM Ships, Submarines and Auxiliaries alongside in the United Kingdom or in refit at any time, subject to the provisions of this protocol. Exceptionally HSENI may request to visit a vessel at sea. In carrying out such inspections HSENI will not seek to influence the design or operational capability of MOD ships.

APPLICATION OF THE LAW

2 The Health and Safety at Work (Northern Ireland) Order 1978 (HSW(NI)O) applies to Northern Ireland out to the seaward limits of United Kingdom territorial waters adjacent to Northern Ireland (e.g. within harbours, ports and certain inland waters as well as to the territorial waters themselves). The HSW(NI)O does not apply beyond United Kingdom territorial waters but the safety of those serving at sea in United Kingdom registered merchant vessels is provided for by the Merchant Shipping Acts (MSA).

3 Merchant shipping law is enforced by the Maritime and Coastguard Agency (MCA) of the Department for Transport (DfT). Demarcation between the HSENI and MCA is based on the agreement reached by the HSE and MCA on the demarcation of their respective duties in relation to work at the water margin such as during loading and unloading of ships (the Scope Agreement). The Scope Agreement establishes the primary concern of the MCA for the safety of ships, their crews, passengers and cargoes on board, whilst the HSENI is primarily concerned with the safety and activities of shore-based personnel and installations on land.

4 MOD owned Ships, in particular warships, are not normally registered under the MCA but are regulated under the authority of the Secretary of State for Defence by a Ship Safety Board, which in principle and practice mirrors the role of the MCA for merchant ships. Selective classes of MOD owned vessels (RFAs, yachts and commercially managed Fleet Auxiliaries) are or can be registered under the Merchant Shipping Acts using specific Orders in Council (OIC). These OIC specify the degree to which MOD elects to comply with the MCA, supplemented where necessary by Letters of Agreement (LOA) between MOD and DfT, by which MOD may agree to beneficially adopt certain additional MCA requirements. Such agreements are regularly reviewed to reflect changes in the law and/or military requirements.

5 The arrangements between MOD and the HSE with respect to access and the inspection of unregistered MOD vessels need to be clarified and work on this will take place. Pending completion of this work:

5.1 MOD will continue to regulate all aspects of ship safety on behalf of the Secretary of State for Defence through the mechanism of the Ship Safety Board. This includes inspection of all activities carried out by the Commanding Officer or Ships Company of a Warship, Submarine or Auxiliary.

5.2 MOD registered vessels are also subject to inspection by the Marine Safety Agency and for certain activities by the HSE (see paragraphs 2 and 4).

5.3 HSENI will not as a matter of course wish to carry out planned inspection of individual unregistered MOD vessels in service.

OBTAINING ENTRY FOR INSPECTION

6 Navy Base Safety Groups will appoint a Local Responsible Officer (LRO) to act as the administrative co-ordinator for all HSENI inspections. The LRO will liaise with all local HSENI inspectors, Commanding Officers, Type Commanders, Directors General Naval Base and Supply and other relevant higher-level budget holders. In the case of ships undergoing refit or visiting commercial ports, MOD will similarly appoint a LRO to be the local representative of the Naval Support Command, to support and provide advice on legislation to the Refitting Authority/Commanding Officer.

7 It is unlikely that an HSENI inspector would request access to one of HM Ships or Submarines at sea. However, should such circumstances arise the LRO would co-ordinate all arrangements through CESO(N). The authority of the Commanding Officer with regard to his vessel is referred to in paragraph 9 below.

8 Before inspection on board a vessel in service, it is essential that the LRO make prior contact with the Commanding Officer who may refer the request to his Type Commander. It should then be possible to make an appointment at a time convenient to both parties. Any difficulty should be referred through the command chain and to CESO(N). The HSENI inspector will similarly refer the position through the HSE management chain.

9 When carrying out an inspection on board a MOD vessel, the HSENI inspector should bear in mind that the Commanding Officer has the final authority with regard to the access to his ship. In making his decision the Commanding Officer will take into account the safety of his crew, the safety of others, the operational and security needs, and the powers and requirements of the HSENI inspector.

SENSITIVE ACTIVITIES

10 Arrangements for particularly sensitive activities are covered in Annex C to this agreement.

CONDUCT OF INSPECTIONS

11 All HSENI inspectors carry a warrant. When inspecting HM Ships, Submarines and Auxiliaries inspectors will conform to the security arrangements of the vessel concerned. Inspectors will be subject to visitor control procedures and must be accompanied at all times by an officer nominated by the Commanding Officer or, with the Commanding Officer's agreement, by a person nominated by the Naval Base Safety Group.

12 Operational capability should not be impeded by the process of an inspection. If exceptionally the inspector considers that there is a need to interrupt or stop an activity, the inspector will raise this through the command chain to enable a judgement on the operational implications to be made.

HSE ENFORCEMENT ACTION

13 Action to be taken by the Commanding Officer in the event of Enforcement Action by the HSENI inspector

Crown Prohibition or Improvement Notice

14 If the inspector serves or makes it clear that it is his intention to serve a Crown Prohibition or Improvement Notice, the Commanding Officer is to request advice from his command authority immediately. Where a Prohibition Notice is served on a piece of equipment or work process that would affect the operational requirements then the Commanding Officer should point this out to the inspector and inform the command authority immediately, and CESO(N) should be informed.

HSENI Intention to Formally Censure MOD (Crown Prosecution)

15 The command authority should be informed immediately for advice. The command authority will inform CESO(N) and D SEF Pol.

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