

Report No. 56 of the Director of Audit — Chapter 1

ADMINISTRATION OF THE ENTERTAINMENT SPECIAL EFFECTS ORDINANCE

Summary

1. In June 2000, the Entertainment Special Effects Ordinance (ESEO — Cap. 560) was passed to establish a new regulatory system to govern the use of dangerous goods for producing special effects in entertainment programmes. Under the ESEO, materials used in producing entertainment special effects are collectively termed as special effects materials, which are classified into pyrotechnic special effects materials (PSEMs) and non-PSEMs. PSEMs are explosives by nature. Examples include soft detonators, black powder composition charges and devices, and electric matches. Non-PSEMs are dangerous goods without explosive contents. Examples include liquefied petroleum gas, naphthalene and gasoline.

2. Under the ESEO, the Entertainment Special Effects Licensing Authority is established to implement the regulatory system and its subsidiary legislations. The Head of Create Hong Kong (CreateHK) is the Licensing Authority since July 2009 after the transfer of the Film Services Office from the Television and Entertainment Licensing Authority to CreateHK in June 2009. The Special Effects Licensing Unit (SELU) of the Film Services Office assists the Licensing Authority in carrying out his responsibilities. The SELU issues Office Guidelines for its staff to follow in carrying out their work. Guidance Notes are also issued to the industry introducing the statutory requirements under the ESEO and the relevant licence and permit application procedures. The Audit Commission (Audit) has recently conducted a review of the work of the SELU in the administration of the ESEO.

Import and registration of pyrotechnic special effects materials

3. *Application for import of PSEMs.* Audit noted that for all 42 import applications approved in 2010 by the SELU, the required information/documents specified in the Guidance Notes were not always submitted to the SELU before the applications were approved. No record was available showing that the SELU had taken follow-up action with the applicants before approvals for import were given. The SELU informed Audit that some of the required information/documents were not needed in considering whether the import applications should be approved. *Audit has recommended that the Head of Create*

Hong Kong should: (a) revise the Guidance Notes to ensure that the applicants for import of PSEMs are required to provide only the information and documents that are necessary for the SELU to consider whether their applications should be approved; and (b) ensure that the required information and documents as stipulated in the Guidance Notes are provided by the applicants for import of PSEMs.

4. **Registration of approved PSEMs.** According to the Guidance Notes, inclusion of approved PSEMs in the PSEM Register may only be considered after their successful use in several events. For all 28 PSEMs registered in the period 2008 to 2010, there was no readily available record showing that the SELU had tracked the numbers and details of the events in which the 28 PSEMs had been successfully used before they were registered. The SELU informed Audit that some other PSEMs had been used successfully in several events, but they were not entered in the Register because the practitioners who imported them did not want to make public the information. *Audit has recommended that the Head of Create Hong Kong should: (a) devise a system to monitor the numbers of events in which approved PSEMs have been successfully used; and (b) review the propriety of the practice of not registering approved PSEMs because the practitioners concerned do not want the SELU to register them, even though the PSEMs have been successfully used in several events.*

Licences and permits

5. **Processing of applications for licenses and permits.** The Office Guidelines stipulate that the SELU should, among other things, conduct criminal record checks in determining whether an applicant is a fit and proper person to be issued a licence. For 6 of 19 Supplier/Store Licences examined, Audit noted that no criminal record checks were conducted because the applicants had already held a valid Special Effects Operator (SEO) Licence. For another 2 of the 19 Licences, criminal record checks were completed after the issue of the licences. Of 30 Discharge Permits examined, not all the required supporting documents or information were received for 4 Permits and not all the required supporting documents had been received before 12 Permits were issued. Of 80 Conveyance Permits examined, the class of SEO Licence specified for the supervisors of conveyance in 6 Permits was higher than that required according to the Office Guidelines. *Audit has recommended that the Head of Create Hong Kong should: (a) clearly spell out in the Office Guidelines whether criminal record checks are required for applicants of Supplier Licences and Store Licences who hold a valid SEO Licence; (b) record the justifications for issuing licences before criminal record checks have been completed; (c) ensure that all required supporting documents have been received before issuing licences and permits; and (d) ensure that the appropriate classes of SEO Licence are specified for the supervisors of conveyance as a condition in the Conveyance Permits issued.*

6. **Submission of reports by licence and permit holders.** Holders of licences and permits are required under the Entertainment Special Effects (General) Regulation and the conditions of licence/permit to submit various types of reports to the SELU on a periodic

basis. Up to 31 December 2010, 94 of 3,526 Discharge Reports, 11 of 435 Conveyance Reports, 7 of 13 Supplier Stock Reports, and 22 of 45 Store Transaction Reports were not submitted as required. Audit also noted that 4 of 10 Store Licence holders did not submit their Store Stock Books to the SELU as required. *Audit has recommended that the Head of Create Hong Kong should ensure that licence and permit holders properly prepare and submit reports in accordance with the requirements of the Entertainment Special Effects (General) Regulation and the licence and permit conditions.*

Inspections by Special Effects Licensing Unit

7. ***Inspections.*** The Office Guidelines do not spell out clearly the criteria for determining when a Demonstration Inspection and/or a Venue Inspection should be conducted before the issue of a Discharge Permit. Furthermore, the Office Guidelines do not stipulate the required frequency of Supplier Inspections. Audit noted that all Supplier Inspections examined were conducted at irregular intervals. Audit also noted that of 133 Store and Designated Area Inspections examined, 109 inspections were not conducted according to the frequency stipulated in the Office Guidelines. *Audit has recommended that the Head of Create Hong Kong should: (a) clearly spell out in the Office Guidelines the criteria for determining when a Demonstration Inspection and/or a Venue Inspection should be conducted before the issue of a Discharge Permit, and the required frequency of Supplier Inspections; and (b) ensure that Store and Designated Area Inspections are conducted according to the frequency stipulated in the Office Guidelines.*

8. ***Inspection teams.*** It is not specified in the Office Guidelines the criteria for determining the number of officers who should take part in each inspection. Taking into consideration the nature of and the checking steps required for the inspections, Audit considers that there may be room for reducing the size of the inspection teams for some inspections. Audit analysed the records of 237 inspections and found that 85% of the inspections were carried out by inspection teams of more than one officer. *Audit has recommended that the Head of Create Hong Kong should clearly spell out in the Office Guidelines the criteria for determining the number of officers in the inspection teams.*

9. ***Handling of non-compliances.*** If non-compliances with licence/permit requirements are observed during inspections, the inspection officers will ask the operators-in-charge to take remedial action. Disciplinary action may also be taken against the operators-in-charge. Audit reviewed the records for inspections conducted in the period January 2008 to October 2010 and noted that there were cases of delay in identifying non-compliances with licence conditions, taking remedial action by the operators-in-charge, and taking disciplinary action. *Audit has recommended that the Head of Create Hong Kong should take necessary measures to ensure that: (a) the inspection officer will endeavour to identify non-compliance cases without delay; and (b) appropriate action as stipulated in the Office Guidelines is taken on all non-compliance cases.*

Management of stores of pyrotechnic special effects materials

10. **PSEM Store.** The Office Guidelines do not cover any procedures or requirements on the management of the PSEM Store. Audit found that the SELU did not apply the Store and Procurement Regulations (SPRs) in managing the Store. Up to 30 November 2010, 286 of the 390 items of PSEMs purchased by the SELU in September 2008 had passed their shelf life and became useless. It is also important to monitor the total net explosive quantity (NEQ) of all PSEMs kept in the Store to ensure that it does not exceed the maximum NEQ allowed for the Store. Audit however found that the total NEQ of all the PSEMs in the Store was not readily available. From 2008 to 2010, store inspections were conducted at irregular intervals and only one stocktake was conducted. *Audit has recommended that the Head of Create Hong Kong should: (a) ensure that the relevant requirements stipulated in the SPRs for management of stores are complied with; (b) if necessary, incorporate into the Office Guidelines procedures and requirements relating to the management of stores of PSEMs to supplement the SPRs; (c) consider reducing the stock level of PSEMs by making more frequent purchases; (d) ensure that the total NEQ of the PSEMs held in the PSEM Store is readily available and does not exceed the maximum NEQ allowed; and (e) ensure that store inspections and stocktakes are conducted regularly.*

Performance management

11. **Performance pledges.** From 2008 to 2010, the SELU reported that the performance pledges and targets relating to the issue of Discharge Permits were all achieved. However, Audit noted that the date of receipt of all the key information relating to safety aspect had not been entered into the SELU's computer database to facilitate measurement of the achievement of the pledges. Although setting performance targets and measuring achievements are key components for the implementation of performance pledges, CreateHK did not set targets for four performance pledges and did not track and analyse the achievement of three of these four performance pledges. *Audit has recommended that the Head of Create Hong Kong should: (a) track and analyse the actual number of days taken to issue Discharge Permits upon receipt of all key information relating to the safety aspect of the proposed special effects; and (b) set targets for all performance pledges and regularly track and analyse the achievements of these targets.*

Response from the Administration

12. The Administration agrees with the audit recommendations.

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