



15th July 2020

I am writing to the inflatable industry following recent correspondence asking whether the timescales for the inspection and testing of inflatable devices under the “PIPA testing scheme” can be extended during the on-going pandemic.

Background

An emerging consequence of the Coronavirus pandemic (COVID-19) faced by the inflatable industry is the challenge of meeting the requirements to inspect and test inflatable devices as set out in HSG 175, ‘Fairgrounds and amusement parks: Guidance on safe practice’ and the statutory obligations of health and safety law.

In order to fully address the inquiries that HSE has received, I believe that it is important to provide an overview of the current statutory requirements and associated guidance.

Legal framework and HSG 175

The Health and Safety at Work etc. Act 1974 (HSW) requires that fairground equipment including inflatable devices, be designed, manufactured, supplied, constructed, operated, maintained and inspected so that it is safe, so far as reasonably practicable.

The Provision and Use of Work Equipment Regulations 1998 (PUWER), expands on the general duties of the HSW Act and requires that work equipment supplied to employees is suitable, correctly installed (if applicable), safe to use and used only by people who have received adequate training.

Work equipment should be regularly maintained and, if necessary, inspected by a competent person to ensure that it remains safe to use. Work equipment, regardless of its age, should not cause a risk to health and safety.

PUWER makes more explicit the general duties already placed on an employer, self-employed person (whose work activity poses a potential risk to the health and safety of other workers, or members of the public) or someone with control to any extent of plant and operations. They must provide safe plant and equipment and make sure employees are adequately trained in its use.

In order to assist the amusement and inflatable industry, the Fairground Joint Advisory Committee developed specific guidance, which is published as HSG 175, ‘Fairgrounds and amusement parks: Guidance on safe practice’.

There are currently three industry-run schemes for the inspection and testing of amusement devices, as set out in HSG 175, including the PIPA scheme, which are recognised and supported by HSE as being appropriate for the inspection and certification of inflatable amusement devices.

HSE support of the PIPA testing scheme is contingent on their adherence to the requirements set out in HSG 175, including the requirement for in-service inspections being undertaken on annual basis, or where necessary at a specified shorter period.

Importantly, it should be noted that PIPA does not have authority to extend the testing period for inflatable devices beyond the current requirements without consent from HSE.

While the system for safety of attractions outlined in HSG 175 will generally be sufficient to allow inflatable controllers to comply with their duty to have their devices adequately inspected, it is important for them to consider the other duties imposed by PUWER, for example the duty to:

- ensure competent inspection and maintenance;
- maintain a device in a safe condition;
- ensure the safety of dangerous parts of the device and its machinery;
- provide information, instruction and training to employees and others who may be expected to use work equipment.

HSE consider the inspection of inflatable devices to be a critical component of an overarching management process to ensure the safe operation of equipment where failure of that equipment e.g. through deterioration, could result in the risk of serious injury.

Therefore, the statutory obligations set out in health and safety law (e.g. Provision and Use of Work Equipment Regulations) are unchanged and as such, the 12-month time limit for inspection and the “tag” issued under the PIPA scheme remains in place.

This is consistent with the position we have taken with other sections of the amusement industry as well as the recently published HSE guidance (<https://www.hse.gov.uk/news/assets/docs/loler-pssr-during-outbreak.pdf>) on the requirements for thorough examination and testing (TE&T) of lifting equipment and pressure systems, as required by the Lifting Operations and Lifting Equipment Regulations (LOLER) and Pressure Systems Safety Regulations (PSSR).

In addition, it must be considered that the risk posed by each individual inflatable device is unique to that piece of equipment. Although I have no reason to doubt that the vast majority of people within the inflatable industry maintain their equipment in a satisfactory manner, there will be inflatable devices in the UK that have suffered significant deterioration since their last annual inspection, which has rendered them unsafe.

The deterioration could have been caused for a variety of reasons, including the way they have been stored during the COVID pandemic, and their continued operation outside of the annual in-service inspection period could expose the users of that inflatable device to significant risk.

Therefore, it follows then any change to the inspection regime for an inflatable device must only be permitted following an assessment by a competent person and must be on a case by case basis.

It is for this reason that HSE do not accept the unilateral approach to increase the in-service inspection period beyond twelve months, as this could foreseeably and inadvertently permit the use of unsafe inflatable devices for an additional period of time, putting members of the public at significant risk.

Overarching position

Moving forward, HSE expects all operators of inflatable devices to ensure that they are operated, maintained and inspected in line with the legal requirements and the guidance in HSG 175 and to

make all reasonable efforts to arrange with their registered inspection bodies (RIBs) for inspections to be carried out within the specified time limits.

This will include:

- Contacting your RIB at the earliest possible opportunity to discuss how to organise the inspection of your amusement devices;
- Consulting with your RIB to ascertain the level of inspection required for your devices, taking into consideration the relevant factors since the last inspection i.e. storage, frequency of use etc.
- Ensuring RIBs have access to equipment in a timely manner;
- Working with the RIBs to manage appropriate social distancing in the workplace, to satisfy both your needs and those of the inspection body, as part of the Government measures to manage the spread of COVID-19.

Finally, I would like to assure the diligent and safety conscious inflatable operators that HSE and Local Authority Inspectors will take appropriate enforcement action where we identify operators who are not operating, maintaining or having their devices inspected in line with the relevant legal provisions.