
STATUTORY RULES OF NORTHERN IRELAND

2005 No. 279

The Work at Height Regulations (Northern Ireland) 2005

Citation and commencement

1. These Regulations may be cited as the Work at Height Regulations (Northern Ireland) 2005 and shall come into operation on 11th July 2005.

Interpretation

2.—(1) In these Regulations –

“the 1978 Order” means the Health and Safety at Work (Northern Ireland) Order 1978;

“access” and “egress” include ascent and descent;

“construction work” has the meaning assigned to it by regulation 2 of the Construction (Health, Safety and Welfare) Regulations (Northern Ireland) 1996(1);

“the Executive” means the Health and Safety Executive for Northern Ireland;

“fragile surface” means a surface which would be liable to fail if any reasonably foreseeable loading were to be applied to it;

“ladder” includes a fixed ladder and a stepladder;

“line” includes rope, chain or webbing;

“the Management Regulations” means the Management of Health and Safety at Work Regulations (Northern Ireland) 2000(2);

“personal fall protection system” means –

(a) a fall prevention, work restraint, work positioning, fall arrest or rescue system, other than a system in which the only safeguards are collective protection measures; or

(b) rope access and positioning techniques;

“suitable” means suitable in any respect which it is reasonably foreseeable will affect the safety of any person;

“territorial sea” means the territorial sea of the United Kingdom adjacent to Northern Ireland and “within the territorial sea” includes on, over and under it;

“work at height” means –

(a) work in any place, including a place at or below ground level;

(b) obtaining access to or egress from such place while at work, except by a staircase in a permanent workplace,

where, if measures required by these Regulations were not taken, a person could fall a distance liable to cause personal injury;

(1) S.R. 1996 No. 510, as amended by S.R. 1997 No. 229, S.R. 1999 No. 150, S.R. 1999 No. 304, S.R. 1999 No. 305 and S.R. 2000 No. 388

(2) S.R. 2000 No. 388, as amended by S.R. 2001 No. 348 and S.R. 2003 No. 454

“work equipment” means any machinery, appliance, apparatus, tool or installation for use at work (whether exclusively or not) and includes anything to which regulation 8 and Schedules 3 to 7 apply;

“working platform” –

- (a) means any platform used as a place of work or as a means of access to or egress from a place of work;
- (b) includes any scaffold, suspended scaffold, cradle, mobile platform, trestle, gangway, gantry and stairway which is so used.

(2) Any reference in these Regulations to the keeping of a report or copy of a report or plan shall include reference to its being kept in a form –

- (a) in which it is capable of being reproduced as a printed copy when required;
- (b) which is secure from loss or unauthorised interference.

Application

3.—(1) Within the territorial sea these Regulations shall apply only to and in relation to the premises and activities to which any of paragraphs 2 to 6 of Schedule 1 applies.

(2) The requirements imposed by these Regulations on an employer shall apply in relation to work –

- (a) by an employee of his; or
- (b) by any other person under his control, to the extent of his control.

(3) The requirements imposed by these Regulations on an employer shall also apply to –

- (a) a self-employed person, in relation to work –
 - (i) by him; or
 - (ii) by a person under his control, to the extent of his control; and
- (b) to any person other than a self-employed person, in relation to work by a person under his control, to the extent of his control.

(4) Regulations 4 to 16 shall not apply to or in relation to –

- (a) the master and crew of a ship, or to the employer of such persons, in respect of the normal ship-board activities of a ship’s crew which –
 - (i) are carried out solely by the crew under the direction of the master; and
 - (ii) are not liable to expose persons at work other than the master and crew to a risk to their safety;
- (b) a place specified in regulation 7(6) of the Docks Regulations (Northern Ireland) 1989⁽³⁾ where persons are engaged in dock operations;
- (c) a place specified in regulation 5(3) of the Loading and Unloading of Fishing Vessels Regulations (Northern Ireland) 1989⁽⁴⁾ where persons are engaged in fish loading processes; or
- (d) the provision of instruction or leadership to one or more persons in connection with their engagement in caving or climbing by way of sport, recreation, team building or similar activities.

(3) S.R. 1989 No. 320, as amended by S.R. 1992 No. 374, S.R. 1993 No. 366, S.R. 1999 No. 150 and S.R. 1999 No. 304. Revoked in part by S.R. 1999 No. 13 and S.R. 1999 No. 304

(4) S.R. 1989 No. 321, as amended by S.R. 1999 No. 150

(5) Regulation 11 shall not apply to an installation while regulation 12 of the Offshore Installations and Wells (Design and Construction, etc) Regulations (Northern Ireland) 1996(5) apply to it.

(6) In this regulation –

- (a) “caving” includes the exploration of parts of mines which are no longer worked;
- (b) “climbing” includes traversing, abseiling or scrambling over natural terrain or man-made structures;
- (c) “ship” includes every description of vessel used in navigation, other than a ship which forms part of Her Majesty’s Navy.

Organisation and planning

4.—(1) Every employer shall ensure that work at height is –

- (a) properly planned;
- (b) appropriately supervised; and
- (c) carried out in a manner which is so far as is reasonably practicable safe,

and that its planning includes the selection of work equipment in accordance with regulation 7.

(2) Reference in paragraph (1) to planning of work includes planning for emergencies and rescue.

(3) Every employer shall ensure that work at height is carried out only when the weather conditions do not jeopardise the health or safety of persons involved in the work.

(4) Paragraph (3) shall not apply where members of the police, fire, ambulance or other emergency services are acting in an emergency.

Competence

5. Every employer shall ensure that a person shall not engage in any activity, including organisation, planning and supervision, in relation to work at height or work equipment for use in such work unless he is competent to do so or, if being trained, is being supervised by a competent person.

Avoidance of risks from work at height

6.—(1) In identifying the measures required by this regulation, every employer shall take account of a risk assessment under regulation 3 of the Management Regulations.

(2) Every employer shall ensure that work is not carried out at height where it is reasonably practicable to carry out the work safely otherwise than at height.

(3) Where work is carried out at height, every employer shall take suitable and sufficient measures to prevent, so far as is reasonably practicable, any person falling a distance liable to cause personal injury.

(4) The measures required by paragraph (3) shall include –

- (a) his ensuring that the work is carried out –
 - (i) from an existing place of work; or
 - (ii) (in the case of obtaining access or egress) using an existing means,

which complies with Schedule 2, where it is reasonably practicable to carry it out safely and under appropriate ergonomic conditions; and

- (b) where it is not reasonably practicable for the work to be carried out in accordance with sub-paragraph (a), his providing sufficient work equipment for preventing, so far as is reasonably practicable, a fall occurring.
- (5) Where measures taken under paragraph (4) do not eliminate the risk of a fall occurring, every employer shall –
- (a) so far as is reasonably practicable, provide sufficient work equipment to minimise –
 - (i) the distance and consequences; or
 - (ii) where it is not reasonably practicable to minimise the distance, the consequences, of a fall; and
 - (b) without prejudice to the generality of paragraph (3), provide such additional training and instruction or take other additional suitable and sufficient measures to prevent, so far as is reasonably practicable, any person falling a distance liable to cause personal injury.

Selection of work equipment for work at height

- 7.—(1) Every employer, in selecting work equipment for use in work at height, shall –
- (a) give collective protection measures priority over personal protection measures; and
 - (b) take account of –
 - (i) the working conditions and the risks to the safety of persons at the place where the work equipment is to be used;
 - (ii) in the case of work equipment for access and egress, the distance to be negotiated;
 - (iii) the distance and consequences of a potential fall;
 - (iv) the duration and frequency of use;
 - (v) the need for easy and timely evacuation and rescue in an emergency;
 - (vi) any additional risk posed by the use, installation or removal of that work equipment or by evacuation and rescue from it; and
 - (vii) the other provisions of these Regulations.
- (2) An employer shall select work equipment for work at height which –
- (a) has characteristics including dimensions which –
 - (i) are appropriate to the nature of the work to be performed and the foreseeable loadings; and
 - (ii) allow passage without risk; and
 - (b) is in other respects the most suitable work equipment, having regard in particular to the purposes specified in regulation 6.

Requirements for particular work equipment

8. Every employer shall ensure that, in the case of –
- (a) a guard-rail, toe-board, barrier or similar collective means of protection, Schedule 3 is complied with;
 - (b) a working platform –
 - (i) Part 1 of Schedule 4 is complied with; and
 - (ii) where scaffolding is provided, Part 2 of Schedule 4 is also complied with;
 - (c) a net, airbag or other collective safeguard for arresting falls which is not part of a personal fall protection system, Schedule 5 is complied with;

- (d) a personal fall protection system, Part 1 of Schedule 6; and –
 - (i) in the case of a work positioning system, Part 2 of Schedule 6;
 - (ii) in the case of rope access and positioning techniques, Part 3 of Schedule 6;
 - (iii) in the case of a fall arrest system, Part 4 of Schedule 6;
 - (iv) in the case of a work restraint system, Part 5 of Schedule 6,are complied with; and
- (e) a ladder, Schedule 7 is complied with.

Fragile surfaces

9.—(1) Every employer shall ensure that a person at work does not pass across or near, or work on, from or near, a fragile surface where it is reasonably practicable to carry out work safely and under appropriate ergonomic conditions without his doing so.

(2) Where it is not reasonably practicable to carry out work safely and under appropriate ergonomic conditions without passing across or near, or working on, from or near, a fragile surface, every employer shall –

- (a) ensure, so far as is reasonably practicable, that suitable and sufficient platforms, coverings, guard rails or other similar means of support or protection are provided and used so that any foreseeable loading is supported by such supports or borne by such protection;
- (b) where a risk of a person at work falling remains despite the measures taken under the preceding provisions of this regulation, take suitable and sufficient measures to minimise the distances and consequences of his fall.

(3) Where any person at work may pass across or near, or work on, from or near, a fragile surface, every employer shall ensure that –

- (a) prominent warning notices are, so far as is reasonably practicable, affixed at the approach to the place where the fragile surface is situated; or
- (b) where that is not reasonably practicable, such persons are made aware of it by other means.

(4) Paragraph (3) shall not apply where members of the police, fire, ambulance or other emergency services are acting in an emergency.

Falling objects

10.—(1) Every employer shall, where necessary to prevent injury to any person, take suitable and sufficient steps to prevent, so far as is reasonably practicable, the fall of any material or object.

(2) Where it is not reasonably practicable to comply with the requirements of paragraph (1), every employer shall take suitable and sufficient steps to prevent any person being struck by any falling material or object which is liable to cause personal injury.

(3) Every employer shall ensure that no material or object is thrown or tipped from height in circumstances where it is liable to cause injury to any person.

(4) Every employer shall ensure that materials and objects are stored in such a way as to prevent risk to any person arising from the collapse, overturning or unintended movement of such materials or objects.

Danger areas

11. Without prejudice to the preceding requirements of these Regulations, every employer shall ensure that –

- (a) where a workplace contains an area in which, owing to the nature of the work, there is a risk of any person at work –
 - (i) falling a distance; or
 - (ii) being struck by a falling object,
 which is liable to cause personal injury, the workplace is so far as is reasonably practicable equipped with devices preventing unauthorised persons from entering such area; and
- (b) such area is clearly indicated.

Inspection of work equipment

12.—(1) This regulation applies only to work equipment to which regulation 8 and Schedules 3 to 7 apply.

(2) Every employer shall ensure that, where the safety of work equipment depends on how it is installed or assembled, it is not used after installation or assembly in any position unless it has been inspected in that position.

(3) Every employer shall ensure that work equipment exposed to conditions causing deterioration which is liable to result in dangerous situations is inspected –

- (a) at suitable intervals; and
- (b) each time that exceptional circumstances which are liable to jeopardise the safety of the work equipment have occurred,

to ensure that health and safety conditions are maintained and that any deterioration can be detected and remedied in good time.

(4) Without prejudice to paragraph (2), every employer shall ensure that a working platform –

- (a) used for construction work; and
- (b) from which a person could fall 2 metres or more,

is not used in any position unless it has been inspected in that position or, in the case of a mobile working platform, inspected on the site, within the previous 7 days.

(5) Every employer shall ensure that no work equipment, other than lifting equipment to which the requirement in regulation 9(4) of the Lifting Operations and Lifting Equipment Regulations (Northern Ireland) 1999⁽⁶⁾ (“LOLER”) applies –

- (a) leaves his undertaking; or
- (b) if obtained from the undertaking of another person, is used in his undertaking,

unless it is accompanied by physical evidence that the last inspection required to be carried out under this regulation has been carried out.

(6) Every employer shall ensure that the result of an inspection under this regulation is recorded and, subject to paragraph (8), kept until the next inspection under this regulation is recorded.

(7) A person carrying out an inspection of work equipment to which paragraph (4) applies shall –

- (a) before the end of the working period within which the inspection is completed, prepare a report containing the particulars set out in Schedule 8; and
- (b) within 24 hours of completing the inspection, provide the report or a copy thereof to the person on whose behalf the inspection was carried out.

(8) An employer receiving a report or copy under paragraph (7) shall keep the report or a copy thereof –

⁽⁶⁾ S.R. 1999 No. 304, as amended by S.R. 2003 No. 423

- (a) at the site where the inspection was carried out until the construction work is completed; and
 - (b) thereafter at an office of his for 3 months.
- (9) Where a thorough examination has been made of lifting equipment under regulation 9 of LOLER –
- (a) it shall for the purposes of this regulation, other than paragraphs (7) and (8) , be treated as an inspection of the lifting equipment; and
 - (b) the making under regulation 10 of LOLER of a report of such examination shall for the purposes of paragraph (6) be treated as the recording of the inspection.
- (10) In this regulation “inspection”, subject to paragraph (9) –
- (a) means such visual or more rigorous inspection by a competent person as is appropriate for safety purposes;
 - (b) includes any testing appropriate for those purposes.

Inspection of places of work at height

13. Every employer shall so far as is reasonably practicable ensure that the surface and every parapet, permanent rail or other such fall protection measure of every place of work at height are checked on each occasion before the place is used.

Duties of persons at work

14.—(1) Every person shall, where working under the control of another person, report to that person any activity or defect relating to work at height which he knows is likely to endanger the safety of himself or another person.

(2) Every person shall use any work equipment or safety device provided to him for work at height by his employer, or by a person under whose control he works, in accordance with –

- (a) any training in the use of the work equipment or device concerned which have been received by him; and
- (b) the instructions respecting that use which have been provided to him by that employer or person in compliance with the requirements and prohibitions imposed upon that employer or person by or under the relevant statutory provisions.

Exemption by the Health and Safety Executive for Northern Ireland

15.—(1) Subject to paragraph (2), the Executive may, by a certificate in writing, exempt –

- (a) any person or class of persons;
- (b) any premises or class of premises;
- (c) any work equipment; or
- (d) any work activity,

from the requirements imposed by paragraph 3(a) and (c) of Schedule 3, and any such exemption may be granted subject to conditions and to a limit of time and may be revoked at any time by a certificate in writing.

(2) The Executive shall not grant any such exemption unless, having regard to the circumstances of the case and in particular to –

- (a) the conditions, if any, which it proposes to attach to the exemption; and
- (b) any other requirements imposed by or under any enactments which apply to the case,

it is satisfied that the health and safety of persons who are likely to be affected by the exemption will not be prejudiced in consequence of it.

Exemption by the Secretary of State for Defence

16.—(1) Subject to paragraph (2) the Secretary of State for Defence may, in the interests of national security, by a certificate in writing, exempt any person or class of persons from any requirement or prohibition imposed by these Regulations in respect of activities carried out in the interests of national security, and any such exemption may be granted subject to conditions and to a limit of time and may be revoked by the Secretary of State by a certificate in writing at any time.

(2) The Secretary of State shall not grant any such exemption unless he is satisfied that the health and safety of the employees concerned are ensured as far as possible in the light of the objectives of these Regulations.

Amendment of the Provision and Use of Work Equipment Regulations (Northern Ireland) 1999

17. There shall be added to regulation 6(5) of the Provision and Use of Work Equipment Regulations (Northern Ireland) 1999(7) the following sub-paragraph –

“(f) work equipment to which regulation 12 of the Work at Height Regulations (Northern Ireland) 2005 applies.”.

Repeal of section 25 of the Factories Act (Northern Ireland) 1965

18. Section 25 of the Factories Act (Northern Ireland) 1965(8) is repealed.

Revocations

19. The statutory provisions referred to in column 1 of Schedule 9 shall be revoked to the extent specified in the corresponding entry in column 3 of that Schedule.

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on 27th May 2005.

L.S.

M. Bohill
A senior officer of the
Department of Enterprise, Trade and Investment

(7) S.R. 1999 No. 305, as amended by S.I. 1999/2001, S.R. 2000 No. 87, S.I. 2001/1701, S.R. 2003 No. 423 and S.I. 2004/129
(8) 1965 c. 20