STATUTORY RULES OF NORTHERN IRELAND

1999 No. 305

HEALTH AND SAFETY

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

Made - - - -	*29th June 1999*
Coming into operation	*20th September 1999*

The Department of Economic Development, being the Department concerned(**1**), in exercise of the powers conferred on it by Articles 17(1), (2), (3), (4), (5) and (6)(**2**), 45 and 55(2) of, and paragraphs 1(1), (2) and (3), 8, 12(1), 13, 14(1) and 15 of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978(**3**) and of every other power enabling it in that behalf, after consultation in accordance with Article 46(1)(**4**) of that Order with the Health and Safety Executive for Northern Ireland and such other bodies as appeared to the Department to be appropriate, hereby makes the following Regulations:

Part I

Introduction

Citation and commencement

1. These Regulations may be cited as the Provision and Use of Work Equipment Regulations (Northern Ireland) 1999 and shall come into operation on 20th September 1999.

Interpretation

2.—(1) In these Regulations—

"employer" except in relation to regulation 3(2) and (3) includes a person to whom the requirements imposed by these Regulations apply by virtue of regulation 3(3)(a) and (b);

"essential requirements" means requirements described in regulation 10(1);

"inspection" in relation to an inspection under paragraph (1) or (2) of regulation 6—

(**1**) *See* Article 2(2) of S.I. 1978/1039 (N.I. 9)
(**2**) Article 17 must be read with S.I. 1992/1728 (N.I. 17), Articles 3(2) and 4(2)
(**3**) S.I. 1978/1039 (N.I. 9); the general purposes of Part II referred to in Article 17(1) were extended by S.I. 1992/1728 (N.I. 17), Article 3(1). Article 47A was inserted by Article 3, and Article 2 was amended by Articles 4 and 8, of S.I. 1997/1774 (N.I. 16)
(**4**) Article 46(1) was amended by S.I. 1998/2795 (N.I. 18), Article 6(1) and Schedule 1, paragraphs 8 and 18

(a) means such visual or more rigorous inspection by a competent person as is appropriate for the purpose described in the paragraph;

(b) where it is appropriate to carry out testing for the purpose, includes testing the nature and extent of which are appropriate for the purpose;

"power press" means a press or press brake for the working of metal by means of tools, or for die proving, which is power driven and which embodies a flywheel and clutch;

"territorial waters" means United Kingdom territorial waters adjacent to Northern Ireland and "within territorial waters" includes on, over and under them;

"thorough examination" in relation to a thorough examination under paragraph (1), (2), (3) or (4) of regulation 32—

(a) means a thorough examination by a competent person;

(b) includes testing the nature and extent of which are appropriate for the purpose described in the paragraph;

"use" in relation to work equipment, means any activity involving work equipment and includes starting, stopping, programming, setting, transporting, repairing, modifying, maintaining, servicing and cleaning;

"work equipment" means any equipment, machinery, appliance, apparatus, tool or installation for use at work (whether exclusively or not);

and related expressions shall be construed accordingly.

(2) Any reference in regulations 32 to 34 or Schedule 4 to a guard or protection device is a reference to a guard or protection device provided for the tools of a power press.

(3) Any reference in regulation 32 or 33 to a guard or protection device being on a power press shall, in the case of a guard or protection device designed to operate while adjacent to a power press, be construed as a reference to its being adjacent to it.

Application

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

(2) The requirements imposed by these Regulations on an employer in respect of work equipment shall apply to such equipment provided for use or used by an employee of his at work.

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

(a) to a self-employed person, in respect of work equipment he uses at work;

(b) subject to paragraph (5), to a person who has control to any extent, of—

(i) work equipment;

(ii) a person at work who uses or supervises or manages the use of work equipment; or

(iii) the way in which work equipment is used at work,

and to the extent of his control.

(4) Any reference in paragraph (3)(b) to a person having control is a reference to a person having control in connection with the carrying on by him of a trade, business or other undertaking (whether for profit or not).

(5) The requirements imposed by these Regulations shall not apply to a person in respect of work equipment supplied by him by way of sale, agreement for sale or hire-purchase agreement.

(6) Subject to paragraphs (7) to (10), these Regulations shall not impose any obligation in relation to a ship's work equipment (whether that equipment is used on or off the ship).

(7) Where merchant shipping requirements are applicable to a ship's work equipment, paragraph (6) shall relieve the shore employer of his obligations under these Regulations in respect of that equipment only where he has taken all reasonable steps to satisfy himself that the merchant shipping requirements are being complied with in respect of that equipment.

(8) In a case where the merchant shipping requirements are not applicable to the ship's work equipment by reason only that for the time being there is no master, crew or watchman on the ship, those requirements shall nevertheless be treated for the purpose of paragraph (7) as if they were applicable.

(9) Where the ship's work equipment is used in a specified operation paragraph (6) shall not apply to regulations 7 to 9, 11 to 13, 20 to 22 and 30 (each as applied by regulation 3).

(10) Paragraph (6) does not apply to a ship's work equipment provided for use or used in an activity specified in paragraphs 2 to 6 of Schedule 1 save that it does apply to—

(a) the loading, unloading, fuelling or provisioning of the ship; or

(b) the construction, reconstruction, finishing, refitting, repair, maintenance, cleaning or breaking up of the ship.

(11) In this regulation—

"master" has the same meaning assigned to it by section 313(1) of the Merchant Shipping Act 1995(**5**);

"merchant shipping requirements" means the requirements of regulations 3 and 4 of the Merchant Shipping (Guarding of Machinery and Safety of Electrical Equipment) Regulations 1988(**6**) and regulations 5 to 10 of the Merchant Shipping (Hatches and Lifting Plant) Regulations 1988(**7**);

"ship" has the meaning assigned to it by section 313(1) of the Merchant Shipping Act 1995 save that it does not include an offshore installation;

"shore employer" means an employer of persons (other than the master and crew of any ship) who are engaged in a specified operation;

"specified operation" means an operation in which the ship's work equipment is used—

(a) by persons other than the master and crew; or

(b) where persons other than the master and crew are liable to be exposed to a risk to their health or safety from its use.

Part II

General

Suitability of work equipment

4.—(1) Every employer shall ensure that work equipment is so constructed or adapted as to be suitable for the purpose for which it is used or provided.

(2) In selecting work equipment, every employer shall have regard to the working conditions and to the risks to the health and safety of persons which exist in the premises or undertaking in which that work equipment is to be used and any additional risk posed by the use of that work equipment.

(**5**) 1995 c. 21
(**6**) S.I. 1988/1636, amended by S.I. 1988/2274
(**7**) S.I. 1988/1639, amended by S.I. 1988/2274

(3) Every employer shall ensure that work equipment is used only for operations for which, and under conditions for which, it is suitable.

(4) In this regulation "suitable" means suitable in any respect which it is reasonably foreseeable will affect the health or safety of any person.

Maintenance

5.—(1) Every employer shall ensure that work equipment is maintained in an efficient state, in efficient working order and in good repair.

(2) Every employer shall ensure that where any machinery has a maintenance log, the log is kept up to date.

Inspection

6.—(1) Every employer shall ensure that, where the safety of work equipment depends on the installation conditions, it is inspected—

(a) after installation and before being put into service for the first time; or

(b) after assembly at a new site or in a new location,

to ensure that it has been installed correctly and is safe to operate.

(2) 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 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.

(3) Every employer shall ensure that the result of an inspection made under this regulation is recorded and kept until the next inspection under this regulation is recorded.

(4) Every employer shall ensure that no work equipment—

(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.

(5) This regulation does not apply to—

(a) a power press to which regulations 32 to 35 apply;

(b) a guard or protection device for the tools of such power press;

(c) work equipment for lifting loads including persons;

(d) winding apparatus to which—

(i) the Miscellaneous Mines (General) Regulations (Northern Ireland) 1970(**8**),

(ii) the Coal and Other Mines (Shafts, Outlets and Roads) Regulations (Northern Ireland) 1970(**9**) or

(iii) the Mines (Emergency Egress) Regulations (Northern Ireland) 1975(**10**)

(**8**) S.R. & O. (N.I.) 1970 No. 104 to which there are amendments not relevant to these Regulations
(**9**) S.R. & O. (N.I.) 1970 No. 132 to which there are amendments not relevant to these Regulations
(**10**) S.R. 1975 No. 35 as amended by S.R. 1998 No. 375

apply;

(e) work equipment required to be inspected by regulation 28 of the Construction (Health, Safety and Welfare) Regulations (Northern Ireland) 1996(**11**).

Specific risks

7.—(1) Where the use of work equipment is likely to involve a specific risk to health or safety, every employer shall ensure that—

(a) the use of that work equipment is restricted to those persons given the task of using it; and

(b) repairs, modifications, maintenance or servicing of that work equipment is restricted to those persons who have been specifically designated to perform operations of that description (whether or not also authorised to perform other operations).

(2) The employer shall ensure that the persons designated for the purposes of sub-paragraph (b) of paragraph (1) have received adequate training related to any operations in respect of which they have been so designated.

Information and instructions

8.—(1) Every employer shall ensure that all persons who use work equipment have available to them adequate health and safety information and, where appropriate, written instructions pertaining to the use of the work equipment.

(2) Every employer shall ensure that any of his employees who supervises or manages the use of work equipment has available to him adequate health and safety information and, where appropriate, written instructions pertaining to the use of the work equipment.

(3) Without prejudice to the generality of paragraph (1) or (2), the information and instructions required by either of those paragraphs shall include information and, where appropriate, written instructions on—

(a) the conditions in which and the methods by which the work equipment may be used;

(b) foreseeable abnormal situations and the action to be taken if such a situation were to occur; and

(c) any conclusions to be drawn from experience in using the work equipment.

(4) Information and instructions required by this regulation shall be readily comprehensible to those concerned.

Training

9.—(1) Every employer shall ensure that all persons who use work equipment have received adequate training for purposes of health and safety, including training in the methods which may be adopted when using the work equipment, any risks which such use may entail and precautions to be taken.

(2) Every employer shall ensure that any of his employees who supervises or manages the use of work equipment has received adequate training for purposes of health and safety, including training in the methods which may be adopted when using the work equipment, any risks which such use may entail and precautions to be taken.

(**11**) S.R. 1996 No. 510 as amended by S.R. 1999 No. 150