STATUTORY RULES OF NORTHERN IRELAND

# 1999 No. 304

# HEALTH AND SAFETY

## Lifting Operations and Lifting Equipment Regulations (Northern Ireland) 1999

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| *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) and (5)(**2**), 45 and 55(2) of, and paragraphs 1(1), (2) and (3), 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) of that Order with the Health and Safety Executive for Northern Ireland(**4**) and such other bodies as appeared to the Department to be appropriate, hereby makes the following Regulations:

### Citation and commencement

**1.** These Regulations may be cited as the Lifting Operations and Lifting Equipment Regulations (Northern Ireland) 1999 and shall come into operation on 20th September 1999.

### Interpretation

**2.** In these Regulations—

"the 1992 Regulations" means the Supply of Machinery (Safety) Regulations 1992(**5**);

"accessory for lifting" means work equipment for attaching loads to machinery for lifting;

"EC declaration of conformity" means a declaration which complies with—

(a) regulation 22 of the 1992 Regulations;

(**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); S.I. 1992/1728 (N.I. 17) was amended by S.I. 1996/275 (N.I. 2), Article 71(1) and Schedule 6
(**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), Articles 3(1) and 4(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
(**5**) S.I. 1992/3073 to which there are amendments not relevant to these Regulations

(b) Article 12.1 of Council Directive 89/686/EEC(**6**) on the approximation of the laws of the Member States relating to personal protective equipment; or

(c) regulation 8(2)(d) of the Lifts Regulations 1997(**7**);

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

"essential requirements" has the same meaning as in the Provision and Use of Work Equipment Regulations (Northern Ireland) 1999(**8**);

"examination scheme" means a suitable scheme drawn up by a competent person for such thorough examinations of lifting equipment at such intervals as may be appropriate for the purpose described in regulation 9(3);

"lifting equipment" means work equipment for lifting or lowering loads and includes its attachments used for anchoring, fixing or supporting it;

"lifting operation" has the meaning given in regulation 8(2);

"load" includes a person;

"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) or (3) of regulation 9—

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

(b) where it is appropriate to carry out testing for the purpose described in the paragraph, includes such testing by a competent person as is appropriate for the purpose;

and "thoroughly examined" shall be construed accordingly;

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

## 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 lifting equipment shall apply in relation 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 lifting equipment he uses at work;

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

(i) lifting equipment;

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

(iii) the way in which lifting equipment is used,

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).

(**6**) O.J. No. L399, 21.11.89, p. 18; printed in the Schedule to S.I. 1992/3139
(**7**) S.I. 1997/831
(**8**) S.R. 1999 No. 305

(5) The requirements imposed by these Regulations on an employer shall not apply to a person in respect of lifting 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 6 and 8 (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 meaning assigned to it by section 313(1) of the Merchant Shipping Act 1995(**9**);

"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(**10**) and regulations 5 to 10 of the Merchant Shipping (Hatches and Lifting Plant) Regulations 1988(**11**);

"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.

**Strength and stability**

**4.** Every employer shall ensure that—

(a) lifting equipment is of adequate strength and stability for each load, having regard in particular to the stress induced at its mounting or fixing point;

(b) every part of a load, and anything attached to it and used in lifting it, is of adequate strength.

(**9**) 1995 c. 21
(**10**) S.I. 1988/1636, amended by S.I. 1988/2274
(**11**) S.I. 1988/1639, amended by S.I. 1988/2274

**Lifting equipment for lifting persons**

**5.**—(1) Every employer shall ensure that lifting equipment for lifting persons—

(a) subject to sub-paragraph (b), is such as to prevent a person using it being crushed, trapped or struck or falling from the carrier;

(b) is such as to prevent so far as is reasonably practicable a person using it, while carrying out activities from the carrier, being crushed, trapped or struck or falling from the carrier;

(c) subject to paragraph (2), has suitable devices to prevent the risk of a carrier falling;

(d) is such that a person trapped in any carrier is not thereby exposed to danger and can be freed.

(2) Every employer shall ensure that if the risk described in paragraph (1)(c) cannot be prevented for reasons inherent in the site and height differences—

(a) the carrier has an enhanced safety coefficient suspension rope or chain; and

(b) the rope or chain is inspected by a competent person every working day.

**Positioning and installation**

**6.**—(1) Every employer shall ensure that lifting equipment is positioned or installed in such a way as to reduce to as low as is reasonably practicable the risk—

(a) of the equipment or a load striking a person; or

(b) from a load—

(i) drifting;

(ii) falling freely; or

(iii) being released unintentionally;

and it is otherwise safe.

(2) Every employer shall ensure that there are suitable devices to prevent a person from falling down a shaft or hoistway.

**Marking of lifting equipment**

**7.** Every employer shall ensure that—

(a) subject to paragraph (b), machinery and accessories for lifting loads are clearly marked to indicate their safe working loads;

(b) where the safe working load of machinery for lifting loads depends on its configuration—

(i) the machinery is clearly marked to indicate its safe working load for each configuration; or

(ii) information which clearly indicates its safe working load for each configuration is kept with the machinery;

(c) accessories for lifting are also marked in such a way that it is possible to identify the characteristics necessary for their safe use;

(d) lifting equipment which is designed for lifting persons is appropriately and clearly marked to this effect; and

(e) lifting equipment which is not designed for lifting persons but which might be so used in error is appropriately and clearly marked to the effect that it is not designed for lifting persons.

**Organisation of lifting operations**

**8.**—(1) Every employer shall ensure that every lifting operation involving lifting equipment is—

(a) properly planned by a competent person;

(b) appropriately supervised; and

(c) carried out in a safe manner.

(2) In this regulation "lifting operation" means an operation concerned with the lifting or lowering of a load.

**Thorough examination and inspection**

**9.**—(1) Every employer shall ensure that before lifting equipment is put into service for the first time by him it is thoroughly examined for any defect unless either—

(a) the lifting equipment has not been used before; and

(b) in the case of lifting equipment for which an EC declaration of conformity could or (in the case of a declaration under the Lifts Regulations 1997) should have been drawn up, the employer has received such declaration made not more than 12 months before the lifting equipment is put into service;

or, if obtained from the undertaking of another person, it is accompanied by physical evidence referred to in paragraph (4).

(2) Every employer shall ensure that, where the safety of lifting equipment depends on the installation conditions, it is thoroughly examined—

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

(b) after assembly and before being put into service at a new site or in a new location,

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

(3) Subject to paragraph (6), every employer shall ensure that lifting equipment which is exposed to conditions causing deterioration which is liable to result in dangerous situations is—

(a) thoroughly examined—

(i) in the case of lifting equipment for lifting persons or an accessory for lifting, at least every 6 months;

(ii) in the case of other lifting equipment, at least every 12 months; or

(iii) in either case, in accordance with an examination scheme; and

(iv) each time that exceptional circumstances which are liable to jeopardise the safety of the lifting equipment have occurred; and

(b) if appropriate for the purpose, inspected by a competent person at suitable intervals between thorough examinations,

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

(4) Every employer shall ensure that no lifting 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 thorough examination required to be carried out under this regulation has been carried out.

(5) This regulation does not apply to winding apparatus to which—