1988 No. 219

HEALTH AND SAFETY

AGRICULTURE

Agriculture (Power Take-off) Regulations (Northern Ireland) 1988

Made	*14th June 1988*
Coming into operation . .	*1st August 1988*

The Department of Agriculture, being the Department concerned, in exercise of the powers conferred on it by Articles 17(1), (2), (4) and (5) of and paragraphs 1(1) and 1(2) of Schedule 3 to the Health and Safety at Work (Northern Ireland) Order 1978(**a**) 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 Agency for Northern Ireland and such other bodies as appear to the Department to be appropriate, hereby makes the following regulations:

Citation and commencement

1. These regulations may be cited as the Agriculture (Power Take-off) Regulations (Northern Ireland) 1988 and shall come into operation on 1st August 1988.

Interpretation

2.—(1) In these regulations—

"agriculture" includes horticulture, fruit growing, seed growing, dairy farming, livestock breeding and keeping, forestry, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the preparation of land for agricultural use;

"agricultural unit" means land occupied as a unit for agricultural purposes;

"the Department" means the Department of Agriculture;

"new" means first sold for use in agriculture;

"power take-off" means the splined shaft, with or without a spline adaptor, of any tractor intended for transmitting power to any machine by means of the power take-off of that machine;

"power take-off shaft" means, as respects any machine, its shaft (including any couplings, clutches and components rigidly attached to

(a) S.I. 1978/1039 (N.I. 9)

the shaft, up to the first fixed bearing of the machine) intended for attachment to the power take-off of any tractor;

"employee" means a person who works under a contract of employment in agriculture.

(2) Any vehicle having a splined shaft intended for transmitting power to any machine by means of the power take-off shaft of that machine shall be deemed to be a tractor for the purposes of these regulations.

Guarding of power take-off

3.—(1) The employer of an employee shall not cause or permit to be used on an agricultural unit on which an employee is employed, and an employee shall not use any tractor having a power take-off, while the engine is in motion unless—

(*a*) subject to paragraph (2), the power take-off is guarded by a shield so designed, and so attached to the tractor, that it protects an employee from coming in contact, from above or from either side, by any part of his body or by any part of his clothing with the power take-off of that tractor, or

(*b*) the power take-off is guarded by other means providing no less protection than would be provided by a shield meeting the requirements of sub-paragraph (*a*) and paragraph (2).

(2) A shield required by paragraph (1)(*a*) shall meet the requirements set out in British Standard Specification No. BS 5861: 1980(**a**) in relation to dimensions and shall be substantially constructed of metal or other suitable material and shall be capable, when attached to a tractor, of supporting a load of not less than 120 kilograms unless it is designed in such a way that it cannot be used as a step.

Guarding of power take-off shaft

4.—(1) Subject to the provisions of this regulation, the employer of an employee shall not cause or permit to be used on an agricultural unit on which an employee is employed, and an employee shall not use, any machine having a power take-off shaft unless the entire length of the shaft while in motion is wholly enclosed within a guard so designed and so attached to the machine that it protects an employee from coming in contact, by any part of his body or by any part of his clothing, with any part of the power take-off shaft of that machine.

(2) Subject to paragraph (3), paragraph (1) shall not apply to a machine that is so constructed and maintained that it provides no less protection than would be provided by a guard meeting the requirements of paragraph (1).

(3) Where a machine is so constructed and maintained as to provide the protection required by paragraph (1) in respect of only a part of the power take-off shaft of the machine, paragraph (1) shall apply to that machine in respect of any part of that shaft in respect of which such protection is not provided.

(a) British Standard Specification for power take-offs and drawbars on agricultural tractors published by the British Standards Institution, 2 Park Street, London W1A 2BS

(4) Subject to paragraph (5), every guard required by this regulation shall be substantially constructed and shall be maintained in good condition.

(5) Every new guard required by this regulation, and every new machine having a power take-off shaft, shall meet the requirements set out in British Standard Specification No. BS 3417: Part 3: 1986(**a**), sections 4, 5, 6 and 7, in relation to the design and construction of power take-off shaft guards.

Supply of tractors and machines

5.—(1) Subject to paragraph (2), a person shall not supply for use in agriculture in Northern Ireland—

(*a*) a tractor having a power take-off unless—

(i) the power take-off of the tractor is guarded by a shield in accordance with regulation 3(1)(*a*) and (2) or by a shield providing a similar degree of protection; or

(ii) the tractor has received type approval in accordance with Council Directive No. 86/297/EEC(**b**) relating to the power take-offs of wheeled agricultural or forestry tractors and their protection;

(*b*) any machine having a power take-off shaft unless the power take-off shaft of the machine is guarded in accordance with regulation 4.

(2) Where a person (''the ostensible supplier'') supplies a tractor having a power take-off or any machine having a power take-off shaft for use in agriculture in Northern Ireland to another (''the customer'') under a hire-purchase agreement, conditional sale agreement or credit-sale agreement and the ostensible supplier—

(*a*) carries on the business of financing the acquisition of goods by others by means of such agreements; and

(*b*) in the course of that business acquired his interest in the tractor or the machine supplied to the customer as a means of financing its acquisition by the customer from a third person (''the effective supplier''),

the effective supplier and not the ostensible supplier shall be treated for the purposes of this regulation as supplying the tractor or machine to the customer, and any duty imposed by this regulation on suppliers shall accordingly fall on the effective supplier and not on the ostensible supplier.

Certificates of exemption

6. Notwithstanding anything in these regulations, the Department may grant certificates exempting (for such periods as may be specified therein and subject to such conditions, if any, as may be so specified) particular cases or particular persons from the operation of the provisions of these regulations, and where any such conditions are imposed, an employer and an employee, to whom any such certificate applies, shall comply with those conditions.

(**a**) British Standard — Power take-off shafts and guards for tractors and machinery for agriculture and forestry — Part 3. Supplementary requirements: published by the British Standards Institution, 2 Park Street, London W1A 2BS

(**b**) O.J. No. L186 (8.7.86) p. 19