

HEALTH AND SAFETY IN CONSTRUCTION

ADVICE ON RECENT CHANGES IN LEGISLATION

On 12 December 2012 The Construction (Health and Safety) Regulations 1985 and The Construction (Head Protection) Regulations 1999 were withdrawn.

No new regulations will be required to replace them as other parts of the existing legislative framework in the form of Health and Safety at Work etc Act 1974 and The Management of Health and Safety at Work Regulations 2003 already contain adequate provisions for requiring and encouraging businesses and employers to adopt proportionate measures for delivering health and safety in the workplace.

The need to comply with the Construction (Design and Management) Regulations 2003 (applicable to projects lasting over 30 days) will not be affected by these changes.

The following questions and answers have been provided to assist with any queries that may be generated by the recent changes. Further advice can be obtained from **the Health and Safety at Work Inspectorate on telephone number 01624 685881** or via e-mail at worksafe.doi@gov.im.

Q1. WHY WERE THE TWO REGULATIONS REVOKED?

A1. In the case of the 1985 Regulations, withdrawing them has made the process of delivering health and safety on construction sites more straight forward as they contained reference to standards of risk control which were outdated and less effective than those supported by modern European based legislation and other regulations in place within the Isle of Man. Before the change many construction companies were confused over the standards they should have been applying which resulted in significant inconsistency in the way health and safety was managed across sites in the Isle of Man.

The 1999 Regulations were removed as the need to consider head protection was already included in existing legislation. The specific reference to construction in the title also created the false impression that it was the only sector in which head injury risks needed to be considered.

Q2. WHAT IS THE NEW SYSTEM FOR ENSURING REASONABLE HEALTH AND SAFETY?

A2. There is no new system. The requirement to identify risks and introduce appropriate measures to control them has been in place in the Isle of Man since 2004 – this requirement still exists. The practical effect of these revocations will be to encourage employers and the self employed to develop a better understanding of the risks associated with their own businesses. As a consequence they will be better placed to select and introduce the sensible measures that will be needed to minimise the possibility of injury and ill health.

Q3. HOW CAN RISKS BE IDENTIFIED?

A3. Risks should be identified by carrying out a risk assessment. This is the process of analysing the activities and hazards which are likely to take place, or be present, within an undertaking, identifying the level of risk to which employees and others might be exposed and introducing effective control measures.

It is extremely important that construction risks assessments focus on the activities that are specific to individual projects as every site can generate a completely different set of health and safety difficulties.

Simply supplying site supervisors and employees with a standard list of possible hazards from which they can pick the relevant options is unlikely to be effective as such an approach would fail to capitalise on the benefits that can be obtained through good planning and design.

Completing an adequate assessment of site specific issues before the construction work commences provides much better control over a project as potential difficulties can be 'managed out' before they can develop into incidents. This type of approach delivers commercial benefits as well as good health and safety results as projects are more likely to be completed on time and to budget.

Guidance on risk assessments is available via the Health and Safety at Work Inspectorates (HSWI) website www.gov.im/hswi and HSWI Inspectors will be happy to provide project specific advice. **The HSWI contact number is 01624 685881.**

Q4. IF I ASK THE HSWI FOR ADVICE WILL THEY TAKE ACTION AGAINST ME IF THEY FIND ANY PROBLEMS?

A4. It would be extremely unlikely. Asking HSWI for advice, particularly during the planning and design stage of a contract, would be a clear indicator that there was a pro-active interest in getting health and safety right.

If a request for advice was made after commencement of work, enforcement action would also be unlikely (unless extreme risks were identified) as the company/developer involved would have demonstrated a commitment to gaining a better understanding of health and safety.

Enforcement action is only usually considered when Inspectors encounter serious breaches of legislation during visits to sites where work has already commenced – and even in these circumstances a decision to take enforcement action will depend on a number of issues such as the willingness of the contractor to implement the necessary improvements or whether the contractor has ignored previous advice provided by HSWI in the past.

Q5. WHERE CAN I FIND DETAILED GUIDANCE ON HOW TO CONTROL THE RISKS PRESENT IN FUTURE JOBS?

A5. If you are not sure about any construction health and safety issues or if you require advice on how to comply with The Health and Safety at Work Act or The Management of Health and Safety at Work Regulations **please contact the HSWI on 01624 685881.**

The UK Health and Safety Executives (HSE) website contains extensive free guidance on measures that can be used to achieve proportionate levels of control over a wide range of construction sector risks. As the UK and Manx regulatory frameworks are based on the same principle of reasonable practicability, an effective way of achieving compliance with Manx legislation would be to adopt the measures supported in HSE guidance.

The HSE's website can be accessed via the following link www.hse.gov.uk