

Health and Safety Executive Board		Paper No: HSE/09/41	
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Proposals for a Statutory Register of Tower Cranes			

Purpose of the paper

1. The Board is asked to provide a steer on the scope, the degree of public access, and the regulatory route to the establishment of the proposed statutory register of tower cranes.

Background

2. At its January 2009 meeting, the Board agreed that, on tower crane safety:
- work was required to address public concerns, as well as responding to the Select Committee recommendations and SoS concerns;
 - in addition to the other measures already in place or planned, a register of tower cranes was needed. A voluntary register was to be introduced that would allow HSE to test out the register and what is required before introducing a statutory register.
3. HSE is committed to have a statutory scheme in place by the date of common commencement in **April 2010**. To meet the tight timetable this imposes, we propose to table at the Board's June meeting, a draft consultation document including a regulatory impact assessment and draft regulatory instrument. In order to make progress on the detail, this paper seeks a steer from the Board on a number of fundamental points.

Argument

4. The broad aims behind the introduction of the Register are to:
- improve the control and management of risks in the use of tower cranes;
 - provide further reassurance about the control and management of such risks to those who may be affected by the use of tower cranes.
5. A steer is sought on the following issues:

Scope of the Register

6. Tower cranes fall under two broad categories:
- (i) 'assisted-erected' - crane parts are brought to the site and the crane assembled in situ; thorough examination before being taken into use on the site is a legal requirement. Whilst on site, changes in the nature of the work may see the crane re-assembled e.g. moved to another location on site, extended in height - thorough examination is again required before re-use. Generally, these cranes are operated from a cab in the air.

(ii) 'self-erected' - the cranes are formed from a single unit which arrives on site and 'unfolds' to form a crane consisting essentially of a tower and jib. Because they are not dismantled after each use, such cranes do not require a thorough examination before use on the site, rather they are thoroughly examined annually (though more frequent examinations may be specified by an examiner). Generally, these cranes are operated at ground-level.

7. We estimate there are about 1000 assisted-erectors and 500-700 self-erectors tower cranes available for use on construction sites. A small number of tower cranes are also used in other locations, for example in storage yards and docks, these are usually permanent installations, or used for activities such as bungee-jumping.

8. The series of high profile collapses in recent years, involving fatalities to both workers and a member of the public, all involved 'assisted-erected' cranes on construction projects. 'Self-erected' cranes are more akin to mobile cranes than 'assisted-erected' cranes. The differences in thorough examination schemes, on which the register may well rely as a source of information, is likely to lead to further complexity in the Register's arrangements; providing a practical and sensible solution to this issue will risk missing the April 2010 deadline.

There is a possibility that some stakeholders would see both types as 'tower cranes' and might seek reassurance in either case - which argues for including both types in the Register. The question of whether to include 'self-erected' cranes could be re-visited after sufficient experience of the operation of the Register has been gained.

▪ **Which types of tower crane should be included in the Register?** We would recommend that the Register is restricted to 'assisted-erected' tower cranes.

▪ **Should the Register be restricted those cranes used on construction sites?** Given the broad aims behind the introduction of the Register and the lack of accident history at fixed sites, we believe little benefit would be gained by including all sectors and recommend it is restricted to the construction sector.

Public accessibility

9. One of the aims of the Register is to provide public reassurance and, therefore, public access to the information held on the register will be required. An early steer on the form this accessibility should take is required.

10. The primary concerns expressed by the Battersea Crane Disaster Action Group to the 2008 Work and Pensions Select Committee were that the enforcing authority should have access to information for the purposes of inspection, intervention and enforcement, and that local communities are able to receive relevant information from the enforcing authority.

11. We believe that public reassurance will be best served, and public trust in the Register enhanced, by enabling direct public access to all the information on the Register - rather than have the information to the public mediated in some way by HSE.

12. **What form should public access take?** We recommend that the public should be able to obtain information concerning tower cranes - and that the public should have a means of direct access to the information, i.e. not dependent on contacting HSE.

Regulatory route to establishment of the Register

13. Three routes suggest themselves:

(i) via amendment of the Lifting Operations and Lifting Equipment Regulations 1998 (LOLER) which sets out requirements for the installation, examination and use of lifting equipment including tower cranes. Given the general nature of LOLER, regulating for a specific type of equipment in a specific occupational sector may prove to be a difficult fit within these regulations.

(ii) via amendment of the Construction (Design & Management) Regulations 2007 (CDM 2007) which established duties and requirements in relation to activities on construction sites. CDM 2007 currently contains no regulations dealing specifically with lifting operations or tower cranes; it does contain requirements on the notification to HSE of certain particulars concerning the site and the work to be undertaken (Reg. 21 and Schedule 1). This duty to notify is placed on the CDM Co-ordinator, who is appointed by the construction client. Notifications (F10s) are kept on a database that was recently updated to allow for electronic submission.

This offers scope for additional notification in respect of tower cranes, though timing may be an issue since, currently, notification of a site may take place some time before any work begins on it and, perhaps, even before any decision to use tower cranes has been made. Whilst the use of an existing database is attractive, it is likely that a multi-stage notification would be required, as the CDM Co-ordinator would not, at the time of submission of the F10, have the information likely to be required and would need to obtain the information from those involved in the tower crane operation.

An early evaluation of CDM 2007 is planned for 2010.

(iii) via a new, free-standing set of regulations. Introduction by this route, i.e. regulations dedicated to the Register, would enable the best regulatory fit to be made, providing clarity to dutyholders and the public. New, dedicated regulations would also avoid opening debates on other changes, desired by stakeholders, which are likely to be provoked when existing regulations are put up for amendment.

▪ **What regulatory route should be taken?** We would recommend taking the route of new, free-standing regulations.

Other matters

14. The steer provided by the Board will enable work on the Impact Assessment on the proposed register to be progressed, and presented at the Board's June meeting. Early work on the Impact Assessment indicates that there is a potential imbalance between the costs and benefits of introducing the Register. The nature of this will be clearer once the detailed work is completed for the June Board meeting.

15. New arrangements for the scrutiny of Government regulation were announced in a letter of 31 March 2009 from the SoS BERR to the Prime Minister. This announced the

introduction of the Better Regulation sub-committee of the National Economic Council which will scrutinise planned regulation and proposed new regulation that will impact on business. It is not clear at the moment what impact this will have on the proposed Register, further details should be available for the June Board meeting.

16. The introduction of the Register is part of a package of measures which involves HSE and the construction industry continuing to work closely to address issues around tower cranes. These include, but are not limited, to the following:

- competence requirements for crane erectors and dismantlers;
- consideration of the adequacy of crane design standards;
- research into the effect of wind loading on cranes (currently underway);
- research to improve our understanding of the causes of crane incidents at an international level; and
- promotion of the industry Safe Crane Campaign to improve public confidence in crane safety.

Consultation

17. Policy Group, Advisory Lawyers and CSAG (Economists) were consulted in the drafting of this paper.

Action

18. The Board is invited to provide a steer on:

- which types of tower crane should be included in the Register (paras. 6/8);
- whether the Register be restricted cranes used on construction sites (para. 6/8);
- the form of public access (para. 9/12); and
- what regulatory route should be taken (para. 13).

Paper clearance

19. This paper was drafted by Laurence Golob and as was cleared by the SMT on 09 April 2009.