

## **Work at Height Regulations and the Construction Industry 2-Metre Rule**

### *Purpose of this consultation*

Following earlier consultation HSC is minded to introduce into the draft WAHR Regulations a '2-Metre Rule' for the construction industry.

### *Consultation Background*

This latest consultation is open to all interested persons and organisations. Letters have been sent to those who responded to the original WAHR consultation that took place between December 2003 and April 2004. Anyone else can respond through HSE's website.

If you wish, your replies will be treated in confidence, otherwise copies of your response will be available for public inspection, on request, at HSE Information Centres.

Background material, including the latest copy of the draft Regulations, can be found under the HSC's Open Meeting on the HSE web site at <http://www.hse.gov.uk/aboutus/hsc/meetings/index.htm#2004>

### *The 2-Metre Rule and Current Construction Industry Regulations*

A 2-metre rule already exists in the current Construction Health Safety and Welfare Regulations (CHSWR). In essence this provides that for construction work above 2 metres employers should use specific measures to provide fall protection. Guardrails or similar work equipment should be used to prevent falls and sufficient working platforms to do the work. Where it is not practicable to do this, because of the nature or duration of the work, then personal suspension equipment should be used; and where neither of these is practicable other suitable and sufficient means for arresting a fall should be used.

Despite the 2-metre rule, the construction industry has duties to take suitable and sufficient steps to prevent so far as is reasonably practicable any person falling (from any height).

### *The Draft Work at Height Regulations*

The WAHR have established a revised hierarchy for working at height. In this hierarchy collective protection measures (such as guard rails or similar) are to be preferred over personal protection measures (such as harnesses and lanyards); and fall prevention takes precedence over fall mitigation. This hierarchy does not prescribe the measures to be taken and the same goal-setting, risk-based approach applies to all circumstances in which a fall may cause personal injury.

### *HSE's approach to a 2-metre rule for the construction industry and the WAHR*

HSE's options analysis began from the proposition that the WAHR did not need to explicitly incorporate the 2-metre rule. The WAHR goal-setting approach, originally proposed by HSC, did not reduce standards and it was contemplated that, if necessary, sector-specific guidance would remove the need for specific regulation. However, the construction industry argued that in its circumstances it needs certainty and the HSC accepts that argument.

HSE has considered, but rejected, supplementing the draft Regulations with a construction-specific ACoP. Such an approach would not substantially improve clarity or certainty and adversely affect timeliness of delivery. And so in the circumstances we propose to recommend to HSC an additional regulation. By adopting this approach we have assumed that it has no effect on the Regulatory Impact Assessment for the construction industry.

The objectives of a revised regulation should be to set a trigger point at or above 2 metres for the construction industry (this does not remove the obligation to prevent falls below 2 metres). But in doing that we have tried, as far as possible, to invoke the use of preventive measures contained in the hierarchy of the WAHR.

Selection of work equipment for work at height [Regulation 7] New draft Regulation 7(3)

- (3) Where work at height is construction work in which a person is liable to fall 2 metres or more, every employer shall -
- (a) in providing work equipment for preventing, so far as is reasonably practicable, a fall occurring, -
- (i) select guard-rails, toe boards, barriers or similar means of protection and, where necessary, working platforms; or
- (ii) where it is not reasonably practicable to carry out the work safely and under appropriate ergonomic conditions while using such means or platforms, select work restraint systems;
- (b) in providing work equipment to minimise the distance and consequences, or the consequences, of a fall, select such work equipment specified in regulation 8(c) or (d)(i) to (iii) as is suitable,
- save where any such work equipment is not the most suitable work equipment.

*A 2-metre rule and possible consequences for the rest of industry*

The principle already established by the WAHR was a goal setting one requiring the most appropriate measures to be selected in all cases where there was a risk of falling a distance liable to cause personal injury. That, and the fact that some two thirds of all injuries arise as a result of falls below 2 metres meant original consultation did not ask specifically about this issue.

We are therefore unsure about the extent to which including a 2 metre rule for the construction industry may have consequences (positive or negative) for the rest of industry. And so we would be particularly grateful to have evidence from you on this point.