

Health and Safety Executive		Sector Information Minute	
Commercial and Consumer Services, Transportation and Utilities Sector (CACTUS)		SIM 05/2005/06	
Cancellation Date	04/05/2009	Open Government Status	Fully Open
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Target Audience:

FOD Inspectors with responsibility for adventure activities

LA EHOs with responsibility for adventure activities

WORK AT HEIGHT REGULATIONS 2005 AND ADVENTURE ACTIVITIES

This SIM provides information on the dis-application of the Work at Height Regulations 2005 to defined adventure activities. Note: In this SIM, the term Inspector(s) should be read as including local authority Environmental Health Officer(s).

CURRENT POSITION

1 The Work at Height Regulations 2005 come into effect on 6 April 2005. These Regulations implement the European Directive on Temporary Work at Height. The Directive applies to all work activities at height.

2 The Work at Height Regulations 2005 do not apply to defined adventure activities, i.e. climbing and caving (detailed definitions are given in the Regulations and are reproduced at [Annex 1](#)), when carried out as work activities, e.g. by an instructor leading a group of students. Work to implement the Directive in this sector is in hand.

3 HSC/E believes that as long as paid climbers and cavers leading or instructing others follow the guidelines produced by the National Governing Bodies, or operating in accordance with a license issued under the Adventure Activities Licensing Regulations 2004, they will normally be doing enough to comply with the Work at Height Regulations. However, after discussion, the Minister responsible for HSE decided that the Regulations should be applied to them in their present form and the dis-application was granted on the basis that separate Regulations would be given further consideration. Accordingly the Work at Height Regulations 2005 do not apply to defined adventure activities, i.e. climbing and caving (detailed definitions are given in the Regulations and are reproduced at [Annex 1](#)), when carried out as work activities, e.g. by an instructor leading a group of students.

4 The 2005 Regulations do apply to any work at height carried out in an adventure activity centre that is not climbing or caving e.g. maintenance activities.

5 While the 2005 Regulations do not apply to adventure activities, duty holders are still required to comply with other relevant legal requirements such as the Management of Health and Safety at Work Regulations and the Provision and Use of Work Equipment Regulations. There is no limit to the powers of Inspectors introduced by the dis-application of the Regulations.

6 The Directive itself does have legal effect even in the absence of Regulations.

ACTION BY INSPECTORS

7 No specific action by Inspectors is required.

ENFORCEMENT ADVICE

8 Should circumstances arise where enforcement is appropriate on climbing or caving activities as defined, Inspectors must not use the Work at Height Regulations 2005 but instead should use whatever part of other relevant Regulations or the Health and Safety at Work Act they judge appropriate.

9 Advice on enforcement in particular circumstances can be obtained from the Entertainment Section of CACTUS at the Glasgow office (VPN 521-3065 or 0141-275-3065).

SEPARATE REGULATIONS

10 Although separate Regulations to cover adventure activities are to be produced, the timescale for this is not clear at this time but Regulations are not likely to be in place before April 2006. Inspectors will be informed when these Regulations are made.

Date first issued: 04/05/2005

ANNEX 1

Regulation 3, the relevant parts of which are reproduced below, establishes the dis-application of the Work at Height Regulations 2005.

Regulation 3 ...

(4) Regulations 4 to 16 of these Regulations shall not apply to or in relation to -

(a) ...

(d) the provision of instruction or leadership to one or more persons in connection with their engagement in caving or climbing by way of sport, recreation, team building or similar activities.

(6) In this regulation -

(a) "caving" includes the exploration of parts of mines which are no longer worked;

(b) "climbing" includes traversing, abseiling or scrambling over natural terrain or man-made structures; ..."

Work activities that do not meet the definition are not exempted and therefore the Regulations can be applied in full.