



## Hiring and leasing out of plant: application of PUWER 98, regulations 26 and 27

MISC156

### Introduction

This information sheet has been agreed by HSE, the HSE/Local Authority Enforcement Liaison Committee (HELA), and industry. It describes a practical approach for those employers who hire, rent, lease or lend mobile work equipment (referred to in this leaflet as 'hire companies') to help them meet their new legal obligations under the Provision and Use of Work Equipment Regulations 1998 (PUWER 1998).

### Who should read this?

You should read this if you hire, rent, lease or lend mobile work equipment and you:

- have responsibility directly, or indirectly, for the provision of work equipment provided for use, or used by, an employee at work; or
- are an employer, self-employed and have control of mobile work equipment.

### What are these two new PUWER regulations about?

PUWER 1998 builds on the Provision and Use of Work Equipment Regulations 1992. It imposes new requirements for mobile and self-propelled work equipment. It is important that duty holders refer to the full requirements of the Regulations and accompanying Approved Code of Practice to familiarise themselves fully with their duties (see Further information). This leaflet just deals with two new regulations that are contained in PUWER 1998.

### What are these two new requirements for mobile work equipment?

Regulation 26 requires that where there is a risk of rollover the risks from rollover should be minimised. Where this requires action (and the regulation does not require action where there is no risk of rollover) by those who are hiring or renting etc out mobile work equipment the most practical and commercially sensible answer is to fit a rollover protective structure (ROPS). Where a ROPS is fitted there is also a legal requirement to fit a suitable restraining system (eg an operator restraint such as a seat belt) if there is a risk of anyone being crushed by its rolling over.

Regulation 27 requires that certain fork-lift trucks, such as those fitted with masts, are adapted or equipped to reduce to as low as is reasonably practicable the risk to safety from overturning. In practice, this may mean fitting an operator restraint if one is not already fitted.

### When do the regulations come into force?

The regulations come into force on 5 December 1998. All equipment (whether it is new, secondhand, hired or lent etc) that is taken into use in an undertaking for the first time from 5 December 1998 has to meet all the new requirements of the

regulations from that date. However, existing work equipment that is already being used by an employer in their undertaking (ie provided for use before 5 December 1998) does not need to comply with these requirements until 5 December 2002.

### Effects of PUWER on the hire industry

There is a practical problem for the hire companies in meeting the new requirements of regulations 26 and 27 before 5 December 1998. HSE appreciates that this may present difficulties for the hire industry, not least of which is the time that will be needed in which to modify equipment to meet the new requirements.

### HSC's policy on enforcement

The Health and Safety Commission's (HSC) policy on the enforcement of new regulations is clear. Duty holders will be given time to assimilate the new requirements. However, where there are serious risks or what needs to be done is not new, inspectors will be prepared to take firm enforcement action.

Because of the particular problems faced by hire companies in meeting the requirements of regulations 26 and 27 of PUWER, health and safety inspectors will adopt a practical approach to enforcement.

### The agreement

Representatives of the hire industry and other trade associations have agreed that hire companies should prepare an action plan in which they will identify the mobile work equipment that needs to be modified or adapted to comply with the new requirements of the regulations. They will also need to prioritise within the action plan the modifications which are needed, according to risk, and ensure that the new requirements are met within an acceptable timescale.

### Action plan

The action plans should identify work equipment most at risk of rollover. There may be situations where other items of equipment will need to be fitted with a ROPS and/or restraining system because of the conditions in which they are to be used. In dealing with their customer, the hire company should discuss the job for which the equipment is required to check that a suitable machine is supplied.

### Machines most at risk of rollover

Accident statistics indicate that the following classes of machines are most at risk of rollover and therefore require priority attention:

- compact dumpers;
- agricultural tractors; and
- variable reach rough terrain trucks (telehandlers).

There may be a need to develop this list in the light of experience.

To deal with the risks from some masted fork-lift trucks of less than 10 tonne weight (specifically centre control, seated, counterbalanced fork-lift trucks), overturning the fitting of operator restraining systems, eg seat restraints, would satisfy the requirements of regulation 27.

It is recommended that the plan should also identify the mobile work equipment on the basis of three broad groupings.

**Group 1** Machinery already fitted with attachment points for ROPS and operator restraints and which can be fitted with proprietary ROPS.

**Group 2** Machines without attachment points for ROPS and operator restraints but where attachment points and proprietary ROPS can be fitted.

**Group 3** Machines for which ROPS and attachment points may need to be designed or the machines replaced.

#### What else should the action plan contain?

To enable the plan to be audited it should contain:

- a unique identifier for the equipment (eg registration, serial, fleet number);
- information which would allow the equipment to be located (eg the place where the item of equipment is normally based or a contact number for the office with overall responsibility for the item);
- the safety measures required (ROPS and/or operator restraints); and
- dates showing when the work is planned for completion (the quickest practicable).

#### When do you need to have the action plan?

The action plan needs to be prepared not later than 31 March 1999. The action plan may need modifying over time but it should be kept available for inspectors until the work is completed.

#### Standards for ROPS and seat restraints

Where ROPS, seat restraints and attachment points need to be fitted you should contact the manufacturer or supplier in the first place for advice. HSE will also be publishing separate guidance on relevant standards dealing with the design and fitting of ROPS and operator restraints.

#### Further information

*The Provision and Use of Work Equipment Regulations 1998* (SI 2306:1998) Stationery Office

*Safe use of work equipment. Provision and Use of Work Equipment Regulations 1998. Approved Code of Practice and Guidance* L22 HSE Books 1998 ISBN 0 7176 1626 6

*5 steps to risk assessment* INDG163(rev) HSE Books 1995  
Single copies free, multiple copies in priced packs  
ISBN 0 7176 0904 9

*Managing health and safety: Five steps to success*  
INDG275(rev) HSE Books 1998

*What to expect when a health and safety inspector calls*  
HSC14 4/98 HSE Books

The future availability and accuracy of the references listed in this publication cannot be guaranteed.

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HSE priced publications are also available from good booksellers.

The Stationery Office (formerly HMSO) publications are available from The Publications Centre, PO Box 276, London SW8 5DT. Tel: 0171 873 9090. They are also available from bookshops.

For other enquiries ring HSE's InfoLine Tel: 0541 545500, or write to HSE's Information Centre, Broad Lane, Sheffield S3 7HQ.

HSE home page on the World Wide Web:  
<http://www.open.gov.uk/hse/hsehome.htm>

This leaflet has been produced by the Health and Safety Executive and the Health and Safety Executive Local Authority Enforcement Liaison Committee (HELA) in conjunction with a number of trade organisations representing the plant and equipment hire industry and their customers. They include:

The Construction Plant Hire Association  
The Federation of Manufacturers of Construction Equipment and Cranes  
The Hire Association Europe  
The Construction Confederation  
The Site Dumper Association  
The British Industrial Truck Association  
Benford Ltd.

If you wish to discuss this in more detail your trade organisation - shown above - or the HSE or local authority health and safety inspector will be able to help.

**This leaflet is a guide addressed principally to hirers out of plant and equipment which explains their legal obligations under regulations 26 and 27 of the Provision and Use of Work Equipment Regulations 1998.**

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