

**DRAFT HEALTH AND SAFETY AT WORK (CONSTRUCTION) (PERSONAL PROTECTIVE EQUIPMENT)  
(JERSEY) REGULATIONS 200-**

---

**Lodged au Greffe on 10th September 2002  
by the Employment and Social Security Committee**

---



**STATES OF JERSEY**

**STATES GREFFE**

150

2002

P.154

Price code: C

# REPORT

## Background

The proposals for Regulations relating to the wearing of personal protective equipment in the construction industry arose from a recommendation made by the working party set up to review changes to health and safety legislation for the industry. The members of the working party are shown in the Appendix to this report.

The working party considered that, in view of the hazards associated with the industry, the wearing of personal protective equipment was essential and should be addressed by specific prescriptive legislation. Although general requirements are placed on employers, employees, self-employed persons and persons in control of premises under Article 3, Article 4 Article 5 and Article 6 of the Health and Safety at Work (Jersey) Law 1989 respectively, the working party reported difficulties and confusion over these legal requirements in relation to the wearing of personal protective equipment.

The proposed Regulations have been developed in consultation with the Law Draftsman's Office and have received the full support of the working party.

## Details of the proposed Health and Safety at Work (Construction) (Personal Protective Equipment) Regulations 200-

The draft Regulations are proposed under Article 9 of the Health and Safety at Work (Jersey) Law 1989 which allow the States to make Regulations on health and safety at work matters.

Regulation 1 sets out the interpretation of a number of terms used in the Regulations. The terms "*construction work*" and "*structure*" define the areas of activity that the Regulations are intended to address. The term "*personal protective equipment*" includes all equipment and clothing intended to protect persons from risks to their health and safety and "*suitable head protection*" is equipment which is designed to prevent head injury, is capable of adjustment and is suitable for its intended purpose.

Regulation 2 identifies that the Regulations apply to construction workers. The Regulation then sets out certain categories of personal protective equipment which are not covered by the Regulations. These include ordinary working clothes, articles provided for self-defence, detection and signalling devices, equipment within the meaning of the Road Traffic (Jersey) Law 1956 and sporting equipment.

Regulations 3 - 6 set out the requirements for the provision and wearing of head protection.

Employers are required under Regulation 3 to provide their employees, and the self-employed to provide themselves, with suitable head protection and maintain and replace it where necessary.

Regulation 4 places a duty on employers to ensure, so far as is reasonably practicable, that head protection is worn unless there is no foreseeable risk of injury other than by the individual falling. Employers, self-employed persons and employees also have an identical duty in respect of any persons that they have control over.

In order to assist them with carrying out their duty under Regulation 4, Regulation 5 allows persons in control of construction site to make written rules which are required to be brought to the attention of persons affected, regulating the wearing of head protection of that site. Regulation 5 also provides for directions on the wearing of suitable head protection to be given to employees and the self-employed.

Finally, in respect of head protection, Regulation 6 places a duty on employees and the self-employed to wear head protection.

Regulation 7 sets out requirements in respect of personal protective equipment other than head protection, requiring employers to provide their employees, and the self-employed to provide themselves, with suitable personal protective equipment; and to maintain and replace or clean it whenever necessary. Regulation 7 also sets out the duty to ensure that the equipment is suitable, that ergonomic requirements are addressed and that the equipment is effective at controlling the risk. Hygienic and health requirements of the user are also required to be taken into account.

Where more than one item of personal protective equipment is required, Regulation 8 places a duty on employers and the self-employed to ensure that they are compatible and effective.

Regulation 9 requires employers, and the self-employed, to make an assessment of risks to health and safety to ensure the suitability, effectiveness and compatibility of personal protective equipment that is selected. This assessment is required to be

reviewed where it is suspected that it is no longer valid or there has been a significant change in circumstances. The outcome of this review is required to be implemented.

Regulation 10 requires employers and the selfemployed to provide appropriate accommodation for any personal protective equipment that is required by the Regulations.

The duty on employers to provide their employees with adequate and appropriate information, instruction and training on matters relating to the wearing of personal protective equipment that is provided is contained in Regulation 11. The information and instruction is required to be comprehensible to persons to whom it is provided and kept available to them. Employers are also required, where appropriate and at suitable intervals, to organise demonstrations on the wearing of the equipment that is provided.

Regulation 12 places a duty on employers to take all reasonable steps to ensure that personal protective equipment is properly used. Employees are required to use any personal protective equipment in accordance with the training that they have received under Regulation 11 and the selfemployed to make full and proper use of equipment that they are required to provide themselves. Employees and the self-employed are also required to take all reasonable steps to return personal protective equipment to the accommodation provided for it after use.

Employees are also required, under Regulation 13, to report any loss or obvious defect in any personal protective equipment that they have been provided.

Regulation 14 permits the Committee to provide exemptions under any or all of the Regulations to individuals or class of persons from any or all of the requirements of the Regulations. The Committee is restricted on the exemptions that are permitted, subject to them being satisfied that the health and safety of such persons is not prejudiced.

In conclusion, Regulation 15 provides for the coming into force date of the Regulations.

### **Financial and other resource implications**

As noted, the Regulations do not introduce any new legal duties, they merely amplify the general duties which are set out under Part II of the Health and Safety at Work (Jersey) Law 1989. It is not considered that employers or the selfemployed in the construction industry are being placed under any financial or resource implication as a result of the introduction of these Regulations, unless they are failing to address their present legal duties.

### **Human Rights (Jersey) Law 200-**

At its meeting on 22nd November 2001, the Committee received the conclusions of a Human Rights audit on all its legislation. The report advised that the relevant provisions of Part II of the Health and Safety at Work (Jersey) Law 1989, containing the duties which form the basis for the proposed Regulations, were capable of being applied in a manner which is compliant with the Convention.

As referred to previously in this report, the proposed Regulations do not introduce any new legal requirements, but expand on duties contained in Part II of the Law. It is therefore considered that, on the basis of present knowledge, the proposed Regulations are compatible with the Human Rights (Jersey) Law 2000.

## MEMBERS OF CONSTRUCTION WORKING PARTY

**Original members**

Mr. R.M.G. Coppel	Director, Health and Safety
Mrs. T. Fage	Health and Safety Inspector
Mr. M. Palfrey	The Jersey Building and Allied Trades Employers' Federation
Mr. B. Le Beauvant	Jersey Construction Forum
Mr. S. Marie	The Chartered Institute of Building
Mr. G. Avis	Public Services Department
Mr. S. Le Ruez-Lane	The CI Group of Professional Engineers
Mr. J. Thomas	The Jersey Federation of Consulting Engineers
Mr. J. Naish	Association of Jersey Architects
Mr. P. Harding	Association of Jersey Architects
Mr. I. Smith	The Chartered Institute of Building

**Current members**

Mr. C. Myers	Director, Health and Safety
Mr. M. Holmes	The Jersey Building and Allied Trades Employers' Federation
Mr. B. Le Beauvant	Jersey Construction Forum
Mr. S. Le Ruez-Lane	The CI Group of Professional Engineers
Mr. J. Naish	Association of Jersey Architects
Mr. P. Harding	Association of Jersey Architects
Mr. S. Fisher	Public Services Department
Mr. I. Smith	The Chartered Institute of Building
Mr. B. Dark	Public Services Department
Mr. R. Griffiths	The Jersey Federation of Consulting Engineers
Mr. J. Woodward	The Jersey Federation of Consulting Engineers

## Explanatory Note

These Regulations will impose health and safety requirements with respect to the provision for, and use by, persons at work on construction work, of personal protective equipment.

*Regulation 1* contains the interpretation provisions, most notably that of “construction work”, “personal protective equipment” and “suitable head protection”. *Regulation 2* applies the Regulations to construction work and excludes certain types of personal protective equipment from the Regulations.

*Regulations 3-6* are concerned with head protection. *Regulation 3* requires an employer to provide suitable head protection for his employees, and the self-employed to provide it for themselves. It also imposes requirements for the maintenance and replacement of that head protection. *Regulation 4* imposes requirements on employers and others having control over workers to ensure that head protection is worn. *Regulation 5* empowers persons in control of construction sites to make written rules concerning the wearing of suitable head protection and for employers and others to give directions requiring it to be worn. *Regulation 6* requires employees and self-employed persons to wear suitable head protection when required to do so by rules or directions.

*Regulation 7* imposes similar requirements as to the provision, maintenance, replacement and cleaning of other personal protective equipment and states when such equipment is considered not suitable.

The Regulations also impose requirements with respect to -

- (a) compatibility of items of personal protective equipment where it is necessary to wear or use more than one item simultaneously (*Regulation 8*);
- (b) the making, review and changing of assessments in relation to the choice of personal protective equipment (*Regulation 9*);
- (c) the provision of accommodation for personal protective equipment (*Regulation 10*);
- (d) the provision of information, instruction and training (*Regulation 11*); and
- (e) ensuring that personal protective equipment is used (*Regulation 12(1)*).

Requirements are imposed on employees and self-employed persons in respect of the use of personal protective equipment and in respect of returning it to accommodation provided for it (*Regulation 12(2) to (4)*). Employees are also required to report to their employer the loss of or any obvious defect in personal protective equipment (*Regulation 13*).

The Committee may in certain circumstances exempt any person or class of persons or any activity or class of activities from any requirement imposed by the Regulations (*Regulation 14*).

*Regulation 15* describes how the Regulations may be cited and provides for them to come into force the day following promulgation.

HEALTH AND SAFETY AT WORK (CONSTRUCTION) (PERSONAL PROTECTIVE EQUIPMENT) (JERSEY)  
REGULATIONS 200-

---

ARRANGEMENT OF REGULATIONS

---

1. Interpretation
2. Application
3. Provision, maintenance and replacement of suitable head protection
4. Ensuring suitable head protection is worn
5. Rules and directions
6. Wearing of suitable head protection
7. Provision, maintenance and replacement of other personal protective equipment
8. Compatibility of personal protective equipment
9. Assessment of personal protective equipment
10. Accommodation for personal protective equipment
11. Information, instruction and training
12. Use of personal protective equipment
13. Reporting loss or defect
14. Exemption certificates
15. Citation and commencement

## Health and Safety at Work (Jersey) Law 1989

### HEALTH AND SAFETY AT WORK (CONSTRUCTION) (PERSONAL PROTECTIVE EQUIPMENT) (JERSEY) REGULATIONS 200-

(Promulgated on the \_\_\_\_\_ day of \_\_\_\_\_ 200-)

#### STATES OF JERSEY

The \_\_\_\_\_ day of \_\_\_\_\_ 200-

**THE STATES**, in pursuance of Article 9 of the Health and Safety at Work (Jersey) Law 1989,<sup>[1]</sup> as amended,<sup>[2]</sup> have made the following Regulations -

#### Interpretation

**1.-(1)** In these Regulations, unless the context otherwise requires “construction work” means the carrying out of any building, civil engineering or engineering construction work and includes any of the following -

- (a) the construction, alteration, conversion, fitting out, commissioning, renovation, repair, upkeep, redecoration or other maintenance (including cleaning which involves the use of water or an abrasive at high pressure or the use of corrosive or toxic substances), decommissioning, demolition or dismantling of a structure;
- (b) the preparation for an intended structure, including site clearance, exploration, investigation (but not site survey) and excavation, and laying or installing the foundations of the structure;
- (c) the assembly of prefabricated elements to form a structure or the disassembly of prefabricated elements which, immediately before such disassembly, formed a structure;
- (d) the removal of a structure or part of a structure or of any product or waste resulting from demolition or dismantling of a structure or from disassembly of prefabricated elements which, immediately before such disassembly, formed a structure; and
- (e) the installation, commissioning, maintenance, repair or removal of the mechanical, electrical, gas, compressed air, hydraulic, telecommunications, computer or similar services which are normally fixed within or to a structure,

but does not include the exploration for or extraction of mineral resources or any activities preparatory thereto carried on at a place where such exploration or extraction is carried out;

“personal protective equipment” means all equipment (including clothing affording protection against the weather) which is intended to be worn or held by a person at work and which protects him against one or more risks to his health or safety, and any addition or accessory designed to meet that objective;

“structure” means -

- (a) any building, steel or reinforced structure (not being a building), railway line or siding, tramway line, dock, harbour, tunnel, shaft, bridge, viaduct, waterworks, reservoir, pipe or pipeline (whatever, in either case, it is intended to contain), cable, aqueduct, sewer, sewage works, gasholder, road, airfield, sea defence works, drainage works, earthworks, lagoon, dam, wall, caisson, mast, tower, pylon, underground tank, earth retaining structure, or structure designed to preserve or alter any natural feature, and any other structure similar to the foregoing;
- (b) any framework, falsework, scaffold or other structure designed or used to provide support or means of

access during construction work; or

- (c) any fixed plant in respect of work which is installation, commissioning, de-commissioning or dismantling and where any such work involves a risk of a person falling more than two metres.

“suitable head protection” means personal protective equipment which -

- (a) is designed to provide protection for the head, so far as is reasonably practicable, against foreseeable risks of injury to the head to which the wearer may be exposed;
- (b) after any necessary adjustment, fits the wearer; and
- (c) is suitable having regard to the work or activity in which the wearer may be engaged.

(2) A reference in these Regulations to a Regulation by number only and without further identification is a reference to the Regulation of that number in these Regulations.

(3) A reference in a Regulation or other division of these Regulations to a paragraph or sub-paragraph by number or letter only and without further identification is a reference to the paragraph or sub-paragraph of that number or letter in the Regulation or other division of these Regulations.

### **Application**

2.-(1) These Regulations apply to any person at work on construction work.

(2) These Regulations do not apply in respect of personal protective equipment which is -

- (a) ordinary working clothes and uniforms which do not specifically protect the health and safety of the wearer;
- (b) an article made, adapted or intended for use for causing injury to any person and used as self-defence or as a deterrent;
- (c) portable devices for detecting and signalling risks and nuisances;
- (d) used for protection while travelling on a road (within the meaning of Article 1(1) of the Road Traffic (Jersey) Law 1956, as amended<sup>[3]</sup>); or
- (e) used during the playing of competitive sports.

### **Provision, maintenance and replacement of suitable head protection**

3.-(1) Every employer shall provide each of his employees with suitable head protection and shall maintain it and replace it whenever necessary.

(2) Every self-employed person shall provide himself with suitable head protection and shall maintain it and replace it whenever necessary.

### **Ensuring suitable head protection is worn**

4.-(1) Every employer shall ensure so far as is reasonably practicable that each of his employees wears suitable head protection unless there is no foreseeable risk of injury to his head other than by falling.

(2) Every employer, self-employed person or employee who has control over any other person shall ensure so far as is reasonably practicable that each such other person wears suitable head protection, unless there is no foreseeable risk of injury to that other person's head other than by falling.

### **Rules and directions**

5.-(1) The person for the time being having control of a site where construction work is being carried out may, so far as is necessary to comply with Regulation 4, make rules regulating the wearing of suitable head protection on that site.



(2) Rules made in accordance with paragraph (1) shall be in writing and shall be brought to the notice of persons who may be affected by them.

(3) An employer may, so far as is necessary to comply with Regulation 4(1), give directions requiring his employees to wear suitable head protection.

(4) An employer, self-employed person or employee who has control over any other self-employed person may, so far as is necessary to comply with Regulation 4(2), give directions requiring each such other self-employed person to wear suitable head protection.

### **Wearing of suitable head protection**

6.-(1) Every employee who has been provided with suitable head protection shall wear that head protection when required to do so by rules made or directions given under Regulation 5.

(2) Every self-employed person shall wear suitable head protection when required to do so by rules made or directions given under Regulation 5.

(3) Every self-employed person who is not under the control of another employer or self-employed person or of an employee shall wear suitable head protection unless there is no foreseeable risk of injury to his head otherwise than by his falling.

### **Provision, maintenance and replacement of other personal protective equipment**

7.-(1) Every employer shall

- (a) provide suitable personal protective equipment other than head protection to his employees who may be exposed to a risk to their health or safety while at work except where and to the extent that such risk has been adequately controlled by other means which are equally or more effective; and
- (b) maintain such equipment in an efficient state, in efficient working order and in good repair and replace or clean it whenever necessary.

(2) Every self-employed person shall -

- (a) provide himself with suitable personal protective equipment other than head protection where he may be exposed to a risk to his health or safety while at work except where and to the extent that such risk has been adequately controlled by other means which are equally or more effective; and
- (b) maintain such equipment in an efficient state, in efficient working order and in good repair and replaced or clean it whenever necessary.

(3) Without prejudice to the generality of paragraphs (1) and (2), personal protective equipment is not suitable unless -

- (a) it is appropriate for the risk or risks involved, the conditions at the place where exposure to the risk may occur and the period for which it is worn;
- (b) it takes account of ergonomic requirements and the state of health of the person or persons who may wear it, and of the characteristics of the workstation of each such person;
- (c) it is capable of fitting the wearer correctly, if necessary, after adjustments within the range for which it is designed; and
- (d) so far as is practicable, it is effective to prevent or adequately control the risk or risks involved without increasing overall risk.

(4) Where it is necessary to ensure that personal protective equipment is hygienic and otherwise free of risk to health, every employer and every self-employed person shall ensure that personal protective equipment provided under this Regulation is provided for individual use.

### **Compatibility of personal protective equipment**

**8.**(1) Every employer shall ensure that where the presence of more than one risk to health or safety makes it necessary for his employee to wear or use simultaneously more than one item of personal protective equipment, such equipment is compatible and continues to be effective against the risk or risks in question.

(2) Every self-employed person shall ensure that where the presence of more than one risk to health or safety makes it necessary for him to wear or use simultaneously more than one item of personal protective equipment, such equipment is compatible and continues to be effective against the risk or risks in question.

### **Assessment of personal protective equipment**

**9.**(1) Before choosing any personal protective equipment, an employer or self-employed person shall make an assessment to determine whether it is suitable.

(2) The assessment required by paragraph (1) shall involve-

- (a) in the case of personal protective equipment other than head protection, an assessment of any risk or risks to health or safety which have not been avoided by other means;
- (b) the definition of the characteristics which personal protective equipment must have in order to be suitable and, where sub-paragraph (a) applies, effective against the risks there referred to, taking into account any risks which the equipment itself may create;
- (c) comparison of the characteristics of the personal protective equipment available with the characteristics referred to in sub-paragraph (b); and
- (d) an assessment as to whether the personal protective equipment is compatible with other personal protective equipment provided which is in use and which an employee would be required to wear simultaneously.

(3) The person who made the assessment required by paragraph (1) shall review it if -

- (a) there is reason to suspect that it is no longer valid; or
- (b) there has been a significant change in the matters to which it relates,

and where as a result of any such review changes in the assessment are required, he shall make such changes.

### **Accommodation for personal protective equipment**

**10.** Every employer or self-employed person shall ensure that appropriate accommodation is available for personal protective equipment provided by virtue of these Regulations when it is not being used.

### **Information, instruction and training**

**11.**(1) Where an employer is required to provide personal protective equipment to an employee, the employer shall ensure that the employee is provided with such information, instruction and training as is adequate and appropriate to enable the employee to know -

- (a) the risk or risks which the personal protective equipment will avoid or limit;
- (b) the purpose for which and the manner in which personal protective equipment is to be used; and
- (c) any action to be taken by the employee to ensure that the personal protective equipment remains in an efficient state, in efficient working order and in good repair as required by these Regulations,

and shall also ensure that such information is kept available to employees.

(2) Without prejudice to the generality of paragraph (1)-

- (a) the information and instruction provided by virtue of that paragraph shall not be adequate and appropriate

unless it is comprehensible to the persons to whom it is provided and kept available to them; and

- (b) the employer shall, where appropriate and if so, at suitable intervals, organise demonstrations of the wearing of personal protective equipment.

#### **Use of personal protective equipment**

**12.**-(1) Every employer shall take all reasonable steps to ensure that any personal protective equipment provided to his employees by virtue of these Regulations is properly used.

(2) Every employee shall use any personal protective equipment provided to him by virtue of these Regulations in accordance both with any training in the use of the personal protective equipment concerned which has been received by him and the instructions respecting that use which have been provided to him by virtue of Regulation 11.

(3) Every self-employed person shall make full and proper use of any personal protective equipment with which he is required to provide himself by virtue of these Regulations.

(4) Every employee who has been provided with, and every self-employed person who provides himself with, personal protective equipment by virtue of these Regulations shall take all reasonable steps to ensure that it is returned to the accommodation provided for it after use.

#### **Reporting loss or defect**

**13.** Every employee who has been provided with personal protective equipment shall take reasonable care of it and shall forthwith report to his employer any loss of or obvious defect in that personal protective equipment.

#### **Exemption certificates**

**14.**-(1) Subject to paragraph (2), the Committee may, by certificate in writing, exempt any person or class of persons or any activity or class of activities from any requirement imposed by these Regulations and any such exemption may be granted subject to conditions and to a limit of time and may be revoked by a certificate in writing at any time.

(2) The Committee shall not grant any such exemption unless, having regard to the circumstances of the case, and in particular to -

- (a) the conditions, if any, which it proposes to attach to the exemption; and
- (b) any other requirements imposed by or under any enactment which apply to the case,

it is satisfied that the health and safety of persons who are likely to be affected by the exemption will not be prejudiced because of it.

#### **Citation and commencement**

**15.** These Regulations may be cited as the Health and Safety at Work (Construction) (Personal Protective Equipment) (Jersey) Regulations 200- and shall come into force the day following promulgation.

---

[1] Recueil des Lois, Volume 1988-1989, page 340.

[2] Recueil des Lois, Volume 1996-1997, page 622.

[3] Recueil des Lois, Tome VIII, page 579 and Nos. 7411, 7878, 8016, 8624, 8722, 9180, 9294 and 9308.