

Construction (Head Protection) Regulations 1989

Second edition

Guidance on Regulations



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This publication provides advice and guidance relevant to all those involved in the construction industry. It provides information regarding dutyholders' legal obligations and guidance, which interprets the legislation making it easy to understand. These regulations are primarily concerned with wearing head protection during construction work.

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This booklet sets out the law and explains what it means in simple terms. It also includes guidance on how to comply with the law. This guidance is issued by the Health and Safety Executive. Following the guidance is not compulsory and you are free to take other action. But if you do follow the guidance you will normally be doing enough to comply with the law. Health and safety inspectors seek to secure compliance with the law and may refer to this guidance as illustrating good practice.

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Introduction

1 This booklet gives guidance to all those involved in the construction industry on their legal obligations under the Construction (Head Protection) Regulations 1989 (CHP). It also sets out what the Regulations themselves say. These Regulations are concerned with the provision and wearing of head protection during construction work. They came into force on 30 March 1990, and have since been modified by the Personal Protective Equipment at Work Regulations 1992.

2 Those in control of construction sites need to stop head injury accidents happening by taking measures such as:

- (a) preventing objects falling from heights;
- (b) reducing the likelihood of being struck by any object which does fall;
and
- (c) minimising the risk of a person's head striking against something.

There are several reasons why head protection is not a substitute for these other measures. This is because:

- (a) such precautions protect all on site, whereas head protection only protects the wearer;
- (b) it is difficult to ensure that all workers will always wear the necessary head protection;
- (c) head protection does not prevent head injury, only reduces its severity.

Some practical examples of preventive measures are set out in Appendix 5.

3 For most construction work, head protection will need to be worn in addition to taking preventive measures to minimise risk of head injury accidents.

4 The Construction (Design and Management) Regulations 1994 (CDM) set out the legal requirements for safely planning, managing and carrying out construction work, and on preventing accidents which can lead to head injury. Appendix 1 summarises these legal duties.

Sikhs and head protection

5 A Sikh who is wearing a turban is exempt from any requirement to wear head protection while working on a site where construction work is undertaken (see paragraph 10).

Regulation

Regulation 1 Citation, commencement and interpretation

(1) *These Regulations may be cited as the Construction (Head Protection) Regulations 1989 and shall come into force on 30 March 1990.*

(2) *In these Regulations, unless the context otherwise requires "suitable head protection" means head protection which -*

- (a) *is designed to provide protection, 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.*

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6 In most cases, suitable head protection will mean an industrial safety helmet conforming to British Standard BS EN 397 or equivalent standard. Helmets to BS EN 397 may include optional, but nevertheless strongly recommended, comfort features such as sweat-bands. While working in areas with particularly limited space, 'bump caps' to BS 4033 (to be replaced by BS EN 812) or an equivalent standard may be appropriate. Other, specialist head protection may also be suitable for certain jobs, for example climbing helmets for rope access work. Such head protection should also meet recognised standards, which should give as a minimum the protection offered by BS EN 397 or BS 4033 as appropriate.

7 Manufacturers of head protection can advise whether individual models are suitable for particular types of work or activity. Advice on selection of suitable head protection is set out in paragraph 17 and Appendix 6.

1

Regulation

Regulation 2 Application of these Regulations

(1) *Subject to paragraph (2) of this Regulation, these Regulations shall apply to -*

- (a) *building operations; and*
- (b) *works of engineering construction, within, in either case, the meaning of the Factories Act 1961.(a)*

(2) *These Regulations shall not apply during a diving operation as construed in accordance with Regulation 2(2)(a) of the Diving Operations at Work Regulations 1981.^(b)*

(a) 1961 c.34; section 176 has been extended by SI 1960 1960/421 and SI 1968/1530.

(b) SI 1981/399.

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Guidance

8 The Regulations apply to building operations and works of engineering construction as defined in the Factories Act. However, the Construction (Health, Safety and Welfare) Regulations 1996 (CHSW) modified these definitions in the Factories Act so that the Regulations now apply to 'Construction Work' as defined in the CDM and CHSW Regulations. The definition of 'Construction Work' is set out in Appendix 2.

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Guidance

9 The Regulations apply to construction work throughout Great Britain and in territorial waters. However, they do not apply to diving operations. Divers undertaking construction work need not wear head protection while preparing for, and actually diving.

Sikhs and head protection

10 An exemption under the Employment Act 1989 (see Appendix 4) for turban-wearing Sikhs means that they do not need to wear head protection while on a construction site if they are wearing a turban. Therefore, the duties on employers and the self-employed person in these Regulations to provide head protection, and ensure that it is worn, do not apply in connection with the wearing of head protection by a turban-wearing Sikh.

11 No other workers are exempt from the Regulations; this includes Sikh construction workers if they are not wearing their turbans.

2

Regulation

Regulation 3 Provision, maintenance and replacement of suitable head protection

(1) Every employer shall provide each of his employees who is at work on operations or works to which these Regulations apply with suitable head protection and shall maintain it and replace it whenever necessary.

(2) Every self-employed person who is at work on operations or works to which these Regulations apply shall provide himself with suitable head protection and shall maintain it and replace it whenever necessary.

(3) Any head protection provided by virtue of this Regulation shall comply with any enactment (whether in an Act or instrument) which implements any provision on design or manufacture with respect to health or safety in any relevant Community Directive listed in Schedule 1 to the Personal Protective Equipment at Work Regulations 1992 which is applicable to that head protection.

(4) Before choosing head protection, an employer or self-employed person shall make an assessment to determine whether it is suitable.

(5) The assessment required by paragraph (4) of this Regulation shall involve -

- (a) the definition of the characteristics which head protection must have in order to be suitable;*
- (b) comparison of the characteristics of the protection available with the characteristics referred to in sub-paragraph (a) of this paragraph.*

(6) The assessment required by paragraph (4) shall be reviewed if-

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

and where as a result of the review changes in the assessment are required, the relevant employer or self-employed person shall make them.

(7) Every employer and every self-employed person shall ensure that appropriate accommodation is available for head protection provided by virtue of these Regulations when it is not being used.

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Regulation 2

[Note: regulations 3(3) to 3(7) were added by the Personal Protective Equipment at Work Regulations 1992.]

Guidance

General

12 'Employers', 'self-employed person', 'employee' and 'at work' have the meaning given in the Health and Safety at Work etc Act (HSWA) 1974 (Appendix 3 sets out these definitions).

Head protection for people not undertaking construction work

13 These Regulations do not require head protection to be provided to people who are not undertaking construction work - for example, those delivering goods to a site or a prospective house purchaser visiting a housing development under construction. However, in order to comply with the general duties under section 3 of the HSWA, employers and the self-employed person engaged in construction work (including clients, designers, contractors, etc) should require visitors to wear suitable head protection if there is a foreseeable risk of head injury, other than the risk to those who may accidentally stumble or fall. Where necessary, a stock of helmets should be available for visitors to use when on site. It is often useful to have the visitors' helmets a different colour from those of people who regularly work on the site. This could help to readily identify those unfamiliar with the operations and risks on the site.

Maintenance and storage

14 Head protection must be maintained in good condition. It should:

- (a) be stored in a safe place, for example, on a peg or in a cupboard. It should not be stored in direct sunlight or in excessively hot, humid conditions;
- (b) be checked regularly for signs of damage or deterioration;
- (c) have defective parts (eg straps) replaced (if the model allows this). Parts from one model of helmet cannot normally be interchanged with those from another;
- (d) have the sweat-band regularly cleaned or replaced.

15 Before head protection is reissued to another person, it will need to be inspected to ensure it is serviceable and clean. Head protection can be cleaned using soap and water. Sweat-bands, in particular, should always be cleaned or replaced.

Replacement

16 Head protection should normally be replaced at intervals recommended by the manufacturer. It will also need replacing when:

- (a) the harness is damaged and cannot be replaced;
- (b) the shell is damaged or it is suspected that its shock absorption or penetration resistance has deteriorated (see Appendix 7).

New head protection

17 Any new head protection bought should be CE-marked to indicate that it complies with the Personal Protective Equipment (EC Directive) Regulations 1992. It is illegal for manufacturers and suppliers to sell personal protective equipment (PPE) unless it meets the basic health and safety requirements contained in the schedule to these Regulations. New head protection must always be suitable (see paragraphs 6 and 7), as well as CE-marked. Employers and the self-employed person can, of course, continue to use any head protection without a CE-mark that

Guidance

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was legally supplied to them, for example before the PPE (EC Directive) Regulations came into force in July 1995, provided that it continues to be suitable for the use to which it is put, and is properly maintained.

Regulation

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Regulation 4 Ensuring suitable head protection is worn

(1) Every employer shall ensure so far as is reasonably practicable that each of his employees who is at work on operations or works to which these Regulations apply wears suitable head protection, unless there is no foreseeable risk of injury to his head other than by his falling.

(2) Every employer, self-employed person or employee who has control over any other person who is at work on operations or works to which these Regulations apply 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 other than by his falling.

Guidance

4

General

18 Everyone undertaking construction work has a role to play in making sure that where head protection is needed it is worn. The Regulations place duties on employers and those who have control over people undertaking construction work to ensure suitable head protection is worn by those people. They will also need to require visitors to wear head protection where the visitors are at risk of head injury (see paragraph 13). Employers and those in control of sites where construction work is undertaken can also make rules and directions on the wearing of head protection (see paragraphs 25 and 26). Employees and the self-employed person also have duties to wear head protection (see paragraphs 29 and 30).

Who can be in control?

19 Those with control over someone undertaking construction work and who have a duty to ensure head protection is worn will typically include the following:

- (a) main contractor;
- (b) principal contractor;
- (c) other contractors and subcontractors;
- (d) managers, including contract managers, site managers, foremen and supervisors;
- (e) engineers and surveyors and other professionals with control of people at work.

20 In some circumstances clients, architects and others may also have direct control over a person undertaking construction work and will therefore have a duty to ensure head protection is worn.

'Unless there is no foreseeable risk of injury to the head other than by falling'

21 The duty to ensure suitable head protection is worn applies unless there is no foreseeable risk of injury to the head, or the only risk is from the wearer falling. Head protection for use in construction work will not usually provide significant protection against the consequences of its wearer falling.

22 In construction work, head protection may prevent or reduce head injury caused by:

Guidance

- (a) falling or swinging objects - such as materials, tools or crane hooks;
- (b) striking the head against something - particularly if there is insufficient headroom.

23 The circumstances when there is no foreseeable risk of head injury from falling or swinging objects or striking the head against something will be very limited in most construction work. Examples where wearing suitable head protection may not have to be worn include:

- (a) on sites which consist of, or where work has reached the stage of, completed structures where there is no risk of objects or materials falling from one working level to another and which have sufficient headroom. Maintenance or decorative work is most likely to be involved;
- (b) in site offices, cabins, toilets, canteens or mess rooms;
- (c) the cabs of vehicles, cranes, etc, if they provide sufficient protection against falling objects;
- (d) when all work is at ground level, for example road works such as kerb laying or resurfacing work.

Steps to ensure head protection is worn

24 Those who have duties to ensure suitable head protection is worn will need to:

- (a) *identify when and where head protection should be worn.* In many cases it may be easier to specify areas or work stages where there is no foreseeable risk of head injury, and then require that head protection is worn in all other circumstances. Where there is no foreseeable risk at certain stages of work these should be identified by those involved, preferably at the planning stage. Head protection will be needed when people move from location to location on site, during which they may be exposed to foreseeable risk of head injury;
- (b) *inform site personnel.* See paragraphs 27-28;
- (c) *provide adequate supervision to check head protection is worn when necessary.* Routinely check head protection is worn: look out for helmet use at all times, from the start of work and throughout the day. Also, make provision to check those who arrive on site late;
- (d) *encourage, and where necessary enforce, the wearing of head protection.* Measures that can be taken to ensure that head protection is worn where necessary include:
 - (i) training and educating workers about the risks of head injury and the correct adjustment, wearing and maintenance of their head protection;
 - (ii) making it clear to workers that not wearing necessary head protection is a serious matter, and will be dealt with like any other serious misconduct on site.

4

Regulation

Regulation 5 Rules and directions

(1) *The person for the time being having control of a site where operations or works to which these Regulations apply are being carried out may, so far as is necessary to comply with regulation 4 of these Regulations, make rules regulating the wearing of suitable head protection on that site by persons at work on those operations or works.*

(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.*

5

Regulation

5

(3) Every employer may, so far as is necessary to comply with regulation 4(1) of these Regulations, give directions requiring his employees to wear suitable head protection.

(4) Every 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) of these Regulations, give directions requiring each such other self-employed person to wear suitable head protection.

Guidance

Rule-making

25 Rule-making may be especially useful to the principal or main contractor on a multi-contractor site. Where the CDM Regulations apply, any rules on head protection wear could be included in the construction phase health and safety plan. Since turban-wearing Sikhs are legally exempt from the need to wear head protection (see paragraph 10 and Appendix 4), rules made under this Regulation should not require them to wear head protection.

26 Rules should be in writing and brought to the notice of those affected. The person in control needs to consult employees and, where appointed, trade union safety representatives; other interested parties might also need to be consulted. Site rules should be clear and unambiguous to ensure that there is no misunderstanding or doubt about where and how to wear head protection.

Informing site personnel

27 If written rules are not drawn up, a procedure needs to be established to inform people on site of when and where to wear suitable head protection. This can be achieved in a number of ways, which include use of verbal instructions and safety signs.

28 Displaying safety signs to indicate that people on site are entering a head protection area is a good way of communicating and reinforcing the 'wear your head protection' message. All signs should meet the requirements of the Health and Safety (Safety Signs and Signals) Regulations 1996. A suitable sign is shown:



Mandatory sign: intrinsic features: (a) round shape, (b) white pictogram on a blue background (the blue part is to take up at least 50% of the area of the sign).

5

Regulation

6

Regulation 6 Wearing of suitable head protection

(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 of these Regulations.

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

Regulation

(3) *Every self-employed person who is at work on operations or works to which these Regulations apply, but 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 other than by his falling.*

(4) *Every employee or self-employed person who is required to wear suitable head protection by or under these Regulations shall -*

- (a) *make full and proper use of it; and*
- (b) *take all reasonable steps to return it to the accommodation provided for it after use.*

6

[Note: regulation 6(4) was amended by the PPE at Work Regulations 1992.]

Guidance

29 Those doing construction work must wear suitable head protection when directed to do so by their employer or the person who controls their activities on the site. They must also comply with any written rules. The only exception is for turban-wearing Sikhs (see paragraph 10 and Appendix 4). At the end of the shift, and at other times when the head protection is not needed for lengthy periods, it should be returned to the place provided for its storage, for example in a cupboard or hung on a peg provided.

30 Self-employed people must wear suitable head protection when directed to do so by someone in control of the construction work. They also need to follow the written rules requiring head protection to be worn on the site. Self-employed people not under the control of another person must wear head protection while they are working unless the only foreseeable risk of head injury is by accidental stumbling or falling (see paragraph 21).

6

Regulation

Regulation 7 Reporting the loss of, or defect in, suitable head protection

Every employee who has been provided with suitable head protection by his employer shall take reasonable care of it and shall forthwith report to his employer any loss of, or obvious defect in, that head protection.

7

Guidance

31 Employers should make arrangements so that their employees can report loss or defects on site (Appendix 7 sets out defects which are likely to occur). The defective head protection should be replaced, or where possible repaired, before the person concerned is allowed to restart work.

32 Employees must take reasonable care of their head protection, and report any loss or obvious defect to their employer as soon as possible. If employees have any concerns about their head protection, they should tell their employer or the employer's representative on site.

7

Regulation

Regulation 8 Extension outside Great Britain

These Regulations shall apply to any activity to which sections 1 to 59 and 80 to 82 of the Health and Safety at Work etc Act 1974 apply by virtue of article 8 of the Health and Safety at Work etc Act 1974 (Application outside Great Britain) Order 1995 other than the activities specified in sub-paragraphs (b), (c), (d) and (e) of that article as they apply to any such activity in Great Britain.

8

Regulation 9 Exemption certificates

(1) *Subject to paragraph (2) below, the Health and Safety Executive may, by certificate in writing, exempt any person or class of person 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 Executive 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, and that any provision imposed by the European Communities in respect of the encouragement of improvements in the safety and health of workers at work will be satisfied. [Note: regulation 9(2) was amended by the PPE at Work Regulations 1992.]

Appendix

Appendix 1 Legal obligations to ensure safety in construction work, including the prevention of head injury

The Health and Safety at Work etc Act 1974

Section 2 General duties of employers to their employees

(1) It shall be the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees;

Section 3 General duties of employers and self-employed to persons other than their employees

(1) It shall be the duty of every employer to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that persons not in his employment who may be affected thereby are not thereby exposed to risks to their health or safety.

(2) It shall be the duty of every self-employed person to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that he and other persons (not being his employees) who may be affected thereby are not thereby exposed to risks to their health and safety.

The Construction (Design and Management) Regulations 1994 (CDM)

These Regulations set out duties covering general management issues such as the elimination and reduction of risk through design, provision and communication of information, and co-operation. Duties which are especially relevant to the Construction (Head Protection) Regulations 1989 are:

Regulation 16 Requirements on and powers of principal contractor

(2) The principal contractor may -

- (a) give reasonable directions to any contractor so far as is necessary to enable the principal contractor to comply with his duties under these Regulations;*
- (b) include in the health and safety plan rules for the management of the construction work which are reasonably required for the purposes of health and safety.*

(3) Any rules contained in the health and safety plan shall be in writing and shall be brought to the attention of persons who may be affected by them.

Regulation 19 Requirements and prohibitions on contractors

This requires contractors to co-operate with the principal contractor and comply with any rules or directions which the principal contractor gives.

The Construction (Health, Safety and Welfare) Regulations 1996 (CHSW)

Provisions dealing with specific hazards on construction sites:

Appendix

Regulation 8 Falling objects

(1) Where necessary to prevent danger to any person, suitable and sufficient steps shall be taken to prevent, so far as is reasonably practicable, the fall of any materials or object.

(2) Where it is not reasonably practicable to comply with the requirements of paragraph (1) or where it is otherwise necessary in the interests of safety, suitable and sufficient steps shall be taken to prevent any person from being struck by any falling material or object which is liable to cause injury.

(3) No materials or object shall be thrown or tipped from a height in circumstances where it is liable to cause injury to any person.

(4) Materials and equipment shall be stored in such a way as to prevent danger to any person arising from the collapse, overturning or unintentional movement of such materials or equipment.

The Construction (Lifting Operations) Regulations 1961

Regulation 49 requires loads being raised or lowered to be adequately secured to prevent danger from slipping or displacement.

There are a number of other requirements covering, indirectly, duties to prevent falls of materials or articles; for example, lifting appliances and gear have to be examined regularly, the safe working load of lifting equipment has to be known, and only persons who are competent should operate lifting appliances. It is intended that these Regulations will eventually be replaced by regulations applying to lifting operations in all industries.

Further information is contained in the following publications:

A guide to the Health and Safety at Work etc Act 1974 5th edition L1 HSE Books 1992 ISBN 0 7176 0441

Managing construction for health and safety The Construction (Design and Management) Regulations 1994 Approved Code of Practice L54 HSE Books 1995 ISBN 0 7176 0792 5

Personal Protective Equipment at Work Regulations 1992 Guidance on the regulations L25 HSE Books 1992 ISBN 0 7176 0415 2

The Construction (Health, Safety and Welfare) Regulations 1996 SI 1996/1592 HMSO ISBN 0 11 035904 6

The Construction (Lifting Operations) Regulations 1961 SI 1961/1581 HMSO ISBN 0 111 00151 X

Head protection for sikhs wearing turbans Guidance for employers INDG262 HSE Books (Forthcoming Summer 1998)

Appendix

Appendix 2 Definitions of building operation and work of engineering construction

Factories Act 1961 section 176(1)

“building operation” and “work of engineering construction” mean “construction work” within the meaning assigned to that phrase by regulation 2(1) of the Construction (Design and Management) Regulations 1994 (SI 1994/3140);

Construction (Design and Management) Regulations 1994, regulation 2(1)

“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 substances classified as corrosive or toxic for the purposes of regulation 5 of the Carriage of Dangerous Goods by Road and Rail (Classification, Packaging and Labelling) Regulations 1994), de-commissioning, demolition or dismantling of any 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 the demolition or dismantling of a structure or from disassembly of prefabricated elements which, immediately before disassembly, formed a structure,*
- (e) the installation, commissioning, maintenance, repair or removal of mechanical, electrical, gas, compressed air, hydraulic, telecommunications, computer or similar services which are normally fixed within a structure,*

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

Appendix

Appendix 3 Definitions of: 'self-employed person', 'employee', 'employer', and 'at work' (Health and Safety at Work etc Act 1974, sections 52 and 53)

Self-employed person

1 *"Self-employed person" means an individual who works for gain or reward otherwise than under a contract of employment whether or not he himself employs others'.*

Employee and employer

2 *"Employee" means an individual who works under a contract of employment, and related expressions shall be construed accordingly. A contract of employment means a contract of employment or apprenticeship (whether express or implied and, if express, whether oral or in writing).*

3 *"Employer" is one of the "related expressions" included in the definition of "employee".*

At work

4 *"Work" means as an employee or as a self-employed person.*

5 *An employee is at work throughout the time when he is in the course of his employment, but not otherwise.*

6 *A self-employed person is "at work" throughout such time as he devotes to work as a self-employed person.*

7 *The expressions "work" and "at work", in whatever context, shall be construed accordingly.*

Appendix

Appendix 4 Sections 11 and 12 of the Employment Act 1989

Exemption of Sikhs from requirement to wear safety helmets on construction sites

11 -(1) Any requirement to wear a safety helmet which (apart from this section) would, by virtue of any statutory provision or rule of law, be imposed on a Sikh who is on a construction site shall not apply to him at any time when he is wearing a turban.

(2) Accordingly, where -

- (a) a Sikh who is on a construction site is for the time being wearing a turban, and
- (b) (apart from this section) any associated requirement would, by virtue of any statutory provision or rule of law, be imposed -

- (i) on the Sikh, or
- (ii) on any other person,

in connection with the wearing by the Sikh of a safety helmet,

that requirement shall not apply to the Sikh or (as the case may be) to that other person.

(3) In subsection (2) "associated requirement" means any requirement (other than one falling within subsection (1)) which is related to or connected with the wearing, provision or maintenance of safety helmets.

(4) It is hereby declared that, where a person does not comply with any requirement, being a requirement which for the time being does not apply to him by virtue of subsection (1) or (2) -

- (a) he shall not be liable in tort to any person in respect of any injury, loss or damage caused by his failure to comply with that requirement; and
- (b) in Scotland no action for reparation shall be brought against him by any person in respect of any such injury, loss or damage.

(5) If a Sikh who is on a construction site -

- (a) does not comply with any requirement to wear a safety helmet, being a requirement which for the time being does not apply to him by virtue of subsection (1), and
- (b) in consequence of any act or omission of some other person sustains any injury, loss or damage which is to any extent attributable to the fact that he is not wearing a safety helmet in compliance with the requirement,

that other person shall, if liable to the Sikh in tort (or, in Scotland, in an action for reparation), be so liable only to the extent that injury, loss or damage would have been sustained by the Sikh even if he had been wearing a safety helmet in compliance with the requirement.

(6) Where -

- (a) the act or omission referred to in subsection (5) causes the death of the Sikh, and

Appendix

(b) *the Sikh would have sustained some injury (other than loss of life) in consequence of the act or omission even if he had been wearing a safety helmet in compliance with the requirement in question, the amount of any damages which, by virtue of that subsection, are recoverable in tort (or, in Scotland, in an action for reparation) in respect of that injury shall not exceed the amount of any damages which would (apart from that subsection) be so recoverable in respect of the Sikh's death,*

(7) *In this section -*

“building operations” and “works of engineering construction” have the same meaning as in the Factories Act 1961;

“construction site” means any place where any building operations or works of engineering construction are being undertaken;

“injury” includes loss of life, any impairment of a person's physical or mental condition and any disease;

“safety helmet” means any form of protective headgear; and

“statutory provision” means a provision of an Act or of subordinate legislation.

(8) *In this section -*

(a) *any reference to a Sikh is a reference to a follower of the Sikh religion; and*

(b) *any reference to a Sikh being on a construction site is a reference to his being there whether while at work or otherwise.*

(9) *This section shall have effect in relation to any relevant construction site within the territorial sea adjacent to Great Britain as it has effect in relation to any construction site within Great Britain.*

(10) *In subsection (9) “relevant construction site” means any construction site where there are being undertaken any building operations or works of engineering construction which are activities falling within Article 7(a) of the Health and Safety at Work etc Act 1974 (Application outside Great Britain) Order 1995.*

Protection of Sikhs from racial discrimination in connection with requirements about wearing safety helmets

12 -(1) *Where -*

(a) *any person applies to a Sikh any requirement or condition relating to the wearing by him of a safety helmet while he is on a construction site, and*

(b) *at the time when he so applies the requirement or condition that person has no reasonable grounds for believing that the Sikh would not wear a turban at all times when on such a site,*

then, for the purpose of determining whether the application of the requirement or condition to the Sikh constitutes an act of discrimination falling within section (1) (b) of the Race Relations Act 1976 (indirect racial discrimination), the requirement or condition shall be taken to be one which cannot be shown to be justifiable as mentioned in sub-paragraph (ii) of that provision.

(2) *Any special treatment afforded to a Sikh in consequence of section 11(1) or (2) above shall not be regarded for the purposes of the Race Relations Act*

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1976 as giving rise, in relation to any other person, to any discrimination falling within section 1 of that Act.

(3) Subsections (7) to (10) of section 11 above shall apply for the purposes of this section as they apply for the purposes of that section.

Appendix

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Appendix 5 The best approach - preventing head injury accidents

1 Safety precautions which can help prevent objects falling include:

- (a) not storing materials at height or at the edge of excavations;
- (b) toe boards, end toe boards and brick guards or other suitable vertical protection on scaffolds;
- (c) fully boarded work platforms and protection around or over openings in floors, etc;
- (d) edge protection, toe boards and brickguards during roofing work;
- (e) safe slinging of materials using nets or palletised loads.

2 Steps to reduce the likelihood of people being struck by any materials or objects that do fall include:

- (a) keeping people out of areas where materials are being, or are likely to be, dropped;
- (b) provide debris chutes and sheeting of the skips they feed into;
- (c) fans or tunnels over access ways.

3 Specific measures to prevent or minimise injury from striking the head against something include:

- (a) protection at the ends of scaffold poles, etc;
- (b) capping of projections from structures, eg studs for use in fixing suspended ceilings;
- (c) hooking the sling of a crane;
- (d) provision of sufficient headroom on scaffolding;
- (e) good housekeeping to prevent slipping or tripping accidents.

Appendix

Appendix 6 Selecting suitable head protection

1 Relevant British Standards are listed in paragraph 6 of the main text. Other factors to take into account are set out below.

How to fit and wear properly

2 To fit properly and ensure that head protection functions as intended it should:

- (a) have the right shell size for the person who is to wear it;
- (b) have an easily adjustable head-band and, where provided, nape and chin strap;
- (c) be worn with the correct adjustments made, and the features provided properly used.

3 Head protection should be capable of being adjusted to accommodate thermal liners used in cold weather.

Compatibility with the work to be done

4 Head protection should be selected which will minimise any obstruction to the work to be done. For example, an industrial safety helmet with little or no peak is functional for a surveyor taking measurements or to allow unrestricted upward vision for a scaffold erector.

5 A means of securing the helmet is needed where the job involves work in windy conditions (especially at heights), repeated bending or constantly looking upwards. Flexible head-bands and Y-shaped chin straps can help.

6 The design must allow other necessary personal protective equipment (PPE) such as ear defenders or eye protection to be worn safely and comfortably and so that they are effective. (Check manufacturers' instructions on the compatibility of head protection with other types of PPE.)

Involving the user in the choice

7 Involve those who will wear the head protection in its selection. Where possible, more than one suitable model should be made available.

Comfort

8 Head protection should be as comfortable as possible. Comfort is improved by the following:

- (a) a flexible head-band of adequate width and contoured both vertically and horizontally to fit the forehead;
- (b) an absorbent sweat-band which is easy to clean or replace;
- (c) textile cradle straps;
- (d) chin straps (when fitted) which:
 - (i) fit around the ears;
 - (ii) are fitted with smooth, quick-release buckles which do not dig into the skin;
 - (iii) are made from non-irritant materials;
 - (iv) can be stowed on the helmet when not in use;
 - (v) are compatible with any other necessary personal protective equipment.

Appendix

Appendix 7 Damage or deterioration to shell of suitable head protection

Damage to shell

1 Damage to the shell of a helmet can occur when:

- (a) objects fall onto it;
- (b) it strikes against a fixed object;
- (c) it is dropped or thrown.

2 Helmets should always be replaced when:

- (a) the shell has received a severe impact;
- (b) deep scratches occur, ie to a depth greater than 25% of the shell thickness;
- (c) the shell has any cracks visible to the naked eye.

Deterioration in shock absorption or penetration resistance

3 Certain chemicals can weaken the plastic of the shell, leading to rapid deterioration in shock absorption or penetration resistance.

4 Chemicals which should be avoided include aggressive cleaning agents or solvent-based adhesives and paints. Where names or other markings need to be applied using adhesives, advice on how to do this safely should be sought from the helmet manufacturer.

5 The shell can also weaken on exposure to heat or sunlight which can make it go brittle. Head protection should therefore never be stored near a window, eg the rear window of a car.

Further information

For information about health and safety ring HSE's Infoline Tel: 0845 345 0055
Fax: 0845 408 9566 Textphone: 0845 408 9577 e-mail: hse.infoline@natbrit.com or
write to HSE Information Services, Caerphilly Business Park, Caerphilly CF83 3GG.

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