

Subsidiary Legislation made under s.58.

## **Factories (Lifting Operations and Lifting Equipment) Regulations, 1999**

**LN. 1999/059**

*Commencement (LN.1999/089)*

**29.7.1999**

**Transposing:**

Directive 89/655/EEC

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### **ARRANGEMENT OF REGULATIONS**

Regulation

1. Title and commencement.
2. Interpretation.
3. Application.
4. Strength, stability and suitability.
5. Lifting equipment for lifting persons.
6. Positioning and installation.
7. Marking of lifting equipment.
8. Organisation of lifting operations.
9. Thorough examination and inspection.
10. Reports and defects.
11. Keeping of information.
12. Amendment of the Factories (Building) Regulations.
13. Amendment of the Factories (Forms) Regulations.
14. Amendment of the Factories (Shipbuilding and Shiprepairing) Regulations 1985.
15. Amendment of the Construction (Design, Management, Health, Safety and Welfare) Regulations 1998.

### **SCHEDULE.**

Information to be contained in a report of a thorough examination.

**1956-12**

**Factories**

**1999/059      Factories (Lifting Operations and Lifting Equipment)  
Regulations, 1999**

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*In exercise of the powers conferred on him by section 58 of the Factories Act, and of all other enabling powers, and for the purpose of transposing into the law of Gibraltar Council Directive 89/655/EEC as amended by Council Directive 95/63/EC, the Governor has made the following Regulations –*

**Title and commencement.**

1. These Regulations may be cited as the Factories (Lifting Operations and Lifting Equipment) Regulations, 1999 and shall come into operation on such day as the Government may, by notice in the Gazette, appoint.

**Interpretation.**

2.(1) In these Regulations, unless the context shall otherwise require–

“accessory for lifting” means work equipment for attaching loads to machinery for lifting;

“EC declaration of conformity” means a declaration which complies with Article 12.1 of Council Directive 89/686/EEC relating to personal protective equipment;

“employer” except in regulation 3(1) and (2) includes a person to whom the requirements imposed by these Regulations apply by virtue of regulation 3(2)(a) and (b);

“examination scheme” means a suitable scheme drawn up by a competent person for such thorough examinations of lifting equipment at such intervals as may be appropriate for the purpose described in regulation 9(3);

“Factory Inspector” means an inspector appointed under section 77 of the Act;

“lifting equipment” means work equipment for lifting or lowering loads and includes its attachments used for anchoring, fixing or supporting it;

“lifting operation” has the meaning given in regulation 8(2);

“load” includes a person;

“thorough examination” in relation to a thorough examination under subregulation (1), (2) or (3) of regulation 9–

(a) means a thorough examination by a competent person;

**Factories (Lifting Operations and Lifting Equipment)  
Regulations, 1999**

- (b) where it is appropriate to carry out testing for the purpose described in the subregulation, includes such testing by a competent person as is appropriate for the purpose,

and "thoroughly examined" shall be construed accordingly;

"work equipment" means any machinery, appliance, apparatus, tool or installation for use at work (whether exclusively or not).

**Application.**

3.(1) The requirements imposed by these Regulations on an employer in respect of lifting equipment shall apply in relation to lifting equipment provided for use or used by an employee of his at work.

(2) The requirements imposed by these Regulations on an employer shall also apply—

- (a) to a self-employed person, in respect of lifting equipment he uses at work;
- (b) subject to subregulation (4), to a person who has control to any extent of—
  - (i) lifting equipment;
  - (ii) a person at work who uses or supervises or manages the use of lifting equipment; or
  - (iii) the way in which lifting equipment is used,

and to the extent of his control.

(3) Any reference in subregulation (2)(b) to a person having control is a reference to a person having control in connection with the carrying on by him of a trade, business or other undertaking (whether for profit or not).

(4) The requirements imposed by these Regulations on an employer shall not apply to a person in respect of lifting equipment supplied by him by way of sale, agreement for sale or hire-purchase agreement.

**Strength, stability and suitability.**

4. Every employer shall ensure that lifting equipment—

**1956-12**

**Factories**

**1999/059 Factories (Lifting Operations and Lifting Equipment) Regulations, 1999**

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- (a) is properly designed and constructed as to be suitable for the purpose for which it is used;
- (b) is not used for other than its intended purpose; and
- (c) is of adequate strength and stability for each load, having regard in particular to the stress induced at its mounting or fixing point and every part of a load and anything attached to it and used in lifting it is of adequate strength.

**Lifting equipment for lifting persons.**

5.(1) Every employer shall ensure that lifting equipment for lifting persons—

- (a) subject to paragraph (b), is such as to prevent a person using it being crushed, trapped or struck or falling from the carrier;
- (b) is such as to prevent so far as is reasonably practicable a person using it, while carrying out activities from the carrier, being crushed, trapped or struck or falling from the carrier;
- (c) subject to subregulation (2), has suitable devices to prevent the risk of a carrier falling;
- (d) is such that a person trapped in any carrier is not thereby exposed to danger and can be freed.

(2) Every employer shall ensure that if the risk described in subregulation (1)(c) cannot be prevented for reasons inherent in the site and height differences—

- (a) the carrier has an enhanced safety coefficient suspension rope or chain; and
- (b) the rope or chain is inspected by a competent person every working day.

**Positioning and installation.**

6.(1) Every employer shall ensure that lifting equipment is positioned or installed in such a way as to reduce to as low as is reasonably practicable the risk—

- (a) of the lifting equipment or a load striking a person; or
- (b) from a load—

**Factories (Lifting Operations and Lifting Equipment)  
Regulations, 1999**

- (i) drifting;
- (ii) falling freely; or
- (iii) being released unintentionally;

and it is otherwise safe.

(2) Every employer shall ensure that there are suitable devices to prevent a person from falling down a shaft or hoistway.

**Marking of lifting equipment.**

7. Every employer shall ensure that—

- (a) subject to paragraph (b), machinery and accessories for lifting loads are clearly marked to indicate their safe working loads;
- (b) where the safe working load of machinery for lifting loads depends on its configuration—
  - (i) the machinery is clearly marked to indicate its safe working load for each configuration; or
  - (ii) information which clearly indicates its safe working load for each configuration is kept with the machinery;
- (c) accessories for lifting are also marked in such a way that it is possible to identify the characteristics necessary for their safe use;
- (d) lifting equipment which is designed for lifting persons is appropriately and clearly marked to this effect; and
- (e) lifting equipment which is not designed for lifting persons but which might be so used in error is appropriately and clearly marked to the effect that it is not designed for lifting persons.

**Organisation of lifting operations.**

8.(1) Every employer shall ensure that every lifting operation involving lifting equipment is—

**1956-12**

**Factories**

**1999/059 Factories (Lifting Operations and Lifting Equipment) Regulations, 1999**

---

- (a) properly planned by a competent person;
- (b) appropriately supervised; and
- (c) carried out in a safe manner.

(2) In this regulation "lifting operation" means an operation concerned with the lifting or lowering of a load.

**Thorough examination and inspection.**

9.(1) Every employer shall ensure—

- (a) that before lifting equipment is put into service for the first time by him it is thoroughly examined for any defect unless either—
  - (i) the lifting equipment has not been used before; and
  - (ii) in the case of lifting equipment for which an EC declaration of conformity could or should have been drawn up, the employer has received such declaration made not more than 12 months before the lifting equipment is put into service;

or, if obtained from the undertaking of another person, it is accompanied by physical evidence referred to in subregulation (4); and

- (b) that once installed, lifting equipment is maintained in good working order.

(2) Every employer shall ensure that, where the safety of lifting equipment depends on the installation conditions, it is thoroughly examined—

- (a) after installation and before being put into service for the first time; and
- (b) after assembly and before being put into service at a new site or in a new location, to ensure that it has been installed correctly and is safe to operate.

(3) Subject to subregulation (5) every employer shall ensure that lifting equipment which is exposed to conditions causing deterioration which is liable to result in dangerous situations is—

- (a) thoroughly examined—

## Factories

1956-12

### **Factories (Lifting Operations and Lifting Equipment) Regulations, 1999**

1999/059

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- (i) in the case of lifting equipment for lifting persons or an accessory for lifting, at least every 6 months;
  - (ii) in the case of other lifting equipment, at least every 12 months; or
  - (iii) in either case, in accordance with an examination scheme; and
  - (iv) each time that exceptional circumstances which are liable to jeopardise the safety of the lifting equipment have occurred; and
- (b) if appropriate for the purpose, is inspected by a competent person at suitable intervals between thorough examinations,

to ensure that health and safety conditions are maintained and that any deterioration can be detected and remedied in good time.

- (4) Every employer shall ensure that no lifting equipment—
- (a) leaves his undertaking; or
  - (b) if obtained from the undertaking of another person, is used in his undertaking, unless it is accompanied by physical evidence that the last thorough examination required to be carried out under this regulation has been carried out.

(5) Where lifting equipment was before the coming into force of these Regulations required to be thoroughly examined by a provision specified in subregulation (6), the first thorough examination under subregulation (3) shall be made before the date by which a thorough examination would have been required by that provision had it remained in force.

- (6) The provisions referred to in subregulation (5) are—
- (a) sections 27(2) and (8), 28(1)(d) and 29(2) of the Factories Act;
  - (b) regulations 40(1)(c), and 49 of the Factories (Building) Regulations;
  - (c) regulations 33(2) and 36(1) of the Factories (Shipbuilding and Shiprepairing) Regulations, 1985.

#### **Reports and defects.**

10.(1) A person making a thorough examination for an employer under regulation 9 shall—

**1956-12**

**Factories**

**1999/059**

**Factories (Lifting Operations and Lifting Equipment)  
Regulations, 1999**

---

- (a) notify the employer forthwith of any defect in the lifting equipment which in his opinion is or could become a danger to persons;
  - (b) as soon as is practicable make a report of the thorough examination in writing authenticated by him or on his behalf by signature or equally secure means and containing the information specified in the Schedule to these Regulations to—
    - (i) the employer; and
    - (ii) any person from whom the lifting equipment has been hired or leased;
  - (c) where there is in his opinion a defect in the lifting equipment involving an existing or imminent risk of serious personal injury send a copy of the report as soon as is practicable to the Factory Inspector.
- (2) A person making an inspection for an employer under regulation 9 shall—
- (a) notify the employer forthwith of any defect in the lifting equipment which in his opinion is or could become a danger to persons;
  - (b) as soon as is practicable make a record of the inspection in writing.
- (3) Every employer who has been notified under subregulation (1) shall ensure that the lifting equipment is not used—
- (a) before the defect is rectified; or
  - (b) in a case to which paragraph 8(c) of the Schedule to these Regulations applies, after a time specified under that paragraph and before the defect is rectified.

**Keeping of information.**

11.(1) Where, after the coming into force of these Regulations, an employer obtaining lifting equipment to which these Regulations apply receives an EC declaration of conformity relating to it, he shall keep the declaration for so long as he operates the lifting equipment.

- (2) The employer shall ensure that the information contained in—
- (a) every report made to him under regulation 10(1)(b) is kept available for inspection—



## Factories

1956-12

### **Factories (Lifting Operations and Lifting Equipment) Regulations, 1999**

1999/059

- (i) in the case of a thorough examination under regulation 9(1) of lifting equipment other than an accessory for lifting, until he ceases to use the lifting equipment;
  - (ii) in the case of a thorough examination under regulation 9(1) of an accessory for lifting, for two years after the report is made;
  - (iii) in the case of a thorough examination under regulation 9(2) until he ceases to use the lifting equipment at the place it was installed or assembled;
  - (iv) in the case of a thorough examination under regulation 9(3), until the next report is made under that subregulation or the expiration of two years, whichever is later;
- (b) every record made under regulation 10(2) is kept available until the next such record is made.

#### **Amendment of the Factories (Building) Regulations.**

12. The Factories (Building) Regulations shall be amended –

- (a) by revoking regulation 2(3);
- (b) by omitting the interpretations of “lifting appliance”, “lifting gear”, “raising or lowering or as a means of suspension” and “safe working load” in regulation 3;
- (c) by omitting the words “a lifting appliance or” and “to support such an appliance or” and “other” from the interpretation of “scaffold” in regulation 3;
- (d) by omitting the figure “55” in paragraph (i) and the figures “56(1), (2) and (3)” in paragraph (ii) of regulation 4;
- (e) by omitting the word “crane” in the three places where it occurs and the figures “28 to 54, 56(4) or” in regulation 4;
- (f) by revoking regulations 28 to 30 and 33 to 56;
- (g) by deleting the figure “50” in regulation 80;
- (h) by revoking Schedule 1, Parts II to V of Schedule 3, and Schedules 4 to 6.

#### **Amendment of the Factories (Forms) Regulations.**

**1956-12**

Factories

**1999/059**      **Factories (Lifting Operations and Lifting Equipment)  
Regulations, 1999**

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13. In the Factories (Forms) Regulations regulations 2 and 3 and Schedules 1 and 2 are revoked.

**Amendment of the Factories (Shipbuilding and Shiprepairing) Regulations 1985.**

14. The Factories (Shipbuilding and Shiprepairing) Regulations 1985 shall be amended –

- (a) by omitting the interpretations of “lifting appliance”, and “lifting gear”, in regulation 3;
- (b) by omitting the figures “32 to 38” in sub-regulation 4(2);
- (c) by omitting the figures “41” in sub-regulation 4(3)(a);
- (d) by omitting the figures “39 to 46” in sub-regulations 4(3)(b);
- (e) by revoking regulations 21 and 31 to 46 and the second Schedule.

**Amendment of the Construction (Design, Management, Health, Safety and Welfare) Regulations 1998.**

15. In the Construction (Design, Management, Health, Safety and Welfare) Regulations 1998 paragraph 19 of Part B of Schedule 2 is revoked.

**SCHEDULE**

Regulation 10(1)

**INFORMATION TO BE CONTAINED IN A REPORT OF A THOROUGH  
EXAMINATION.**

1. The name and address of the employer for whom the thorough examination was made.
2. The address of the premises at which the thorough examination was made.
3. Particulars sufficient to identify the lifting equipment including where known its date of manufacture.
4. The date of the last thorough examination.
5. The safe working load of the lifting equipment or (where its safe working load depends on the configuration of the lifting equipment) its safe working load for the last configuration in which it was thoroughly examined.
6. In relation to the first thorough examination of lifting equipment after installation or after assembly at a new site or in a new location—
  - (a) that it is such thorough examination;
  - (b) (if such be the case) that it has been installed correctly and would be safe to operate.
7. In relation to a thorough examination of lifting equipment other than a thorough examination to which paragraph 6 relates—
  - (a) whether it is a thorough examination—
    - (i) within an interval of 6 months under regulation 9(3)(a)(i).
    - (ii) within an interval of 12 months under regulation 9(3)(a)(ii).
    - (iii) in accordance with an examination scheme under regulation 9(3)(a)(iii); or
    - (iv) after the occurrence of exceptional circumstances under regulation 9(3)(a)(iv);
  - (b) (if such be the case) that the lifting equipment would be safe to operate.

**1956-12**

**Factories**

**1999/059**

**Factories (Lifting Operations and Lifting Equipment)  
Regulations, 1999**

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8. In relation to every thorough examination of lifting equipment—
  - (a) identification of any part found to have a defect which is or could become a danger to persons, and a description of the defect;
  - (b) particulars of any repair, renewal or alteration required to remedy a defect found to be a danger to persons;
  - (c) in the case of a defect which is not yet but could become a danger to persons—
    - (i) the time by which it could become such danger;
    - (ii) particulars of any repair, renewal or alteration required to remedy it;
  - (d) the latest date by which the next thorough examination must be carried out;
  - (e) where the thorough examination included testing, particulars of any test;
  - (f) the date of the thorough examination.
9. The name, address and qualifications of the person making the report; that he is self-employed or, if employed, the name and address of his employer.
10. The name and address of a person signing or authenticating the report on behalf of its author.
11. The date of the report.