

## INSTITUTE FOR WORK AT HEIGHT



# Legal Requirements – Working at height Contractors

## Topic:

There are no statutory requirements for any company or contractor to be accredited or registered to do working at height operations. Keeping this in mind, there are a lot of “bogus” companies conducting work at height operations, but which do not comply with the legal requirements. What are the legal requirements for a company that have to conduct work at height?

## Recommendation:

Before appointing a contractor, the company must have worked through these simple steps:

- avoid work at height where it is reasonably practicable to do so;
- where work at height cannot be avoided, prevent falls using either an existing place of work that is already safe or the right type of equipment;
- minimise the distance and consequences of a fall, by using the right type of equipment where the risk cannot be eliminated.

The first legal requirement (*section 8 of the OHS act*) is the duty of an employer to ensuring the safety of all workers and the work environment. This is done by doing a complete risk assessment of the work site as well as the work to be conducted.

Once the risk assessment is conducted it will establish the requirements for a site-specific fall protection plan. A fall protection plan should be developed by an appointed competent fall protection planner.

The fall protection plan must include the following but is not limited to:

1. A risk assessment for all work done from a fall risk positions and procedures and methods used to address all risks identified per location
2. The process for the evaluation of Medical fitness
3. Training program for employees working from a fall risk position
4. Equipment Management
5. A rescue plan to be implemented immediately

Each one of these have their own set of legal requirements that is applicable not just for construction sites but also all other areas where employees are exposed to fall risks:

## Good Practice Note 2021

Good Practice notes inform the industry on how to embrace best practice and how to deal with issues that may arise. They are aligned with, but do not replace regulation as well as endorse industry standards

**1. Fall Protection Risk Assessment for all work done from a fall risk position  
(CR 10(2)(a))**

A fall protection risk assessment is conducted in which all your hazards and risk specific to working at heights are identified, analyzed, and controlled. This should include the safe work procedures and methods.

**2. Process for evaluation of Medical Fitness when exposed to fall risks  
(CR 10(2)(b))**

The employer needs to establish the medical ability of each employee working at heights. This is done through a registered occupational practitioner in the form of an Annexure 3 and is conducted on an annual basis.

**3. Program for Training for all work done from a fall risk position  
(CR 10(2)(c))**

Due to different access methods which can be used for working at heights, it is important to understand the type of training required for each method used. All formal training must be done according to the relevant Unit Standard, (or an LNQ registered with the IWH where no unit standards exist), as well as a SETA accredited training provider or a training provider registered with the Institute for Work at Height Professional Body.

**4. Equipment Management  
(CR 10(2)(d))**

When establishing the types of equipment to be used, equipment should be manufactured according to the relevant SANS /EN standards. The competency, capabilities, and types of training received should also be considered when inspection, testing and maintenance of equipment is included. Equipment should have certificate of conformance, records of previous inspections as well as a method for traceability.

**5. Rescue Plan  
(CR 10(2)(e))**

The rescue plan must not be generic and written to cover the requirements as established in the risk assessment and the context of the fall protection plan. The rescue plan is easier aligned with the fall protection plan if it forms part of the fall protection plan and not established as an individual document. The rescue plan needs to include specific rescues, equipment to be used, competency required for the rescue as well as the procedure for the rescue/s, for all identified working at height methods. The employer also needs to ensure that the rescue plan can be implemented immediately after a fall arrest incident occurred.

There are multiple other legal requirements for the different types of working at heights activities, but the most important requirements are:

- a. Ensure that a comprehensive site-specific fall protection plan is approved and available
- b. Employees need to be medically fit and have an Annexure 3 available
- c. All formal training conducted has been done through accredited training providers who are capable of either supplying statements of results or professional body designation certificates
- d. Equipment needs to conform to the relevant SANS / EN standards, inspected and records as well as traceability kept
- e. A rescue plan needs to be site-specific and in-line with the methods identified in the fall protection plan.
- f. Risk assessment etc is explained to those who will be working at heights

All the above requirements (especially competencies and equipment) needs to be verified prior to the appointment of a contractor or allowing persons to do work at heights.

## Legal Requirements:

### Occupational Health and Safety Act, 1993

Section 8. General duties of employers to their employees

2. Without derogating from the generality of an employer's duties under subsection (1), the matters to which those duties refer include in particular –

(e) providing such information, instructions, training, and supervision as may be necessary to ensure, as far as is reasonably practicable, the health and safety at work of his employees.

### Construction Regulation 2014

Fall protection

10. (1) A contractor must—

(a) designate a competent person to be responsible for the preparation of a fall protection plan;

(b) ensure that the fall protection plan contemplated in paragraph (a) is implemented, amended where and when necessary and maintained as required; and

(c) take steps to ensure continued adherence to the fall protection plan.

(2) A fall protection plan contemplated in sub-regulation (1), must include—

(a) a risk assessment of all work carried out from a fall risk position and the procedures and methods used to address all the risks identified per location;

(b) the processes for the evaluation of the employees' medical fitness necessary to work at a fall risk position and the records thereof;

(c) a programme for the training of employees working from a fall risk position and the records thereof;

(d) the procedure addressing the inspection, testing and maintenance of all fall protection equipment; and

(e) a rescue plan detailing the necessary procedure, personnel and suitable equipment required to affect a rescue of a person in the event of a fall incident to ensure that the rescue procedure is implemented immediately following the incident.

## Note:

**Please keep in mind the following:**

### 1. Training:

**Qualifications and part-qualifications do not expire unless stated so through legislation. Therefore, no training provider is allowed to issue any work at height training certificates with an expiry date on them. A Statement of Results (SOR) should be issued by the relevant SETA before the Training Provider can issue a Certificate of Competence, which will not have an expiry date on. Professional Bodies were registered to ensure a persons' skills are kept up to date and more specifically those 'high-risk' skills where a person can be injured or succumb. The IWH Professional Body will issue a 'License to Operate' or Permit to Operate to the deserving, competent and medically fit candidate and this 'License' or Permit will carry an expiry date. So, it is**

not the persons qualification that expires, it is his 'License to Practice' or Permit to Operate the specific skills that expires, and to renew that License or permit, the person will have to go back to an IWH recognized training provider to be re-assessed. Part of the re-assessment will also include a 'Continuing Professional Development' (CPD) component, as that is the objective of all Professional Bodies – to develop the person on a continuous basis. We have to realise that equipment becomes outdated, legislation changes, the person might not have practiced the specific skill for a period and the person might become complacent! The professionally licensed person has to be updated on all of that on a regular basis to keep performing the job at hand safely and with due diligence.

## 2. Equipment:

Fall protection equipment is only inspected and not load tested after purchase. An LMI (Lifting Machine Inspector) or LTI (Lifting Tackle Inspector) cannot inspect Personal Protective Equipment if they have not been found competent to do so. The relevant Unit Standard training or LNQ (Inspection of climbing equipment) is required to prove competency.