

Summary of the APPG on Working at Height meeting 28 March 2023, Westminster

The Work at Height industry was in force in parliament yesterday for the APPG on Working at Height meeting to discuss the potential implications that the Retained EU Law (Revocation and Reform) Bill might have for the UK's Work at Height Regulations.

Alison Thewlis MP, Chair of the APPG, thanked people for attending in large numbers. Thewlis explained that the APPG wanted to hear from work-at-height professionals about their challenges and potential opportunities.

The height-safety industry position

Peter Bennett OBE, from the Access Industry Forum, responded by thanking Alison Thewlis MP for facilitating the meeting of the APPG on Working at Height. The Retained EU Law (Revocation and Reform) (REUL) Bill, sometimes referred to cynically as the "Bonfire Bill", which is currently at the Report Stage in the House of Lords, provides that, unless the Secretary of State intervenes to prevent it, almost 4,000 pieces of EU derived legislation could cease to be on 31 December, including a veritable raft of secondary health & safety regulations.

Notably, the statements from UK business owners, the CBI, TUC, and trade unions have all opposed the potential repeal of legislation. Although there are concerns about the sunset of other legislation, the AIF, the No Falls Foundation and the APPG for Working at Height are rightly focussed primarily on the Work at Height Regulations.

The Government estimated that 1 million companies and 10 million workers carry out work involving some form of working at height every year. That's a lot of people working at height, and that's a lot of people at risk of falling from height.

The Work at Height Regulations set out to prevent death and injury because of a fall from a height. Historically, falls have been and remain one of the biggest causes of workplace fatalities and serious injuries.

Regulating work at height in the UK has been ongoing for a considerable period, reflected in the earlier Construction (Working Places) Regulations 1966 and the Construction (Health Safety and Welfare) Regulations 1996. The 2005 Working at Height Regulations brought welcome clarity that work at height was broader than a construction activity. The regulations have reduced fatalities.

"Although the AIF and the No Falls Foundation contend that the regulations are proving effective, the numbers of fatalities are sadly still too high despite working at height being regulated. There have been 683 families that have lost a loved one even in the 17 years that the WAHR have been providing protection. That is enough to fill a Boeing 747-8."

For fall-from-height survivors, the long-term consequences are more likely to be life-changing than other reportable injuries.

Fall survivors will continue to place demands on our health service and a significant burden on our welfare system for decades (often many) to come. At, on average, 8% of all non-fatal injuries per annum, injuries from falls from height add significant cumulative demand to society; in the last ten years alone, falls from height have amounted to over 54,000 non-fatal injuries. To put that into perspective, that's enough to fill Anfield Stadium.

As a world leader in preventing falls and consistently one of the lowest accident rates of fatal injuries in Europe, there is an opportunity to export our technological expertise. Rather than removing regulations, we should focus on improving work at height.

Peter finished by urging the Secretary of State, The Rt Hon Mel Stride MP, to clarify the Government's intentions unequivocally, particularly regarding the WAHR and their assimilation into UK legislation and the health and safety regulatory framework in general.

The Occupational Safety and Health Perspective

Ruth Wilkinson, Head of Policy at the Institution of Occupational Safety and Health (IOSH) explained that 'good work' needed to be at the heart of a post-Brexit, post-COVID recovery and economic recovery and rebuild.

Although Britain is a leader in health and safety, IOSH remains concerned that there are still too many work-related accidents, cases of ill health and costs to society.

Although there might be an opportunity for better regulation, REUL should be about reinforcing, strengthening, and supporting the implementation of safety standards to drive innovation, productivity and sustainable development, not deregulation.

IOSH was compelled to join forces recently with an alliance of health and safety professionals to write to the Government, expressing concern that passing the current REUL will reduce worker protection and existing health and safety standards.

The letter calls on the Government to scrap the Bill's arbitrary deadlines and take an evidenced-based approach in reviewing each regulation "sensibly, with due scrutiny and in consultation with occupational safety, health professionals, and business leaders".

IOSH is currently inviting their members (health and safety professionals) for their views on the potential impacts and opportunities presented by the retained EU Law Bill.

An HSE Inspector's View

Stephen Green, HM Inspector of Health and Safety, presented the view from an Inspector around Working at Height. Green explained that falls from height continue to be the most common cause of fatalities across all industries. During the last year, HSE Inspectors issued 624 prohibitions and 187 improvement notices. A significant

increase in the 2020/21 pandemic lockdown period when HSE recorded 473 prohibition notices and 91 improvement notices.

Reiterating a common theme amongst work-at-height professionals, Stephen explained, “the hierarchy of control measures for working at height is where it goes wrong – by either don’t know the hierarchy or know and don’t apply”. The Work at Height Regulations starts with the requirement to avoid work at height and then focus on prevention measures before mitigation, passive before active and collective before singular.

Just because you’ve always done it that way, it doesn’t mean it’s safe or the best way.

He called on everyone to champion safe working at height; at home, ask the right questions if work at height might be required and highlighted the importance of culture for business “involve everyone, if you don’t you’re missing a trick. Never turn a blind eye, not even for the shortest job”.

Q&A session

Participants in the Q&A session supported saving the Work at Height Regulations.

City Fibre’s Alan Trueman expressed concern that alongside the WAHR, other valuable regulations, including LOLER and PUWER, were also at risk of repeal. Giles Councill, IPAF’s Operations Director and FASET’S Tony Seddon acknowledged these concerns. Work was ongoing in other areas to bring these to the attention of policymakers, with Tony Seddon also commenting on PPE regulations being at risk.

Shelia Kondaveeti from IRATA’s stated it is unclear who would be responsible for reviewing over 4,000 separate pieces of legislation; the meeting heard that the relevant departmental Secretary for State would likely decide to save or repeal legislation.

To the question “what can be done to lobby on other legislation at risk”, Alison Thewlis encouraged everyone “Tell your MP”, Chris Stevens MP agreed with Thewlis that MP’s pay attention “to our inboxes, we listen to our constituents”. The message is clear, lobby your MP.

Robert Candy from the Scaffolding Association was concerned about the potential business burdens and that procurement costs would increase for producing documents without the certainty provided by the regulations.

Alimak Group’s Rhys Baker was concerned about existing guidance if Government repealed the regulations. The HSE’s Stephen Green explained there was no indication or reason for removing current documentation.

Peter Bennett OBE agreed that the industry liked the certainty provided by the regulations; there was no demand for reducing safety standards from any of the work-at-height trade/industry bodies.

Colin Wright of Britannia Safety raised the consequences for other legislation (that relies on the WAHR). Wright asked if other groups had been asked to help, responding for IPAF Giles Council explained that IPAF had contact with Build UK, who were actively lobbying on this.

In answer to a question about the potential complications for the CDM client role, should the regulations be repealed, Tony Seddon explained that the hierarchy of working at height provides certainty for everyone managing work at height.

In summary, Peter Bennett OBE expressed concern that “if we don’t make a noise, there’s a risk Ministers might think we’re not bothered, we need to keep making a noise until we know these regulations have been saved.”

Wrapping up the proceedings, Alison Thewlis thanked everyone for attending the meeting. She explained the session was very useful in understanding the scale of concern at the potential repeal of the regulations. The session would help distil the APPG’s thinking; there would be a letter to the Secretary of State seeking a categorical assurance the work at height regulations are safe, discussions about possible questions or a debate in parliament and encouraged everyone to let their MP know of their concerns adding

“it is clear that the work-at-height regulations are a fundamental part of keeping people safe”.