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## Draft Legal Act

# Minimum safety and health requirements for the use of work equipment by workers at work

Technical recommendations for its better alignment with  
the applicable International Labour Standards and EU Acquis

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## ► Overview – Executive Summary

- To review the draft legal text prepared by the State Labour Service of Ukraine (SLS) – Order No. 2072 of 2017
- Bring it closer to the Council Directive 2009/104/EC - on the minimum safety and health requirements for the use of work equipment by workers at work
- Promote a better alignment of this draft legal act with the main applicable International and European labour standards and best practices

## ▶ **MAIN POSITIVE ASPECTS**

- ▶ **Draft legal act follows closely Dir. 2009/104/EC**
- ▶ **Employer's obligations:**
  - ▶ Work equipment is safe
  - ▶ Technical inspections
  - ▶ Maintenance of work equipment
  - ▶ Provision of information & training
  - ▶ Workers are consulted
- ▶ **Minimum rules are set – focus on accident prevention**

## ▶ **KEY ASPECTS TO IMPROVE (1)**

Act should be a CMU Decree or Resolution for more effective implementation for

Employers' obligations on:

- ▶ Carrying out risk assessments
- ▶ Safety and health requirements on work equipment
- ▶ Information and training of workers
- ▶ Worker consultation and representation

## ▶ **KEY ASPECTS TO IMPROVE (2)**

### Structure and Clarity:

- ▶ Should follow more closely the structure, numbering and layout of the Articles used in Directive 2009/104/EC e.g. Article 5 in the Decree = Article 5 in the EU Directive
- ▶ Layout of Annexes should also be similar – Paragraphs and sub paragraphs should follow the proposal as shown
- ▶ Note the proposal to add new Articles 11/12 in Section III on Promotion, control and enforcement
- ▶ New Section IV – Miscellaneous provisions – Articles 13/14

## KEY ASPECTS TO IMPROVE (3)

- ▶ Define commonly used terms such as Workplace, workstation, Competent persons, technical inspection, expert organizations etc. in Article 2
- ▶ Link the Law of Ukraine ‘On Occupational Safety and Health of Workers’, which implements Framework Directive 89/391/EEC, with this Decree

## ▶ **KEY ASPECTS TO IMPROVE (4)**

- ▶ **State authority for promotion and enforcement:**
- ▶ Give effect to ILO Conventions 155/1981, 129/1969 and 81/1947
- ▶ Adequate penalties for violations
- ▶ **Another example of an OSH enforcement authority – H.S.A. Ireland**
- ▶ **Look at its powers in the Safety, Health and Welfare at Work Act, 2005 and the use of Enforcement Notices.**

## ▶ **KEY ASPECTS TO IMPROVE (5)**

- ▶ **Risk Assessments and OH Services**
- ▶ Article 9 (1)(a) of Directive 89/391/EEC
- ▶ Article 5(c) of ILO Convention 1985/161
- ▶ **Annex adjustments – Article 13**
- ▶ **Entry into force date – Article 14**
- ▶ **Using the Decree to update existing national legislation e.g. on scaffolding provisions, guarding of dangerous parts of machinery etc.**



## ▶ **KEY ASPECTS TO IMPROVE (6)**

- ▶ **Make Decree more specific – e.g. on reference to national guidelines, national practices etc.**
- ▶ **Develop national Guidelines to support the legal requirements**
- ▶ Support for employers, employees work equipment suppliers and testers etc.
- ▶ Other examples are Irish General Application Guidelines and UK HSE PUWER Regime/Brexit

## ▶ DETAILED RECOMMENDATIONS (1)

- ▶ My recommendations are in **Red Bold** type as shown
- ▶ Where extensive changes are recommended the whole Articles are in **Red Bold**
- ▶ New Articles are also shown in **Red Bold**
- ▶ Renumbering Articles follow Directive 2009/104/EC closely

## ▶ **DETAILED RECOMMENDATIONS (2)**

- ▶ **Article 5(6) is new – remedying defects found**
- ▶ **Articles 6(2) and (3) Carrying out risk assessments and implementing their findings**
- ▶ **Article 11 – Legal competence to promote, control and enforce compliance**
- ▶ **Article 12 – Employer’s liability**
- ▶ **Article 13 – Amendment to the Annexes**
- ▶ **Article 14 – Transitional arrangements and entry into force of the Decree**

## ▶ **DETAILED RECOMMENDATIONS (3)**

- ▶ **Annex I – Minimum safety requirements for all equipment**
- ▶ New work equipment
- ▶ Existing work equipment – 4 year deferral period
- ▶ **Annex II – Minimum requirements for the use of work equipment**
- ▶ Consultation with the social partners and relevant stakeholders
- ▶ **Renumbering of the Annexes provisions**

## ▶ DETAILED RECOMMENDATIONS (4)

### ▶ **Annex III - Table of Correlation:**

- ▶ Comparison between Directive 2009/204/EC and SLS draft legal text
- ▶ Show where the name changes are proposed

### ▶ **References:**

- ▶ Some you are familiar with
- ▶ Reference key ILO Conventions which are relevant
- ▶ References to similar Irish and UK legal texts and national guidance.



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