

## Compliance with PUWER for tree work winching operations.

### Introduction

1. This paper outlines The Health and Safety Executive's (HSE) opinion on the application of the Provision and Use of Work and Equipment Regulations 1998 (PUWER) to winching operations used in tree work. It clearly states HSE's policy to apply the requirements of PUWER rather than those of the Lifting Operations and Lifting Equipment Regulations 1998 (LOLER) to winching operations.<sup>1</sup>

### Issue

2. Differing opinions currently exist within the industry about the application of PUWER and LOLER to winching operations in tree work, eg skidding and directional felling. As a result, queries are regularly raised particularly in respect to the inspection and thorough examination of winching equipment. These queries often stem from how the term 'lifting' is interpreted in respect to loads being winched. The aim of this paper is to clarify the application of health and safety legislation to the use of winches in tree work - in particular in relation to the requirement for thorough examination and inspection.

### PUWER/LOLER and winching operations.

3. In the first instance it is important to recognise that LOLER and PUWER require much the same thing for work equipment that they apply to: that the equipment is suitable for the task being undertaken; that it is properly maintained, and that it is operated correctly by competent people. PUWER is not a lesser standard. It requires a similar level of safety as LOLER if the risks demand it.
4. The application LOLER to winching operations is determined by the interpretation of the terms *lifting equipment* and *lifting operations*. In the *Safe use of lifting equipment - Lifting Operations and Lifting Equipment Regulations 1998 - Approved Code of Practice and Guidance (L113, second edition)*, Regulation 2(1) – Interpretation, defines *lifting equipment* as:

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

*and lifting operation as:*

*“Lifting operation” means an operation concerned with lifting and lowering a load.*

<sup>1</sup> Cable cranes lift as part of their function therefore the requirements of LOLER apply.

5. **L113** provides guidance on these definitions and gives examples of equipment and operations that are not covered by LOLER. In the guidance to *Regulation 2 (Interpretation, para 31)* it states that “*in most cases LOLER will not apply to work equipment which does not have as its principal function a use for lifting or lowering.*” **L113** then goes on to provide guidance on specific equipment and operations not covered by LOLER including (*para 32(b)*) “*winching a load where the load does not leave the ground.*”
6. In addition, *Figure 1 (p12)* of the **L113** is a decision tree which sets out the main elements that must apply to a piece of equipment for it to be subject to LOLER. It indicates that two of these elements are that the equipment’s main purpose is to ‘*lift or lower a load*’ and that the load is ‘*lifted free from supporting structures*’, e.g. the ground. It also further clarifies the definition of lifting as ‘*an operation that usually involves lifting or lowering a load from one surface to another.*’ This interpretation makes clear the intention of LOLER and if applied to winching equipment used in most forestry winching operations it means that the equipment is not subject to LOLER. However, it also makes it clear that where LOLER does not apply then “*a similar level of safety is required by PUWER in respect of the work equipment being used.*” (*Para 33*)
7. Whilst the **L113** interpretation excludes forestry winching operations from LOLER, other interpretations for lifting have been used within the industry and by trainers which imply that LOLER does apply. One such interpretation is contained in *The International Rigging and Lifting Handbook (North Sea Lifting Ltd)*, which includes the following definitions to differentiate between lifting and pulling:
  - a. *A lifting application is one in which a load does not become stationary should either the machine or any of its associated equipment fail;*
  - b. *A pulling application is one in which a load becomes stationary should either the machine or any of its associated equipment fail.*
8. Applying this definition of lifting to LOLER would mean that there would be numerous circumstances where winching equipment and operations would be subject to the requirements of the regulations - for example, winching timber up a slope steep enough to cause the timber to move back down the slope in the event of the winching equipment failing. However, whilst this interpretation is useful for assessing the level of risk involved in a winching operation, the *International Rigging and Lifting Handbook* is not a guide to the application of LOLER. Guidance to the application of LOLER is provided by the LOLER ACOP, **L113** which, as explained above, is clear about the application of the regulations to winching operations.
9. Again, it needs to be stressed that whether complying with LOLER or PUWER the outcome should be the same. The higher the risk associated with an operation, the more stringent the controls to make it safe and to comply with the regulations.

## **Inspection and thorough examination.**

10. Both PUWER and LOLER are risk based. Therefore, regardless of the regulation, emphasis should be placed on the completion of suitable and sufficient risk assessments. The risk assessment is necessary to determine the nature and frequency of both the maintenance and inspection of equipment used in winching operations. Risk assessments, carried out to meet the requirements of the Management of Health and Safety at Work Regulations 1999, Regulation 3, should identify any significant risks from the use of the work equipment considering the:
- a. type of load being winched, its weight, shape and what it consists of;
  - b. risk of a load falling, moving, breaking up or striking a person or object and the consequences;
  - c. risk of the winching equipment striking a person or an object and the consequences;
  - d. risk of the lifting equipment failing while in use and the consequences; and
  - e. risk of damage to the winching equipment that could result in failure.
11. As previously discussed, LOLER will not apply to tree work winching operations and the scope of PUWER Regulation 6 requirements (inspection and the competence of the person who carries it out) need to be established by risk assessment. In effect, *Inspection* (PUWER Reg.6); and *Thorough examination and inspection* (LOLER Reg.9) should be seen as a related package of requirements with the outcome of the assessment, whether for PUWER or LOLER, being the same where the risk demands it.

## **Summary.**

12. The definition of 'lifting equipment' and 'lifting operations' is provided in the Approved Code of Practice and Guidance to the LOLER regulations (L113 – Second edition). Under this interpretation, LOLER does not apply to winching operations that are regularly undertaken in tree work. However, PUWER is not a lesser standard of control but demands the same level of safety as LOLER if risks demand it.
13. Whilst under PUWER there is no specific requirement for 'thorough examination' of work equipment such as winches, PUWER requires risk-based inspection so the results of such an inspection, should be the similar to a 'thorough examination' under LOLER, where the risk requires it. Additionally, recording the outcomes of inspections under PUWER is as important as doing so for those under LOLER.
14. HSE's policy is to enforce the requirements of PUWER rather than LOLER on tree work winching operations.