

General Information	
Ministerial Decision Type	Miscellaneous
Report Title	Safe Use of Rider Operated Lift Trucks: Approved Code of Practice
Minister	Social Security
Signatory	Minister
Lead Department	Justice and Home Affairs (JHA)
Lead Directorate	Health and Safety Directorate (JHA)
Ministerial Decision Summary: Public or <a href="#">Absolutely/Qualified</a> Exempt	Select Public or Absolutely/Qualified Exempt. <b>Public</b> Select if more than one Absolutely/Qualified Exemption.
Date decision made if different to date 'Ministerial Decision Summary' signed.	Select date.
Report and Supplemental Report Details	
Report Author	Director of Health and Safety
Date of Report	01/09/2022
Supplementary Report Title <i>(If applicable)</i>	Insert Supplemental Report Title.
Supplementary Report Author <i>(If applicable)</i>	Insert Official Title Only.
Date of Supplementary Report <i>(If applicable)</i>	Select Date of Supplemental Report.
Ministerial Decision Report: Public or <a href="#">Absolutely/Qualified</a> Exempt	Public  Select if more than one Absolutely/Qualified Exemption.
Relevant Case/Application/URN <i>(Only complete if making a decision related to an appeal/case/application)</i>	Insert Relevant Case/Application.
Relevant Proposition Number <i>(Only complete if presenting Comments or if lodging an Amendment)</i>	Insert P. number.
Relevant Scrutiny Report <i>(Only complete if presenting a ministerial response)</i>	Insert S.R. number.
Associated Law(s) and/or Subordinate Legislation	Health and Safety at Work (Jersey) Law 1989
Action required if recommendation agreed	Department to take necessary action.

Resource Implications	There are no new financial and/or manpower implications.
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### **Introduction**

Every year activities involving forklift truck (FLT) operations result in serious accidents and injuries in Jersey. By the nature of the work FLT operators carry out high-risk work, often in unfamiliar and/ or changing environments and without direct supervision.

The existing “Safe use of rider-operated lift trucks: Approved Code of Practice’ came into force on 22 November 2001 and, whilst still reflecting the principles of good practice, is overdue a revision to reflect current practice and changes to the typical use of FLT’s in local workplaces.

Whilst retaining the over-riding principles, in developing the draft ACoP the Health and Safety Inspectorate (HSI) has considered authoritative guidance published by the UK HSE and relevant representative industry bodies, as well as intelligence gained through investigating FLT accidents and visiting workplaces where FLT’s are used in Jersey and discussions with a range of local training providers and employers.

This report sets out the consultation that has taken place. This was overwhelmingly supportive of the revised approach and structure to the ACoP which was considered easy to understand, proportionate and achievable.

### **Recommendation**

In accordance with Article 10 of the Health and Safety at Work (Jersey) Law 1989, the Minister agrees to approve the Code of Practice for the safe use of rider operated lift trucks, with a coming into force date of 1 November 2022

### **Detail (Decision and Reason for decision)**

#### **Status of an ACoP**

Article 10(1) of the Law provides for the Minister of Social Security to approve Codes of Practice for the purposes of providing practical guidance on the requirements of the Law. An ACoP has a special legal status. If the guidance contained within an ACoP is followed, then this would be sufficient to comply with the general duties imposed by the HSW Law.

Whilst a failure to follow the guidance set out in an ACoP is not in itself an offence, the duty holder will have to show the court that they have provided an equivalent level of safety by alternative means, or they will be found guilty of the offence.

#### **Process for the introduction of an ACoP**

Following a period of consultation with such persons as the Minister considers fit, the Minister is able to approve Codes of Practice under Article 10 of the HSW Law, for the purposes of providing practical guidance on how duty holders can comply with their legal requirements under health and safety at work legislation.

ACoPs introduced under Article 10 do not introduce new legal requirements but can be referred to by the Courts when considering the standard of health and safety measures that may be necessary to comply with the general duties imposed by the Law.

### **Consultation**

Extensive consultation has taken place in the production of the revised FLT Approved Code of Practice. This was conducted in two phases; an initial consultation targeting the Island’s known, accredited FLT training providers which commenced on 2 February 2022. This sector was targeted due to their familiarity of best practice standards for the safe

operation of FLT's and typical challenges faced by those operating FLT's, both generally and in Jersey.

Having received broad agreement with the principles and approach of the revised ACoP from the training providers, a full public consultation of the draft ACoP was launched on 10 March and ran until 14 April.

In addition to publishing the consultation on the gov.je and Health and Safety Inspectorate websites, notification of the consultation was sent to a range of professional and representative bodies including the Jersey Safety Council, Jersey Construction Council and health and safety professionals known to work in this industry sector. Proactive engagement with 26 businesses known to operate FLT's across a wide cross section of industry sectors was also undertaken by the HSI team.

There was unanimous support for the revision of the existing ACoP with no significant adverse comments received during the consultation exercise. A number of constructive suggestions and comments, primarily about matters where additional guidance or clarification would be helpful, were made which have been considered in the preparation of the final draft ACoP.