

Regulatory Impact Analysis (RIA)

Safety, Health and Welfare at Work (General Application) (Amendment) Regulations 2019

Department/Office: Health and Safety Authority			
Title of Legislation: Safety, Health and Welfare at Work (General Application) (Amendment) Regulations 2019			
Stage: Internal draft to be considered by Legislation and Guidance Committee and Board of the Authority on 25 October 2019 for approval to go to public consultation.			
Related publications: None			
Available to view or download at: Draft regulations and RIA will be published on the Consultations section of the Authority website.			
Please summarise the costs, benefits and impacts relating to the preferred option.			
<ol style="list-style-type: none"> Amend the Safety, Health and Welfare at Work (General Applications) Regulations 2007 to introduce requirements for those operating all-terrain vehicles (ATVs) to wear head protection and to complete appropriate training. 			
OPTIONS			
	COSTS	BENEFITS	IMPACTS
1	Current ATV training costs €250 for the 1 day course.	<p>Safer operation of ATVs by operators and reduced number of serious and fatal injury incidents.</p> <p>Improved maintenance of ATVs and more efficient use.</p>	<p>We would expect to see a reduction in serious and fatal incidents involving ATV operation.</p> <p>Training may generate a move away from ATVs by persons identifying their physical unsuitability.</p> <p>Training may greatly reduce the inappropriate use of the ATV and reduce the fitting of inappropriate attachments.</p> <p>This may generate a move to the safer, side by side ATVs which have two seats, a cab and seat belts.</p> <p>This may also improve the overall approach by operators to their general safety and particularly to vehicle safety.</p>
2	Suitable helmets cost between €50 and €100	Safer operation of ATVs by operators and reduced number of fatal and serious injury incidents, particularly incidents involving head injuries.	<p>We would expect to see a reduction in serious and fatal incidents involving ATV operation.</p> <p>This may generate a move away from ATVs by persons identifying their unsuitability.</p>

			<p>This may generate a move to the safer, side by side ATVs which have two seats, a cab and seat belts, which do not require the wearing of helmets.</p> <p>This may also improve the overall approach by operators to general safety and heighten awareness of personal safety.</p>
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Foreword

This regulatory impact analysis has been prepared to assess the proposal to amend the Safety, Health and Welfare at Work (General Application) Regulations 2007 requiring operators of ATVs (also known as quad bikes) to undergo operator safety training and to require the operator of an ATV to wear a purpose designed ATV helmet or other appropriate head protection.

The RIA describes the range of options considered and the potential impact on users of ATVs and key stakeholders. On consideration of the potential reduction in accidents, cost savings from reduced numbers of fatal and serious injury incidents, and overall benefits to safety culture within all associated sectors, this analysis recommends the introduction of the amendment.

Background information

ATVs are used predominately in the agriculture sector, but also in some related land use sectors such as forestry, horticulture, inland fisheries etc. The agriculture sector is currently the most dangerous place of work within the Irish economy. While the sector represents approximately 6% of the national workforce it regularly experiences up to 50% of national annual workplace fatalities. Over a ten-year period (2009-2018) tractors, ATVs and other vehicles represent 30% of workplace fatalities in the agriculture sector, with ATV fatalities showing a significant increase in recent years. Within these, 11 fatalities are attributed to the operation of ATVs.

Agriculture generally involves self-employed sole traders (farmers), self-supervised and a workplace largely dependent on family labour, including young persons and elderly persons. Agriculture and related businesses have experienced a significant increase in the use of ATVs in recent years. The popularity of the ATV is largely due to its ease-of-use, relatively low-cost, their utility and low running costs when compared with other transport options.

Significantly, farmers experiencing mobility issues tend to purchase these units to increase their mobility on their farms. However to operate an ATV safely one must be capable of moving bodyweight to maintain stability and prevent overturning. This technique, particularly necessary on sloping land, known as 'active riding' requires a high degree of flexibility and dexterity often lacking in elderly farmers. Of note is that 8 (72%) of ATV fatalities in the last 10 years (2009-2018) have involved persons over 65 years old.

Description of Policy Context and Objectives

The Safety, Health and Welfare at Work (General Application) Regulations 2007 came into operation on 1 November 2007. The Regulations set out requirements relating to various matters including employers' duties regarding the safe use of work equipment in the workplace.

The Regulations also set out requirements relating to the provision and use of Personal Protective Equipment (PPE) as regards various matters including the provision and use of PPE, assessment of PPE, conditions of use and compatibility of PPE, personal use of PPE, maintenance and replacement of PPE and information, training and instruction in its use.

Safety training is an essential element in preventing injury and ill health associated with known high-risk work activity. As an example of this, SafePass safety awareness training and CSCS Skills training, since their introduction, have contributed to the downward trend in fatal and non-fatal incidents and to an improvement in the general safety culture in the construction sector. Similarly, safety skills training for

operators of high risk machinery such as ATVs has the potential to reduce deaths and injury arising from ATV use and to improve the overall safety culture in agriculture and related businesses.

The objective of this amendment is to provide a statutory basis for the requirement for ATV operators to have undergone ATV operator safety skills training and to wear appropriate head protection at all times when operating an ATV, to help prevent fatal and serious injury arising from their use.

This training will ensure that persons operating an ATV understand and can practice the key skills necessary to ensure the stability and control of the unit, ensuring their safety and the safety of others whom may be affected. Critical to the safe operation of the ATV is maintaining control of the unit and particularly maintaining the center of gravity through the center of the ATV. This is achieved by the operator moving bodyweight into the turn or against the slope depending on the terrain involved.

The second objective of this amendment is to make the wearing of a protective helmet mandatory while operating an ATV. The loss of control of the ATV or overturning of the unit generally results in the operator being thrown at force from the ATV placing the operator at risk of a severe head injury.

Identification and Description of Options

Option 1: No policy change

Under this option, the Authority would leave the Safety, Health and Welfare at Work (General Application) Regulations 2007 unchanged.

In this case, the Authority will continue to expend scarce resources providing information, making recommendations, issuing guidelines, funding events and demonstrations to encourage farmers and other operators to complete ATV operator skills training and to wear appropriate head protection while operating ATVs. To date, this advisory approach has not resulted in any reduction in the number of accidents involving ATVs.

Option 2: Amend the Safety, Health and Welfare at Work (General Application) Regulations 2007 to introduce a requirement for ATV operator skills training and the wearing of appropriate head protection for ATV operation.

Under this option, the legislation will prescribe that the employer or person in control of a place of work would ensure that the operator of an ATV has successfully completed an appropriate ATV safety training course. The legislation will also require the operator to wear appropriate head protection at all times when operating an ATV.

Analysis of Costs, Benefits and Impacts for all Options

Option 1: No policy change

Costs: In the case of no policy change, it is likely that significant costs could accrue to the state in terms of dealing with the consequences of serious injury and death of ATV operators. These costs

include emergency response by emergency services including air ambulance response, hospital costs, medical and rehabilitation costs. Costs to farmers may also accrue due to equipment damage and costs associated with changes to or failure of enterprises resulting in long-term reliance on state social welfare systems.

Benefits: Other than short-term financial savings to the farmer/operator, there are no benefits associated with Option 1.

Impacts: There are potential significant adverse impacts of no policy change. Skills training is widely recognised as having improved the safety culture in other sectors has helped to reduce fatal and non-fatal injury. The most significant potential impact from this option could be ever increasing levels of death and injury arising from untrained operators using ATVs and the lack of wearing head protection.

Option 2: Amend the Safety, Health and Welfare at Work (General Application) Regulations 2007 to introduce a requirement for ATV operator skills training and the wearing of appropriate head protection for ATV operation.

Costs: This should not result in costs to the Authority or any other state body. In the long-term costs to the state in dealing with the aftermath and consequences of fatal and serious injury from ATV use will reduce. While the cost of training and the provision of appropriate head protection will be borne by the owner or operator, these may be minimized through tax incentives and schemes such as TAMS 11.

Benefits: There are substantial benefits expected to accrue from this option. The benefits will include a reduction in fatal and serious injury arising from the operation of ATVs with the consequential reduction in costs associated with emergency response, hospital and possible long-term care. This may also allow the Authority to focus on other significant challenges within agriculture and related businesses. Benefits directly to the owner, farmer, operator would include: greatly reduced risk of death or serious injury, reduced risk of overturns and damage to ATVs, more efficient use of the ATV, improved knowledge on general vehicle safety, improved maintenance and more appropriate use of these units.

Impacts: The main positive impact of the proposed amending regulation is that the operators of ATVs will be better able to control these units and prevent death and injury to themselves or others in the place of work. Furthermore, the extent of head injury to persons who do lose control, in most cases, should be greatly reduced due to the wearing of appropriate head protection. Successful ATV operator safety training will improve the general safety culture in associated sectors particularly agriculture, and may encourage farmers to seek and undertake additional safety training in the future. It is not expected that there will be any negative impacts arising from Option 2.

Consultation

Subject to the approval of the Board of the Authority, there will be a four-week public consultation process on the Authority's website where submissions will be invited on the proposed change to the Regulations. Key industry stakeholders including DAFM, IFA, ICMSA, ICSA, Macra na Feirme, FBD, FRS,

ACA, Teagasc, Coillte, other member organizations of the Farm Safety Partnership Advisory Committee (FSPAC), CIF, ICTU and those involved in related industries, all of whom will be notified in advance of the proposed change to the Safety, Health and Welfare at Work (General Application) Regulations 2007. The Authority will alert the stakeholders to the consultation by email and by posting a notice of the proposed change on the Authority website.

Enforcement and compliance

The Authority's inspectorate currently carry out a level of routine inspections in agriculture and associated sectors. Checks on compliance with these new requirements would not incur additional costs to the Authority.

Review

The Authority will engage with key sector stakeholders on an ongoing basis once these amendments are implemented to monitor the success of the requirements.

Publication

This RIA will be published on the Authority's website along with the draft Regulations as part of the four-week online public consultation process. Following the consultation process, the RIA and draft Regulation may be amended and will be forwarded to the Board of the Authority for approval to submit to the Minister for consent to publish.