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STATUTORY INSTRUMENTS

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**1999 No. 2024**

**The Quarries Regulations 1999**

**PART VI**

**EXCAVATIONS AND TIPS**

**General duty to ensure safety of excavations and tips**

**30.** The operator shall ensure that excavations and tips are designed, constructed, operated and maintained so as to ensure that—

- (a) instability; or
- (b) movement,

which is likely to give rise to a risk to the health and safety of any person is avoided.

**Excavations and tips rules**

**31.** The operator shall ensure that suitable and sufficient rules (known in these Regulations as the “excavations and tips rules”) are made to ensure the safe construction and operation of excavations and tips and such rules shall in particular specify the following matters—

- (a) the manner in which such activities are to be carried out;
- (b) the nature and extent of supervision of such activities; and
- (c) the precautions to be taken during such activities to ensure the health and safety of any person and the safety and stability of the excavation or tip.

**Appraisal of excavations and tips**

**32.—(1)** The operator shall ensure that a suitable and sufficient appraisal of all proposed or existing excavations or tips at the quarry is undertaken by a competent person in order to determine whether any such excavation or tip is a significant hazard.

(2) The operator shall ensure that—

- (a) any significant findings made during an appraisal, any conclusions reached in accordance with paragraph (1) and the reasons for those conclusions are recorded by the competent person undertaking the appraisal;
- (b) the said competent person signs and dates any such record; and
- (c) the record made in accordance with sub-paragraph (a) is made available to each employer of persons at work at the quarry and to all persons at work at the quarry.

(3) Where the conclusion reached by the competent person following an appraisal made pursuant to paragraph (1) is that the excavation or tip presents no significant hazard, the operator shall ensure that a competent person carries out further such appraisals—

- (a) at appropriate intervals;

- (b) whenever there is any reason to suspect that there has been or will be a significant change to—
    - (i) the matters to which the appraisal relates, or
    - (ii) any neighbouring land which may be affected by movement by or instability of the excavation or tip to which the appraisal relates; and
  - (c) whenever there is any reason to doubt the validity of the conclusion of the current appraisal.
- (4) Where the conclusion reached by the competent person following an appraisal made pursuant to paragraph (1) is that the excavation or tip represents a significant hazard, the operator shall ensure that a geotechnical assessment is carried out in accordance with the requirements of regulation 33 as soon as is reasonably practicable.

**Meaning of “geotechnical assessment” and operator’s duties in relation to geotechnical assessments**

**33.**—(1) For the purposes of these Regulations, a “geotechnical assessment” means an assessment carried out by a geotechnical specialist identifying and assessing all factors liable to affect the stability and safety of a proposed or existing excavation or tip and shall include—

- (a) preparation by or under the supervision of the said geotechnical specialist or, as appropriate, consideration by the said geotechnical specialist of the documents and particulars specified at Schedule 1;
  - (b) the conclusion of the said geotechnical specialist as to the safety and stability of the proposed or existing excavation or tip being assessed, including his conclusions as to whether the said excavation or tip represents a significant hazard by way of instability or movement;
  - (c) where appropriate, the conclusion of the said geotechnical specialist as to whether any remedial work is required in relation to the excavation or tip being assessed and the date by which such work should be completed;
  - (d) where appropriate, the conclusion of the said geotechnical specialist as to the date by which the next geotechnical assessment should take place; and
  - (e) consideration by the said geotechnical specialist of the excavations and tips rules.
- (2) The operator shall ensure that—
- (a) any significant findings made during a geotechnical assessment and any conclusions reached in accordance with paragraphs (1)(b), (c) or (d) and the reasons for those conclusions are recorded by the geotechnical specialist undertaking the assessment; and
  - (b) the said geotechnical specialist signs and dates any such record and records his professional qualifications thereon.
- (3) The operator shall ensure that any information available to him which may be relevant for the purposes of a geotechnical assessment is made available to the geotechnical specialist undertaking that assessment.
- (4) The operator shall ensure that any remedial works identified during the geotechnical assessment in accordance with paragraph (1)(c) are undertaken by the date specified.

**Operator’s duties in relation to excavations and tips which are a significant hazard (“notifiable” excavations and tips)**

**34.**—(1) Where the conclusion recorded by a geotechnical specialist in accordance with regulation 33(1)(b) following a geotechnical assessment of a proposed or existing excavation or tip is that the excavation or tip represents a significant hazard by way of instability or movement, the

operator shall ensure, subject to regulation 33(1)(d), that the said excavation or tip is subject to a further geotechnical assessment at least every two years.

(2) Without prejudice to paragraph (1), where, in relation to an excavation or tip which falls within paragraph (1) there is any reason—

- (a) to suspect that there has been or will be a significant change to—
  - (i) the matters to which the geotechnical assessment relates, or
  - (ii) any neighbouring land which may be affected by movement by or instability of the excavation or tip; or
- (b) to doubt the validity of the conclusion of the current assessment,

the operator shall ensure that a further geotechnical assessment is undertaken as soon as is reasonably practicable.

(3) For the purposes of these Regulations, excavations and tips falling within paragraph (1) shall be known as “notifiable excavations” and “notifiable tips” respectively.

#### **Operator’s duties in relation to excavations and tips which are not a significant hazard**

**35.** Where the conclusion reached by a geotechnical specialist in accordance with regulation 33(1)(b) following a geotechnical assessment of a proposed or existing excavation or tip is that it presents no significant hazard, the operator shall ensure that—

- (a) the said geotechnical specialist specifies the frequency with which appraisals pursuant to regulation 32 are to be conducted in order to ensure the continued safety and stability of the excavation or tip; and
- (b) a record of that specification is made.

#### **Duty to keep record of substances tipped**

**36.** The operator shall ensure that sufficient records are kept of the nature, quantity and location of all substances accumulated or deposited at a notifiable tip to enable an accurate assessment of the stability of that tip to be made.

#### **Notification of excavations and tips**

**37.—**(1) Subject to paragraph (2), the operator shall in relation to any—

- (a) proposed excavation or tip which it is reasonable to expect will be a significant hazard;
- (b) notifiable excavation; or
- (c) notifiable tip other than a notifiable tip which was—
  - (i) a classified tip within the meaning of regulation 2(1) of the 1971 Regulations, and
  - (ii) in respect of which notice has been given in accordance with regulation 8(1) of those Regulations,

give not less than 30 days notice (or such shorter period as the Executive may permit) to the Executive of his intention to commence or, in relation to excavations and tips falling within sub-paragraphs (b) and (c), continue, operations.

(2) Paragraphs (1)(b) and (1)(c) shall not apply to an excavation or tip in relation to which notice of intention to commence operations has previously been given.

(3) The 30 days notice referred to in paragraph (1) shall be given—

- (a) in the case of excavations and tips falling within paragraph (1)(a), before the commencement of operations; and

- (b) in the case of excavations and tips falling within paragraphs (1)(b) and (1)(c), as soon as possible after the date on which the operator is notified of the geotechnical specialist's conclusions, reached in accordance with regulation 33(1)(b).
- (4) The following information shall be included in any notice given by the operator in accordance with paragraph (1)—
  - (a) a brief description of the excavation or tip, including its location, size, and the material to be excavated or tipped; and
  - (b) in relation to excavations and tips falling within paragraphs (1)(b) and (1)(c), the conclusions reached by the geotechnical specialist carrying out the geotechnical assessment in accordance with paragraphs (1)(b), (c) and (d) of regulation 33.
- (5) Where the conclusion reached by a geotechnical specialist during the geotechnical assessment of an excavation or tip which has, in accordance with regulation 34(1), been subject to a geotechnical assessment at least every two years is that the excavation or tip no longer presents a significant hazard by way of instability or movement, the operator shall give notice of that conclusion and the reasons for that conclusion to the Executive within two months of the geotechnical assessment.

#### **Transitional provisions**

**38.** Where, at the coming into force of these Regulations, a report has been obtained in accordance with regulations 9(2)(a), 12(1) or 18(1) of the 1971 Regulations and is less than two years old, that report shall be treated as a geotechnical assessment for the purpose of regulation 32(4) of these Regulations and shall remain valid for a maximum of two years from the date when it was first made.