



## EWPA Secondary Guarding

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There is currently no prescriptive Victorian legislation that mandates the fitting of secondary guarding to EWPs (boom-type or scissor-type as examples).

However, state-of-knowledge information can be brought into a prosecution as evidence to demonstrate what the duty holder ought to have reasonably known and subsequently done about controlling the risk. There are duties to identify hazards and control risks, so far as is reasonably practicable.

Not every scissor-type EWP supplied to a specific job site, for a specific job, will have the hazard of the operator being crushed present, and therefore secondary guarding will not be required to be fitted to every scissor-type EWP that is in circulation.

*Northern Hire Group provide STATIC Risk Assessments for all EWPs in its fleet, but is unable to determine site/job specific risks and controls for the EWPs use, and therefore will not be held liable for site/job specific incidents associated with the use of EWPs.*

It is the responsibility of the Hirer as an Employer or Self-Employed person (the duty holder), to determine the risks associated with using an EWP at the specific job site and implement controls to minimise that risk.

If the decision of a duty holder is that, for a given task, access equipment in the form of an elevating work platform is selected to be used, in preference to that of scaffold for instance, then **Regulation 98** will apply:

### 98 Control of risk

(1) An employer or self-employed person must, so far as is reasonably practicable, eliminate any risk associated with plant.

(2) If it is not reasonably practicable to eliminate a risk associated with plant, the employer or self-employed person must reduce the risk so far as is reasonably practicable by—

- a) substituting the plant with plant that has a lower level of risk; or
- b) isolating the plant from persons; or
- c) using engineering controls; or
- d) combining any of the risk control measures referred to in paragraphs (a), (b) and (c).

(3) If the employer or self-employed person has complied with subregulations (1) and (2) so far as is reasonably practicable and a risk associated with plant remains, the employer or self-employed person must reduce the risk so far as is reasonably practicable by using administrative controls.



(4) If the employer or self-employed person has complied with subregulations (1), (2) and (3) so far as is reasonably practicable and a risk associated with plant remains, the employer or self-employed person must reduce the risk so far as is reasonably practicable by providing appropriate personal protective equipment to persons at risk.

If the use of an EWP was assessed as being the most appropriate form of access equipment for the task, and there was a risk of crushing, working towards compliance with the above regulation could include, substituting an EWP that could reach the crushing hazard with one that couldn't, substituting the EWP that does not have secondary guarding fitted with one that does, or using an engineering control in the form of secondary guarding to reduce the risk of crushing by fitting one to the EWP.

If the decision has been taken to use an EWP where there is a risk of crushing present, and the EWP is not fitted with secondary guarding, and it can reach the crushing hazard, the inspector will make enquiries into the system of work at the workplace. The duty holder will need to demonstrate how their system of work achieves an equivalent or higher level of safety than if secondary guarding was fitted to the EWP. If it doesn't, then changes will need to be made to the system of work that may include the use of secondary guarding.

The 'so far as is reasonably practicable' element is part of the duty holders process as to whether to use secondary guarding on scissor-type EWPs as a crushing risk control.

**Some of the points below may assist:**

(a) the likelihood of the hazard or risk concerned eventuating – This is a known risk and even a single task will require multiple position adjustments / relocations of the EWP, potentially in close proximity to the crushing hazard.

(b) the degree of harm that would result if the hazard or risk eventuated – Several fatalities have occurred in recent years and many more significant injuries.

(c) what the person concerned knows, or ought reasonably to know, about the hazard or risk and any ways of eliminating or reducing the hazard or risk;

The 'WorkSafe Victoria industry standard for the safe operation of EWPs' currently states that 'where there is a risk of crushing against a fixed structure, an effective operator protective device should be fitted'.

The 'Compliance Code for the Prevention of Falls in General Construction' highlights crushing from EWPs as a hazard to consider.

'AS2550.10:2006 – Cranes, hoists & winches – Safe use – Mobile elevating work platforms' highlights travelling into overhead structures as a hazard'.

Note that this standard was written in 2006 (17 years ago) and is currently going through the final stages of being re-written. It will now place more emphasis on the crushing risks and include secondary guarding.

(d) the availability and suitability of ways to eliminate or reduce the hazard or risk;

(e) the cost of eliminating or reducing the hazard or risk.



It should be noted that secondary guarding does not guarantee that the risk of crushing will be eliminated. Fatal incidents have still occurred with secondary guarding fitted to EWPs, hence why secondary guarding is only part of the crushing risk control and overall system of work and why administrative controls, such as the use of a safety observer, should be part of the overall system.

The fitting of secondary guarding to scissor-type EWPs is not mandatory it depends on the **specific task** at the **specific workplace** and their **system of work**.

For further details from the Victorian Regulators contact WorkSafe Victoria on 1800 136 089.