

## **NISG – Legal Update Sponsored By Carson McDowell**

**Date: 15.05.24**

### **The Farmyard v. The Playground**

The farmyard is not a playground. This is the message that the Health and Safety Executive will be promoting at the Balmoral Show this week having recently launched a campaign “Be Aware Kids” which highlights the risks of children in and around farmyards.

### **Tractors and Quad Bikes**

This is particularly relevant as the school holidays approach and serves as a helpful reminder that children under the age of 13 are not permitted to drive, tow or ride on any farm machinery on the roads, fields, or the farmyard itself<sup>1</sup>. This includes quads and tractors, and it is worth noting that if a farmer is in breach of the above that it is a criminal offence which could lead to a fine, forfeiture of machinery, or prison.

It may seem startling that a child as young as 13 can legally drive a tractor if certain conditions are satisfied<sup>2</sup>. For example: the child must use the tractor only for agricultural activities and only once they have completed a LANTRA certified course.<sup>3</sup> The child must also be supervised by a competent adult and a risk assessment must be in place to ensure the risk is reduced to the lowest level practicable.

Young people over the age of 16 may also obtain a Provisional Category F Licence and pass the test which allows them to drive tractors up to 2.45 metres wide and to drive through 30mph zones.<sup>4</sup>

Quad bikes are though arguably more attractive to children and young people due to the more manageable size. The minimum age for use of a quad is usually 16 years old. It is also illegal to carry a passenger of any age on a quad bike, unless it is designed to do so<sup>5</sup>.

<sup>1</sup> Regulation 4 The Agriculture (Safety of Children and Young Persons) Regulation (Northern Ireland) 2006 and Approved Code of Practice.

<sup>2</sup> Regulation 7 The Agriculture (Safety of Children and Young Persons) Regulation (Northern Ireland) 2006 and Approved Code of Practice.

<sup>3</sup> LANTRA qualifications are government approved, recognised by employers and insurers and suitable for all abilities.

<sup>4</sup> [Children and young people on farms | Ulster Farmers Union \(ufuni.org\)](https://www.ufuni.org/)

<sup>5</sup> [Farm Safe Essentials | Health and Safety Executive for Northern Ireland \(hseni.gov.uk\)](https://www.hseni.gov.uk/)



Tractors and quads are an obvious temptation to children and before they get behind the wheel, farmers first need to address the hazards. If the hazards are not appropriately risk assessed with control measures put in place the results can be fatal. Many quad bike fatalities in the UK have been caused by head injuries and it is arguable that helmets would have prevented most.

### **Hazards/Control Measures**

- Excessive speed that may cause collisions, throw the driver off, or injure pedestrians –
  - ensure adequate training is provided to the driver, supervision and a properly fitted helmet (for a quad);
- Overturning the vehicle due to unbalanced loads, being struck in the head or crushed by the vehicle or becoming trapped under it –
  - ensure the vehicle is never overbalanced when operating and that the child/young person stays within known routes and appropriate helmet is worn (for a quad), training is also necessary to understand the limits of the vehicle to avoid over balancing;
- Poor ground conditions/steep slopes –
  - Ensure that the vehicles are operated within planned and known routes. Walk the routes regularly to assess ground conditions after excessive rain fall etc;
- Poor vehicle maintenance which can lead to faults, such as with the tyres or brakes –
  - Ensure regular maintenance and repair is carried out to the farm vehicles by an appropriately qualified engineer.
- Appropriate supervision –
  - For all the above risks, if a child over the age of 13 is operating the vehicle, there must be appropriate supervision by competent adults.
- Knowledge of the safe operating limits of the vehicle –
  - For all the above risks, appropriate training must be provided.

### **Recent HSENI prosecution**

In Northern Ireland, 3 children in the past 10 years have tragically lost their lives in farmyard incidents. In June 2023, a Co. Down farmer was sentenced after a child tragically suffered fatal crush injuries on his farm. A 12-year-old child was using a JCB wheeled loading shovel to move tyres from one end of the farmyard to the other when he accidentally struck a young girl. The court held that the farmer had breached both the Health and Safety at Work (Northern Ireland) Order 1978, and Agriculture (Safety of Children and Young Persons) Regulations (Northern Ireland) 2006. The Court fined him £15,000.00 and issued a forfeiture order for the machinery involved.<sup>6</sup> The farmer was held liable for the following reasons:

<sup>6</sup> [Co. Down farmer sentenced after death of niece | Health and Safety Executive for Northern Ireland \(hse.gov.uk\)](https://www.hseni.gov.uk/news/2023/06/23/co-down-farmer-sentenced-after-death-of-niece/)

- Failing to properly supervise children as he was not present on the yard at the time of incident;
- Allowing a child under the age of 13 to drive farm machinery;
- Failing to warn the child against driving; and
- Left the machine accessible to the children in his absence.

### **Health and Safety Law/Requirements**

With such incidents in mind, it is an important reminder for farmers to review the Health and Safety at Work legislation. For example, Article 5 (2) of the Health and Safety at Work (NI) Order 1978 advises from a general perspective that it is the duty of every self-employed person to ensure, so far as is reasonably practicable, that persons (not being his employees – i.e. children or visitors to the farm) are not exposed to risks to their health or safety.

Further Article 3 (2) of the Management of Health and Safety at Work Regulations (NI) 2000 states that every self-employed person shall make a suitable and sufficient assessment of the risks of his own health and safety as well as the risks of persons not in his employment.

Ultimately, it is the responsibility of the farmer to ensure accidents do not happen. If a child over the age of 13 is to operate farm machinery, the child's knowledge of the risks and being aware of 'farm rules' and training is particularly relevant. Supervising children whilst carrying out farm work is undoubtedly a difficult and dangerous task. The more dangerous the circumstances - the more stringent the risk assessment and control measures required. Alternatively, farmers may consider simply refusing to allow children to operate such vehicles until they are adults.

If you would like any further information or advice relating to health and safety law, please contact Judith Rountree or Eilis Maguire from the [Health and Safety](#) team at Carson McDowell LLP.



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