

**WorkSafe Services**

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**Services de travail sécuritaire**

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May 13, 2005

"The Employer"

The Chief Compliance Officer is writing in response to the employer's letter dated May 10, 2005, in which the employer has requested a deviation from the *Occupational Health and Safety Act*, Regulation 91-191 Section 136(1)(c) that reads:

*An employer shall ensure that a metal scaffold if 6m or greater in height is equipped with a continuous access stairway commencing at ground level.*

The employer states in the employer's letter that the deviation is for a job that the employer will be undertaking shortly at the owner's premises. A continuous access stairway commencing at ground level is not structurally possible due to area limitations; therefore, a ladder system must be used. The employer indicates that the employer's plan is to erect a 30-foot rolling scaffold and it is necessary to put the access ladder inside with a rest stop at 15 feet with a complete cage around it. The scaffold will come complete with one deck level only.

As a result of a request for more specific information regarding this project, the employer sent a revised letter that provided more detail on why an access stairway is not structurally possible. The reasons are:

1. The top trusses of the ceiling are spaced at 10 feet wide and the stair tower takes approximately 14 feet, therefore the tower will not fit between the trusses.
2. The weight with the scaffold and stair tower is more than 2 times that of the ladder system and would damage the gymnasium floor.

In Regulation 91-191, sections 131 to 134 entitled General Provisions Applicable to Scaffolds, apply to all types of scaffolds. Section 136 is specific to metal scaffolds, while section 140 is specific to mobile rolling scaffolds. As the employer will be erecting a rolling scaffold and the requirement for the stair tower is found in the metal scaffold section, a deviation is not required for this job. However as the employer's system is a rolling scaffold, the employer will have to comply with the provisions found in sections 131 to 134 and 140.

In granting a deviation, the Chief Compliance Officer has to determine whether the reason(s) given for deviating from the legislated requirements is valid and the proposed method affords protection for the health and safety of employees equal to or greater than the protection prescribed by regulation.

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In this case, if the scaffold had been a metal scaffold and not a rolling scaffold, and the employer was applying to deviate, the reasons given above might not have been sufficient for the granting of a deviation. In the first case, the floor could be protected by use of sills or plates. In the second case, although it is not possible to have the 14-foot wide stair tower fit within the 10-foot space between ceiling trusses, it would be expected that you consider using a stair tower up to the trusses and a ladder system for gaining access into the trusses.

By copy of this letter, the WHSCC staff have been advised of the outcome of the employer's deviation request.

Regards,

Chief Compliance Officer