



**IPS-08**

**PROVISIONAL INSTRUCTIONS FOR ACTIONS BY VIGO PORT AUTHORITY FOR THE PURPOSE OF ENSURING COMPLIANCE WITH SECTION 24 OF LAW 31/1995 REGARDING THE OBLIGATION TO COORDINATE ACTIVITIES, IN THE SPHERE OF ADMINISTRATIVE LEASES AND AUTHORISATIONS**

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## 1.- Purpose:

Without prejudice to the powers of the various Public Administrations, the aim of the present document is to define and establish the action plan to be followed by Vigo Port Authority so as to comply, in the sphere of administrative leases and authorisations, with the provisions of Section 132 of Law 48/2003, of 26 November, on the financial regime and provision of services by ports of general interest, with regard to ensuring compliance with the obligation to coordinate activities included in Section 24 of Law 31/1995, of 8 November, on Occupational Risk Prevention.

## 2.- Legal Grounds:

Section 24 of Law 31/1995 on Occupational Risk Prevention was implemented by Royal Decree 171/2004, of 30 January (Official State Gazette, issue 27, 31/01/04), which establishes the minimum standards for the protection of the health and safety of workers when business activities have to be coordinated.

Section 2 of the said Royal Decree defines the following:

- Entrepreneur who is the Owner/Holder of the workplace: the person who has the capacity to make the work place available and manage it.
- Principal entrepreneur: the entrepreneur who contracts or sub-contracts with others the performance of works or services that correspond to his or her own activity, these taking place in his own workplace.



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According to these definitions, the individual or legal entity that is the holder of an administrative lease or authorisation will always be the owner/holder entrepreneur, and may also be the principal entrepreneur.

The various Sections of the said Royal Decree 171/2004 establish the measures that have to be taken by both the owner/holder entrepreneur and the principal entrepreneur in order to ensure that all employees are familiar with, and aware of, the risks they may encounter in their workplace, and that appropriate measures are therefore taken to prevent any possible accident.

In this regard, Section 11 of R.D. 171/2004 lists, without prejudice to any others, some possible means of coordination that should be adopted by businesses working together in the same workplace:

- a) Exchange of information and communication between the various companies working in the same place.
- b) Regular meetings between the various companies working in the same place.
- c) Joint meetings of the health and safety committees of the various companies, or in their absence, of the owners of the companies that do not have these committees with the risk prevention delegates.
- d) Giving instructions.
- e) Establishing a set of prevention measures, procedures or action protocols specific to the risks present in the workplace and that may affect the employees of the various companies.
- f) The presence in the workplace of the preventive resources of the various companies.

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- g) The appointment of one or more persons responsible for coordinating preventive actions.

Lastly, it should be said that the owner/holder of the workplace is responsible for establishing the necessary means of coordination, of which the preferred option is that described in point g) above: "the appointment of one or more persons responsible for coordinating preventive actions", provided that two or more of the following conditions apply:

- When in the workplace one or more of the various companies present carries out activities or process that are legally considered to be dangerous or especially hazardous, and which may affect the health and safety of the employees of the other companies present in the workplace.
- When there is particular difficulty in ensuring the interaction of the various activities carried out in the workplace and which generate risks that can be classified as serious or extremely serious.
- When there is particular difficulty in avoiding the successive or simultaneous performance of activities that are incompatible with each other from the point of view of employee health and safety.
- When there is particular complexity in the coordination of the preventive actions as a result of the number of companies and workers present in the workplace at the same time, the nature of the business activities being carried out and the characteristics of the workplace itself.

In accordance with the above, Vigo Port Authority, for the purpose of guaranteeing compliance with the provisions of Section 24 of Law 31/1995, on Occupational Risk Prevention, has drafted the following:

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**3.- Provisional Instructions for Action:**

1. In the case of currently valid administrative concessions and leases, the Port Authority shall require their holders to provide annual information stating which of the different means of coordination stipulated by law they have adopted in their workplace.

2. The holders of administrative leases and authorisations shall reply within a maximum period of ten (10) working days as from the date of receipt of the notification, indicating the means adopted in their workplace, with an express declaration to the effect that this means is being effectively, regularly and constantly applied.

If the means of coordination adopted is that of appointing one or more persons as responsible for coordinating preventive actions, the holder shall inform the Port Authority, in writing and within the designated period, of the name and I.D. number of the person or persons appointed as safety coordinator(s), with the signature of the interested party or parties as proof of acceptance of the appointment.

3. In order that the Port Authority shall have the maximum guarantee of compliance, the communication referred to in paragraph one of point two above, in addition to the signature of the legal representative of the company should also contain the approval of one or more of the following:

- The head of prevention or safety in the company, indicating the position held and job functions if he or she is an employee of the company, or in

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the case of an external company, by the signature of its legal representative.

- The person or institution duly authorised by the Labour Authorities to audit the Prevention System.
  - The occupational health and safety committee, or the prevention delegate, as appropriate.
4. If, within the interval of time transpiring between two notifications by the Port Authority requesting the above information, there should be a change, for whatever reason, in the circumstances initially notified to the Port Authority by the holder of the administrative lease and/or authorisation, the latter shall notify the new situation in the same terms as those stated above.
5. When new administrative leases are granted that require building work to be carried out prior to the commencement of business activity, before this work starts and during the time it takes the holder of the lease, as promoter of the said work, shall appoint a health and safety coordinator, in accordance with the provisions of Royal Decree 1627/97, of 24 October, establishing minimum safety conditions in building work. Once the work has been completed, and, if appropriate, after the final inspection has been signed, the procedure outlined in the previous points above shall be followed.
6. In the case of non-fulfilment of the obligations outlined above, the Vigo Port Authority shall inform the appropriate Labour Authority for the opportune intents and purposes, without prejudice to the taking of the relevant action by the Port Authority itself.