

# Legislation WATCH

THE No.1 RESOURCE FOR WORKPLACE LAW AND HEALTH AND SAFETY



## Swine flu contingency

It has been widely predicted that new cases of swine flu will begin to rise again going into the autumn. For employers, sickness absences may actually comprise genuine sickness absences, the taking of time off to look after dependants, as well as employees' reluctance to attend or travel to work.

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Be ready for change,  
1st October 2009

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# Legal update October 2009

1 October 2009 is a common commencement date: meaning the following come into effect on 1 October.

### National Minimum Wage Regulations 1999 (Amendment) Regulations 2009 come into force

The National Minimum Wage will rise from £5.73 per hour to £5.80 per hour. The development rate will increase from £4.77 per hour to £4.83 per hour, whilst the rate for employees aged 16 to 17 increases from £3.53 to £3.57 per hour.

### Minimum wage no longer allowed to include tips

Employers will no longer be able to use tips to top up staff wages to meet the national minimum wage. Historically, employers in restaurants and bars have been able to count service charges and gratuities processed through the payroll towards the minimum wage, but this has now been disallowed.

The Safeguarding Vulnerable Groups Act brings in a centralised vetting system for people banned from working with children and vulnerable adults. Employers can make online checks about potential or existing employees and will be informed where possible if an individual becomes barred. Fines of up to £5,000 will be levied on employers that knowingly employ individuals on the list or fail to make the relevant checks.



### Work and Families (Increase of Maximum Amount) Order 2009 comes into force

Under the Order, Employment Tribunals can increase the maximum weekly amount to calculate awards such as unfair dismissal and redundancy payments, and payments made by the Secretary of State out of the National Insurance Fund on an employer's insolvency, from £350 to £380 per week.

### Centralised vetting system for people working with children and vulnerable adults comes into force

### Consultation

The Government has launched a consultation into officially recognising Workers Memorial Day to remember those who lose their lives at work. It runs until 19 October 2009.

[www.dwp.gov.uk/consultations](http://www.dwp.gov.uk/consultations)

## Introducing a hand book that offers essential guidance and up-to-date information on workplace law

- Contains information on legislation, regulation, case law and best practice
- Includes A-Z guidance on HR and employment law plus health & safety and premises management

[www.legislationwatch.co.uk/prod1](http://www.legislationwatch.co.uk/prod1)





# Read all about it but only from a reputable source



The Health & Safety Executive launched a new simplified version of the Health & Safety Law Poster on 6th April 2009.

The new poster does not require any information to be updated, removing any ownership on employers to manually keep details updated.

The new posters were introduced after an HSE consultation revealed the health and safety posters employers were previously required to display were "very unappealing and rarely read by employees".

According to the HSE, the publication of a new approved poster "provides an opportunity to present clear basic information about employees' health and safety rights".

The new poster is modern, eye-catching and easy to read, and set out in simple terms, using numbered lists of basic points, what employers and workers must do, and tell you what to do if there is a problem.

Employers have a legal duty under the Health and Safety Information for Employees Regulations (HSIER) to display the poster in a prominent position in each workplace or provide each worker with a copy of the equivalent leaflet outlining British health and safety laws.

The new poster and pocket card also reduce the administrative cost for employers, who no longer have to add further information and keep this up to date.

### Vinny Kenny from the HSE says:

"If businesses receive any promotions relating to the Law poster or pocket card, and are in any doubt about their authenticity, they should contact the HSE before parting with their money."

Employers can continue to use existing versions of the poster and leaflets until 5 April 2014, as long as they are readable and the addresses of the Enforcing Authority and the Employment Medical Advisory Service are up to date.

### Did you know....?

The new poster does not require any information to be updated, removing ownership on employers to manually keep details updated.



## Health & Safety Law Poster

As an employer you are required by law to display the HSE Health & Safety Law Poster

English Poster  
[www.legislationwatch.co.uk/prod4](http://www.legislationwatch.co.uk/prod4)



Welsh Poster  
[www.legislationwatch.co.uk/prod5](http://www.legislationwatch.co.uk/prod5)



Easy Read Leaflet  
[www.legislationwatch.co.uk/prod6](http://www.legislationwatch.co.uk/prod6)



English/Welsh Leaflet  
[www.legislationwatch.co.uk/prod7](http://www.legislationwatch.co.uk/prod7)



Handy Pocket Card  
[www.legislationwatch.co.uk/prod8](http://www.legislationwatch.co.uk/prod8)



# Swine flu contingency

It has been widely predicted that new cases of swine flu will begin to rise again going into the autumn.

For employers, sickness absences may actually comprise genuine sickness absences, the taking of time off to look after dependants, as well as employees' reluctance to attend or travel to work.

As employers are under an obligation to provide a safe system of work for staff, they may actually prefer staff to remain away from work until signed as fit to work by their GP.

Employers can help reduce the spread of disease by properly ventilating the workspace, supplying soap and hygiene gel, communicating company policy on illness and, above all, ensuring people with symptoms are sent home promptly.

However, with absences likely to rise, preparing now for a possible sudden reduction in staff is preferable to presuming you'll muddle through.

## Business continuity tips

Nick Tsatsas, a Partner in the Employment Group at Fladgate LLP, advises employers to:

- Maintain a frequent and open dialogue with employees, and seek their consent to any changes that are proposed
- Where applicable, introduce home-working and flexible working – but do ensure compliance with relevant legislation on health and safety and working time
- Redeploy staff – in times of emergency, employers may ask employees to do work that they would not normally do, without incurring a breach of contract
- Manage extra work – staff absenteeism is likely to result in other colleagues taking on extra work, so employers should monitor this to ensure compliance with the Working Time Regulations 1998 and that staff don't end up suffering from stress
- Take on temporary staff. This might be an attractive option where the staff shortages are likely to be only short-term, and home-working arrangements or redeployment of existing staff are not feasible

- Continually assess the risk of the impact of swine flu on the organisation and consult Government websites



[www.legislationwatch.co.uk/prod2](http://www.legislationwatch.co.uk/prod2)



[www.legislationwatch.co.uk/prod3](http://www.legislationwatch.co.uk/prod3)

## Downloadable Swine Flu Guide

It's always good to assess risks and prepare for emergencies. Whether or not the UK swine flu situation worsens, all businesses can benefit from considering what they would do in the event of a flu pandemic. Thinking through the risks and the changes you would make to your operations is relevant to swine flu, but could also be adapted to any number of other business emergencies. Compile a business continuity plan - challenge yourself with different scenarios - what if 30% of your workforce was unfit to work for a period of time?



[www.seton.co.uk/swinefluguide](http://www.seton.co.uk/swinefluguide)

## Stay home or go to work?

Essentially, an employer's approach to swine flu should be like that of any other flu. If an employee does develop flu-like symptoms, and they have been in contact with someone who has, or is suspected to have had, swine flu, they should stay / go home and contact their doctor.

The government has produced a 'symptom checker' to help people decide whether their symptoms might be swine flu.

[www.nhsdirect.nhs.uk/SAT/MiniSAT/Topics/SwineFlu/SwineFluFPP1.aspx](http://www.nhsdirect.nhs.uk/SAT/MiniSAT/Topics/SwineFlu/SwineFluFPP1.aspx)

## Risk of Flu Safety Posters

Prevent the spread of this potentially harmful strain of H1N1 flu by warning your staff and visitors.



[www.legislationwatch.co.uk/prod9](http://www.legislationwatch.co.uk/prod9)



[www.legislationwatch.co.uk/prod10](http://www.legislationwatch.co.uk/prod10)



# Dangerous Goods Directive



The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009 (the 2009 Regulations) came into force on 1 July 2009. The Regulations regulate the carriage of dangerous goods by road and rail in the UK.

## Why change?

The 2009 Regulations have been drafted in such a way as to break the two-yearly cycle of domestic transposition of the Directive, providing it is no longer necessary to make new or amending Regulations every two years. This will create greater certainty for those who use the Regulations.

The Dangerous Goods Directive applies various Annexes to the European Agreements concerning the International Carriage of Dangerous Goods by Road (ADR), the International Carriage of Dangerous Goods by Rail (RID) and the International Carriage of Dangerous Goods by Inland Waterway (ADN).

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## What does it stand for?

The European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR) was drawn up in Geneva by the United Nations Economic Commission for Europe in September 1957, and signed by the UK in 1967.

'ADR' stands for its French name, 'Accord Européen Relatif au Transport International des Marchandises Dangereuses par Route'.

## What equipment must be carried on a vehicle carrying dangerous goods?

Equipment requirements for vehicles carrying dangerous goods can be found in Chapter 8.1 of the 2007 ADR and from January 2009, in the 2009 ADR. The full text of the ADR annexes can be found at:

[www.unece.org/trans/danger/publi/adr/adr2007/07ContentsE.html](http://www.unece.org/trans/danger/publi/adr/adr2007/07ContentsE.html)

Outlined below is a list of the 2009 ADR equipment requirements.

### 2009 ADR Miscellaneous Equipment

Each transport unit carrying dangerous goods shall be provided with items of equipment for general and personal protection. The items of equipment shall be selected in accordance with the danger label number of the goods loaded. The label numbers can be identified through the transport document.

The following equipment shall be carried on board the transport unit for all danger label numbers:

#### For each vehicle:

- A wheel chock of a size suited to the maximum mass of the vehicle and to the diameter of the wheel
- Two self-standing warning signs
- Eye rinsing liquid\*

#### For each member of the vehicle crew:

- A warning vest (e.g. as described in the EN 471 standard)
- Portable lighting apparatus conforming to the provisions of 8.3.4
- A pair of protective gloves
- Eye protection (e.g. protective goggles)

#### Additional equipment required for certain classes:

- An emergency escape mask\*\* for each member of the vehicle crew shall be carried on board the vehicle for danger label numbers 2.3 or 6.1
- A shovel\*\*\*
- A drain seal\*\*\*
- A collecting container made of plastics\*\*\*

\* Not required for danger label numbers 1, 1.4, 1.5, 1.6, 2.1, 2.2 and 2.3.

\*\* For example an emergency escape mask with a combined gas/dust filter of the A1B1E1K1-P1 or A2B2E2K2-P2 type which is similar to that described in the EN 141 standard.

\*\*\* Only required for danger label numbers 3, 4.1, 4.3, 8 and 9.

For fire extinguisher requirements see ADR 8.1.4

## ADR Driver PPE Kits

### Essential for all vehicles carrying hazardous goods

- Provides the driver with instant access to general and personal protective equipment in the event of an emergency
- Choose from 2 kit options – standard or premium
- Each Kit is contained in a highly visible red bag – ideal for storing in the driver cabin

Kit Contents	Standard Kit	Premium Kit
Red Kit Bag	✓	✓
Double Sided Wheel Chock	✓	✓
Warning Triangle x 2	✓	✓
500ml Eyewash	✓	✓
Hi-Vis Waistcoat	✓	✓
Mini Torch – Zone 1 ATEX approved	✓	✓
Natural Rubber Gauntlets	✓	✓
Goggles	✓	✓
ABC Powder Fire Extinguisher 2kg	✓	✓
3M Respirator	✓	✓
3M ABEK1 Combination Filters (Pair)	✓	✓
2 Part Motorist Shovel	✓	✓
Clay Drain Cover	✓	✓



# Global Harmony

New European Regulations on the Classification, Labelling and Packaging of Substances and Mixtures implementing the UN GHS criteria in all EU Member States came into legal effect in January 2009.

The aim of the GHS is to ensure, worldwide, the same criteria is used for classifying chemicals according to their health, environmental and physical hazards and that each country adheres to the same identifiable hazard communication requirements for labelling and safety data sheets.

The new CLP Regulation will replace both the Dangerous Substances Directive (67/548/EEC) and the Dangerous Preparations Directive (1999/45/EC) and is directly-acting in all EU Member States, requiring no national transposition.

## Transitional periods

However, the Regulation provides a transition period to allow a gradual migration from the existing system. This transition period is up to seven and a half years (the Regulation will apply to the classification of substances from 1 December 2010, and to the classification of mixtures from 1 June 2015).

In Great Britain, the implementing legislation is the Chemicals (Hazard Information and Packaging for Supply) Regulations 2002 (as amended), and in Northern Ireland (NI) the Chemicals (Hazard Information and Packaging for Supply) (Northern Ireland) Regulations 2002.

Although the CHIP Regulations will be repealed in full in the UK when the new Regulation is fully in force (anticipated June 2015), it may be necessary to amend CHIP and its supporting guidance as the transitional period progresses and the new Regulation begins to apply the new GHS regime.

**The Earth Summit, held in Rio de Janeiro in 1992, resulted in an international mandate to create:**

"A globally harmonised hazard classification and compatible labelling system, including material safety data sheets and easily understandable symbols". This is abbreviated to the 'GHS'.

## GHS Poster

Poster clearly defines the updated chemical symbols and also categorises them by risk. Display in prominent positions around your building to ensure everyone is aware of the changes.



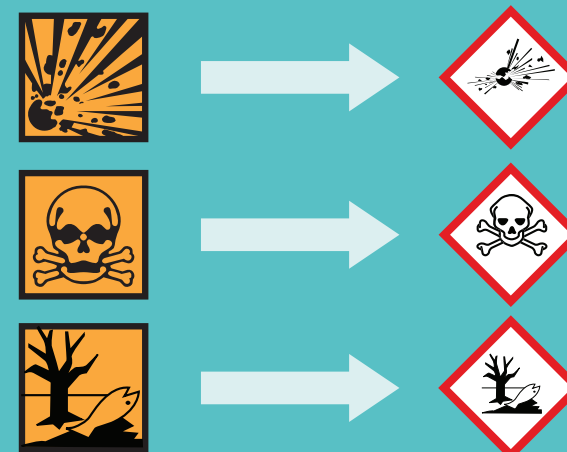
[www.legislationwatch.co.uk/prod13](http://www.legislationwatch.co.uk/prod13)

## The Regulations include:

- New scientific criteria to assess hazardous properties of chemicals.
- Two new harmonised hazard warning symbols for labels.



- A new design for existing symbols.



- New harmonised warning and precautionary statements for labels, to replace the existing risk and safety phrases.

## • New hazard statements for labels:

- H240 – Heating may cause an explosion.
- H320 – Causes eye irritation.
- H401 – Toxic to aquatic life.

## • New precautionary statements for labels, for example:

- P102 – Keep out of reach of children.
- P271 – Use only outdoors or in well-ventilated areas.
- P410 – Protect from sunlight.

For further information visit:

[www.hse.gov.uk/ghs/index.htm](http://www.hse.gov.uk/ghs/index.htm)





# First aid training: be ready for change

The 1 October 2009 heralds the biggest changes to the First Aid at Work Regulations for 25 years.

From that date, the four-day First aid at Work (FAW) course becomes a three-day course, and a new, one-day, Emergency First Aid at Work course (EFAW) is created. It's also strongly recommended that first aiders complete an annual three-hour refresher course to prevent skills from fading.

The reason for the change is that the HSE has reviewed first aid provision in the workplace, and has found that although first aid awareness was good, compliance was found to be more 'in spirit' rather than the letter of the law.

Following consultation with employers and training providers, it is hoped the new arrangements make it easier for employers to comply with the Regulations. Both the First Aid at Work and Emergency First Aid in the Workplace courses will be approved by the HSE and must be taught by HSE-approved first aid training providers.

Comments first aid trainer, Tanya Bartram:

"Hopefully employers will take on board the recommendation of ongoing training for their first aiders, as for any first aider that does not practice very much this can be a key problem for them.

"With ongoing training they will have more confidence and any changes that occur in first aid will be brought to them without delay."



## What should be put into a first aid box?

There is no standard list of items to put in a first aid box. It depends on the outcome of your risk assessment to identify the particular needs of your workplace. However, as a guide, and where there is no special risk in the workplace, a minimum stock of items would be:

- A leaflet giving general guidance on first aid
- 20 individually wrapped sterile adhesive plasters (assorted sizes)
- 2 sterile eye pads
- 4 individually wrapped triangular bandages
- 6 safety pins
- 6 medium (approx 120 x 120mm) individually wrapped sterile unmedicated wound dressings
- 2 large (approx 180 x 180mm) individually wrapped sterile unmedicated wound dressings
- One pair of disposable gloves

## Main points to consider:

- Employers should carry out a risk assessment to decide on the numbers of first aiders required and the level of training (i.e. FAW or emergency qualification) needed.
- A current First Aid at Work certificate will still be valid until its expiry date.
- Employers must continue to maintain trained first aiders – not wait for the 1 October deadline.
- Refresher training isn't mandatory but is HSE-recommended.

**For more information visit:**  
[www.hse.gov.uk/firstaid/index.htm](http://www.hse.gov.uk/firstaid/index.htm)

## Where do I need eyewash?

The Health and Safety (First Aid) Regulations 1981 ACOP reg. 3(36) on Eyewash states that where mains tap water is not readily available for eye irrigation, at least 1 litre of sterile water or sterile normal saline (0.9%) in sealed, disposable containers should be provided. Once the seal has been broken, the containers should not be kept for re-use. The container should not be used after the expiry date.



[www.legislationwatch.co.uk/prod14](http://www.legislationwatch.co.uk/prod14)

[www.legislationwatch.co.uk/prod15](http://www.legislationwatch.co.uk/prod15)

# Understanding Safety Signs

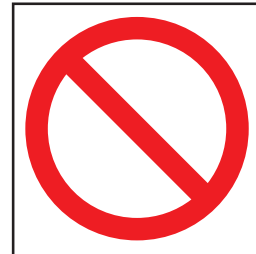
The Health & Safety (Safety Signs & Signals) Regulations 1996



## Prohibition

**Shape & Colour:** Red circle with diagonal line  
**Meaning:** You must not/Do not do/Stop

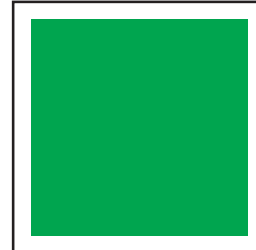
- Black symbols are added inside the circle and these are recognised in all EC countries
- Supplementary text may be added if necessary to convey a clearer message



## Safe Condition

**Shape & Colour:** Green rectangle or square  
**Meaning:** The safe way/Where to go in an emergency

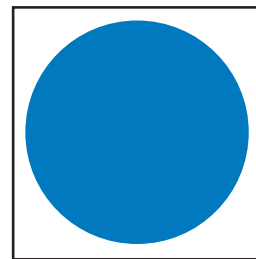
- White symbols are added inside the shape and these are recognised in all EC countries
- Supplementary text may be added if necessary to convey a clearer message
- "Text Only" signs no longer comply, they MUST contain a symbol



## Mandatory

**Shape & Colour:** Solid blue circle  
**Meaning:** You must do/Carry out the action given by the sign

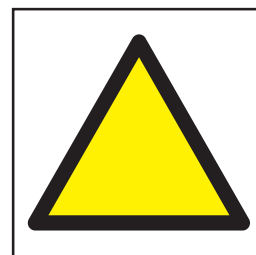
- White symbols are added inside the circle and these are recognised in all EC countries
- Supplementary text may be added if necessary to convey a clearer message



## Hazard Identification

**Shape & Colour:** Yellow triangle with black border  
**Meaning:** Potential hazard within a designated area.  
 Caution/Risk of Danger/ Hazard ahead

- Black symbols are added inside the triangle and these are recognised in all EC countries
- Supplementary text may be added if necessary to convey a clearer message



**Danger**  
 To indicate an immediately hazardous situation, which if not avoided will result in death or serious injury. To be limited to the most extreme situations.

**Warning**  
 To indicate an immediately hazardous situation, which if not avoided could result in death or serious injury

**Caution**  
 To indicate an immediately hazardous situation, which if not avoided, may result in minor or moderate injury



## Fire Signs

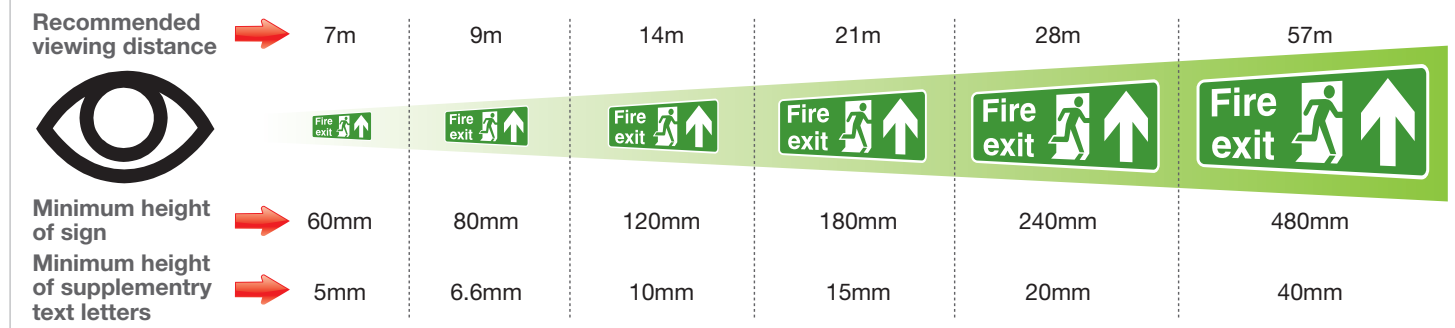
**Shape & Colour:** Red rectangle or square  
**Meaning:** Locates fire equipment or personnel

- White text and symbols on a red background
- Complies to Health & Safety (Safety Sign and Signals) Regulations 1996
- Supplementary text may be added if necessary to convey a clearer message



## Signs & Viewing distance

How to calculate the size of sign you need from BS 5499.3 Safety Sign Regs



## Do you know which way your exit arrows go?

In accordance with BSS5499-4, the arrow serves to denote the direction of travel an escapeant should take in order to reach a place of safety.

Sign	Meaning as viewed from in front of the sign	Examples of locations
 	1. Progress forward from here. (Indicating direction of travel). 2. Progress forward and through from here; when sign is sited above a door. (Indicating direction of travel). 3. Progress forward and up from here. (Indicating direction of travel).	1. Suspended in corridor leading to door. 2. Suspended in front of door. 3. Positioned above door. 4. Suspended in open areas. 5. Suspended at foot of stairs or ramp.
 	1. Progress down from here. (Indicating change of level).	1. Suspended at head of stairs or ramp. 2. Suspended at change of level.

## Do you know what height to mount your safety signs?

Escape route signs should be sited conspicuously within normal field of vision.

The following principles, which will assist the evacuee to predict the location of successive signs, should be applied;

- a) Signs above doors or open spaces should be mounted between 2m and 2.5m from floor level, measured to the base of the sign and be sited as close to the centre line of the escape route sign as practicable;  
**NOTE 1.** This mounting height is intended to ensure that signs can be readily seen, e.g. over the heads of people.

- b) Signs sited on walls should be mounted between 1.7m and 2.0m from floor level measured to base of sign  
**NOTE 2.** This mounting height is intended to ensure the signs are within the immediate field of vision.

- c) Mounting heights greater than 2.5m may be used, e.g. in large open spaces of for operational reasons, but care should be taken to ensure that such signs are both conspicuous and legible;  
**NOTE 3.** Larger signs may therefore be necessary.

- d) Signs should be sited at the same height throughout the escape route, so far as is reasonably practicable.







# Working at Height



“Previously, Working at Height Regulations were only triggered by work above a height threshold of two metres, but the introduction of the Work at Height Regulations 2005 (WAH Regulations) consolidated previous legislation (and implement European Council Directive 2001/45/EC) by applying to work at height in any place where a person could be injured falling – even if it is at or below ground level.”

Falls from height are a major cause of workplace deaths and injuries in the UK, equating to 12% of all major injuries. In 2007/08, 3,235 people suffered serious injuries as a result of a fall from height in the workplace.

But what is very important to note is that falls from any height can result in serious injury, or even fatality. For example, a maintenance fitter lost his footing on the second rung of a ladder, his feet slipped through the rungs and he was killed when his head hit the floor as he fell backwards.

**Explains Jagdeep Tiwana, of law firm Berwin Leighton Paisner:**

“Previously, Working at Height Regulations were only triggered by work above a height threshold of two metres, but the introduction of the Work at Height Regulations 2005 (WAH Regulations) consolidated previous legislation (and implement European Council Directive 2001/45/EC) by applying to work at height in any place where a person could be injured falling – even if it is at or below ground level.”

In July, Simpsons Malt Limited, Berwick, which manufactures a variety of malts, was fined £10,000 and ordered to pay £5,883.75 in costs, after worker, John Weatherburn, was injured by falling from the forks of a forklift truck while attempting to repair a roller shutter door.

**The WAH Regulations require employers to ensure that:**

- All work at height is properly planned and organised
- The work is carried out safely
- Employees undertaking the work are trained and competent.

The WAH Regulations not only cover work at height but also falling objects, fragile roofs and equipment. The wider ranging application of the WAH Regulations means that employers must consider every aspect of their business that involves working at height, whether it is something as complicated as undertaking building work or as straightforward as changing a lightbulb.

Continued ...

## Working at Heights DVD

### How to stay safe while working at Heights

Covers safe working systems, compliance with safety training and how accidents can happen. Provides information on up-to-date legislation on working at heights and how it affects you. Includes 20 languages and is supplied with 10 training booklets and a PDF printable Assessment form.



[www.legislationwatch.co.uk/prod16](http://www.legislationwatch.co.uk/prod16)

## Working at Heights Poster



[www.legislationwatch.co.uk/prod17](http://www.legislationwatch.co.uk/prod17)



## Legislation

The WAH Regulations apply to all work at height where there is a risk of fall liable to cause personal injury. Employers, the self-employed, and any person who controls the work of third parties (such as contractors) have duties under this legislation.

Employers are under a duty to do all that is reasonably practical to prevent someone from falling. In fulfilling this duty, the employer must adopt a risk control hierarchy from managing work at height (including the selection of equipment). This hierarchy means that employers must first consider if work at height can be avoided altogether. If not, consideration must be given to the use of equipment and other means that would minimise the causes and consequences of a fall, should one occur.

When planning to undertake work at height, regard must be given to:

- The relevant risk assessments
- How the work can be carried out safely
- Adverse weather conditions
- Steps to be taken in the event of an emergency

The WAH Regulations also regulate fragile surfaces (generally roofs) and require certain safeguard measures to be put in place such as:

- Suitable platforms
- Covers and guardrails

Finally, where work is carried out at height which could result in falling objects, it is necessary to ensure the area adjacent and below where the work is being carried out is clearly cordoned off to ensure that no unauthorised persons can enter this area.

**HSE:** [www.hse.gov.uk/falls](http://www.hse.gov.uk/falls)

## Case Study 1

### Fatality following fall through light

David Battisson was working on the roof of a DIY superstore in Wigan when he fell ten metres to the floor through a PVC light. The 49-year-old died from his injuries.

HSE prosecuted his employers, CRN Contracts Ltd, for failing to follow proper safety procedures. The company pleaded guilty to two charges – Regulation 4 of the Work at Height Regulations 2005, and Section 3(1) of the Health and Safety at Work etc. Act 1974 – and was fined £25,000 and ordered to pay costs of £14,086.

Mr Battisson and a colleague were applying anti-corrosion paint to the bolts on the corrugated roof of The Range superstore on 27 May 2005 when the incident happened.

“It’s shocking that basic health and safety procedures weren’t followed and extremely sad that, ultimately, it led to a man’s death,” said HSE Inspector, Warren Pennington.

“CRN Contracts Ltd did not provide adequate supervision of the work. It should have used boards to cover the fragile roof lights, and protected the area around the perimeter of the roof. The company also failed to cordon off the floor under the section of roof it was working on to protect the public from the work.”

## Case Study 2

### Company liable for over £100,000

After Harold Roach was left paralysed when he fell ten feet through roof joists at a refurbishment site in Birkenhead, his employer, Property People (NW) Ltd, was fined £92,000 and ordered to pay full costs of £11,404.

The Court heard that the incident happened while joists were being removed from the ceiling of an archway, and that Property People had failed to provide a safe platform for its employees to use. Mr Roach suffered serious injuries to his back from the fall, resulting in permanent paralysis.



# Visible Traceable Safety Records



**Scafftag® Scafftag®**  
Clearly better for business

Prevent working at height hazards with the industry-leading scaffold tagging system

[www.legislationwatch.co.uk/prod18](http://www.legislationwatch.co.uk/prod18)

**Scafftag® Laddertag®**  
Clearly better for business

Help eliminate accidents and improves your inspection management processes

[www.legislationwatch.co.uk/prod19](http://www.legislationwatch.co.uk/prod19)



**Scafftag® Ladder Safety Management Guide**  
Clearly better for business

Prevent working at height hazards with the industry-leading scaffold tagging system

[www.legislationwatch.co.uk/prod20](http://www.legislationwatch.co.uk/prod20)

**Scafftag® Ladder Inspection Guide**  
Clearly better for business

Handy on-site guide to ladder components and inspection checks

[www.legislationwatch.co.uk/prod21](http://www.legislationwatch.co.uk/prod21)



**The WAH Regulation is not the only applicable legislation. The following legislation also applies:**

- The Health and Safety at Work etc. Act 1974.
- Management of Health and Safety at Work Regulations 1999.
- Lifting Operations and Lifting Equipment Regulations 1998.



# Fire reform act who's responsible?

Many businesses believe that, because they were previously issued with a fire certificate and their circumstances haven't changed, they are still complying with fire safety law.

But, warns Alan Cox, fire safety consultant and author of the Workplace Law publication, Fire Safety 2009: Special Report, this isn't the case, and fire certificates are "not worth the paper they were written on".

The Regulatory Reform (Fire Safety) Order 2005 repeals the Fire Precautions Act 1971, meaning that fire certificates have ceased to have legal status. Instead the new legislation takes a risk-based, preventative approach to fire safety placing the responsibility for fire safety within a building or premises on the employer or 'Responsible Person'.

A review by the department of Communities and Local Government of the Fire Safety Order earlier this year revealed that only around 60% of businesses were aware of the FSO, but non-compliance can result in prosecution (see opposite page).

## The responsible person

The Responsible Person must make fire safety arrangements appropriate to the size and occupancy of their premises.

They may be the employer and any other person who may have control of any part of the premises; for example the occupier or owner. In all other premises the person or people in control of the premises will be responsible.



[www.legislationwatch.co.uk/prod32](http://www.legislationwatch.co.uk/prod32)



[www.legislationwatch.co.uk/prod33](http://www.legislationwatch.co.uk/prod33)



[www.legislationwatch.co.uk/prod34](http://www.legislationwatch.co.uk/prod34)



[www.legislationwatch.co.uk/prod35](http://www.legislationwatch.co.uk/prod35)

### Responsible persons must plan, organise, control, monitor and review the preventive and protective measures, including:

- Eliminate or reduce the potential from dangerous substances to cause harm to the relevant persons, including ensuring appropriate exits and routes are available from danger areas, and establishing effective procedures which also address specific information on mitigating the effect of a fire, restoring the situation to normal, and informing anyone who may be affected;
- Provide firefighting equipment, including portable extinguishers, hose reels and sprinklers where appropriate.
- Fire detection and/or alarm system, the type and extent of the fire alarm subject to the requirements of the risk assessment.
- Emergency doors and routes available for immediate use and provided with illumination (including emergency lighting) to allow effective means of escape in case of fire.
- Effective signage for emergency routes.
- Fire protection equipment maintained to ensure its effective operation at all times.
- Equipment for use by firefighters, or for their protection, maintained in efficient order and in good repair.



## Guidance documents

The Department for Communities and Local Government has prepared a set of 11 guidance documents to help with the preparation of fire risk assessments.

These replace the old Home Office codes of practice and other existing guidance, outlining a number of subject- or industry-specific scenarios that demonstrate how the Regulatory Reform (Fire Safety) Order 2005 (RRO) might be interpreted in each case.

[www.communities.gov.uk/fire/firesafety/](http://www.communities.gov.uk/fire/firesafety/)

### Case 1

A pub landlord was fined £4,000 plus £3,984 costs for ten separate breaches of fire safety legislation, when his pub failed to meet the legal standards for fire safety.

The charges were brought under the RRO against Paul Dailey, the proprietor of the George and Dragon public house in Berkshire after a routine inspection by Fire Safety Officers identified serious breaches to the fire safety precautions for the premises.

### Case 2

The owners of a nightclub were fined £4,000 and ordered to pay £975 costs for breaching the RRO after a man suffered serious injuries on a night out. The prosecution is as a result of an incident where a man suffered serious burns on a night out at the nightclub on 23 June 2007.

## Statistics

Fire statistics from the Department for Communities and Local Government (DCLG) for the UK covering the 12-month period up to 31 March 2008 show that fires in buildings such as workplaces and areas where people gather were down by 11% to 30,000 and road vehicle fires fell (by 14% to 49,000) to their lowest total since 1989.

Additionally, the figures for primary fires (i.e. fires involving buildings, structures and cars) continue to show a fall, down 10% and now at their lowest total since 1981.

## Fire Risk Assessment checklist

### Risk Assessment

1. Do you have a risk assessment recording system?

### Firefighting and Fire Detection

1. Do you have appropriate firefighting equipment on your premises?
2. Is your firefighting equipment clearly identified and locatable?
3. Do all employees know which firefighting equipment to use on different types of fire?
4. Do you have nominated people who are trained to an acceptable level for fire emergencies?

### Emergency Escape Routes

1. Do all emergency routes and exits lead as directly as possible to a place of safety?
2. Are everyone's needs catered for in the event of an emergency escape situation?
3. Are all emergency routes and exits clearly identified by illumination and emergency lighting?

### Maintenance

1. Is all firefighting equipment fully maintained and serviced with written documentation?

### Provision of information for employers

1. Can the responsible person provide comprehensive and relevant information of the risks to employees as identified by the risk assessment?
2. Are all outside employees given the relevant information on the risk of a fire and the preventive and protective measures within the premises?

### Training

1. Have all employees been given adequate safety/ refresher training at a time when they are first employed?
2. Has all training been officially recorded?



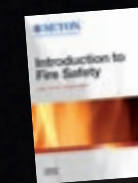
[www.legislationwatch.co.uk/prod35](http://www.legislationwatch.co.uk/prod35)



### Procedures for serious and imminent danger and for danger areas

1. Is access to dangerous areas restricted to authorised personnel only?
2. Are all authorised persons given (so far as practical) equipment to protect them from the danger risk?
3. Are all dangerous substances clearly identified and relevant safety data sheets provided prior to work?
4. Are all dangerous substances kept in the appropriate storage?

## Fire Training DVDs



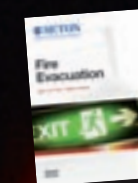
### Introduction to Fire Safety

A great introduction title to provide staff with a basic understanding of fire awareness.



### Fire Prevention

This title shows in graphic detail how fires can start and spread. It also provides key information on fire safety precautions that all staff should be aware of.



### Fire Evacuation

Escaping fire is one of the most critical aspects of fire safety. This title provides key information on how to follow fire evacuation procedures to ensure the safety of staff and their colleagues.

For more information on these and other Health & Safety Training DVDs visit:

[www.legislationwatch.co.uk/prod22](http://www.legislationwatch.co.uk/prod22)



# Smoking at work

From the landlady who created a 'smoking research room,' to the Company Director who was caught smoking at his desk by enforcers, it seems the smoking ban is still being resisted in some quarters.

Smoking has been banned in prescribed places in the Republic of Ireland since 2004, in Scotland since March 2006, in Northern Ireland and Wales since April 2007, and in England since July 2007.

Managers in charge of premises and vehicles to which the ban applies must:

- Take reasonable steps to ensure staff, customers, members and visitors are aware that the premises and vehicles are legally required to be smoke-free

- Display 'no-smoking' signs in smoke-free premises
- Ensure that no one smokes in smoke-free premises or vehicles

Premises to which the ban applies:

- That are open to the public
- That are used as a place of work by more than one person
- Where members of the public might attend to receive or provide goods or services, are to be smoke-free in areas that are enclosed or substantially enclosed

Kerry Fenton aimed to get round smoking regulations by designating a room at the Cutting Edge pub in Worsbrough, South Yorkshire, for smoking research. Advises legal expert, Pam Loch, "The legislation is clearly designed to apply to a designated room in a testing facility, and a pub isn't a research or testing facility."

## Mandatory Premises Signs & Vehicle Signs



- Mandatory signs must be displayed at each main entrance to your building. Minimum size: A5

- All public transport, including business vehicles must display a 70mm (Dia.) symbol as a minimum

Premises - [www.legislationwatch.co.uk/prod23](http://www.legislationwatch.co.uk/prod23)  
Vehicle - [www.legislationwatch.co.uk/prod24](http://www.legislationwatch.co.uk/prod24)

## Make it easy for your visitors to know where they can smoke...



[www.legislationwatch.co.uk/prod25](http://www.legislationwatch.co.uk/prod25)



For employers, all smoke-free premises must display a no-smoking sign in a prominent position at each entrance that:

- Is the equivalent of A5 in area
- Displays the international no-smoking symbol in colour, a minimum of 70mm in diameter
- Carries the words, 'No smoking. It is against the law to smoke in these premises,' in characters that can be easily read

In addition, any person with management responsibilities for a smoke-free vehicle has legal duties to display a no-smoking sign in each enclosed compartment that can accommodate people.

### Penalties and enforcement

Smoking in a smoke-free premises or vehicle can attract a fixed penalty notice of £50 or a fine up to £200. Failure to display no-smoking signs in smoke-free premises and vehicles can attract a fixed penalty notice of £200 or a fine up to £1,000.

Failure to prevent smoking in a smoke-free premises or vehicle can lead to a fine up to £2,500.



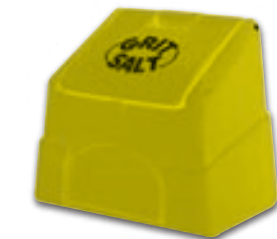
# Slips, trips and falls

## Tips and advice for winter at the workplace

- Black ice isn't always visible and so can be an even greater hazard for both motorists and pedestrians - reduce the chances of slips on your premises by ensuring that any areas of traffic (both pedestrian and vehicle) are sufficiently covered in de-icing salt.
- Pre-salting paths and car parks based on forecasts of heavy frosts is more effective than spreading de-icing salt afterwards. For larger areas such as car parks, use a spreader to gain maximum effectiveness and coverage of your de-icing salt.
- Source your de-icing salt during autumn to avoid being caught short re-acting to a sudden heavy frost or snowfall. De-icing salt can be conveniently stored in grit bins designed to protect the salt all year round.
- When snow or icy roads are forecast inform your staff that they should adjust their driving to suit the conditions - if you have sales staff who travel allow them more time to reach appointments.



[www.legislationwatch.co.uk/prod29](http://www.legislationwatch.co.uk/prod29)



[www.legislationwatch.co.uk/prod28](http://www.legislationwatch.co.uk/prod28)



[www.legislationwatch.co.uk/prod36](http://www.legislationwatch.co.uk/prod36)

### Caught red-handed

Company Director, Martin Lenehan, was caught smoking when the Council's enforcement team paid a visit to Metric Scaffolding UK Ltd, in January. Leyland Magistrates found Mr Lenehan guilty of smoking in a smoke-free place, contrary to Section 7 of the Health Act 2006. He was ordered to pay a fine of £175, along with £75 costs and a £15 victim surcharge.



**Don't get caught out this winter,**  
stock up now and get ready for those icy spells!

### Atlas Spreader + 10 Bags of Salt

Normal Price £415.75

Offer Price £300.90

**SAVE £114!**

[www.legislationwatch.co.uk/prod30](http://www.legislationwatch.co.uk/prod30)







Stray tomato costs employer £2,500

A warehouse worker from Bristol who slipped on a tomato that had been left on the floor claimed £2,500 in damages.

## Nearly 11,000 workers suffered serious injury as a result of a slip or trip last year.

The HSE's current powerful campaign 'Shattered lives,' which aims to reduce the number of slips, trips and falls in the workplace by 10% by 2010, moves away from the old 'slipped on a banana skin' image. As the case of the worker who slipped on a tomato (below) shows, the issue of slips and trips is no joke for employee or employer.

### Legislation

The Health and Safety at Work etc. Act 1974 imposes a duty on all employers to take steps to ensure the health and safety of their employees and third parties (such as customers or workmen), including controlling risks such as slips, trips and falls.

The Workplace (Health, Safety and Welfare) Regulations 1992 state that floors must be suitable and in good condition. They must also be free from obstructions and people must be able to move around safely.

The Management of Health and Safety at Work Regulations 1999 impose a duty on employers to carry out risk assessments, including hazards involving slips, trips and falls.

### Employers must:

- Look for slip and trip hazards (e.g. uneven floors, trailing cables, slippery surfaces – wet or otherwise)
- Identify who may be harmed and how (e.g. older or disabled people)
- Consider the risks and whether current safety measures adequately deal with these
- Record findings (if five or more employees); and review the risk assessment regularly

### Dealing with hazards:

**Flooring** – wet floors and ill-fitted or damaged floor coverings can lead to tripping. Spillages should be wiped up as soon as possible and safety signage used.

**Contamination** – oil, grease or even rainwater can make floors very slippery. Clean thoroughly, mop quickly and utilise safety signage.

**Obstacles** – keeping areas clear of obstructions and work areas tidy can reduce accidents.

**Cleaning** – access to wet areas should be stopped and cleaning carried out in sections, using signs and/or cones.

**Environment** – lighting, weather and condensation are contributory factors. Gritting should be carried out when frost, ice or snow is forecast, or when walkways are likely to be wet and the floor temperatures are at, or below, freezing.

'Shattered lives' – HSE slips, trips and falls webpage:  
[www.hse.gov.uk/slips](http://www.hse.gov.uk/slips)

### A "wholly preventable" catering slip

After a kitchen worker fractured her skull on a slippery floor, and was deemed unlikely to work again, her employer was ordered to pay over £36,000, including prosecution costs. Cleaners had removed safety mats leaving her to walk on the slippery tiled floor that quickly became contaminated with food waste, water and oily residues.

## Rocol Anti-Slip Floor Coating

This floor coating creates a tough, finely textured anti-slip surface on almost any surface

[www.legislationwatch.co.uk/prod27](http://www.legislationwatch.co.uk/prod27)



[www.legislationwatch.co.uk/prod26](http://www.legislationwatch.co.uk/prod26)



# 60 Seconds to win an iPod Touch



1. What year was the No Smoking ban introduced in England?

- a) 2006
- b) 2007
- c) 2008

2. Employees can continue to use the existing version of the Health & Safety Law Poster until?

- a) 5 April 2009
- b) 5 April 2010
- c) 5 April 2014

3. When planning to undertake work at heights, regard must be given to?

- a) How tall an employee is
- b) Adverse weather conditions
- c) How sunny the weather is

4. How many workers suffered serious injury as a result of a slip or trip last year?

- a) 11,000
- b) 12,000
- c) 13,000

5. What percentage of bacteria is killed by Seton HypaClean alcohol hand gel?

- a) 95%
- b) 98%
- c) 99.9%

## How to Enter:

Go on-line to [www.legislationwatch.co.uk/competition](http://www.legislationwatch.co.uk/competition)

Simply enter your email address and complete the five questions.

## HypaClean

### Antibacterial Hand Sanitiser

- Specially formulated to leave hands clean, refreshed and while killing 99.9% of bacteria
- Anti-bacterial gel is fast-drying and non-sticky – no need for water, soap or towels
- Simply rub a small amount into hands and rub briskly until dry
- The alcohol gel is perfumed to smell like cucumber rather than the strong alcohol smell other gels leave behind
- Also contains moisturisers which reduces skin dehydration
- Available in 100ml pocket sized bottle or a 500ml pump dispenser



[www.legislationwatch.co.uk/prod31](http://www.legislationwatch.co.uk/prod31)

# NEWS ROUND UP

## Finger loss

The HSE has warned of the dangers of untrained staff using machinery after a worker in Bury had three fingers cut off. Tetrosyl Ltd pleaded guilty to two offences under health and safety legislation at Manchester Crown Court, was fined £50,000 and ordered to pay full costs of £6,141.



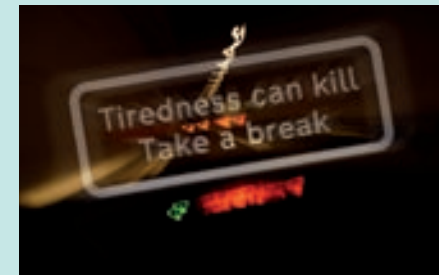
## Asbestos compensation

A hospital plumber, who has been told he has only months to live after developing mesothelioma, has received £175,000 in compensation. Alan Ward developed the cancer of the lung lining having been exposed to asbestos while working in a number of hospitals in the Wakefield area between 1964 and 1972 without any warning about the dangers to his health.



## Wake up!

The Fleet Safety Forum, an initiative coordinated by Brake, the road safety charity, is urging companies to tackle the silent killer of driver tiredness. The Wake Up! Campaign is calling on employers to do more to manage drivers' schedules and health to prevent driver tiredness.



## Waste matters

The Red Bull Company Limited was ordered to pay a record £271,800 after failing to recover and recycle packaging waste. The soft drinks importer pleaded guilty to charges of failing to register with the Environment Agency as a producer of packaging waste, and charges of failing to meet its requirements to recover and recycle packaging waste.



## Under the RADAR

A research project has been launched by RADAR: The Disability Network, examining how talented disabled people rise to the top of their organisations. 'Doing Seniority Differently' is a research project looking at what helps or hinders people with ill health, injury or disability at work.

## Confined Spaces

The HSE is warning employers and staff of the dangers of working in confined spaces, following the prosecution of Bodycote H.I.P. Ltd of Macclesfield. Two of the groups' employees were found dead on the stairs leading to a concrete-lined pit into which argon gas had leaked. The pit's oxygen alarm system was switched off and the ventilation system was not running.



## Vibration injury



A fitter for car manufacturer, Ford, has received £8,500 in compensation after his hands were left permanently damaged by using vibrating tools at work.

Anthony Barry, 61, was left with the debilitating condition, Hand-Arm Vibration Syndrome (HAVS), also known as Vibration White Finger, after using vibrating tools in his job as a toolmaker.

## Risks to young workers

Insurance company Aviva is urging employers to ensure a safe working environment for young people by having the correct equipment and providing the right training. The call comes following a number of cases involving young workers; including a 17-year-old trainee plasterer who suffered flesh burns and an 18-year-old worker who crushed his fingers whilst operating a mini-digger.