

LegislationWATCH

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

Fire Safety

False alarms force Fire & Rescue services to modify their call-out policies

See pages 4-8



First Aid Kits

New British Standard brings key changes to kit contents

Pages 14-15

RIDDOR

Reporting moves to online system

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Dear readers,



Welcome to the Autumn/Winter edition of Legislation Watch, packed full of legislation updates and the latest changes in workplace law. This issue has a massive focus on Fire Safety, First Aid and RIDDOR as well as the latest in HSE Inspection Cuts and Waste Regulations.

Due to recent budget cuts and the continuing economic depression, there have been a lot of changes in the way public services and the Government are operating. The 'Fire Safety Update' article (pages 6-9) is a prime example of this, with some Fire Departments refusing to attend commercial sites unless a fire has actually been reported – an attempt to cut down on costly false alarms.

Please continue to email me with your article ideas and don't forget to download the latest free Toolbox Talk on Fire Safety Best Practices at <http://www.legislationwatch.co.uk/toolbox>

If you know someone who would benefit from Legislation Watch they can go to www.legislationwatch.co.uk and download their own copy for FREE!

Cheryl

Cheryl Peacock, Editor
cheryl@seton.co.uk

Legal Update



August 2011

New migrant worker category

A new Migrant worker category, known as Tier 1 (Exceptional talent), opened on 9th August 2011. Migrants seeking entry to the UK under this tier will not need to be sponsored by an employer, but will need to be recommended by one of the competent bodies – the Royal Society (Science), the Arts Council England, the Royal Academy of Engineering, and The British Academy (Humanities and Social Science).

September 2011

RIDDOR moves to an online system

Under new reporting arrangements, from 12th September 2011, reportable work-related injuries and incidents under RIDDOR (the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995) will move to a predominantly online system, through a suite of seven forms available on HSE's website. Employers will no longer be able to report incidents by email, post or fax. Businesses will still be able to notify fatal and major incidents and injuries by phone, and online if they choose to do so.

October 2011

National minimum wage rise

The national minimum wage rises from £5.93 to £6.08 per hour. The development rate increases from £4.92 to £4.98 per hour, the rate for workers aged 16 to 17 from £3.64 to £3.68 per hour, and the apprentice rate from £2.50 to £2.60 per hour.

Agency Workers Regs 2010

The Agency Workers Regulations 2010 come into force on 1st October 2011. The Regulations are intended to give effect to the Temporary Agency Workers Directive 2008/104/EC which was published on 5 December 2008. The objective of the Regulations is to give agency workers the entitlement to the same basic employment and working conditions as a company's permanent employees.



Register online to ensure you never miss an issue.
www.legislationwatch.co.uk

Fire Risk Assessment Checklist

The Regulatory Reform (Fire Safety) Order 2005 came into force on the 1st October 2006. Failure to comply with the new regulations may lead to legal action. Take a look at our basic checklist to see what actions you may need to take.

Checklist

Risk Assessment

Do you have a risk assessment recording system?

Fire Fighting and Fire Detection

Do you have appropriate fire fighting equipment on your premises?

Is your fire fighting equipment clearly identified and locatable?

Do all employees know which fire fighting equipment to use on different types of fire?

Do you have nominated people who are trained to an acceptable level for fire emergencies?

Emergency Escape Routes

Do all emergency routes and exits lead as directly as possible to a place of safety?

Are everyone's needs catered for in the event of an emergency escape situation?

Are all emergency routes and exits clearly identified by illumination and emergency lighting?

Procedures for serious and imminent danger and for danger areas

Is access to dangerous areas restricted to authorised personnel only?

Are all authorised persons given (so far as practical) equipment to protect them from the danger risk?

Are all dangerous substances clearly identified and relevant safety data sheets provided prior to work?

Are all dangerous substances kept in the appropriate storage?

Maintenance

Is all fire fighting equipment fully maintained and serviced with written documentation?

Provision of information for employers

Can the responsible person provide comprehensive and relevant information of the risks to employees as identified by the risk assessment?

Are all outside employees given the relevant information on the risk of a fire and the preventive and protective measures within the premises?

Training

Have all employees been given adequate safety/refresher training at a time when they are first employed?

Has all training been officially recorded?

The Regulatory Reform (Fire Safety) Order 2005

Failure to comply with the new regulations may lead to legal action resulting in a fine or imprisonment for up to 2 years. In order for premises to meet the requirement and regulations:

- A 'responsible person' of the workplace, usually the employer, will need to take such general fire precautions and will ensure, so far as is reasonably practicable, the safety of any of their employees and other persons who may legally come onto the premises

- The 'responsible person' must make a suitable and sufficient assessment. Any such assessments must be reviewed by the responsible person to keep it up-to-date – particularly if there is reason to suspect that it is no longer valid or whether there have been any significant changes to the premises or organisation structure

- As soon as practicable after the assessment is made or reviewed, the responsible person must record the information where he employs 5 or more employees

Fire Safety Update

Fire safety reforms were introduced on 1st October 2006 to simplify, rationalise and consolidate existing fire safety legislation. Previously, fire safety legislation had developed in response to particularly tragic fires which resulted in huge casualties. As a result, fire safety provisions had been scattered over many pieces of legislation.



See
over...

Legislation

- Management of Health and Safety at Work Regulations 1999.
- Regulatory Reform (Fire Safety) Order 2005.

Since the Regulatory Reform (Fire Safety) Order 2005 came into force on 1st October 2006, it has made compliance easier, by replacing the existing legislation with a single fire safety regime which applies to all workplaces and other non-domestic premises.

However, recent research by the Fire Industry Association (FIA) has found that UK employers could be putting their employees' lives at risk by cutting back on fire safety. According to the survey published in June 2011, almost a fifth of bosses admitted to revising fire safety procedures in the current economic climate, through actions such as delaying maintenance checks of fire safety equipment, reducing staff training or delaying updating their fire risk assessments. This is despite the fact that 20% of them also admitted to already having had a fire in their premises.



The survey found that a third of staff don't know what to do in the event of a fire. Over half of the staff surveyed said they don't know how to use a fire extinguisher or fire alarm and a quarter of workers don't know where their nearest fire exit is, whilst a third don't know where their fire assembly point is.

So it is important for all employers to note that although the old fire certificate regime was abolished, the legislation still requires employers to carry out a fire risk assessment, and to provide and maintain such fire precautions as are necessary to safeguard those who use the workplace. They also require employees to be provided with relevant information, instruction and training about fire precautions.

- Make sure any plans you make have been thought through, tested and discussed with key members of staff.
- Don't forget that business continuity documents have to be accessible all the time, e.g., they're no good on the server if IT has gone down or in a filing cabinet in the office which nobody can get to because of the weather.
- Business Continuity Plans (BCPs) have to be reviewed on a regular basis to make sure they are still competent and relevant.

Alarming news

The Fire Industry Association (FIA) has reported that 12 Fire and Rescue Services (FRS) have now modified their policies on the fire call-outs they will and won't attend, due to false alarms.

Explains Fire Safety Consultant, Clive Raybould:

"Call Challenge Systems have been introduced due to the large number of 'Unwanted Fire Signals' (false alarms) that [FRS] receive.

"When making a 999 call from a commercial property, if the caller cannot confirm that a fire is actually taking place, then the company / organisation is told to check the

building to see if there is a fire and to call back again if there is one." Berkshire Fire and Rescue Service has said that due to ongoing problems with false alarm call-outs arising from Automatic Fire Alarms (AFAs) on business properties, it will no longer respond to AFAs at commercial buildings between the hours of 9a.m. and 9p.m.

The service said that, despite its efforts, these types of calls have remained at a high level, with the majority being caused by faulty or poorly maintained fire detection systems and originating from a relatively small number of commercial premises.

Fire authority leaders have been reported as saying too many businesses use the brigades as a cheap fall-

back rather than paying for regular maintenance of automatic alarms or lifts.

The FIA is recommending that businesses review their fire risk assessment and contact their Fire Detection and Alarm (FD&A) maintenance company to review their FD&A system if needed.

Further information

www.health-and-safety-consultants.net/fire-risk-assessment

Case Study 1 Fire alarm breach

A care home manager who was in charge when a fire alarm was silenced during a blaze has been convicted of a safety breach.

According to Greater Manchester Fire and Rescue, who brought the prosecution, this is the first time an employee has been prosecuted under the Regulatory Reform (Fire Safety) Order 2005.

Karen Sykes appeared before Manchester Crown Court following the fire at Oldfield Bank Residential Care Home in Altrincham.

The Court heard how fire broke out in May 2009 when Sykes was Duty Manager. The fire alarm went off at about 6p.m. The alarm was silenced but Sykes failed to ensure that a proper search of the premises was carried out. A fire was later

discovered in one of the rooms and a 999 call was made at about 7.15p.m. The alarm was discovered in 'silence' mode when crew from Greater Manchester Fire and Rescue Service arrived to tackle the blaze.

In sentencing Sykes, who was fined £500 and ordered to pay a victim surcharge of £15, Judge Justice Lakin said:

"My duty is clear. I have to apply the law. As the manager of the care home it was Sykes' responsibility for the fire alarm and evacuation."



Continued...

Case Study 2
Breach of RRO

A restaurant owner has been fined after pleading guilty to 10 charges of failing to comply with the Regulatory Reform (Fire Safety) Order 2005, including not carrying out a fire risk assessment.

On 6th November 2009 the Fire Service was called to a fire in accommodation above the Connoisseur Tandoori Restaurant in Gloucester, where several breaches of fire safety legislation were discovered.

Fire safety enforcement officers conducted an investigation and found that some partitions and escape routes were not fire-resisting and employees had not been provided with fire safety training.

Unauthorised sleeping accommodation for staff had been provided and no fire alarm and smoke detectors were available. The investigating officers also found that a fire risk assessment had not been completed.

Restaurant owner, Mr Choudhury, was fined £2,900 and ordered to pay costs of £1,500. He was also required to pay a £15 victim surcharge.



Case Study 3
Jail for fire safety offences

An external fire risk assessor and a hotel manager have both been jailed for 8 months for fire safety offences.

David Liu, who runs The Dial Hotel and Market Inn, both in Mansfield, was jailed for 8 months and ordered to pay £15,000 costs after pleading guilty to 15 fire safety offences under the Regulatory Reform (Fire Safety) Order 2005.

John O'Rourke, who runs Mansfield Fire Protection Services, was also jailed for eight months and was ordered to pay £5,862.38 after he pleaded guilty to 2 breaches of the fire safety legislation.

The judge said that the time had come to "send out a message to those who conduct fire risk assessments and to hoteliers who are prepared to put profit before safety".

Ian Taylor, Fire Protection Group Manager at Nottinghamshire Fire and Rescue Service, advises: "It is a legal requirement for places of work to have a fire risk assessment. If employers are unsure about their own ability to undertake a fire risk assessment within their premises they should seek advice from a competent person.

"In ascertaining someone's competence to provide fire safety advice I would encourage people to ask for references, be aware of what fire safety training and qualifications they have, and check to see if they are registered or accredited with an appropriate third party body."

Fire Risk Assessment Kit
8 perforated assessment forms with step-by-step instructions
www.legislationwatch.co.uk/prod201



Talk

Toolbox Talks are a quick and useful way of giving employees up-to-date health and safety information on a particular subject. A toolbox talk can be delivered by a health and safety expert or even a line manager or foreman. They should last no longer than 10-15 minutes and can comfortably take place in the office, staff room or canteen. Talks should be conducted regularly (weekly/monthly) or after an incident.

A best practice guide to... Fire Safety

We've created a useful Toolbox Talk presentation to help you understand Fire Safety best practices.

Our FREE download includes:

- ✓ Regulation overview
- ✓ What actions to take on discovering a fire
- ✓ How to keep your business safe
- ✓ Best practice checklist



Download your **FREE** Toolbox Talk Training Slides

How to

1. Go to: www.legislationwatch.co.uk/toolbox
2. Save the file to your PC
(to ensure you see the trainers notes)
3. You can amend the slides to suit your organisation
3. Arrange your training session!





Are your safety signs up to date?

The current ISO 7010 standard for safety signs will soon become UK and EU law. This new standard has been adopted by us already so that you can rest assured that any new sign purchased from us will already be up to date with the new regulations once they are enforced.

ISO 7010 Standard

Due to the migratory nature of our European workforce it has become necessary to ensure that a sign is visually impactful as it may be viewed by a person who can't speak or read the language that is printed in.

The symbols will ensure that the signs will be noticeable and meaningful to people irrespective to the country they are in.

See below for some examples of these changes.



Know your viewing distances

Below is a graphical representation of the guidelines laid out in the BS5499-10 standards. The standards state that in order to determine the minimum size of a safety sign we must first decide the maximum viewing distance. This means that if you want to warn somebody about a hazard on a piece of machinery you would want the sign to be read from a closer distance so as to not cause any

confusion regarding the location of the hazard (e.g. 6 feet). On the other hand if you had a long corridor and you wanted people to see a Fire Exit sign at the end of it you would want it to be a lot bigger for it to be legible.

To help you buy the right sign for your need please use the table below as a guide.

Recommended viewing distance	7m	9m	14m	21m	28m
Minimum height of sign	60mm	80mm	120mm	180mm	240mm
Minimum height of supplementary text letters	5mm	6.6mm	10mm	15mm	20mm

We have more than 32,000 Safety Signs fully compliant with ISO 7010 For details visit us at www.seton.co.uk or call us FREE on 0800 585501

RIDDOR consultation and changes

Employers are legally obliged to report certain work-related injuries or illnesses. These obligations fall under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR).

Legislation

In February this year the Health and Safety Executive began a 3 month consultation on proposed changes to RIDDOR to increase the threshold for reporting workplace injuries to 7 days.

Under the current system, when an employee is absent from work for more than 3 days following an incident, employers are required to report the injury to the relevant enforcing authority – either the HSE or the local council. The proposed amendment increases this 'over-three-day' period to over 7 consecutive days.

The change would align the incident reporting threshold with that for obtaining a 'fit note' from a GP for sickness absence, and would ensure that someone who has suffered a reportable injury has had a professional medical assessment.

The results of the consultation are yet to be published, but some leading health and safety organisations have flagged up their concerns.

The Chartered Institute of Environmental Health (CIEH) warned that extending the reporting period from 3 days to more than 7 will make it harder to gather evidence on workplace safety.

Instead it calls for 'a fresh and more comprehensive approach' to ensure businesses investigate and 'learn lessons' from accidents, particularly small and medium sized businesses.

"Such businesses are in urgent need of clear guidance to improve the level of reporting and to address the fear of attracting unwanted attention from regulators resulting from reporting," it says.

An alternative approach, it suggests, would concentrate on accidents requiring visits to a GP or Accident and Emergency. The Royal Society for the Prevention of Accidents (RoSPA) has called for a more radical approach. It suggests that rather than merely changing the threshold at which RIDDOR reports must be made to the HSE, a greater focus should be on employers' duties to record and investigate injuries, ill health and near misses internally in order that lessons may be learned and similar occurrences avoided in the future.

New reporting arrangements

From 12th September 2011, most reportable work-related injuries and incidents under RIDDOR move to a predominantly online system, through a suite of 7 forms available on the HSE's website. Employers will no longer be able to report incidents by email, post or fax.

However, the HSE has confirmed that fatal and major incidents can still be notified by phone.

Trevor Carlile, HSE's Director of Strategy, said:

"More than half of reportable injuries are already notified to the HSE through the website and this proportion has been increasing steadily over the past 7 years.

Taking advantage of the growing use of the internet allows the HSE to be more efficient in the way it works. We do recognise, however, that people reporting a traumatic event still need that personal interaction so the notification of fatal and major incidents and injuries will still take place by phone."

HSE's Infoline telephone service, which currently provides a basic information service to callers, ends on 30th September 2011. Businesses and members of the public seeking information and official guidance on health and safety will instead need to use the HSE's website.

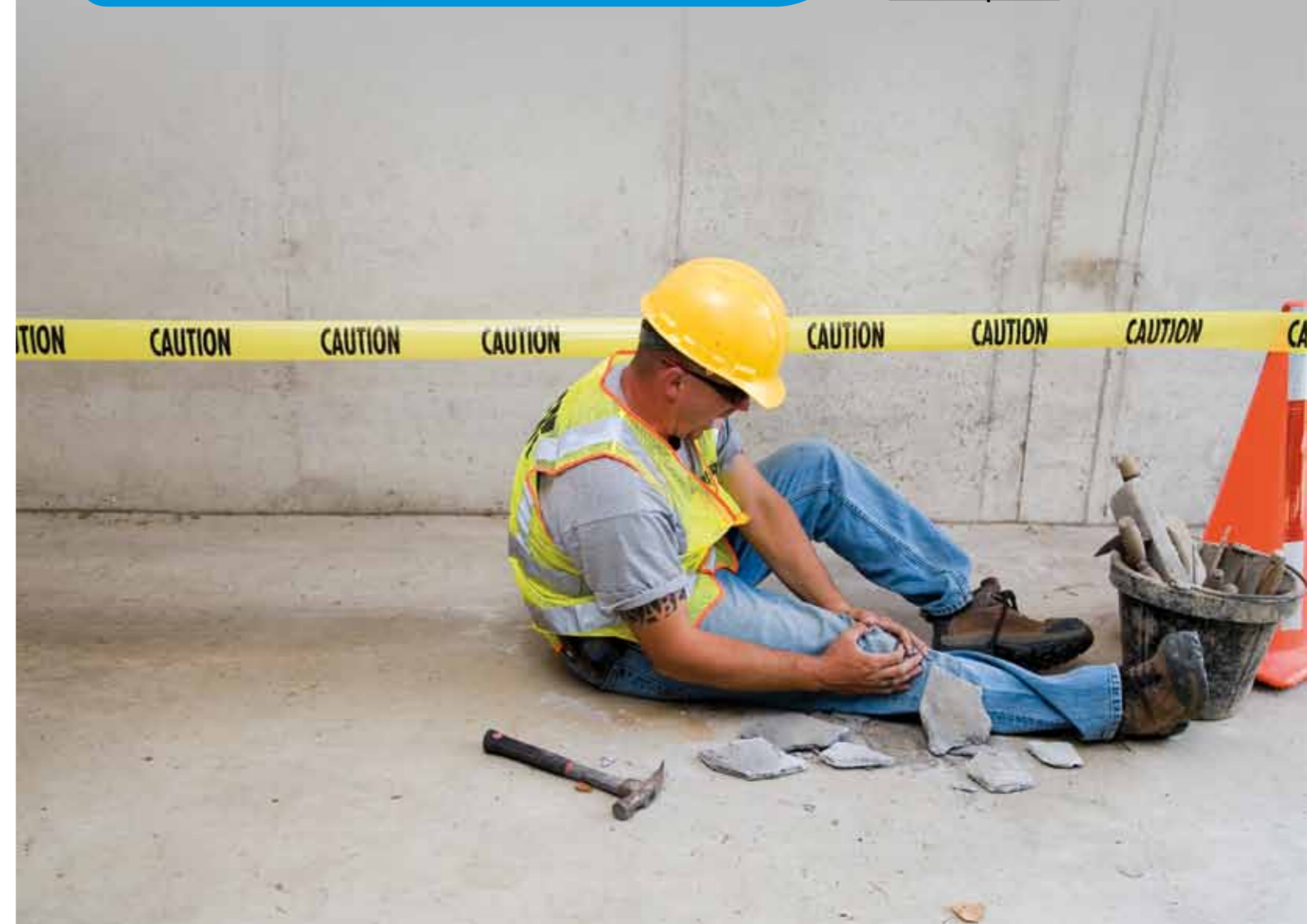


Further information

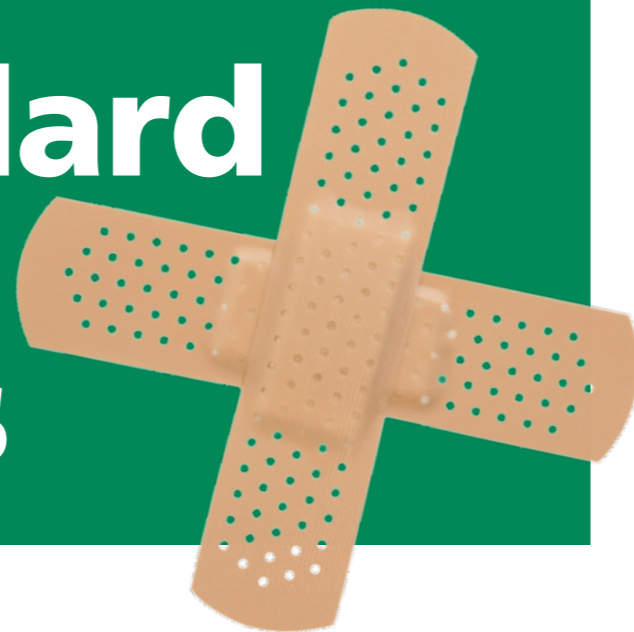
<http://cieh.org>

www.hse.gov.uk/riddor

www.rospa.com



British Standard Compliant First Aid Kits



In recognising the need to ensure that workplace first aid provision is adequate and appropriate The British Healthcare Trade Association has been working with the British Standards Institute (BSI), and has created a new British Standard for first aid kits in the workplace BS 8599-1:2011. The new standard came into effect on 30th June 2011 with a 6 month transitional period for companies to comply.

Kits are based upon the minimum requirements set out by the Health & Safety Executive in their approved code of practice.

The contents of the kits include a wider range of common workplace risks and are more comprehensive than the current HSE kits.

The new British Standard kits will therefore represent best practice in workplace first aid provision whilst still being compliant with HSE guidelines.

What are the key changes?

- Increased number of disposable nitrile gloves
- Decreased number of triangular bandages as they are no longer used for the immobilisation of limb injuries
- Introduction of smaller dressings for finger injuries that are too large for plasters
- Introduction of adhesive tape to secure bandages without using safety pins
- Introduction of gel burn dressings and a conforming bandage to secure it
- Introduction of clothing cutters
- Introduction of an eyewash bottle for

- travel kits
- Introduction of a resuscitation face shield to provide protection for first aiders
 - Introduction of the foil survival blanket to keep the casualty warm in cases of clinical shock



What size kit do I need?

The size of the kit required is dependant on a combination of the level of risk in the workplace and the number of employees

Category Of Hazard	Number Of Employees	Number & Size of First Aid Kit
Low Hazard – e.g. shops, offices, libraries	Less than 25	1 Small Kit
	25-100	1 Medium Kit
	More than 100	1 Large Kit per 100 employees
High Hazard – e.g. light engineering and assembly work, food processing warehousing, extensive work with dangerous machinery or sharp instruments, construction, chemical manufacture etc	Less than 5	1 Small Kit
	5-25	1 Medium Kit
	More than 25	1 Large Kit per 25 employees

Our First Aid Kits already comply with BS 8599-1:2001 – Don't forget you only have until 30th December 2011 to replace yours.

British Standard Compliant Travel First Aid Kit

Personal first aid kits for off-site employees

- Complies with BS 8599-1:2011
- Ensure off-site employees have adequate first aid equipment
- Each kit contains the recommended contents for one employee working away from the employers premises
- Supplied in a nylon case with zip closure



British Standard Compliant Workplace First Aid Kit

First aid kits ideal for all workplaces

- Complies with BS 8599-1:2011
- Supplied in durable green evolution cases
- Available in small, medium and large kits



Call us FREE on 0800 585501 to order your BS Compliant First Aid Kits

British Standard First Aid Kit	Qty
First Aid Guidance Leaflet	1
HypaCover First Aid Dressing (12 x 12cm)	1
HypaCover First Aid Dressing (18 x 18cm)	1
HypaBand Triangular Bandages	1
HypaBand Safety Pins	12
HypaPlast Washproof Plasters	20
HypaBand Conforming Bandage (7.5cm)	1
HypaPlast Microporous Tape (2.5cm x 5m)	1
HypaTouch Nitrile Gloves (pair)	1
HypaCover Face Shield	1
HypaGuard Foil Blanket	1
HypaClens Sterile Eyewash (250ml)	1
Burn Dressing (10 x 10cm)	1
Clothing Cutters	1
HypaClean Sterile Wipes	4
HypaCover Eye Dressings	1

British Standard Workplace First Aid Kit Contents	Small	Medium	Large
First Aid Guidance Leaflet	1	1	1
HypaCover Dressing (12 x 12cm)	4	6	8
HypaCover Dressing (18 x 18cm)	1	2	2
HypaBand Triangular Bandages	2	3	4
HypaBand Safety Pins	12	12	24
HypaCover Eye Dressings	2	3	4
HypaPlast Washproof Plasters	40	60	100
HypaClean Sterile Wipes	20	30	40
HypaPlast Microporous Tape (2.5cm x 5m)	1	1	1
HypaTouch Nitrile Gloves (pair)	6	9	12
HypaCover Finger Dressing	2	3	4
HypaCover Face Shield	1	1	2
HypaGuard Foil Blanket	1	2	3
Burn Dressing (10 x 10cm)	1	2	2
Clothing Cutters	1	1	1
HypaBand Conforming Bandage (7.5cm)	1	2	2

HSE Inspection Cuts

What they mean for SMEs

In March this year Work and Pensions Minister, Chris Grayling MP, announced a package of changes to Britain's health and safety system. The move followed a review of health and safety, Common Sense, Common Safety, published by Lord Young last year.



Under the plans, employers will no longer face automatic health and safety inspections. This measure will cut the number of inspections carried out in the UK by at least a third.

Instead, health and safety inspectors will be instructed to concentrate their efforts on high risk locations, like major energy facilities, and on rogue employers who are putting the safety of their staff and the public at risk.

Rogue employers who endanger public and employee safety will have to pay for the costs of the investigation into their activities.

A new register of qualified health and safety consultants has been made available to businesses, and those who are untrained or give false advice will be excluded from the approved list.

RoSPA view

The Royal Society for the Prevention of Accidents (RoSPA), which is contributing to the Löfstedt review, has said it must consider how businesses – particularly smaller firms – can be helped to avoid accidents and ill health.

Roger Bibbings, RoSPA's Occupational Safety Adviser, said:

"The real challenge Professor Löfstedt faces is not just showing how we can ensure better regulatory housekeeping, without reducing essential protections, but how we can ensure that we have an effective health and safety support system to help businesses to comply with essential requirements."

Advice for SMEs

To help small and medium-sized organisations better understand their health and safety needs, the HSE has enhanced its website with a suite of new resources including:

- An interactive risk assessment tool for low-risk businesses called Health and Safety Made Simple provides straightforward step-by-step guidance on what small and low risk businesses need to do to achieve a basic level of health and safety compliance: www.hse.gov.uk/simple-health-safety/index.htm
- An expanded Frequently Asked Questions to answer common queries on topics such as RIDDOR, first aid and what health and safety responsibilities new businesses have to consider.

- Launch of the official Occupational Safety and Health Consultants Register (OSHCR) that lists health and safety practitioners who are accredited to one of the professional bodies in the industry. Those who do not have the requisite expertise and experience are excluded from the register, making it easier for employers to access reliable, reputable advice: www.oshcr.org

Further information

Common Sense, Common Safety
www.number10.gov.uk/wp-content/uploads/402906/CommonSense_acc.pdf

Lofstedt Review

The Government is also launching a review of all existing health and safety law with a view to scrapping measures that are not needed and put an unnecessary burden on business. The review, which is being chaired by a leading risk management specialist, Professor Ragnar E Lofstedt, of King's College London, shall publish its results by the end of October 2011.

The aims of the review are to determine:

- the scope for consolidating, simplifying or abolishing regulations;
- whether the requirements of EU Directives are being unnecessarily 'gold-plated' on translation into UK law;
- if lessons can be learned from comparison with health and safety regimes in other countries;

- whether there is a clear link between regulation and positive health and safety outcomes;
- if there is evidence of inappropriate litigation and compensation arising from health and safety legislation;
- whether changes to legislation are needed to clarify the legal position of employers in cases where employees act in an irresponsible manner.

The review will gather evidence from a range of key stakeholders, including:

- Government bodies;
- employers' organisations;
- employee organisations;
- professional health and safety bodies;
- academics.



Repeal of the Default Retirement Age

The Regulations repealing the Default Retirement Age (DRA) came into effect on 6th April 2011.

Between that date and 1st October, only people who were notified before 6th April, and whose retirement date is before 1st October, can be compulsorily retired using the DRA. After 1st October, employers will not be able to use the DRA to compulsorily retire employees.

Although the Government is removing the DRA, it will still be possible for individual employers to operate a compulsory retirement age, provided that they can objectively justify it. Examples could include air traffic controllers and police officers.

Advises Jane Moorman, an Employment Solicitor at Howard Kennedy:

"An employer may have an Employers Justified Retirement Age (EJRA) as a reason for dismissal. However, they will need objectively to justify this policy.

"While an EJRA may be justified in certain physically demanding jobs, for most jobs it will be difficult to justify such an approach simply because an employee has reached a particular age.

"Even in physically demanding work, employers are likely to need to carry out an assessment before in fact retiring staff."

Explains Jayn Bond, Head of HR at Workplace Law:

"People can no longer assume that they're going to have a turnover of employees because of retirement age. If they have issues with people's performance because of sickness absence or how they behave at work employers will just need to plan, think ahead and deal with issues as they arise and not wait for someone to retire."

Further advice

The Chartered Institute of Personnel and Development (CIPD) and the Trades Union Congress (TUC) have launched a Managing Age guide which aims to help address the age-related challenges facing employers.

www.cipd.co.uk/hr-resources/guides/managing-age-new-edition-2011.aspx



In June 2011, I attended an EU conference in Brussels entitled 'Working together for youth employment – from education to the workplace: a global challenge'. Young people were vociferously and repeatedly described as the 'lost generation', a description which offers little comfort to those young people trying to get their first step on the career path and then successfully navigate it.

So what motivates young people? What makes them do the things they do, the choices they make and the actions they take?

It's something that we think a lot about at the British Safety Council. Maddeningly in the UK, we still have young people who are seriously injured in the workplace every single year. And when it happens it is parents, family, friends, employers and teachers who have to pick up the pieces and try and carry on. Over the last ten years, it's estimated that 66 young people

have been killed at work. Entire lives are shattered when a young person is killed. There are the simple things – like never seeing them graduate, or holding their first grandchild or never hearing again those simple words 'I love you Mum'. These are the little things that illustrate just how irreplaceable our young people are.

Why are so many injured? It's a mixture of very different reasons – from naivety about a workplace environment to an over confidence about being in that environment. It comes back to that individual and how they're likely to react to health and safety risks. At the British Safety Council we try and educate young people through our free entry level qualifications in workplace hazard awareness.

However, we know that not all young people respond as well to a structured learning environment. So we're trying to create a movement. A health and safety movement that asks young people to take responsibility for their own lives and those of their friends. We want to create peer-to-peer networks and get young people to 'Speak Up, Stay Safe'.

We're doing this through our campaign of the same name 'Speak Up, Stay Safe' and by also understanding the

Emma Wrafter of the British Safety Council on its Speak Up, Stay Safe Campaign

platforms that young people use. We're developing a mobile phone application under the Olympics Inspire programme, and we're going to where young people go. In August we had an interactive stall at the Underage Festival in Tower Hamlets, London where we engaged with the 10,000-strong audience of 13-17 year olds through social media and film.

Importantly we're working with teachers, educating parents and talking to our network of 8,000 corporate members to ensure that they understand their responsibility to young workers.

Further information

Join our movement, speak up and help our 'new generation' of young workers stay safe.
www.speakupstaysafe.com

Health & Safety Induction Training

The case of the worker killed on their first day at work (see opposite), highlights the importance of providing health and safety induction training, writes Simon Toseland, Head of Health and Safety at Workplace Law.

Training is a vital part of the health and safety programme of every organisation and needs to be constantly reviewed and updated.

Induction training should always be provided to employees, trainees, contractors (including agency workers) and volunteers, including those on work experience.

It is recommended that the trainee signs a record to the effect that the training has been received. This record may be required as evidence in the event of any legal claim, particularly if an accident should occur. A typical health and safety induction programme would include the following:

- The health and safety policy of the organisation;
- The name of the company's health and safety adviser;
- Accident reporting procedures;
- Fire arrangements;
- First aid arrangements;
- Location of welfare facilities;
- Any prohibited areas; and
- Any particular hazards and risks that employees should be aware of, which may include correct use of Personal Protective Equipment, Manual Handling, Display Screen Equipment or details of any Hazardous Substances.



Legal requirements:

Induction training is a legal requirement under health and safety legislation. It is covered generally under the Management of Health and Safety at Work Regulations but also specifically under other Regulations such as Manual Handling, COSHH and Asbestos.

The level of training an individual receives will vary, depending on their seniority in the business and level of competence, and should take place at various intervals, e.g. on induction and refresher. Employers must provide training during working hours and not at the expense of employees. Special arrangements may be needed for part-timers or shift workers.

When deciding on its training needs an organisation would need to consider the following:

- The results of risk assessments
- Compliance with legal requirements
- The findings of a health and safety audit
- Particular training required by the organisation's insurance company

Additional training may also be needed following a single or series of accidents or near-misses, the issuing of an enforcement notice, or an increase in the employment of more vulnerable employees (e.g. young or disabled persons).

Attempts should always be made to measure the effectiveness of training. The use of evaluation forms is a common method. However, one could also use data from compliance with a particular procedure or improvements in safety performance (such as a reduction in accidents) as a good indicator.



Case Study

A retail display firm was sentenced after an employee was crushed to death by a stack of glass he was unloading on his first day at work.

Vitalijus Orlovas, 29, an agency worker, was unloading sheets of glass from a shipping container when they fell on him. He died at the scene from crush injuries. The company, Arken PoP Ltd, which specialises in point of purchase displays, was prosecuted by the HSE after an investigation into the incident, which happened on 18th August 2008.

Arken PoP was fined £80,000 plus £16,914 costs and the HSE was critical of the organisation's health and safety arrangements, which included failing to undertake adequate health and safety induction training.

Other forms of health and safety training:

Job-specific training: To ensure that persons follow a safe system of work while carrying out a particular task.

Supervisory and management training: Those responsible for the direct actions of others should have a much greater understanding of health and safety law and how it is applied in their workplace. Many accidents are as a result of health and safety failings of managers, which have included:

- Lack of health and safety awareness, enforcement and promotion;
- Lack of supervision and communication;
- Lack of understanding of their responsibilities; and
- Lack of knowledge of the health and safety performance / culture in the business.

Specialist training: For very specialist roles, and requires an examination on the skills that have been taught. Examples include first aid, forklift truck, crane operation and scaffold inspection.

Further information

Health and safety training: what you need to know: www.hse.gov.uk/pubns/indg345.pdf

Health and Safety Training Policy and Management Guide, v.3.0
www.workplacelaw.net/bookshop/policiesAndProcedures/id/240

Introduction to health and safety course
www.workplacelaw.net/training/course/id/38

Health & Safety Induction DVD

An essential tool for training new and existing members of staff.

www.legislationwatch.co.uk/prod202



Waste Regulations and Civil Sanctions

New Regulations that affect all types of businesses that deal with waste have come into force this year.

Advises Hayley Saunders of law firm Shoosmiths, the Waste (England and Wales) Regulations 2011 “require businesses to confirm that they have applied the waste management hierarchy when transferring waste, and include a declaration on their waste transfer note or consignment note.”

She explains that the waste management hierarchy sets out the options organisations should consider when dealing with waste:

- Prevention
- Preparing for re-use
- Recycling
- Recovery
- Disposal

Businesses are required to consider the hierarchy now, but the obligation to declare this on the waste transfer note does not come into force until 1st October 2011.

Legislation

The revised EU Waste Framework Directive has been implemented into UK legislation by the Waste (England and Wales) Regulations 2011, which came into force on 29th March 2011.

The Regulations implement the revised EU Waste Framework Directive 2008/98, which sets requirements for the collection, transport, recovery and disposal of waste.

Civil sanctions for Environment Agency

Since the beginning of this year the Environment Agency has had new enforcement powers, known as civil sanctions. The powers were granted last year under the Environmental Civil Sanctions (England) Order 2010

to provide the Environment Agency with a greater range of options in the enforcement of environmental offences against businesses. As well as prosecution and criminal penalties being imposed by a Court, the Agency will be able to impose civil sanctions without commencing court proceedings.

This aims to ensure that the sanctions are proportionate to the level of seriousness of the offence and the financial circumstances of the offender. New enforcement powers available to the Agency include:

- enforcement notices and works notices (where contravention can be prevented or needs to be remedied);
- prohibition notices (where there is an imminent risk of serious environmental damage);
- suspension or revocation of environmental licences;
- variation of licence conditions, injunctions; and
- carrying out remedial works (where remedial works are carried out, the Agency warns it will seek to recover the full costs incurred from those responsible).

Wasted opportunity?

Every organisation that has waste management responsibility will be only too familiar with the extensive amount of waste law that must be complied with, even for a traditionally ‘low risk’ environment such as an office.

According to Colin Malcolm, Principal Consultant, Environment at Workplace Law, aside from the issues of legal compliance, waste is a significant cost to business, so it’s important to look at measures that can reduce costs, particularly in the present economic climate.

For example with the Waste Framework Directive, the priority issue is prevention; which means businesses should look to develop practical waste minimisation solutions, including:

- Does your business understand the true cost of waste, and have all practical opportunities for efficiency been realised?
- Does your business understand the full environmental impacts that result from the inefficient use of raw materials and waste generation, during their entire lifecycle?

So before sending waste offsite for recovery or landfill, it is important to determine that all practical opportunities for waste minimisation have been identified.

Carrying out a thorough waste minimisation audit will often identify opportunities to stop waste being produced in the first place, and this should always be the first port of call in addressing opportunities to improve waste performance.



Case Study

Suspended sentence for waste breaches

A Wigan business owner narrowly escaped jail after Liverpool Crown Court handed down a 26-week suspended sentence for 2 years for illegally depositing and burning of waste.

After a joint investigation with Wigan Metropolitan Borough Council, the Environment Agency successfully prosecuted Nigel Isherwood and his company, Isherwood Skip and Container Hire Ltd.

The company was found guilty of depositing large quantities of soil and demolition waste outside of its permitted area. This illegal deposit was on land owned by Wigan Metropolitan Borough Council. In addition, on 2 occasions, the company, at the direction of Nigel Isherwood, illegally burnt large volumes of waste on site in order to dispose of it for free. The business saved over £18,000 in disposal costs as a result of this illegal activity, the Environment Agency said.



Further Information

www.netregs.gov.uk/netregs/legislation

www.environment-agency.gov.uk

Classifying hazardous waste

The Waste (England and Wales) Regulations 2011 also introduce a new category, H13 Sensitising, to the list of properties defining waste as hazardous.

Sensitising substances cause hypersensitisation, i.e. the substance will cause adverse effects if you inhale it or it penetrates your skin and you are then further exposed to the substance.

The former category H13 now becomes H15. This adds ecotoxicity to the properties that can define a leachate as hazardous.

These changes mean that some non-hazardous wastes may be reclassified as hazardous wastes.



RED TAPE CHALLENGE



The Government launched its Red Tape Challenge website in April this year. It is designed for members of the public, businesses and community organisations to have their say on some of the 21,000 regulations that they may see as barriers to growth and personal freedom.

They are also being urged to 'blow the whistle on inconsistent and over-zealous enforcement of rules and regulations'.

The Government wants people to use their experience of different regulators and say where tick-box regulation, multiple inspections and conflicting advice is getting in the way, harming their business and preventing economic growth.

The website asks the public and businesses:

- Which aspects of enforcement do you find most difficult to deal with and how could things be done differently?
- What impact do these problems have on your business?
- Do regulators recognise where you have made efforts to comply? What more do you think could be done to

ensure regulators take your efforts into account?

- Is it easy for you to appeal or complain about the way regulations are enforced?
- Do you have any examples of good 'common sense' enforcement where you feel that a regulator has really done its best to understand and work around the realities you face as a business?
- Is enforcement flexible enough to keep pace with the way your business is developing?

However, in June, Business Secretary, Vince Cable, admitted that the Red Tape Challenge website had been inundated with people calling for more regulation and the retention of existing laws.

According to the Daily Telegraph he told a business audience in Westminster: "One of our top priorities is to reduce that amount of regulation that small companies and start-ups face, but please don't pretend this is easy."

"Very perversely we are being bombarded by messages from the public saying please increase regulation."

Further information

www.redtapechallenge.cabinetoffice.gov.uk/home/index/

Reported injuries to workers

Injury counts to workers by type of accident for 2009/10



Injured while handling, lifting or carrying



Contact with moving machinery



Injured by an animal



Exposed to or contact with harmful substance



Hit by a moving, flying or falling object



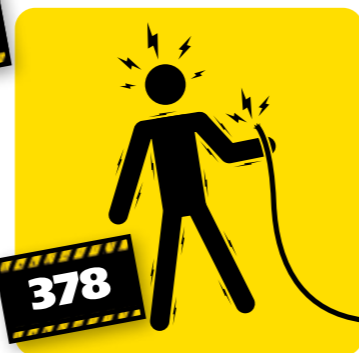
Falls



Hit by a moving vehicle



Slip, trip or fall on same level



Contact with electricity



Slips and trips down steps or stairs have been coded as falls from height from 2008/09, rather than slips and trips. General caveats on RIDDOR data: RIDDOR data needs to be interpreted with care because it is known that non-fatal injuries are substantially under-reported. Currently, it is estimated that just over half of all such injuries to employees are actually reported, with the self-employed reporting a much smaller proportion. (For further information on the caveats that should be applied to analysis of RIDDOR data, please go to <https://handson.hse.gov.uk/hse/public/footnote.aspx?footnote=RD1>)

Q&As

Legal and health and safety questions answered by the experts at Workplace Law.

Q. Is there anything written in UK law which impacts on desk hygiene – particularly of keyboards and/or employers' duties to help staff maintain it?



A. The simple answer is no, as UK law is based on assessing the risk for each individual workplace. However, the Health and Safety at Work Act applies and duty of care towards employees exists with the Management of Health at Safety at Work Regulations where a risk assessment must be put in place (some workplaces may require a stricter cleaning routine than others) and finally the Workplace (Health, Safety and Welfare) Regulations, where Regulation 9 requires that every workplace and the furniture, furnishings and fittings therein shall be kept sufficiently clean.

Q. An employee is contracted to work at home 3 days a week (approximately 10 hours a day). DSE self-assessment has raised an issue of them being 'excessively cold'. What are our responsibilities?



A. In the first instance I would try and gauge how cold your employee actually is, as the Workplace Regs suggest that 16°C is adequate for office work. You can offer guidance on ways to improve the insulation in their home – but it is not your responsibility to fund this. You could also suggest a portable heating appliance, though again this is not something that you are obliged to provide.



Q. We have asked one of our employees if we can approach his doctor for a medical report, but he is unwilling to give his consent. He has said he may have to have a heart operation. Can the company insist on a report, and if not what are its options?

A. If your employment contracts state that the company can request medical advice, then you can request this information again and refer the employee back to the contract. Failure to consent to this medical guidance could leave the company with no choice but to make employment decisions based on the management information available to you (minus medical information); therefore any decisions could be detrimental to the employee as a result. Further meetings should be arranged with the employee to understand the potential impacts on his ability to work, though as you are not medical experts you could not categorically state, for example, whether he may be covered by the definition of disability under the Equality Act 2010.

Have you got a Legal or Health & Safety question you'd like answered by the experts? Email cheryl@seton.co.uk and you might see it published in the next issue!

Competition

Win a Kindle e-Book Reader!

Simply answer the 5 questions below (they're all related to articles within this magazine).

- 1.** When making a 999 call from a commercial property what will some fire services now ask you to do?

 - Ask you to fight the fire yourself
 - Ask you to confirm a fire is actually present
 - Ask you to evacuate the building as they will be there shortly
- 2.** What is the main reason for the ISO 7010 implementation?

 - To make everyone replace all their safety signs
 - To add an extra safety standard to adhere to
 - To make it easier for people to understand the meanings of signs
- 3.** If you have a low hazard risk level in your business and you have 25-100 employees, what size British Standard First Aid Kit would you need?

 - 1 small kit
 - 1 medium kit
 - 1 large kit
- 4.** What does DRA stand for?

 - Default Retirement Age
 - Data Research Association
 - Drug Regulatory Authority
- 5.** How many people between 2009/2010 were injured by an animal?

 - 3,154
 - 378
 - 1,094



Closing date for entries is 30th December 2011

For Terms and Conditions please go to www.legislationwatch.co.uk/competition

Competition Winner

Congratulations to Stuart Spindel winner of TomTom in the Winter Issue.

How to Enter: Simply go to www.legislationwatch.co.uk/competition and submit your answer!

NEWS ROUND UP

Edition 7 2011

Deaths at work rise

There was an increase in the number of people killed at work last year, according to the HSE's provisional data. The number of workers killed was 171, an increase on the previous year, when 147 died. The rate of fatal injury is now 0.6 per 100,000 workers, up from 0.5 per 100,000 workers the previous year.

Safety breach spotted

A Hastings scaffolder and his employer have been fined after a worker was found to be endangering himself and others by working on a four-storey scaffold with no harness. Gareth Roser was spotted by a passing HSE Inspector working without a harness in Hastings in October 2010.

Forklift fatalities fall

Fatal forklift truck accidents in the UK have fallen by more than two-thirds since 2008, according to statistics from the HSE. The Fork Lift Truck Association (FLTA) highlighted the statistics while unveiling the training-centred theme – More Skills, Less Spills – for this year's National Fork Lift Safety Week, held in September.



Over £1m fine for Shell

Shell UK Limited has been ordered by Ipswich Crown Court to pay a total of £1.24m in fines and costs over the explosion and fire at its Bacton gas terminal in Norfolk in 2008. The HSE and Environment Agency (EA) jointly prosecuted the firm over safety, environmental control and pollution-prevention failures at the plant leading to the explosion.



Hot work alert

The HSE has issued a new safety alert, reminding businesses to be aware of the dangers of so-called 'hot work'. This includes any process that generates a source of ignition (e.g. naked flames, heat, sparks) arising from working methods such as welding, flame cutting, grinding and using disc cutters.

Coach firm fined

A coach company has been fined £137,500 after being found guilty of abusing drivers' hours regulations. Following an investigation by the Vehicle and Operator Services Agency (VOSA), BM Coach and Rental Limited was found guilty of 131 drivers' hours offences. The company received fines totalling £137,500 with an additional £35,000 being payable in costs.



Hand in glove

A chemical firm has been prosecuted for failing to follow health and safety guidance which advises against wearing gloves when using metalworking lathes after a maintenance worker seriously injured his right hand when his glove became snagged. The 58-year-old worker lost his ring finger and suffered damage to his middle and little finger.



Asbestos prosecution

Marks and Spencer plc and two of its contractors have been convicted for putting members of the public, staff and construction workers at risk of exposure to asbestos-containing materials during the refurbishment of two stores, when construction workers removed asbestos-containing materials that were present in the ceiling tiles and elsewhere.



Chemical eye injury

Fast food giant McDonald's has been taken to court by Wandsworth Council following an incident that left one of its employees half-blinded in one eye. The maintenance operative suffered burns to his face and eyes that left him with only around 55% vision in his left eye after using an acid-based drain cleaner to unblock a waste pipe.



Trench death

A construction company has been fined after a man died when a trench collapsed on him. Builder Joshua Bladon, 22, was killed while working on an extension at the house in Aylesbury on 16 April 2008. The HSE prosecuted Mr Bladon's employer, Russell Smith Limited, for breaching health and safety laws which led to the incident.

Hazardous chemical spill

A chemical incident at a Kent business park in June led to 16 people being hospitalised. Kent Fire and Rescue Service confirmed that ammonia had been contained at the site and that other people were treated for chemical inhalation at the scene. It is believed that two litres of ammonia were spilt at a courier company on the site.



Road worthy

The European Agency for Safety and Health at Work (EU-OSHA) has launched a new website to help keep those who drive for work safe.

The site http://osha.europa.eu/en/sector/road_transport provides access to a series of reports and other resources to help meet the challenges of managing health and safety in the road transport sector.



Drive for change

Road safety charity, Brake, is calling on the Government to extend rules controlling hours that can be driven legally by large vehicle drivers to fleet drivers in vans and cars. Citing new research on drivers falling asleep at the wheel, it's also urging companies to use trains more instead of cars for long distance journeys.



Lying in

One in three UK workers admit to lying to take time off work, mainly because they're disillusioned with their jobs, according to research commissioned by PwC on attitudes to absence. The majority (61%) claim they are bored and depressed with work, while just over one in five said family responsibilities are the real reason behind 'sick' days.



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- ✓ Legal Update Calender
- ✓ ISO 7010 Safety Signs Regulations
- ✓ RIDDOR Changes
- ✓ BS Compliant First Aid Kits
- ✓ HSE Inspection Cuts
- ✓ Default Retirement Age
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