

LegislationWATCH

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

Cutting Red Tape

What does the government's drive to cut red tape mean for your business?

p.6-7

Inside this issue

Training Tools
Stress Management
Asbestos Law Update
and much more...
see contents on p.2

Are you prepared for winter?

Stay one step ahead of the big freeze.
p.20-21

First Aid Best Practice

Do I have to provide a defibrillator?
p.36

Fees For Intervention

FFI explained.
p.8

Expecting the unexpected

Business Continuity Plans.
p.14-15

Travelling to France

New Breathalyser Law.
p.30-31



Contents

Regulars

04 // Legal Update
October 2012 - January 2013

18 // Training Tools
In this issue...General construction site safety



42 // Q&A's
Your questions answered by the experts

46 // News Round Up
Prosecutions and compensation awards



Features

06 // Health & Safety Reform
Why is reform needed?

07 // Health & Safety Reform
Changes for October 2012 - April 2013

08 // Fees For Intervention
FFI explained

09 // The Benefits of Health & Safety
Making the law work for you

12 // Asbestos
Law Update

14 // Expecting the Unexpected
Business Continuity Checklist

16 // Construction Site Safety
Building sites putting workers at risk

20 // Are You Prepared For Winter?
Your legal responsibilities

22 // Winter Product Innovation
Introducing The Ultimate Grit Bin

24 // RIDDOR
Legal update



26 // Maternity, Paternity & Adoption Pay
Pregnancy at work

28 // Stress Management
Stress in the workplace will rise

30 // Travelling to France
New French breathalyser law



34 // Agency Workers
Legal understanding

36 // First Aid Best Practice
Do I have to provide a defibrillator?

39 // Chemical Hazards
Chemical Label Changes coming into effect - December 2012



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Letter FROM THE EDITOR



Dear Reader,

As the editor of Legislation Watch I would like to welcome you to the first magazine that forms part of your new membership. Over the last few months we in the membership team have worked tirelessly to provide you with the solutions you require, to help ease your worries and save you time with regards to upcoming legislation. We value your feedback, so please feel free to email me at cheryl@seton.co.uk to tell us how we are doing or to let us know what you would like to see more of.

Now on to the interesting part... your new Legislation Watch magazine has grown in size from 32 to 48 pages, which allows us to supply you with even more content, through dedicated articles, checklists, training tools, product recommendations and much more. One of the main topics we report on in this edition is the Health & Safety Reform, following on from the Governments reviews of health and safety, the outcome of which we are sure will mean something to your business.

As always we like to provide a wide range of discussion topics and updates, and this edition is no exception, with more than 30 different topics being covered. Some of these include Winter Slips and Trips, Maternity Pay and the new Breathalyser Law in France. You can rest assured that all the latest legislation and best practice is included, however, if you are still unsure then please ask us? Our experts are on hand to help.

Don't forget to recommend your colleagues to Legislation Watch – we are offering 2 x £10 M&S vouchers (one for each of you) when a colleague you recommend joins the membership, just quote Gift Code Z1255.

Cheryl

Cheryl Peacock, Editor
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Legal UPDATE

Fee for Intervention (FFI) October 2012

From 1st October 2012 FFI will recover costs from those who break health and safety laws, for the time and effort HSE spends helping to put matters right, such as investigating and taking enforcement action. The HSE has been keen to emphasise that, "Law-abiding businesses will be free from costs and will not pay a fee."

Detailed guidance has been published on HSE's website setting out how the scheme will work in practice. Developed in consultation with representatives from industry, it explains how FFI works and includes examples illustrating how it will be applied.

Health and Safety (Fees) Regulations 2012 October 2012

These regulations, which will have effect for five years, revoke and replace the Health and Safety (Fees) Regulations 2010. Every fee in the 2010 Regulations is reproduced by these regulations without increase except the fees related to the now-revoked Classification and Labelling of Explosives Regulations 1983.

The 2012 regulations fix or determine the fees payable by an applicant to, in most cases, the Health and Safety Executive (HSE). They also fix fees to be paid in respect of medical examinations and surveillance by an employment medical adviser as well as fixing a fee, payable by employers, to cover the cost to the HSE of processing information sent on behalf of those employers pursuant to the Ionising Radiations Regulations 1999.



Smoke-free (Signs) Regulations 2012 October 2012

From 1st October 2012 the Smoke-free (Signs) Regulations 2012 will revoke the 2007 Regulations and replace the detailed requirements for no smoking signs prescribed by those regulations with a requirement that at least one legible no-smoking sign must be displayed in smoke-free vehicles and smoke-free premises.



New French breathalyser law November 2012

A new law is in force in France which requires all motorists to carry an approved breathalyser or face a fine of €11 from the French Police. British tourists and company drivers are not exempt from the requirement. The move is intended to help persons identify whether they are over the drink-drive limit before taking the wheel.

Although the law is currently in place there is a grace period until 1st November 2012, after which the law will be enforced on the street. Approved breathalyser kits come in two types: single-use chemical, or more expensive but re-useable electronic.



ISO 7010 to become EN 7010 by January 2013 January 2013

The much-anticipated European Standard EN 7010 governing the format of safety signs is set to come into force in the UK by January 2013 according to sources at BSI.

The previous standard "BS ISO 7010:2011 Graphical symbols - Safety colours and safety signs - Registered safety signs" is set to become a European Normative (EN) meaning it will change from an international standard considered to be best practice to one that is legally binding to European countries, the UK included.

Historically the UK has used its own British Standard BS 5499 to dictate the format of its safety signage but once EN 7010 is in force

any new signs supplied must comply with the standard. The main difference between the two types of sign is that BS 5499 signs carried a mixture of lettering and pictograms whereas EN 7010 signs are pictographic only.

Employers will not be obliged to change their signage immediately, although H&S guidance recommends that the different types should not be mixed in the workplace. Although it may be tempting to do a full replacement of all signs in the workplace (indeed this may be better for smaller workplaces which may have less signs to replace) sensible implementation would be to undertake a phased plan of replacement for each company premises or area over a set period.



Health AND Safety REFORM

What does the governments drive to cut red tape mean for your business?

Why is reform needed?

When the Coalition Government came to power in 2010 they began to act on their pre-election promise of restoring sensible governance to business, particularly in health and safety enforcement, in the form of two major reviews; Lord Young's examination of UK health and safety culture, common sense, common safety and Professor Lofstedts review of Health and Safety law reclaiming health and safety for all.

One of the reasons why these reviews were created were to tackle the health and safety culture in the UK. Toothpicks banned in restaurants, children made to wear goggles whilst playing conkers and trainee hairdressers

prevented from using scissors are all evidence of how the UK's attitude to health and safety has gone mad. The government wants businesses to focus on creating jobs and growth and not being hindered by excessive bureaucracy

In many ways it is not the legislation that is causing the problem. These myths mostly attributed to over enthusiastic decision makers or avoidance of costs have led to the common impression that health and safety is the manifestation of the nanny state fuelled by ambulance chasing lawyers, medaling unions and fun police enforcement. Most health and safety regulation comes from Brussels and applies equally across the EU, but it seems

other countries are managing to interpret the legislation in a more sensible way, without it being misapplied to circumstances it was never intended to cover.

Risk assessment is about protecting lives, not stopping the enjoyment of them. There is no doubt that something needs to be done to stop crazy decisions being made regarding health and safety. Health and safety law is needed to protect workers and the public from serious harm and the Government needs to make sure that the balance is not tipped in the opposite direction. The most important question is what do these changes to health and safety mean for your business?



Alexander Ehmann, head of regulatory policy at the Institute of Directors, said "excessive regulation costs time and money, both of which businesses would rather spend on developing new products, hiring staff and building up British business both here and abroad."

Health and Safety changes for October 2012 – April 2013

Now, in autumn 2012 we are seeing the results of these reviews, with the government planning to introduce new rules in April 2013. The headlines are as follows:

- Plans to exempt thousands of businesses from health and safety inspections – HSE budget cuts and Government plans meant that "low risk" workplaces such as offices, shops and pubs will be exempt from routine health and safety inspection. Although welcomed by the Institute of Directors the move has earned the ire of worker protection bodies such as trade unions.
- To ensure that businesses will only be held liable for civil damages in health and safety cases if they can be shown to have acted negligently.
- The government plans to remove 3,000 regulations - although these are mostly obscure leftovers from long-since superseded or irrelevant laws and do not include the main Health and Safety Regulations which the Lofstedt review decided were broadly fit for purpose".
- Largely in response to Government cuts of its funding, HSE is implementing its controversial Fee for Intervention (FFI) scheme as of **1st October 2012**. FFI will allow HSE to recover its costs from businesses that commit a 'material breach' of the law i.e. a failure to comply with the law that requires an intervention from HSE such as notification by letter, an improvement or prohibition notice. These fees will be in addition to any costs or fines associated should a prosecution be pursued.
- The Occupational Safety & Health Consultants (OSHCR) has helped to legitimize the role of health and safety consultants,

ensuring a minimum standard of qualification and experience and marginalise the so-called cowboy consultants.

The majority of these new measures have been applauded from Business groups. Alexander Ehmann, head of regulatory policy at the Institute of Directors, said the announcement was "good news" if it marked "the beginning, not the end, of the deregulation story". "Excessive regulation costs time and money, both of which businesses would rather spend on developing new products, hiring staff and building up British business both here and abroad," he said.

But some trade unions have voiced opposition to the move.

General workers union the GMB said the safety of employees and customers was being put at risk. "This isn't about cutting red tape, it's about cutting the throat of safety regulations and the trade unions will mobilise a massive campaign of resistance," added Mr Crow.



Fees FOR Intervention

FFI explained

HSE has replaced the existing Health and Safety (Fees) Regulations 2010 with new regulations. Implemented on 1st October 2012, these new regulations place a duty on HSE to recover the costs of its interventions under the Health and Safety at Work Act 1974 and other health and safety law.

The Health and Safety Executive (HSE) already recovers its costs in a range of industries but has proposed to extend its current systems of cost recovery to include a fee for intervention. This means an inspector will be required by law to charge for the inspection and any subsequent actions when a material breach of the law has been found. Under the new proposals the HSE will recover costs at current estimates of up to £124 per hour. Costs of any specialist support needed by the HSE would also be passed on.

Due to public sector cuts, HSE funding is to be cut by 35% over four years starting in 2011 which would be expected to result in a lower level of enforcement and a consequent decrease in health and safety standards throughout Great Britain, with ensuring costs to individuals and their dependants (notably the pain, grief, suffering and loss of earnings from work related injuries and ill health) to employers (in sick pay etc.) and to the government (mainly NHS, benefits paid and taxes lost). Cost recovery will allow HSE to provide a higher level of enforcement than otherwise possible with the cuts and avoidance of the above costs.

Response from business

Birmingham Chamber of Commerce Group, among other bodies, has protested the decision. According to the Chamber, businesses will be charged at a rate of £124 an hour by HSE for serving enforcement notices and advice if they fail to comply with the "huge volume of intricate and complex health and safety legislation".

Vice President Steve Brittan has written to the Department of Work and Pensions, the Chancellor and Business Secretary Vince Cable

claiming that the move could introduce a "profit motive" into the work of the HSE.

For the first time, he said, the HSE will be financially incentivised to identify problems and breaches.

"The proposal, which could see the average cost for an inspection resulting in a letter costing up to £750, will put needless and counter-productive costs on businesses that are rightly focused on doing business and creating jobs at this critical juncture," Mr Brittan went on.

He warned that the changes could also put workers at risk by discouraging businesses from approaching the HSE for advice for fear of incurring massive costs.

Mr Brittan pointed out that the £124 rate could pay the hourly wages of 47 apprentices. He called on the Government to ensure that all but essential health and safety legislation is removed with the balance enforced "where appropriate".

The Federation of Small Businesses (FSB) has similarly expressed concern that the Regulations could "damage relationships" and may be seen as a way to raise revenue rather than improving compliance. The FSB says that for a small or micro business, a bill of £750 or more for a material fault could be "extremely damaging", especially during difficult economic times.

The FSB is arguing that this will disproportionately affect micro firms as fees of this level will have a greater effect on the ability of the business to function and grow. It is concerned that small firms may view the proposal as a revenue generating exercise that could damage the HSE's relationship with business. The Federation is also questioning whether the money raised would go to the HSE or to the Treasury.

The Chemical Business Association (CBA) has branded the plans of the HSE as the equivalent of "seeking a blank cheque from industry" to compensate for cuts in its departmental budget.



THE BENEFITS OF Health AND Safety

There is a common misconception that compliance with health and safety law and best practice costs employers money. However, quite the opposite is true. Health and safety can be an asset not a chore.

The costs incurred following an accident can be astronomical, not just with fines and claims but with other 'hidden' costs such as sick pay, admin costs, legal costs and damage to business reputation. These costs are not covered by insurance and following an accident, premiums can be increased or cover might even be refused. It is generally recognised that uninsured losses amount to ten times the cost of insurance premiums paid.

When we consider that the vast majority of accidents are avoidable if suitable and sufficient control measures are in place, it becomes obvious that compliance with health and safety law saves money as well as lives.

New Business

Improved standards of health and safety in a company can pay off in new business. Prospective clients are becoming increasingly aware of their legal duty to appoint health and safety conscious contractors and many are becoming members of assessment schemes such as CHAS (Contractors Health and Safety Assessment Scheme) and Constructionline – to them it is simply not worth taking a risk by employing unsafe contractors.

Making the law work for you

While there are legal duties placed on employers by health and safety legislation that can't be ignored, they can often be made to work to the advantage of the company. An example of this is the written health and safety policy. If you have 5 or more employees in a company, you are legally required to have a written health and safety policy which comprises of a

policy statement (also known as a statement of intent,) details of the organisation in place and specific arrangements.

Naturally there is a cost and time factor in creating and utilising a policy. However if your company is tendering for work, potential clients will most likely want to see not only your policy statement but also worked risk assessments and systems of policy monitoring. Being able to provide these could mean the difference between winning and losing a lucrative contract.

Do I have a safety problem?

Firstly you need to take a look at your business. This could mean examining the hazards present in your workplace that could lead not only to accidents, but also ill health. We are not just talking about chemicals, machinery and the more obvious safety concerns but also other increasingly common problems such as stress and musculoskeletal disorders. Try to work this into part of your regular system of risk assessment.

Sickness absence records should be examined for any hints that any absence taken could be down to your working processes, environment or management. Also just talking to your employees can be useful.

Remember that even trivial complaints can soon become major problems! Good communication with employees is critical to good health and safety management and should always be encouraged.

Reducing the costs

The risk assessment process is all about identifying hazards and reducing the likelihood of an accident or ill health occurring - use this to your advantage and see it as an opportunity to improve your processes efficiency too, as the two often go hand in hand.

Conclusion

In order to help preserve the health, safety and wellbeing of their employees, current legislation requires that all employers assess and review working processes to make them safe. This duty of care cannot be ignored or avoided so it makes sound commercial sense to turn this duty into an asset. It is easy to demonstrate that companies who embrace health and safety are not just safer places to work in; they can be more efficient and profitable too.



H&S MYTHS **Challenged!**

In April 2012 the HSE announced the setting up of a new independent panel to challenge health and safety myths.

The safety watchdog said that “health and safety” is often incorrectly used as a “convenient excuse” to stop what are essentially sensible activities going ahead and that the new Myth Busters Challenge Panel has been formed to scrutinise such decisions.

The panel will be chaired by Judith Hackitt, the HSE Chair, with HSE Board member Robin Dahlberg as the Vice-Chair, supported by a pool of independent members who represent a wide range of interests. This is said to include small businesses, public safety representatives, trade unions, the insurance industry and many other outside interests.

The HSE says the panel will look into complaints regarding the advice given by non-regulators such as insurance companies, health and safety consultants and employers, and quickly assess if a sensible and proportionate decision has been made.

With immediate effect, people can complain to the panel if they think a decision or piece of advice given in the name of health and safety is wrong or disproportionate. The panel will then investigate and publish its findings on the HSE website.

The Minister for Employment, Chris Grayling, said, “All too often jobsworths are the real reason for daft health and safety decisions. We want people who are told they cannot put up bunting or they cannot play conkers to know that there is no basis in law for such rulings.”

More common sense was injected into the H&S myth debate in July when HSE criticised event promoter Live Nation for hiding behind elf n’ safety excuses when Bruce Springsteen’s performance with Sir Paul McCartney at a Hyde Park gig was cut short in July.

Initially Live Nation blamed the 10.30pm curfew as being “laid down by the authorities in the interest of the public’s health and safety”. In his own inimitable style, Boris Johnson described the decision to end the concert as “excessively efficacious” and stated that “if they’d have called me, my answer would have been for them to jam in the name of the Lord”.

As it happens, the Deputy Chief Executive of the HSE Kevin Myers was at the gig and he issued a strong rebuttal of Live Nation’s excuse, stating that “while public events may have licensing conditions dictating when they should end, this is not health and safety and it is disingenuous of Live Nation to say so”.

So in reality Live Nation pulled the plug on The Boss and Sir Paul in order to avoid being fined by the local council for overrunning their performing licence. A poor way to end a reportedly great gig but definitely not elf n’ safety gone mad!

HSE’s Top Ten H&S Myths

The Myth

1. Children banned from playing conkers unless they are wearing goggles
2. Office workers banned from putting up Christmas decorations
3. Trapeze artists ordered to wear hard hats
4. Pin the tail on the donkey games deemed a health and safety risk
5. Candy floss on a stick banned in case people trip and impale themselves
6. Hanging baskets banned in case people bump their heads on them
7. School children ordered to wear clip on ties in case they are choked by traditional neckwear
8. Park benches must be replaced because they are three inches too low
9. Flip flops banned from the workplace
10. Graduates ordered not to throw their mortar boards in the air

The Reality

- A head teacher decided children should wear safety goggles to play conkers. Realistically the risk from playing conkers is incredibly low and just not worth bothering about.
- There is no ban, neither is there a requirement for a ‘qualified’ person to put them up.
- Hard hats do an excellent job of protecting building workers from falling debris - but have no place on a trapeze.
- Not true. Children have been playing traditional party games like this for years without any problems.
- There are no H&S laws banning candyfloss on a stick.
- In 2004 a town did take down its hanging baskets over fears that old lamp posts would collapse. This was an overly-cautious reaction.
- It isn’t true. This started off as a precaution, removing the tie during laboratory work or around machinery.
- This story originated from a decision by a facility manager and has no basis in H&S law at all.
- No ban is in place. However shoes that fit well and have a good grip would be a better choice in order to avoid slips, trips or falls.
- The chance of being injured by a flying mortar board is incredibly small, and when the concern is actually about the hats being returned in good condition, it’s time to stop blaming health and safety.

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The Force8™ Half Mask is an effective solution to silica dust, which is released by natural stone and common building products such as concrete and brick. The durable thermoplastic rubber mask allows for a superior fit and together with the fully adjustable 4-point cradle suspension, it ensures an effective facial fit. With the unique Typhoon™ Exhalation Valve the Force8™ offers superior low breathing resistance as the exhaled air can escape through the additional airflow vents.

Silica dust could become as great an issue in construction as asbestos.

- The Force8™ Half Mask with twin filters solves many of the problems when using the appropriate P3 range of filters depending on the task in hand, the level of exposure and the working environment.
- Respiratory Protective Equipment (RPE) needs to be compatible with other forms of Personal Protective Equipment (PPE) and must be tested to face-fit compliance standards.

Tested to the relevant European Standards (EN140, EN143, EN14387) and have met the requirements shown below:
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Filter Performance EN143:2000



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Asbestos LAW UPDATE

Asbestos is the biggest cause of occupational deaths in the UK, with an estimated 4,000 people dying every year from related diseases such as mesothelioma and lung cancer. On 6 April 2012, new Regulations regarding the control of asbestos came into force.



The Control of Asbestos Regulations 2012 revoke and replace the existing 2006 Regulations, covering the prohibition of asbestos, the control of asbestos at work and asbestos licensing. The reason for the change is that the European Commission (EC) concluded that the UK had not fully implemented a Directive on the protection of workers from the risks of exposure to asbestos.

The new Regulations narrow the types of work to which the exemptions apply, meaning employers carrying out certain types of low risk, short duration work, particularly with 'friable' (crumbly) asbestos are no longer exempt from requirements to:

- Notify the work to the relevant enforcing authority;
- Carry out medical examinations; and
- Keep registers of work with asbestos.

The Regulations prohibit the importation, supply and use of all forms of asbestos. They continue the ban introduced for blue and brown asbestos in 1985 and for white asbestos in 1999. They also continue the ban on the second-hand use of asbestos products such as asbestos cement sheets and asbestos boards and tiles, including panels that have been covered with paint or textured plaster containing asbestos.

The ban applies to new uses of asbestos. If existing asbestos-containing materials (ACMs) are in good condition, they may be left in place, their condition monitored and managed to ensure they are not disturbed.

Impact

The changes are most likely to affect employers (including the self employed) who carry out short duration work on plant and equipment or buildings which contain asbestos materials and those who procure such work. Furthermore employers who are having asbestos work carried out by contractors should ensure that their contractor has notified the authorities where relevant.

The Electrical Contractors' Association (ECA) has warned that new asbestos legislation will "undoubtedly lead to extra costs for many employers in the electrical contracting industry".

Paul Reeve, the Head of Health and Safety and Environment at the ECA, said, "The Health and Safety Executive has put considerable thought into limiting the financial impact of the changes, but the new Regulations will still require thousands of maintenance contractors to provide three-yearly respiratory health assessments for tens of thousands of their operatives. This could lead to a significant increase in costs."

"A self-employed builder was prosecuted by the HSE and was fined £5,000 and ordered to pay costs of £7,500 for breaching the Control of Asbestos Regulations."

He added, "A major practical problem is that contractors can't predict if an employee will actually do any 'notifiable non-licensed work'. However, they will need regular health assessments, just in case they are required for this type of project. The extra cost will also widen the gulf between responsible small contractors and 'cowboys', who will take their chances and not carry out health surveillance."

The ECA said it hoped to work with the Health and Safety Executive on delivering the most cost effective routes to health surveillance and that an authoritative explanation of the costs and benefits of the newly required surveillance would be welcomed.

Case Study

A self-employed builder was fined for demolishing a building without first carrying out an asbestos survey. He had ignored a construction survey showing there were 12 metres of asbestos in poor condition and advising its removal in controlled conditions with the use of 'enclosures, airlocks, negative pressure units and decontamination units'.

Instead, the builder, Stuart Pearson, went ahead and demolished the property without having a pre-demolition survey carried out on the entire property to ensure that all asbestos was identified and removed.

He was prosecuted by the HSE for breaching the Control of Asbestos Regulations, fined £5,000 and ordered to pay costs of £7,500.

EXPECTING THE Unexpected

A recent survey of business continuity planning in the UK has shown that businesses are sitting up and taking notice of the wide range of threats that have emerged in the past year. Companies are now taking action to ensure they are prepared for whatever is thrown at them.



“Planning for the worst”, the 2012 Business Continuity Management (BCM) Survey, is available free from the Chartered Management Institute (CMI). It shows that the number of organisations with formal plans in place rose last year for the third year running. Over 60% of managers now report that they work for a business that has BCM in place, compared to 58% in 2010.

In 2011, winter weather was again the most common cause of organisational disruption, causing problems for 82% of managers. Other significant business disruptions included the public sector strikes (55%), the Blackberry outage (39%), the summer riots (26%), natural disasters such as Japan’s earthquake and tsunami (19%), and international social and political unrest such as the Arab Spring uprising (18%).

A massive 81% of managers who activated their business continuity plans last year agreed it reduced disruption and therefore many



consequently planned ahead to minimise the impact of the Olympic Games this summer.

Surprisingly, the survey found that only a fifth of managers expect their business critical suppliers to have a BCM system in place, and only 7% expect all of their suppliers to have systems in place. However, company strategies are now beginning to recognise the importance of supply chain resilience.

Reduced Insurance Premiums?

In another survey undertaken by the British Insurance Brokers’ Association and the Cabinet Office, business continuity plans have been shown to reduce insurance premiums and can save businesses from ruin after a major disruption such as a flood or fire.

The majority (96%) of respondents believed that having a business continuity plan could keep businesses trading or reduce the costs they would incur. An additional 62% said that they could benefit from insurance premium discounts, reduced excesses and access to new insurance markets.

These beliefs were backed by insurers, with 83% agreeing that they would provide a discount or improved insurance terms to a business interruption policy if a company had a business continuity plan in place. The survey showed that 74% of all emergencies against businesses were water (41%) or fire-related (33%).

Since small businesses appear to be most at risk from the effects of a major disruption and are also least likely to have a plan, this survey confirms the need for simple guidance on business continuity aimed at smaller firms.

Make sure you’re not left at risk when it comes to the unexpected. See our checklist on the right.



What should I do in an emergency?

Define the scope, management roles and responsibilities for emergency management. An incident response team should:

- ✓ Know what their roles are in advance and always be contactable
- ✓ Have a set of agreed tools/protocols to help assimilate what is going on
- ✓ Be able to give accurate directions and have access to rehearsed structures/diagrams
- ✓ Have a back up plan in place
- ✓ Have direct access to any business continuity/emergency procedure plan
- ✓ Conduct risk assessments to identify threats and mitigate them
- ✓ Appoint an appropriate person to consider the welfare of employees following any tragedy
- ✓ Keep the emergency plan up-to-date through good practice
- ✓ Have a testing programme to rehearse what to do in a real emergency
- ✓ Establish and monitor change management and succession management regimes
- ✓ Review the crisis management actions

Construction

SAFETY UPDATE

Hope that Olympics will herald new safety era

Judith Hackitt, the Chair of the HSE, has written about the HSE's work with the Olympics authorities on the London 2012 Games, expressing a hope that a key legacy of the Olympics will be to herald a change in attitudes to health and safety.

She highlighted a remark by Lawrence Waterman, the Head of Health and Safety at the Olympic Delivery Authority (ODA), who said, "Managing health and safety well is not a cost. It's an investment."

Applying this approach, the ODA had aimed to make the building of the London 2012 venues

one of the safest construction projects ever.

Judith Hackitt said, "Given the scale of the work — arguably one of the biggest construction projects in Europe — this was a challenge worthy of any Olympian."

However, not only were there no work-related fatalities during the "big build" phase of construction, but in a project which clocked up more than 80 million working hours, figures from the ODA show fewer than 130 reportable incidents, a performance described as "gold standard" by the HSE Chair.

Perhaps most importantly, Judith Hackitt believes that the H&S achievements will form a key part of the legacy of the Olympics, along with the social and sporting legacies.

The HSE Chair highlighted a recent visit to Rosyth shipyard where she said she was told how the shipyard is seeking to follow the exemplary approach taken on the Olympic Park.

She said that "the practical lessons learned from the construction phase of London 2012 are already being applied to companies of all sizes from a wide-range of industries".

Case Study

A bricklayer whose fingers were crushed in a workplace accident when he was a 17-year-old apprentice, leaving him with a life-long disability, has received £250,000 in compensation after a five-year legal battle.

The 23-year-old from the Wirral suffered crush injuries to the index and middle fingers on his dominant right hand in 2006, after he tripped on discarded plastic bindings while carrying a 440mm-long brick on his shoulder. As he put out his hands to break his fall, the brick fell from his shoulder and landed on his fingers.

On arrival at hospital, his fingers were immediately operated on. The surgeons had to remove the tips of the two fingers. After three months off work, he attempted to return to his job as normal and over the next two years he completed his apprenticeship.

In 2008, a further two operations were needed to his index finger, to remove painful growth

of the nail bed. In the same year, he was made redundant from his job.

By 2009, his index finger was causing him so much pain that it was amputated at the first joint. In 2010, it had still failed to heal properly and, four years after the accident, his index finger was fully amputated.

The young man has been left with reduced grip in his dominant hand, meaning he cannot lift and even the smallest tasks can be difficult for him to manage. He will never work as a bricklayer again but, despite his difficulties, he has retrained as a forklift truck driver. However, he is now limited in the type of jobs he can do.

Following the accident, his father instructed Thompsons Solicitors to pursue a claim for compensation. Thompsons argued that the company should have ensured the building site was tidy and clear of tripping hazards. The firm admitted liability and settled the claim out of court.

Building sites putting workers at risk

It is not all good news in the construction industry though. The HSE recently expressed concern that almost half of the refurbishment construction projects it recently inspected in North East London failed health and safety spot checks.

The comments were related to a day-long inspection initiative by the HSE on 3 July 2012 which saw a small team of Inspectors visit 22 construction sites across North Hackney, South Tottenham and Haringey.

The HSE says that enforcement action had to be taken at nine of the sites, with six prohibition notices served requiring dangerous practices to stop immediately, and six improvement notices served requiring safety improvements to be made. One site was completely closed down due to exceptionally hazardous conditions.

Five of the prohibition notices served related to unsafe work at height. Training and welfare concerns accounted for the improvement notices.

Common issues found during the inspections were:

- Missing basic precautions, such as edge protection to prevent falls from height
- Failure to properly plan work
- Poorly trained site managers
- Inadequate welfare facilities for workers.

Commenting on the inspection initiative, Mike Williams, Principal Inspector for HSE's construction division in North and East London, said, "Construction remains one of Britain's most dangerous industries and fatal incidents across London have shown how devastating they can be. We are very concerned at the number of small sites that are failing to take the most basic precautions to protect workers and members of the public. Good health and safety on construction sites is a legal requirement and we will continue to clamp down on dangerous practices or poor standards until the message gets through."

He added, "Contractors must properly plan their work and protect their workers from risks such as falls from height or structures collapsing."



"Managing health and safety well is not a cost. It's an investment."

Lawrence Waterman - Head of Health and Safety at the Olympic Delivery Authority

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A Guide to General Construction Site Safety

By its nature, construction work is high risk and must be controlled properly to avoid serious accidents.

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YOUR LEGAL RESPONSIBILITIES

Cold weather, snow and ice can cause many work-related risks which have to be dealt with by organisations. Slipping on icy walkways is a hazard which can affect both employees and members of the public. Low working temperatures can present particular health and safety problems. Driving to and from work is especially dangerous in snow and ice and can put staff at risk.

Dealing with the issue of the consequences of wintery weather presents employers with many difficult questions about risk, and their legal duty to deal with those risks.

Legal outline

Organisations have a duty to take reasonable care of those who could be affected by their activities. In practice, an employee or a member of the public who slips on ice on a means of access provided by, or in the control of the organisation, can bring a civil claim against that organisation. If an employee is killed or injured while driving to or from work in bad weather, they may be able to claim compensation against his or her employer. The ill-health effects of low temperatures may also result in civil claims.

Secondly, there are legal duties placed upon employers by health and safety legislation. Breaching these legal duties can result in criminal prosecution leading to fines and, in extreme cases, imprisonment.

The main legal requirement is the Health and Safety at Work etc. Act 1974 (HASAWA) which requires employers and others to protect their own employees and also third parties who could be affected by their work activities. This will include consideration of the impact and consequences of wintery weather. These duties are supplemented by other legal requirements.

Regulation 3 of the Management of Health and Safety at Work Regulations 1992 requires risk assessment of all work activities and this will include considering the issue and effects of cold

weather. Risk assessments should encompass all work-related risks, including those caused by winter weather. As always the amount of effort spent on such risk assessments should be in proportion to the likely risks.

Low temperatures in the workplace

The Health and Safety (Workplace) Regulations 1992 with its associated code of practice (ACOP) require the temperature inside workplaces to be reasonable. What is a reasonable temperature is dependant on the work activities and circumstances and guidelines are given in the ACOP.

For workrooms where there is no work which involves severe physical effort e.g. an office, then the temperature should not drop below 16°C. There are many situations where this minimum temperature cannot be achieved, for example where food is handled or work outdoors. In these situations, warm clothing, hot drinks, warm rest

areas, time limitation in the cold areas and similar measures should be taken.

Driving for work

The requirements of HASAWA include the time when employees are driving, or riding at work, whether this is in a company or hired vehicle, or in the employee's own vehicle (but not the daily commute).

Wintery weather can cause extreme risks and the effects of snow and ice can make driving very dangerous. Risk assessments performed under the Management Regulations should include driving for work.

The risk assessment may need to include when not to drive at all and in what circumstances this action may have to be taken. Guidance and requirements for maintenance of vehicles are also required, as well as information about safe driving techniques in bad weather from sources such as the Highways Agency, ROSPA, the AA and the RAC.

Slips

One of the most significant risks associated with wintery weather is the risk of slips due to snow and ice on walkways and paths. Employers have a duty of care not just to their own staff, but also to non-employees such as the public and other visitors.

Serious injuries can result from slipping on ice and while prosecutions do occasionally take place following slipping accidents, potentially expensive civil claims are more likely.

Employers therefore need to be prepared for bad weather and take reasonable action to keep paths and walkways free from snow and ice. This is not an exact science and it is sometimes impossible to keep all accesses free from snow and ice, all of the time. The risk assessment should have identified priority walkways and take appropriate action to keep them safe. This will include the use of salt and grit as well as warning signs. Employers need to be able to show that they have properly considered the issue and have spent an appropriate amount of resources commensurate with the risk.

How to Manage Occupational Road Risk

Assess all occupational road risks relevant to the organisation through a risk assessment, considering the three fundamental areas, the:

- Driver (age, sex, experience, physical capabilities, driving conviction history, medical issues)
- Journeys (mileage, road type, location, working time, breaks)
- Vehicles (suitability, maintenance, safety features)

Analyse existing control measures to determine if they are adequate for:

- All vehicles used for business purposes
- All business-related journeys
- All company vehicle drivers

Implement further control measures as necessary, following the hierarchy of risk control, which may include:

- Eliminating the need for the journey
- Substituting for another form of transport
- Minimising the risk by appropriate control measures

Ensure necessary training is provided to employees who use their own vehicles for work.

Monitor and review the occupational road risk strategy to ensure it is successful in reducing the risks.

Winter Product Innovation



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As a leader in Health & Safety, Seton is focusing on innovation more than ever as a way of assisting customers to meet their ever-growing Health & Safety challenges. It is crucial to appreciate the importance of listening to the customer to drive innovation. "Our best ideas come from our customers, they spend far more time using our products than we possibly can". Understanding the issues our customers are facing and the value we can design in to products to make their tasks easier and more efficient is at the heart of each product development. Its also critical to analyse the cost of each feature versus the perception of value to the customer – this helps to prioritise features and ensure we meet the customers expectations. One of our latest products to market is the "Ultimate Grit Bin"....



Paul Ingleby
Director of Innovation

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59%
of customers



Issue: Salt gets damp and solidifies

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of customers



Issue: Lockable to prevent pilfering

Solution: Offer multiple locking options

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of customers



Issue: Bins can be damaged and not durable enough

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Issue:

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Easy access

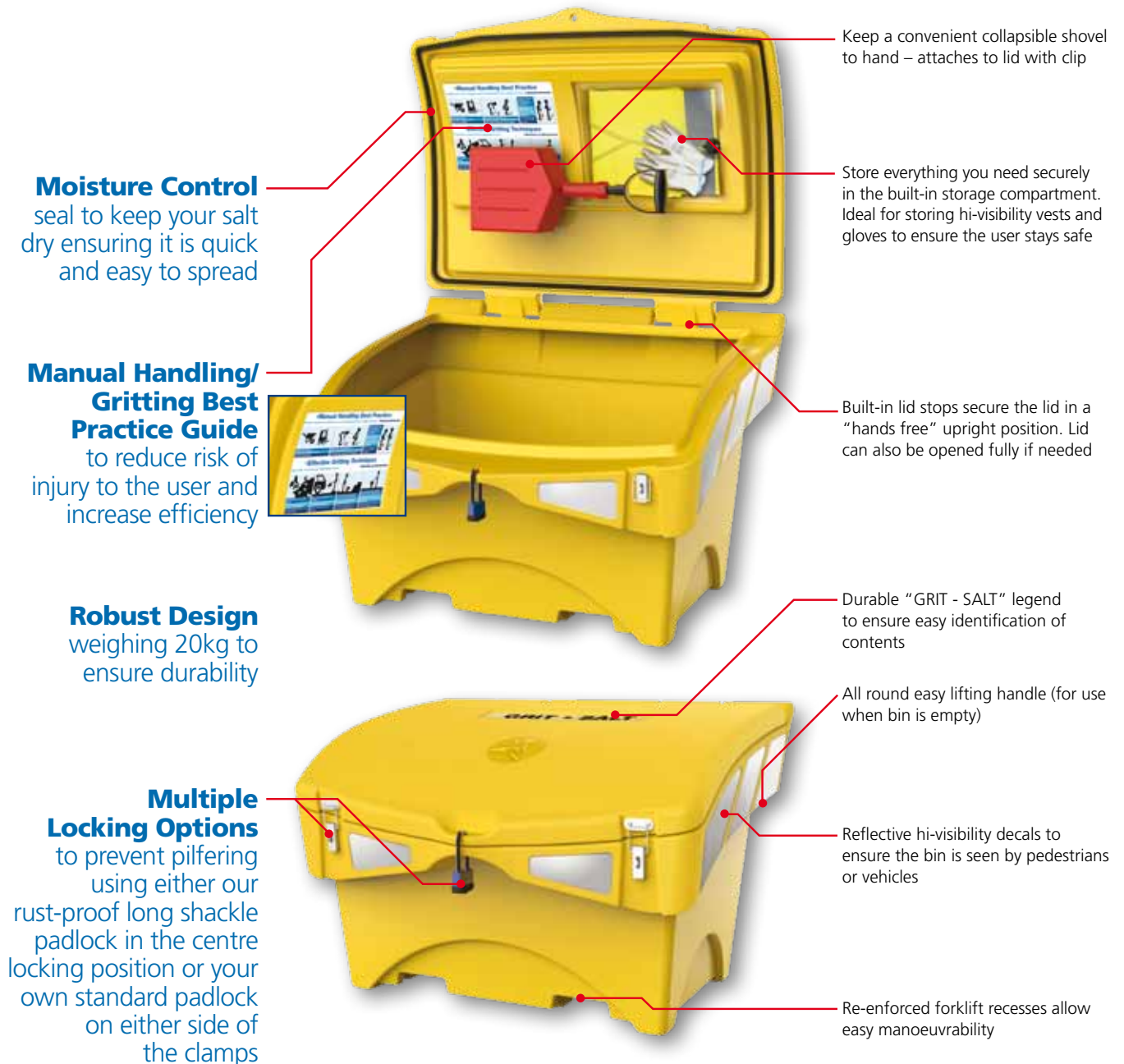
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RIDDOR Update

Three Day to Seven Day Reporting

On 6th April 2012 the over three-day injury reporting requirement under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR) changed.

Under RIDDOR, employers, the self-employed and people in control of work premises (i.e. the "responsible person") have a duty to report serious workplace accidents, occupational diseases and specified dangerous occurrences (near misses).

The changes are the result of the HSE's January 2011 consultation on the RIDDOR legislation, which in turn was initiated by Lord Young's Common Sense, Common Safety report on health and safety in Britain (published in October 2010).

Following the conclusion of the consultation, the HSE confirmed that, despite protests from unions and some health and safety campaigners, it would recommend changes to RIDDOR in order to increase the period for reporting injuries.

As a result, the trigger point after which an injury must be reported to enforcing authorities increased from over three days' to over seven days' incapacitation. This will not count the day on which the accident happened.

The HSE clarified that "incapacitation" means that the worker is absent or is unable to do work that they would reasonably be expected to do as part of their normal work.

HSE is keen to stress that employers and others with responsibilities under RIDDOR must still keep a record of all over three-day injuries. If

the employer keeps an accident book, then this record will be enough. It should also be noted that the deadline by which an over seven-day injury must be reported will increase to 15 days from the day of the accident.

Self Certification

The move to seven day reporting brings RIDDOR in line with the current Statutory Sick Pay (SSP) requirements whereby employees can self-certificate for the first seven days of absence, after which they must seek certification from a doctor in order to be eligible for SSP.

Revised Reporting Methods

Since September 2011 the HSE only accepts reports of fatal or major accidents by telephone following a consultation period. All other reportable work-related injuries and incidents under RIDDOR will need to be reported via the HSE website, with a suite of seven forms available online.

A representative of the HSE stated that more than half of reportable injuries are already notified to HSE through the website and the proportion doing so had been increasing steadily over the past seven years. Furthermore HSE recognises that people reporting a traumatic event still need personal interaction therefore the notification of fatal and major incidents and injuries will still take place by phone.

HSE Infoline Closed

The HSE also closed its Infoline telephone service, which provided a basic information service to callers, on 30 September 2011. HSE recommends that organisations seeking advice on health and safety matters should visit their website and access the information therein.

Case Study: Tesco fined for failure to report accidents

In 2011, supermarket giant Tesco was fined £48,000 and ordered to pay £25,000 in costs following a successful prosecution by Bracknell Forest Council.

The council's environmental health team was investigating the retailer's failure to stop an unsafe working practice that involved using a metal plate to unload vehicles at the Warfield store.

During the investigation it was discovered that three accidents which occurred in two different stores had not been reported under RIDDOR. These included an accident which resulted in an employee fracturing his ankle while unloading a truck and another which resulted in a broken toe.

The charges brought against them included:

- Failure to report accidents under RIDDOR

- Failure to provide a safe system of work for loading and unloading vehicles
- Failing to provide information, instruction, training and supervision to operatives.

Tesco was fined £14,000 after admitting failure to ensure their employees' safety under Section 2(1) of the Health and Safety at Work Act. They were fined a further £34,000 after pleading guilty to three breaches of Regulation 3 of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations.

Two of the charges involved Tesco not reporting accidents by the quickest practicable means, as required by RIDDOR, and the third was a failure to send a report to the enforcing authority within 10 days (note: the time limit for reports has since been extended to 15 days).

Statutory Maternity, Paternity and Adoption Pay

All employers, regardless of size, must pay employees when they are on maternity, paternity or adoption leave from work, if they meet the criteria

STATUTORY

- Many employers may offer contractual maternity, paternity and adoption pay, but there may be repayment rules where an employee fails to return to work. Repayment of Enhanced Maternity Pay on Non-return to Work.
- The standard rate is £135.45 for 2012/13 from 1 April 2012 (£128.73 for 2011/12). Rates of Statutory Maternity Pay (SMP), Statutory Paternity Pay (SPP) and Statutory Adoption Pay (SAP).
- All employers can recover the statutory maternity, paternity and adoption pay paid to employees. Large employers can recover 92% of the amounts paid, and small employers 100% plus a small amount of compensation (3% for 2011/12 and 2012/13).
- Age discrimination legislation — the Employment Equality (Age) Regulations 2006 removed the lower age limit on payments of SMP, SPP and SAP.
- “Keeping-in-touch days” allow employees to work for not more than 10 days while in receipt of SMP or SAP, without loss of entitlement.
- Penalties may be charged for a failure to administer SMP, SPP or SAP properly, for example for not paying amounts due, obtaining funding fraudulently or for a failure to keep proper records or make correct returns.

MATERNITY

- Statutory Maternity Pay (SMP) is paid at two rates - higher and lower. The higher rate paid for the first six weeks is 90% of average weekly earnings. The lower rate paid for a maximum of 33 weeks is the standard rate or 90% of the employee's average weekly earnings if lower.
- Where a woman has two jobs she may be able to receive SMP from both employers.
- Casual workers may be entitled to SMP if they fulfil certain requirements. SMP and Casual Workers.
- An employee is entitled to maternity leave of up to 52 weeks, regardless of whether she qualifies for SMP.

PATERNITY

- Ordinary Statutory Paternity Pay (OSPP) is payable for the two-week ordinary statutory paternity leave period at the standard rate or 90% of average weekly earnings if lower than the standard rate.
- Additional Paternity Leave is available in respect of babies due or children matched for adoption on or after 3 April 2011.
- Additional Paternity Leave can be taken for a minimum of two weeks and a maximum of 26 weeks starting at least 20 weeks after the birth/ placement of the child and ending before the child's first birthday or the first anniversary of the placement.
- Additional Paternity Pay may be paid during ASPL for the time that the employee's partner would have received statutory maternity pay or allowance or statutory adoption pay.
- Additional Paternity Pay is payable at the same rate as Statutory Paternity Pay.

ADOPTION

- Statutory Adoption Pay (SAP) is payable for up to 39 weeks at the standard rate or 90% of average weekly earnings if lower than the standard rate.



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Stress in the workplace will rise

The European Agency for Safety and Health at Work (EU-OSHA) has published the results of its 2nd European Opinion Poll on Occupational Safety and Health, which concludes that job-related stress is a concern for the large majority of the European workforce and that 80% of the working population think that stress in the workplace will rise.

The survey, conducted by Ipsos MORI on behalf of EU-OSHA, measured the opinions of over 35,000 members of the general public in 36 European countries on contemporary workplace issues including job-related stress and the importance of occupational safety and health for economic competitiveness and in the context of longer working lives.

Of those 80% who think that the number of people suffering from job-related stress over

the next five years will increase, as many as 52% expect this to "increase a lot".

This echoes the findings of another EU-OSHA survey on new and emerging workplace risks which found that 79% of managers think that stress is an issue in their companies, making stress at work as important as workplace accidents for companies.

The 2nd European Opinion Poll additionally found that the large majority of Europeans (86%) agree that following good occupational safety and health practices is necessary for a country's economic competitiveness, with 56% strongly agreeing.

Commenting on the issue, a source at the Agency said: "Work-related stress is one of the biggest health and safety challenges faced in Europe, representing a huge cost in terms of human distress and economic performance."



Workplace Stress: Facts

- Stress can cause absenteeism, high staff turnover, low morale, increased insurance premiums, reduced productivity, more frequent accidents and compensation claims.
- Information from General Practitioners indicates that 30.9% of all diagnoses of work-related ill health are cases of mental ill health, with an average length of sickness absence per certified case of 26.8 working days.
- Stress should be treated like any other health and safety hazard. The Health and Safety Executive (HSE) has issued improvement notices for work-related stress to employers since 2003.
- Employers have a general duty of care to ensure employees do not suffer stress-related illness as a result of their work.
- There is no specific legislation relating to stress but it is a risk to health and as such is dealt with under the Health and Safety at Work, etc Act 1974. Mental stress is mentioned in the Health and Safety (Display Screen Equipment) Regulations 1992.
- Under the Management of Health and Safety at Work Regulations 1999 employers must carry out risk assessments, including assessing the risks of stress.
- The HSE has identified six areas of risk: demands of the job; control; relationships; change; role; and support of the individual.
- Employers can gather information about stress in their organisation by qualitative methods (e.g. talking to staff, focus groups) and quantitative methods (e.g. sickness absence data, staff turnover, questionnaires).
- The most common sign of stress is a change to the individual. Changes may include: being withdrawn, producing work of a lower standard than usual, increased sickness absence, alterations in working hours and being short-tempered or irritable.
- Organisations should take a proactive approach to reducing stress levels, e.g. having a policy on stress and effective procedures, providing appropriate training and offering treatment and rehabilitation should it be required.
- Managers have a key role to play in reducing stress. They should be involved in risk assessments and must act appropriately when stress is reported to them.

New French BREATHALYSER LAW

A new law is coming into force in France which requires motorists to carry an approved breathalyser or face a fine of €11 from the French Police.

The move is intended to help persons identify whether they are over the drink-drive limit, which is lower than that in the UK, and refrain from driving when they are over the limit. It is expected that the law may save up to 500 lives a year on France's roads.

Although the law (which is part of a larger set of laws) is now in place it is not until **1st November 2012** that the requirement to carry a breathalyser will actually be enforced on the road. Random checks will be carried out by the Gendarmerie on all drivers, including crossings into France by ferry or through the Channel Tunnel.

Approved breathalyser kits come in two types; single-use chemical or more expensive but re-useable electronic.

In addition to the requirement for breathalyser kits, motorists in France must also carry a high-visibility vest and a warning triangle.

The changes highlight once again the need for UK businesses to understand local laws when sending their employees abroad, something that has commonly been overlooked.

Managing the risk:

- Identify all activities and operations undertaken by employees when working abroad
- Make an initial assessment of all these activities to determine if there is any risk of injury or health impairment
- Find out what local laws might apply to the work activities
- Conduct a full risk assessment of any unavoidable and risky aspects of the work, considering factors such as the tasks, countries, locations and cultures involved, as well as the workers' abilities
- Implement appropriate control measures and do any necessary pre-planning to remove or reduce the risk of injury or health impairment
- Ensure that adequate information and preparation time is given to workers before they travel
- Ensure there is a written travel policy that is communicated to everyone in the organisation
- Provide suitable training and keep a record of all training, preparation and assessments on file
- Be prepared to review risk assessments and the travel policy regularly, especially if there are any changes in personnel or the countries visited, or if any injuries or health problems occur.



PREVENTING FALSE Fire Alarms

Fire alarms act as a vital early warning system, helping keep people safe by alerting them to fires and giving them more time to escape. However, the majority of automatic fire alarms are false alarms caused by faulty or badly maintained fire systems. For example in 2008 'unwanted fire signals' (false fire alarms) accounted for 48,771 callouts for the London Fire Brigade.

False alarms can prevent firefighters from attending real emergencies or carrying out vital fire safety work. Frequent false alarms can also cause people to be less willing to act in the event of a real fire.

In recent years, many of the fire brigades have changed their policies regarding automatic fire alarms. This means that when a fire alarm system in a building operates, and the Fire and Rescue Service is contacted, they will ring back whoever is responsible for fire safety to check, where possible, if there are actually any signs of fire.

As a result of this change the number of false alarms being attended by firefighters in London has fallen by more than 15% over the last four years to 40,734 false alarms in 2011.

According to Cllr Brian Coleman, Chairman of the London Fire and Emergency Planning Authority:

"It's clearly good news that the number of false alarms we're called out to is going down. However, these incidents are still happening all too frequently and they continue to be a drain on the public purse. Businesses need to make sure their alarms are properly maintained so our firefighters can focus on attending real emergencies."

Useful Information

Greater Manchester Fire and Rescue has produced some helpful information for businesses on safe ways of investigating fire alarms.

- When you investigate, use your senses and if at any time you find signs of a fire, retreat from the building and make sure the fire and rescue service is called on 999.
- Ensure your building is being evacuated in accordance with your alarm procedure, before doing anything else.
- The fire risk assessment for your premises is up to date and reflects the conditions in your premises.
- Your fire alarm and detection system has been properly designed, installed, and commissioned and that it is properly managed and maintained;
- You have people designated to take responsibility for the management and maintenance of your fire alarm system;
- In the event of your fire alarm operating, the premises is evacuated, where this forms part of the fire strategy for your premises;
- Your fire alarm procedures include the

designation of specific staff to check whether or not there are any signs of a fire, when the fire alarm sounds;

- If any signs of fire are found, ensure that there is a designated member of staff to call the Fire and Rescue Service using the 999/112 system; and
- Any false alarms are properly recorded in the fire alarm log book, including remedial actions taken to prevent a recurrence.

Further Information

www.manchesterfire.gov.uk/media/28838/investigate-false-fire-alarms.pdf

Checklist

The Fire Brigade has asked those in charge of the buildings and businesses to:

- ✓ Ensure that someone within the building is responsible for the alarm and knows what to do when it goes off;
- ✓ Check that fire alarms are properly installed and are being properly managed and maintained;
- ✓ Investigate fire alarms themselves before calling the Brigade out, where it is safe and practical to do so; and
- ✓ Ensure false alarms are followed up and action is taken to prevent unnecessary further alarms



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Monthly testing of all smoke alarms is recommended by the Fire Brigade



The Agency Workers (Amendment) Regulations 2011 implemented in October 2011 give agency workers the entitlement to the same basic employment and working conditions as if they had been recruited directly

They are not an employee of the user company and may or may not be an employee of the agency.

The user company pays the agency for its services and the agency is responsible for paying the individual. If the individual is an employee of the agency, the agency will also be responsible for paying their holiday pay and sick pay.

The contractual position of agency workers has consistently caused legal problems and some uncertainty. In a typical "triangular" relationship, the agency engages the services of an individual to work for another (the user company/client). In these circumstances, individuals may have a contract with the agency but not with the user company with whom they are placed; alternatively, they may be

contracted to the client to whom they have been introduced by the agency.

In addition, there will usually be two types of engagement: the worker's "general" engagement with the agency, under which they perform sporadic tasks at the agency's request for one of the agency's clients; and specific engagements, which begin or end with the performance of any one of these tasks. Each engagement is capable, according to its context, of giving rise to a contract of employment. Contractual status may be judged separately in the two contexts.

To illustrate the importance of this, it is useful to consider an example. An organisation with a warehouse may well need temporary cover for warehouse operatives. It is also likely that

the risk assessment within the warehouse requires protective footwear to control the risk of foot injury. If the temporary operative is the employee of an agency, then the agency is responsible for providing the operative with protective footwear free of charge. Alternatively, if the client organisation can be considered as the employer, they will be responsible for the provision of protective footwear - even for the short duration of the temporary operative's work there. One particular way around this is to ensure that it is made a contractual condition with the agency that any operatives sent will arrive with the correct personal protective equipment for the risks as notified by the client. This clause may of course be subject to some negotiation where specialist equipment is necessary - but the key is the contract with the agency.





Case Study

The British Heart Foundation website gives an example of Gary Humphries from Caerphilly, who owes his life to staff at his local leisure centre. He suffered a heart attack and went into cardiac arrest while playing squash. He probably would have died if the centre had not had a defibrillator present.

Two members of staff at the leisure centre had recently been trained how to use the equipment and it was the first time they had put their training into practice. They applied a shock from the defibrillator within two minutes of his collapse, which revived Mr Humphries despite him being clinically dead for those two minutes.



First Aid BEST PRACTICE

Do I have to provide a defibrillator?

There is no specific legal requirement for employers to provide automated external defibrillators (AEDs). The Health and Safety (First-Aid) Regulations 1981 require the employer to provide, or ensure that there are provided, such equipment and facilities as are adequate and appropriate in the circumstances for enabling first aid to be rendered to employees if they are injured or become ill at work.

The responsibility for deciding whether to provide defibrillators and train staff in its use lies with an individual organisation. A decision should be made after conducting a well-documented risk assessment at the site in question.

Coronary heart disease is the largest single cause of death in the UK. It is estimated that 12,000

people suffer a cardiac arrest in a public place each year and application of an AED within five minutes of collapse has been reported to greatly improve the sufferer's chances of recovery.

HSE states that "there is no legal bar to employers making a defibrillator available in the workplace if the assessment of first-aid needs indicates such equipment is required". Important factors to consider when assessing the risk of cardiac arrest will include the number of people using a facility and the risk of cardiac arrest occurring at the site.

Employers also have no legal obligation to provide first aid for members of the public. However, many organisations provide a service for others and the HSE strongly recommends that employers include the public and others on their premises when making their assessment of first-aid needs.



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A victim's chances of survival are reduced by 7 to 10 percent with every minute that passes without CPR and defibrillation. (Source: American Heart Association)

What is a Defibrillator?

An AED or Automated External Defibrillator is a life saving device which gives anyone, trained or untrained, the ability to deliver a life saving shock of electricity through the chest to the heart putting it back into a normal rhythm. Once opened, the machine gives full instructions on what you should do.

Can I use a Defibrillator?

Yes, you can use an Automated External Defibrillator (AED). Many public places, such as train stations and shopping centres now have one available. The machine may not even shock the person if that isn't the best action to take. Even when the machine does shock them, it doesn't always mean that their heart will restart afterwards.

Legionnaires' UPDATE

The recent Legionnaires' Disease outbreak in Edinburgh, which led to several fatalities, has once again highlighted the importance of taking adequate precautions to protect people from legionella bacteria. However, the risk is often misunderstood or overlooked.



What is Legionellosis?

Legionellosis is a group of diseases, which includes Legionnaires' Disease. This potentially fatal infection has symptoms similar to flu and pneumonia. Legionella Pneumophila, the bacteria responsible for legionnaires' disease, exist naturally in external watercourses and can easily transfer to water used in buildings, via air-conditioning and recirculated hot and cold water systems. In certain conditions bacteria can multiply to dangerous levels in stored water.

Legionnaires' Disease is caused when water droplets containing the bacteria are inhaled. Typical sources of such water droplets include shower sprays and the exhausts from wet cooling systems. Industrial cooling towers and evaporative condensers may create the risk of offsite cases of Legionnaires' Disease. Particularly vulnerable people include smokers, diabetics and those who have chronic respiratory or kidney disease.

Legal Requirements

Employers and those responsible for maintenance of installations that carry a risk from legionella, must carry out an assessment of the risk. Steps to prevent or minimise such risks under the Health and Safety at Work Act 1974 and Control of Substances Hazardous to Health Regulations 2002 must be implemented.

Where a foreseeable risk of exposure has been found, the first measure is to completely avoid the use of a water system, parts of it or systems of work giving rise to it. Often, this is not practicable and a written scheme for controlling this risk should be devised, implemented and efficiently managed. It is important to appoint a person responsible for the control of legionella. This serves to ensure that there are no 'gaps' in the management of the risks.



Chemical Label CHANGES

Changes will be made to the chemical warning labels used on a variety of professional and consumer products as part of a United Nations sponsored programme to harmonise the labels on a global process.

The timing of the switch depends on whether the chemical is a pure substance or a component in a mixture. Substances had to be classified, labelled and packaged in conformance with the new Regulations by 1 December 2010, although substances already on the shelves on that date can continue to be supplied until 1 December 2012. The corresponding dates for mixtures are 1 June 2015 and 1 June 2017. The Chemical Hazards communication has created a handy guide for users that can be accessed at www.understandthelabel.org.uk

The Control of Substances Hazardous to Health Regulations 2002 (COSHH) implement the requirements of the Chemical Agents Directive (EU no. 98/24/EC) and place a strong emphasis on prevention of exposure to hazardous substances in order to prevent workers suffering ill health.

Under COSHH the onus is on the employer to identify the hazardous properties of all the substances in use and assess health risks due to the way they are used and the potential exposure of workers and others affected by the work.

This broad definition covers substances in the form of solids, liquids, gases, fumes, dusts, fibres, mists, vapours, and biological agents ('germs').

Examples include:

- chemical substances or preparations, such as paints;
- cleaning materials;
- metals;
- asphyxiate gases;
- welding fumes;
- pesticides and insecticides; and
- biological agents such as pathogens or cell cultures.



**Concerned about changes?
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Where prevention is not possible then exposure must be adequately controlled by applying the principles of good control practice. There are many thousands of substances hazardous to health used in industry and other workplaces, but only a few hundred have been assigned exposure limits.

Label changes

Changes will be made to the chemical warning labels used on a variety of professional and consumer products over the coming years as part of a United Nations sponsored programme to harmonise the labels on a global basis.

The warning symbols currently used will be replaced with a range of new symbols. The design of the new symbols comprises a white diamond with red borders containing a black pictogram. Some of the new symbols are similar to the previous versions and are easily recognised, but several are new.

To help users familiarise themselves with the new labels, the Chemical Hazards Communication Society (CHCS) has created a handy guide for users that can be accessed at www.understandthelabel.org.uk.

Stuart Longworth, Chairman of the CHCS, commented: "The Regulations governing the new labels are an essential part of the Globally Harmonised System of Classification and Labelling of Chemicals (GHS). They will make life easier for consumers when they travel and businesses when they import and export products because there will eventually only be one set of symbols to deal with throughout most of the world."

In order to give industry and consumers time to adapt to this new system, manufacturers can continue using the 'old' warning labels over a transitional period.

The timing of the switch depends on whether the chemical is a pure substance or a component in a mixture. Substances had to be classified, labelled and packaged in conformance with the new Regulations by 1 December 2010, although substances already on the shelves on that date can continue to be supplied until 1 December 2012. The corresponding dates for mixtures are 1 June 2015 and 1 June 2017.

Case Study

A pharmaceutical company was fined after a number of its employees were sensitised to a potent substance and developed allergic contact dermatitis. The HSE prosecuted the company after at least ten employees developed the skin condition when working with Olanzapine. The substance is an active ingredient in one of the most commonly prescribed anti-psychotic drugs and is a known cause of allergic contact dermatitis.

The firm pleaded guilty to four charges under Regulations 6(3), 7(1), 11(1) and 11(3) of the Control of Substances Hazardous to Health Regulations 2002 (COSHH), as well as one charge under Section 2(1) of the Health and Safety at Work etc. Act 1974. It was ordered to pay a fine of £50,000 plus £50,123.10 in costs.

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Q&A'S

Q. What responsibilities do I have for drivers visiting my site?

A. You need to ensure that all visiting drivers (e.g. commercial or agency drivers) are covered by your site risk assessment, which must be carried out under the requirements of both the Health and Safety at Work Act 1974 (as amended) and the Management of Health and Safety at Work Regulations 1999.

Drivers, and especially agency drivers, might have never visited a site before, and might be on site only for a short time. You should consider:

- Workplace layout
- Site rules
- Directions and maps
- Approach information (e.g. narrow routes, weak or low bridges)
- Where drivers enter and leave the site with the vehicle
- Safe routes on foot around the site if they need to use the toilet, the office or the canteen
- Relevant safe working practices (e.g. for parking and unloading).

To help visiting drivers, think about printing information on the back of order forms and invoices and issuing to all visiting drivers a "safe operating procedure" for the site in the form of a laminated card, which can be used many times.

You should work with the employers of visiting drivers to co-ordinate the measures you both need to take to meet their health and safety responsibilities. For example, employers should:

- Provide safe access to a vehicle for loading or unloading
- Provide suitable equipment (e.g. for drivers delivering at retail outlets) to unload safely
- Make sure that vehicles and the ground they have to use are suitable for safe working.

Controls such as safe operating procedures should be drawn up with visiting drivers in mind.



Q. We have a plumbing business, please help with what controls we should put in place to protect the installers from catching legionnaires disease?

A. Workers will only be at risk if there is a risk of inhaling droplets or aerosols. Hopefully, virtually all work can be carried out in a manner that avoids this. Where droplet formation cannot be avoided, for example in the water jetting of cleaning towers, the only option is to use RPE as detailed in Legionella Code of Practice L8:

As systems requiring cleaning may have been contaminated, the operator and others closely involved in the work should wear suitable respiratory protective equipment. This can be a powered filter and hood, European Class TH3 (assigned protection factor of 40) or a power-assisted filter and close-fitting full-face mask, TM3 (assigned protection factor 40). It should be borne in mind that the filter on these systems is liable to get wet, and so resistance to air can increase, causing discomfort to the operator.

Alternatively, a hood or full face mask fed with breathing quality compressed air may be used. The preferred equipment is a full-face close-fitting airline mask with a positive pressure demand valve, under a hood or helmet protecting the rest of the head. The air supply should come from an oil-free compressor drawing air through a filter from a location well upwind of any jetting operation or using cylinder supplies of compressed air.



Q. Our IT Comms room contains a lot of cardboard boxes, some necessary some unnecessary. I'm concerned if the air con breaks down the IT Comms room will get very warm and the boxes and other waste become a potential hazard. Where possible should all combustible waste like cardboard and plastic be removed from the Comms room? Would a couple of boxes holding items in the room be ok?

A. Any room must be subject to good housekeeping and free from slip and trip hazards to fulfil the requirements of the Welfare Regulations 1992.

The Fire Safety Order 2005 or equivalent also requires the employer to assess fire risks in the premises and to minimise combustible material present and to separate combustible material from potential ignition sources.

Yes a few boxes is usually ok, as long as it fulfils the requirements above.



Q. We deliver office products using our own vans. During one customer delivery, one of the vans drove away with the side door left open and some products fell out of the vehicle. Fortunately, no one was injured, but can you advise of what procedures should be in place following such an incident?

A. The first step will be to hold a meeting with the driver to establish what happened from his or her point of view. Following this, record the incident as a "near miss" as although some products were damaged, no one was hurt.

It is important to speak to the other drivers explaining what happened in order to ensure that they are informed of the error and to avoid it happening again. Considering your drivers may be transporting large items of office equipment, the incident is something that all drivers should be aware of and the potential for serious injury - it could have been a heavy cabinet falling from the vehicle, and a customer, employee, or member of the public may have been walking past.

It is also important to stress that they must be vigilant when driving and making deliveries, making sure that the products in their vehicles are secure.

There is also a security issue to consider if a driver makes a delivery and leaves the delivery van left unattended with the doors open or unlocked. Doors must be locked at all times in order to avoid both theft from the vehicle or to prevent goods falling from it.



Q. We have an off-site warehouse storage facility and are making some operational changes to the site. We currently have three operators per shift and we are looking to allow a transport operation to also use the site. It will use the site as a depot for its 20 drivers to pick up deliveries. We currently have one urinal and one toilet for men, and one toilet for women. Do we need to consider welfare facilities for a maximum of 23 people?

A. No, you do not need to provide facilities for the drivers who will be using your site. Welfare requirements are applicable only to those people based permanently at the warehouse and, in this instance, the drivers will be considered as mobile workers, as they may be on site from time to time but they will not be staying for any extended period of time at the warehouse.

The minimum number of mixed use or women-only sanitary conveniences and washing stations for people at work are as follows.

- 1–5 people: 1 WC and 1 washing station.
- 6–25 people: 2 WCs and 2 washing stations.

Facilities required for use by men only are 1 toilet and 1 urinal for up to 15 people.

Where separate sanitary accommodation is provided for a group of workers, e.g. men, women, office workers or manual workers, separate calculations should be made for each group. Therefore, your current facilities are safely within the parameters to comply.

Q. On our Workstation Risk Assessment, several staff members are suffering with eyestrain what advice or actions can we take other than advising regular breaks or providing an anti-glare screen if there is an issue with glare. Some are glasses wearers some are not.

A. Other measures include going for an eye test, which they are entitled to for free if they are DSE users as defined by the DSE Regulations. Ensure the workplace environment is also comfortable such as adequate humidity (in an office should be between 40-60%). They should regularly refocus their eyes by looking away from the screen and focusing on something in the distance. Also ensure the screen in terms of issues like text size, background and foreground colours, monitor size are suitable for each employee. They should be given information on how to adjust all the options on the screen/monitor. All these should be recorded in the workstation assessment and so should any follow up actions.



Workplace

WELFARE CHECKLIST

The work environment, regardless of the work being done, impacts on employees’ health and safety. This document provides a quick check as to whether workplace welfare standards are being met.

Name of organisation

Address of premises

Health Hazards	YES	NO	N/A	COMMENTS
Are there factors that can affect health, as follows?				
Does ventilation need improving to remove stale or humid air?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Are any areas draughty? (apart from areas open to the outside)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Does the heating system need improving to maintain the minimum 16°C indoor working temperature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Does hot water temperature require raising to remove legionella risk (60°C)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
If work makes overclothes dirty e.g. dirt/dust, are changing areas with lockers provided?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Is clean drinking water provided?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Are clean eating and drinking areas provided?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
If smoking is permitted outside, are suitable smoking bins and shelters provided?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Are there an adequate number of restrooms?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Do rest rooms require more stringent hygiene standards?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

To download a checklist please visit:
www.seton.co.uk/wfchecklist

Safety Hazards	YES	NO	N/A	COMMENTS
Are there any hazards that can endanger safety, as follows?				
Does lighting need improving to reduce trips, collisions, etc?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Do employees have enough space to carry out their work safely and to move around?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Do access routes need clearing of goods, materials or debris?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Do swing doors require transparent panels fitting?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Do windows require safety devices to prevent someone falling through the opening?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Do sliding doors need devices to stop them falling off their tracks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Do powered doors require fitting with a device to prevent trapping or crushing?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Do upward opening doors require counter-balances to keep them open?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Do guardrails of at least 1100mm need fitting to any area where it is possible to fall 2 or more metres?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Does the stability of storage systems require improving?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Does the emergency lighting system require improving?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Do fire and escape routes need clearing of obstructions?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Do fire escapes require more visible signs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Investigation Results

If all answers to the questions above are “no” or “n/a”, no further action is required at this time. Simply sign and date the form in the space provided below.

If one or more answers to the questions above are “yes”, sign and date the form, and record deficiencies and remedial actions in the spaces alongside the questions above.

Audit undertaken by (print name)

Audit undertaken by (sign name)

Date

NewsROUND UP

October 2012

Supermarket fire breaches

Supermarket retailer, Asda, has been fined £40,000 for serious fire safety breaches, after pleading guilty to two charges brought under the Regulatory Reform (Fire Safety) Order 2005. Royal Berkshire Fire Authority (RBFA) brought the charges after finding fire exit doors chained and locked, obstructed fire escape routes and combustible items blocking fire exit doors and escape routes.



Fine for worker's fall

A building firm has been prosecuted after a worker suffered severe injuries when he fell from a damaged scaffolding plank at a site in South Warwickshire. The firm pleaded guilty to breaching Regulation 6(3) of the Work at Height Regulations 2005 and was fined £12,000 and ordered to pay £3,353 costs.

Labour to close loophole

"The next Labour Government would freeze the assets of a firm pending investigation if a worker was killed on the job," said Shadow Business Secretary, Chuka Ummuna. Currently, firms threatened with prosecution after a worker is killed at work can avoid legal proceedings by going into administration and then resuming business under a similar trading name.

Office worker fall

A receptionist fell more than three metres through a roof light while spending her lunch break on the flat roof of the dental surgery where she worked. The owner, who had failed to act on advice to remove the keys to the roof access door and to post 'no entry' signs, was found guilty of breaching the Health and Safety at Work etc. Act 1974 and was fined £18,500 with costs of £71,632.79.



Worker death a family tragedy

A building contractor has been fined for serious safety breaches after a worker was killed by a piece of falling cob wall being demolished by his son. The firm pleaded guilty to a breach of Section 3(2) of the Health and Safety at Work etc. Act 1974, was fined a total of £10,000 and ordered to pay compensation to the family of £2,390 at Dorchester Crown Court in a case brought by the HSE.



Mental illness help

ACAS has launched a 32 page guide to dealing with mental illness at work. It includes advice on how to spot the signs of mental ill health, raise awareness among managers and staff, encourage employees to feel comfortable disclosing their condition, and approach an employee who may have a mental health condition and try to help them cope with it or overcome it so they can work effectively again. To download the free guide visit www.acas.org.uk and search for promoting positive mental health at work.



Euro health campaign

The European Agency for Safety and Health at Work (EU-OSHA) has launched a two-year Healthy Workplaces campaign on working together for risk prevention. EU-OSHA's new campaign turns the spotlight on the importance of management leadership and worker participation in improving workplace safety and health.



Forklift Corporate Manslaughter conviction

A farming company has become the second firm to be convicted under new Corporate Manslaughter legislation. JMW Farms Ltd was fined £187,500, plus £13,000 costs, for health and safety failings that led to the death of 45-year-old employee, Robert Wilson, who was killed after being struck by a metal bin which fell off a forklift.



Workers driving illegally

UK drivers are facing increasing danger on the roads as thousands of workers are driving illegally. Licence Bureau, the UK's leading authority on driver qualifications, estimates that there are 24,000 people driving illegally for companies in Britain today. During 2011 Licence Bureau found that on average one in every 300 licences were invalid.

Myth busters panel

The HSE has set up a Myth Busters Challenge Panel – to scrutinise decisions where health and safety has been used as a convenient excuse to stop essentially sensible activities going ahead. The panel will look into complaints regarding the advice given by non-regulators such as insurance companies, health and safety consultants and employers and quickly assess if a sensible and proportionate decision has been made.



SMEs miss stress

A quarter of small business owners in the UK do not feel confident they would be able to recognise and address ill health, stress or depression among their staff. More than half (55%) confessed they regularly discussed the weather with an employee but only one in four (27%) would discuss an employee's health, according to Bupa research.



Heart help

A new online guide to help employers raise awareness about heart disease in their workplaces has been launched by the Institution of Occupational Safety and Health (IOSH). The Toolkit is a set of guidance for employers, employees and the general public to tap into to find out more about the facts behind the causes, signs and symptoms and different types of heart issues. www.iosh.co.uk/information_and_resources/our_oh_toolkit.aspx



Fatality at recycling plant

A recycling company has been fined £200,000 after an employee died from head injuries at its paper baling site. The HSE prosecuted the firm after Mark Bate was killed instantly when the arm of a JCB skid steer loader crushed his head. SITA UK Ltd pleaded guilty to breaching Section 2(1) and Section 3(1) of the Health and Safety at Work etc. Act 1974.



Fire fines

The former owners of a Wolverhampton Hotel have been fined almost £44,000, including costs, following 11 breaches of fire safety. Connaught Hotel (West Midlands) Ltd was found guilty of offences including a fire alarm not working, no smoke alarms or detectors in rooms, and blocked fire exits.



Workplace deaths 'underestimated'

Workplace deaths are underestimated by more than 800%, the union Unite has announced. The largest union in the country accused ministers of introducing 'light touch' health and safety regulations and called for an increase – not a decrease – in the number of inspectors and workplace inspections.

Fire door
keep shut

Trench collapse

A Nottinghamshire engineering company has been fined after a worker was buried up to his waist when a trench collapsed. Phil Watson of Civil Engineering Ltd pleaded guilty to breaching Regulation 31(1) of the Construction (Design and Management) Regulations 2007, was fined £10,000 and ordered to pay full costs of £2,141.



Seriously good health

Taking a serious approach to ill health, as well as safety, on construction projects is a highly effective measure. This is the finding of research by the Institute for Employment Studies carried out for the Health and Safety Executive (HSE) and the Olympic Delivery Authority (ODA), on the occupational health provision for the Olympic Park and Olympic Village.



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