

# Legislation WATCH

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

## Fatal fibres kill 4,000 each year

Asbestos is the greatest single work-related cause of death in the UK with over 4,000 asbestos-related deaths each year.

See pages 4-7

### Risk assessment

Follow the 5 steps to safer working

Pages 14-15

### Safety signs guide

Are your fire signs in the right place?

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an iPod Shuffle



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## From the editor...



It's been more than 10 years since the **asbestos** era was brought to a grinding halt and the UK mandated a 3 month phase-out of asbestos use. The problem hasn't gone away though and lives continue to be claimed. The UK still has an estimated half a million non-domestic premises that contain some form of asbestos which poses a huge health risk if disturbed without the correct training and equipment – **read all about it on pages 4-7.**

On the 23rd February the first trial under the **Corporate Manslaughter Act 2007** goes to court. Peter Eaton, Director of Cotswold Geotechnical Holdings Ltd, faces charges both as an individual and on behalf of the company after an employee was killed when the trench he was taking soil samples from collapsed. **See pages 9-11 for details** on this stringent new legislation.

Thanks to everyone who took part in the email survey and the competition – in this issue you can **win an iPod Shuffle** so test your knowledge on **page 29!**

Cheryl Peacock, Editor  
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*P.S. You can download more copies of Legislation Watch for FREE – simply go to [www.legislationwatch.co.uk](http://www.legislationwatch.co.uk)*

# Legal update

## Tower Crane Regulations

**April 2010**

New regulations and a register for tower cranes will be brought into force following consultation by the HSE, construction companies and trade unions. The register is in response to increasing public concern about tower crane safety. Eight people have been killed in incidents involving tower cranes since 2000, including one member of the public. Each of the 1,800 tower cranes currently operating in the UK will be required to register with the scheme, giving details of its operation and safety checks.



## Artificial Optical Radiation

**27th April 2010**

The Control of Artificial Optical Radiation at Work Regulations will come into force, implementing the Physical Agents (Artificial Optical Radiation) Directive (2006/25/EC). Intense sources of artificial light in the workplace, particularly from UV radiation and powerful lasers, can harm the eyes and skin of workers and need to be properly managed. The Directive aims to ensure that standards are set and harmonised across the EU so all workers are protected from harm arising from exposure to hazardous sources of artificial light. Common sources of light in the workplace such as office lights, photocopiers and computers will not be affected by the Regulations.



## Social Security and Statutory Sick Pay

**April 2010**

The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) Amendment Regulations 2010 comes into force, replacing old style sick notes with 'fit notes'. The purpose of the new system is to allow GPs more flexibility in determining whether an employee is fit or unfit for work, giving a third option – 'may be fit for some work now'.

## Legislationwatch.co.uk

**FREE** up-to-date information on workplace law and legislation

- Download previous editions
- Learn about the latest legislation
- Read shocking case studies
- Gain useful workplace advice
- Enter the latest competition **...and much more!**



**LegislationWatch**  
Your Guide to Workplace Law and Legislation

# Asbestos the fatal fibres



Asbestos is the greatest single work-related cause of death in the UK with over 4,000 asbestos-related deaths each year.

This naturally occurring fibrous mineral was used for fireproofing and insulation in non-commercial buildings before it proved to cause serious, often fatal diseases if inhaled.

The most dangerous blue and brown asbestos was banned in 1984 whilst the import and use of white asbestos has been prohibited since 1999. There are still an estimated 500,000 non-domestic premises that contain some form of asbestos, but most experts agree this only poses a risk if it is disturbed or damaged enough to release fibres into the air.

The three main asbestos-related conditions are asbestosis, lung cancer and mesothelioma. Those most at risk are the 1.8 million building maintenance workers in the UK. However, there have also been cases of asbestos-related disease after prolonged contact with the material, for example; it was claimed recently in a high court writ that a former prep school teacher died from malignant mesothelioma after prolonged exposure to asbestos-lagged pipes.

Building owners and those in control of non-domestic premises have a duty to manage the **asbestos-containing materials (ACM)** within their buildings by formulating an asbestos management plan.

### This involves:

- identifying whether buildings have ACM
- assessing the risk from each occurrence
- having a process to manage the ACM

Any work on ACM is regulated by the need for additional risk assessments prior to work taking place, control measures to prevent the spread of asbestos and evidence of training and competency.

Work on some ACM may be restricted to HSE-licensed companies. They must follow a notification procedure and carry out the work inside segregated work areas using specially trained operatives who undergo medical surveillance.

Continued...

“Those most at risk are the 1.8 million building maintenance workers in the UK.”

### Case Study 1

Two companies were prosecuted after workers and members of the public were exposed to unacceptable levels of asbestos during a removal project. A & T Roofing Ltd was fined £25,000 and ordered to pay costs of £33,844.30, and Noble Gift Packaging Ltd was fined £40,000 and ordered to pay costs of £19,223.65.

Noble Gift Packaging Ltd contracted A & T Roofing Ltd to remove the roof from a building, which was lined with 3,000 square metres of asbestos insulating board which contained Amosite. This requires removal in highly controlled conditions by licensed asbestos contractors.

A & T Roofing Ltd employees spent 12 weeks removing and smashing the boards before sweeping the dust and debris into bags. The workers were not provided with effective protection, even after employees complained and a tested sample showed the presence of asbestos. Workers at the site were exposed to potentially deadly fibres which were also carried on their clothes and into their homes, vehicles and on to public transport. This may have contaminated the general public and their own families.



Go to [www.legislationwatch.co.uk/prod82](http://www.legislationwatch.co.uk/prod82)



## CAUTION ASBESTOS

## CAUTION ASBESTOS

## CAUTION AS

## Legislation

**The Control of Asbestos Regulations (CAR) 2006 is the single statutory instrument dealing with asbestos in the UK.**

**The main parts are as follows:**

- Risk assessments to be undertaken and plans of work to be prepared for all work on asbestos
- Work becomes licensable, notifiable and workers subject to medical surveillance if the control limit will be exceeded

- Control limit for all types of asbestos is 0.1 fibres per cubic centimetre (f/cm<sup>3</sup>) of air measured over eight hours
- There is no requirement for licensing, notification or medical surveillance if worker exposure is judged to be 'sporadic and of low intensity'. This is defined as being below the control limit and comprises of:
  - short, non-continuous maintenance activities
  - removal of non-degraded materials firmly linked in a matrix
  - encapsulation or sealing of ACM in good condition
  - air and bulk sampling
- Awareness training should be given to those whose work may disturb the fabric of the
- Selection of Respiratory Protective Equipment (RPE) is based on reducing exposure as low as reasonably practical, not just below the control limit

## Asbestos management key action points

- Assess the likelihood of ACM in your premises
- Decide whether a survey is needed



- Incorporate the survey information into an Asbestos Management Plan
- Make this information available to anyone on site who may need it, e.g. contractors
- Keep the information up to date
- Assess whether removal or repair work will require a licensed or non-licensed contractor
- Seek specialist advice if unsure of any of the above requirements

## Further information

HSE – Asbestos:  
[www.hse.gov.uk/asbestos](http://www.hse.gov.uk/asbestos)

ATAC Asbestos Testing and Consulting:  
[www.atac.org.uk](http://www.atac.org.uk)

Asbestos Removal Contractors Association:  
[www.arca.org.uk](http://www.arca.org.uk)



Go to [www.legislationwatch.co.uk/prod83](http://www.legislationwatch.co.uk/prod83)

Go to [www.legislationwatch.co.uk/prod84](http://www.legislationwatch.co.uk/prod84)

## Case Study 2

A company pleaded guilty to four charges under the Control of Asbestos Regulations 2006 in relation to refurbishment work carried out by a contractor at its premises. Vale Inco Europe Ltd was fined £12,000 and ordered to pay costs of £28,000.

The company had carried out asbestos surveys on the buildings but had not surveyed the interior of plant and equipment. As a result, asbestos insulation material within the reformer furnace was disturbed and broken giving rise to powder and fibres.

## HSE Facts

Every week on average...

- 4 Plumbers die
- 20 Tradesmen die
- 6 Electricians die
- 8 Joiners die

...all from this hidden killer.

Building owners have a duty to manage the asbestos-containing materials (ACM) within their buildings.

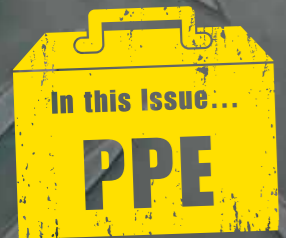


**Warning  
may contain  
asbestos**

**Breathing  
asbestos dust  
is hazardous  
to health**

**Follow safety  
instructions**





# Toolbox Talk

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

## A Guide to Personal Protective Equipment

Employers have basic duties concerning the provision and use of personal protective equipment (PPE) at work.

We've put together a useful presentation to help you understand the requirements of the Personal Protective Equipment at Work Regulations 1992 (as amended).

### This FREE presentation covers:

- Definition and types of PPE
  - Regulation requirements
  - Assessing suitable PPE
  - Hazards and equipment options
  - Training
  - Maintenance
- ... and much more!



## FREE Toolbox Talk Training Slides!

Download our useful presentation to train your staff on the importance of PPE

### How to

1. Go to: [www.legislationwatch.co.uk/toolbox2](http://www.legislationwatch.co.uk/toolbox2)
2. Save the file to your PC (to ensure you see the trainers notes)
3. Arrange your training session!



# STRINGENT NEW PENALTIES FOR CORPORATE MANSLAUGHTER

## The Corporate Manslaughter Act affects everyone with responsibility for the health and safety of employees

The Corporate Manslaughter and Corporate Homicide Act 2007 came into force on 6th April 2008 and is one of the biggest changes to health and safety law since the HSWA (Health and Safety at Work Act). It affects everyone with responsibility for the health and safety of employees by making it easier to prosecute organisations where their gross negligence leads to the death of employees or others.

The recent publication of new consultation guidelines from the Sentencing Guidelines Council means that a successful prosecution for health and safety offences resulting in death could result in stringent penalties running into millions, rather than thousands, of pounds.

Employment law expert, Paul Verrico of Eversheds LLP explains:

“Currently, if an organisation is found to have breached health and safety law and killed someone, the normal ball park for a fine is between £100,000

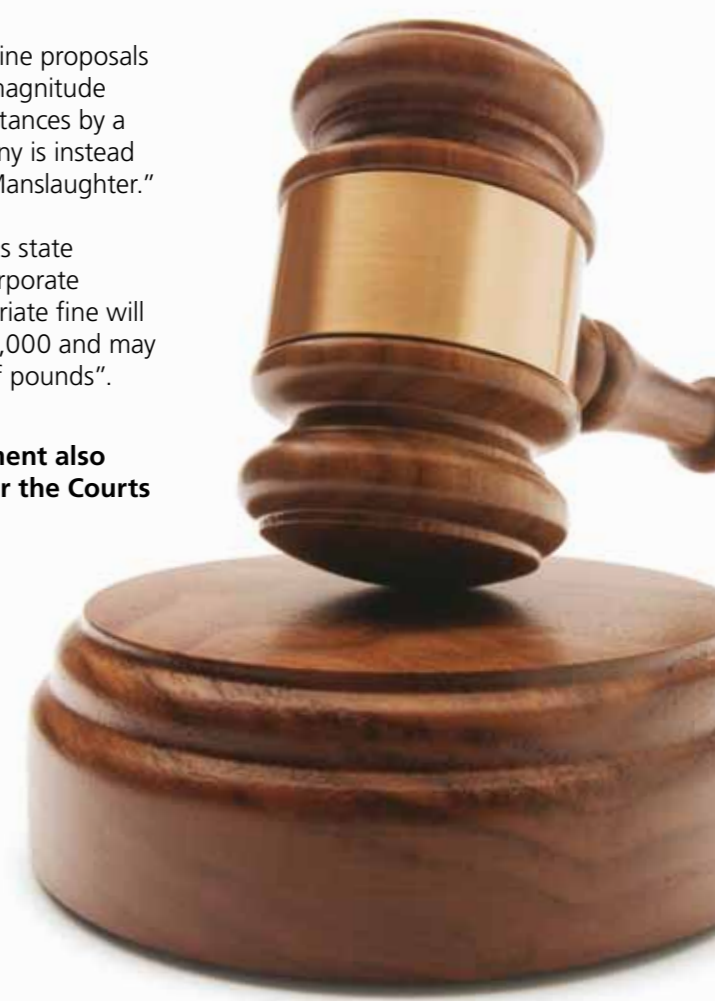
and £250,000. The guideline proposals are likely to increase the magnitude of a fine in similar circumstances by a factor of ten if the company is instead charged with Corporate Manslaughter.”

The consultation guidelines state that for the offence of Corporate Manslaughter, the appropriate fine will “seldom be less than £500,000 and may be measured in millions of pounds”.

The consultation document also puts forward criteria for the Courts to assess, including:

- the size of the fine
- how foreseeable was serious injury
- how far short of the applicable standard did the defendant fall
- how far up the organisation the breach went

Continued...



**Other factors that may aggravate the offence are:**

- if more than one person died
- failures to heed warnings
- cost-cutting at the expense of safety

In addition to a fine, a company found guilty could be subject to a Publicity Order. This is intended to act as both a deterrent and a punishment, given that the effect on the reputation of an organisation could be so damaging it could threaten its continued operation.

**As we go to print...****Case Study: Cotswold Geotechnical Holdings Ltd**

On 23rd April 2009 the CPS advised of the first corporate manslaughter charge under the new Act against a limited company, Cotswold Geotechnical Holdings Ltd, in relation to the death of Alexander Wright in September 2008. Should Cotswold be found guilty of Corporate Manslaughter, it could receive an unlimited fine.

However, as it is only a small company with an annual turnover in its last audited accounts of £333,000, the level of the fine is unlikely to be huge. The Court could also impose upon Cotswold a remedial order (requiring it to remedy any deficiencies) or a publicity order (requiring Cotswold to publicise in the media details such as the particulars of the conviction, the amount of any fine imposed and the terms of any remedial order made).

The Cotswold trial will be heard at Bristol Crown Court on 23rd February 2010 and is expected to last for six weeks.

**Good practice**

The Institute of Directors (IoD) and HSE have published a guide that lists the essential principles to underpin good practice in health and safety, such as:

- strong and active leadership from the top
- visible, active commitment from the board
- establishing effective 'downward' communication systems and management structures
- engaging the workforce in the promotion and achievement of safe and healthy conditions
- providing high quality training
- identifying and managing health and safety risks
- monitoring, reporting and reviewing performance

**Other good practice tips include:**

- health and safety issues should appear regularly on the agenda for board meetings
- either the chief executive or a specific board member should be named as a health and safety 'champion'

**Further information**

[www.iosh.co.uk](http://www.iosh.co.uk)

IOD / HSE: Leading Health and Safety at Work – [www.hse.gov.uk/pubns/indg417.pdf](http://www.hse.gov.uk/pubns/indg417.pdf)

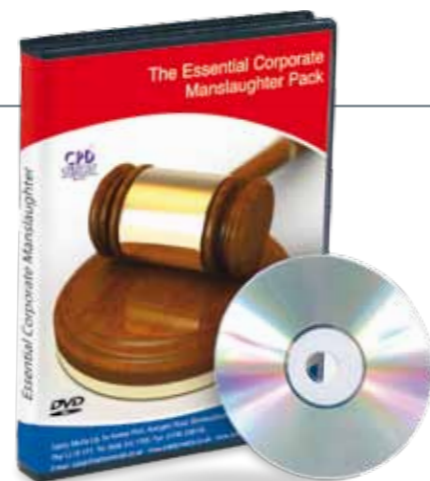
Workplace Law Group's Corporate Manslaughter and Corporate Homicide Act:

**Special Report:**  
[www.workplacelaw.net/bookshop/specialReports/id/659](http://www.workplacelaw.net/bookshop/specialReports/id/659).

**Corporate Manslaughter DVD Pack**

Companies can be found guilty of corporate manslaughter where serious failures in the management of health and safety result in a fatality.

This informative DVD has a dedicated introduction to the Act and also includes 6 vital health and safety training titles.



Go to [www.legislationwatch.co.uk/prod85](http://www.legislationwatch.co.uk/prod85)

**Aftermath of a fatality**

**IOSH has provided guidance on what employers and managers should do in the aftermath of a serious or fatal accident, outlining the following as best practice when holding an investigation:**

- Describe the events that led to the hazardous event and its immediate consequences. For serious events where the report is likely to be used in future by people who don't have a good knowledge of your workplace, it's important to include clear photographs and diagrams. You should also attach copies of relevant documents and keep the originals in case of future legal actions
- Make sure that names, dates and measurements (in metric) are recorded accurately
- Make a clear distinction between what is established as fact and what is opinion or hearsay
- Identify the immediate and root causes of the hazardous event
- Comment on any contradictory or missing evidence and how this affects the identification of root causes
- Give clear, prioritised, cost effective and SMARTT (specific, measurable, agreed, realistic, time-bound and tracked) recommendations to address the identified causes and prevent the event happening again



# Safeguarding Machinery

Guards are fitted on machinery as a control measure to prevent the risk of accident or injury caused by contact with moving parts.

Yet according to an HSE survey, a significant minority think that guarding slows down production (9%), do not think that guarding is to prevent unsafe operation (12%) and take no action if staff do not work safely with machinery (6%).

The operation of dangerous work equipment requires the use of machine guards and other safety devices, as specified under the Provision and Use of Work Equipment Regulations 1998.

## Legislation

Machine guarding is covered by the Provision and Use of Work Equipment Regulations 1998 (PUWER). Regulation 11 states that measures must be taken which 'prevent access to any dangerous part of machinery or to any rotating stock-bar,' or 'stop the movement of any dangerous part of machinery or rotating stock-bar before any part of a person enters a danger zone'.

It is worth noting that this requirement under health and safety law is to do what is 'practicable' – not 'reasonably practicable' – to comply. This means that unlike many of the employer's duties under health and safety law, there can be no argument about the time, cost or inconvenience it takes to make sure guards are used.

The only justification can be whether there is no technical solution to protect workers from the dangerous machinery in question.

## Risk Control

One of the most common areas of risk with the use of machinery is human intervention by the operator:

- if guards have not been properly reinstated following cleaning or maintenance
- as a result of overconfidence and/or
- negligence, where an operator thinks he can work faster or better without the guard in place



It is imperative that employers monitor work with dangerous machine parts closely and at regular intervals. It is essential to carry out regular inspections to ensure the safe operation of guards and safety devices and ensure that operators are provided with all the information, instruction, training and supervision that is necessary.

## Further information

**INDG291 Simple Guide to the Provision and Use of Work Equipment Regulations 1998 (HSE Books, 1999) ISBN: 0 7176 2429 3.**

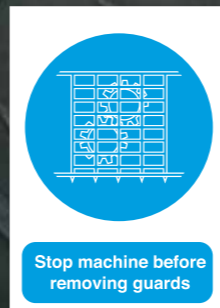
## Case Study

A paper firm was fined £6,000 over an accident in which a worker lost his arm after it became caught in machinery. International Paper (UK) Limited of Inverurie pleaded guilty to a breach of Section 2 of the Health and Safety at Work Act 1974.

The machine assistant was hurt when a paper break occurred which meant the paper had to be re-fed – known as tail feeding. While attempting to throw the sheet of paper into the machine, the man was pulled into the workings by the paper which had wrapped itself around his left arm.

Investigation of the incident by HSE identified that the safety barrier provided was completely inadequate as a means of preventing access to the dangerous parts of the machine.

# Remind your staff of the importance of safeguarding machinery...



Go to [www.legislationwatch.co.uk/prod86](http://www.legislationwatch.co.uk/prod86)



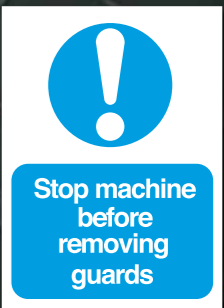
Go to [www.legislationwatch.co.uk/prod87](http://www.legislationwatch.co.uk/prod87)



Go to [www.legislationwatch.co.uk/prod88](http://www.legislationwatch.co.uk/prod88)



Go to [www.legislationwatch.co.uk/prod89](http://www.legislationwatch.co.uk/prod89)



Go to [www.legislationwatch.co.uk/prod90](http://www.legislationwatch.co.uk/prod90)

# 5 Steps to Risk Assessment

Risk assessments are an absolute requirement under health and safety legislation and failure to conduct them is an offence.

Risk assessments are designed to ensure employers have adequately considered the things that can go wrong in the workplace and should take into account:

- People
- Premises
- Plant
- Procedures

“Risk assessments are an absolute requirement under health and safety legislation (see box opposite) and failure to conduct them is an offence” says Kathryn Gilbertson of Greenwood’s Solicitors LLP. “Such a failure often comes to light as a result of inspections or investigations by the relevant Enforcement Authorities. In addition, the competence of those persons conducting risk assessments may be called into question.”

The HSE suggests that risk assessments should follow five simple steps:

**Step 1: Identify the hazards**

**Step 2: Decide who might be harmed and how**

**Step 3: Evaluate the risks and decide on precautions**

**Step 4: Record your findings and implement them**

**Step 5: Review your assessment and update if necessary**

Prevention is the preferable course of action and the MHSWR suggest the following:

- Avoid the risk completely – change the design or the process
- Substitute – use less hazardous materials, e.g. different chemicals
- Minimise – limit exposure to individuals, perhaps by job rotation
- General control measures – guarding, barriers or warning systems
- PPE – the last resort because it protects only the individual

## Conducting Risk Assessments

When conducting risk assessments, the assessor should take into account the information that is available for the type(s) of risks involved, including:

- Regulations, e.g. Work at Height Regulations 2005
- Any associated Approved Code of Practice (ACoP), which provides practical interpretation of the legislation for employers
- Good practice guidance notes from the HSE, special interest groups and trade associations
- Company’s own health and safety policy and arrangements document

(sometimes more exacting than the law itself)

- The people doing the job who know how things are actually done, rather than just how they should be done
- External consultants, e.g. asbestos specialists



## Record and Review

Employers with five or more employees have a legal duty to record risk assessments in writing. These should be communicated via memos, training, team briefs etc.

They should then set a date for review to check whether the risk assessment is still adequate, following:

- Changes in working practices
- New plant
- Changes in legislation, and/or
- As a result of an accident

Finally, it is important to get out into the workplace and ensure that risk control measures are in place and working effectively.

## Legislation

- Health and Safety at Work Act 1974
- Management of Health and Safety at Work Regulations 1999

The Management of Health and Safety at Work Regulations 1999 (MHSWR) introduced the need for employers to make a suitable and sufficient assessment of health and safety risks to employees and other persons affected by work activities.

Other regulations impose specific duties to conduct additional risk assessments, e.g. Manual Handling Operations, Fire, Noise and Display Screen Equipment Regulations.

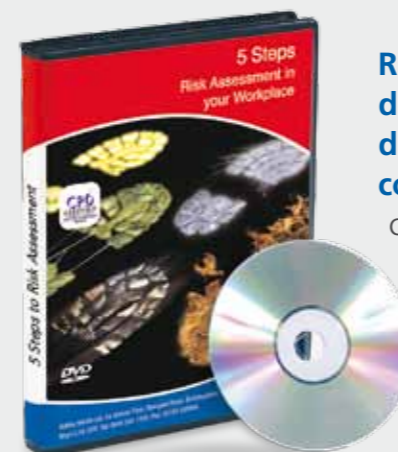
## Further information

INDG 163 REV1 Five steps to risk assessment (HSE Books, 1998) ISBN: 0:7176 1565.

Download a Risk Assessment and Policy Template for duty holders in lower risk, small to medium enterprises (SMEs): [www.hse.gov.uk/risk/risk-assessment-and-policy-template.doc](http://www.hse.gov.uk/risk/risk-assessment-and-policy-template.doc)



## 5 Steps to Risk Assessment DVD



**Risk assessments don't need to be daunting or time consuming** – this concise training DVD shows how to conduct a risk assessment in 5 simple steps.

Go to [www.legislationwatch.co.uk/prod91](http://www.legislationwatch.co.uk/prod91)

# 5 Steps

**Step 1**  
Identify the hazards

**Step 2**  
Decide who might be harmed and how

**Step 3**  
Evaluate the risks and decide on precautions

**Step 4**  
Record your findings and implement them

**Step 5**  
Review your assessment and update if necessary



# Legionella update

Legionnaires Disease is a potentially fatal form of pneumonia caused by the bacterium Legionella pneumophila and related bacteria.



It is found naturally in environmental water sources such as rivers, lakes and reservoirs, but also in installations such as cooling towers, evaporative condensers and hot water systems.

The importance of a sound Legionella policy has been clearly highlighted over the last few years by the high profile Barrow-in-Furness case (Case Study 1).

Regulations require anyone in charge of premises, including providers of residential accommodation, to undertake a risk assessment with regard to Legionella.

## Legislation

- Health and Safety at Work Act 1974
- Notification of Cooling Towers and Evaporative Condensers Regulations 1992
- Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995
- Management of Health and Safety at Work Regulations 1999
- Control of Substances Hazardous to Health Regulations 2002
- L8 Approved Code of Practice (ACoP) – The Control of Legionella Bacteria in Water Systems

## Assessing the risk

According to Kathryn Gilbertson of Greenwoods Solicitors LLP, careful planning, competent staff and attention to control strategies are essential in managing the risk.

- Is the water temperature between 20°C and 45°C, creating the conditions for the bacteria to multiply?

- Are there any areas where stagnant water occurs (dead legs)?
- Are the showers and taps used frequently?
- Is there debris such as rust, sludge or scale in the system?
- Is it likely any employees, residents or visitors are susceptible?

## Case Study 1

In 2002, the largest outbreak of the disease struck the North West of England, when five people died and over 170 people contracted Legionnaires' disease following an outbreak at the Forum 28 arts centre in Barrow. The premises were owned and operated by Barrow Borough Council. Both the Council and its in-house architect were charged with manslaughter and safety offences. They were acquitted of manslaughter following trials but were found guilty of offences under Section 3(1) and Section 7 of the Health and Safety at Work Act respectively.

The Council was fined £125,000 and ordered to pay £90,000 in costs, whilst the architect was fined £15,000.

**A written scheme setting out how you intend to control the risk from Legionella must be in place. The scheme should detail:**

- an up-to-date plan or schematic diagrams of your system
- who is responsible for carrying out the assessment and managing the implementation
- the safe and correct operation of the system
- what control methods and other precautions will be used
- what checks will be carried out on the control scheme and how often these will be carried out



## Case Study 2

At Abertillery Magistrates Court on 6th August 2009, DEBA UK Ltd pleaded guilty to three charges under Section 3(1) of the Health and Safety at Work Act 1974. The company was fined £24,000 and ordered to pay costs of £17,276.

During 2007, DEBA UK Ltd was commissioned to carry out Legionella risk assessments at nursing homes in Wales and rated the risk as low. A subsequent routine check of these nursing homes revealed there to be inadequate controls for Legionella at the premises.

The elderly are at greater risk from Legionella bacteria so it is imperative that such safety critical surveys are adequate.

## Further information

### L8 Legionnaires' Disease:

The control of legionella bacteria in water systems (HSE Books, 2000) ISBN: 0 7176 1772 6.

### Workplace Law Legionella Policy and Management Guide v.4.0

[www.workplacelaw.net/Bookshop/PoliciesAndProcedures](http://www.workplacelaw.net/Bookshop/PoliciesAndProcedures).

“Legionella is found in installations such as cooling towers, evaporative condensers and hot water systems.”



Every year there are thousands of reportable forklift truck related accidents. These can result in death or serious injury, damage to equipment and costs to employers.

According to Dawn Girardi of Hitec Lift Truck, which offers forklift driver training, the main causes of lift truck related accidents are:

- lack of operator training
- inadequate premises
- poor maintenance

As an employer you have a duty under the Health and Safety at Work Act 1974 to ensure as far as reasonably practicable the health and safety of your employees and others while at work.

It is the responsibility of employers to assess their forklift truck operations and introduce safe working procedures to reduce or limit the risks as far as possible.

Girardi advises that managers and supervisors should be trained in safe operating procedures and have enough experience to recognise incorrect activity, poor practices and identify training needs.

No person should be employed to operate a forklift truck unless basic testing and training have been completed. Where new employees claim that they have been trained previously, employers should look for evidence of training and ensure the suitability of the training for the equipment to be operated. Further training will be necessary before the employee can work without supervision.

Employers must keep a record of those who have received training and the type of training and truck.

**Further information**

<http://www.askhitec.co.uk/training.asp>

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

**Safe procedures include:**

- operator training
- control of pedestrians and general traffic
- implementation of proper maintenance and inspection processes

**Case Study**

**Employee crushed to death by forklift truck**

A company that assemble earth moving equipment was fined £7,500 and ordered to pay £6,690 in costs after pleading guilty to failing to comply with Section 2(1) of the Health and Safety at Work Act 1974. The company failed to provide a safe system of work including factory organisation and load handling arrangements for the operation of forklift trucks.

The prosecution came after an incident at the company's site when a man was killed after his forklift truck toppled over and crushed him.



# It is the employer's responsibility to assess forklift truck operations to reduce or limit the risks



**Safe procedures include:**

## 1. Operator Training

Training DVDs are great for refresher training and Posters provide a visual reminder of safety procedures.



**Lift Truck & Warehouse Training DVD**  
Go to [www.legislationwatch.co.uk/prod92](http://www.legislationwatch.co.uk/prod92)



**Essential Training Collection DVD**  
Go to [www.legislationwatch.co.uk/prod93](http://www.legislationwatch.co.uk/prod93)



**Forklift Inspection Poster**  
Go to [www.legislationwatch.co.uk/prod94](http://www.legislationwatch.co.uk/prod94)

## 2. Control of pedestrians and general traffic

Warn staff and visitors that forklifts are in use and segregate pedestrian areas from traffic lanes by using railing systems and impact protectors.



**Danger Sign**  
Go to [www.legislationwatch.co.uk/prod95](http://www.legislationwatch.co.uk/prod95)



**Caution Sign**  
Go to [www.legislationwatch.co.uk/prod96](http://www.legislationwatch.co.uk/prod96)



**Impact Protection Railing System**  
Go to [www.legislationwatch.co.uk/prod97](http://www.legislationwatch.co.uk/prod97)

## 3. Implementation of maintenance and inspection processes

Control pre-shift inspections and maintenance by enforcing a forklift tagging system.



**Forklifttag® Tagging System**  
Go to [www.legislationwatch.co.uk/prod98](http://www.legislationwatch.co.uk/prod98)





Chartered body for health and safety professionals

# Get the Best

Making sure you get the right health and safety advice, awareness training and information is essential if you're going to keep your people healthy and safe at work, says John Holden, President of IOSH.

Failing to get good health and safety advice puts your staff at risk. It's equivalent to pouring money down the drain – poor advice costs more because it will either hinder the work your company is doing or result in accidents. This can lead to litigation, increased insurance costs, lost production and not to mention the cost to your employees' health and wellbeing.

**To help businesses, the Institution of Occupational Safety and Health (IOSH) has launched its 'Get the best' campaign, which aims to encourage employers to recruit a professional health and safety person.**

The law states that employers must get 'competent' health and safety advice. Competence is a mixture of knowledge, skills and experience but it's difficult to know exactly what this means in practice. This is because there

is no accreditation of health and safety consultants at present, so anyone, regardless of qualification, can be a 'health and safety adviser'. So, a good starting point if you're looking to recruit someone for a health and safety role is to check out whether they are an IOSH member – it's free for employers to verify this by calling the Membership team on 0116 257 3198. This is the only way of ensuring you're getting someone who is serious about their work and who keeps their knowledge and skills up to date.

#### IOSH has four levels of membership:

- Affiliate – For people involved in health and safety such as business directors, senior managers, HR and law professionals.
- Technician Member – For people working in a low risk industry or

part of a health and safety team in a higher risk sector. They will usually have at least five years' practical experience, carry out Continuing Professional Development (CPD) and be qualified up to level 3.

- Graduate Member – For people in health and safety management or part of a senior team. They will have been recently qualified at degree level and will be carrying out Initial Professional Development (IPD).
- Chartered Safety and Health Practitioner – For people with senior strategic health and safety management in any business or risk sector. They will have at least two years professional experience, be qualified to degree level and be carrying out CPD.

Visit [www.iosh.co.uk/membership](http://www.iosh.co.uk/membership) to find out more about IOSH membership.

## Get the best training

Making sure that the awareness training you send your staff on is fit for purpose and memorable is extremely important. If they can't remember what they've learnt then the training is worthless. IOSH offers a number of training courses including 'Managing safely' and 'Working safely' which help to bring health and safety to life through animated graphics, games and quizzes.

Both of these courses are run by IOSH accredited training provider, Workplace Law. Find out more at: [www.workplacelaw.net/iosh](http://www.workplacelaw.net/iosh)

## Get the best information

Businesses also need access to good health and safety information. IOSH has a range of free services which can help organisations in their work and keep us up to date with the latest legal and best practice developments. These include an occupational health toolkit ([www.ohtoolkit.co.uk](http://www.ohtoolkit.co.uk)) and the risk assessment routefinder ([www.ioshroutefinder.co.uk](http://www.ioshroutefinder.co.uk)) as well as online discussion forums and information sheets. All can be accessed from [www.iosh.co.uk/technical](http://www.iosh.co.uk/technical)

## iosh Risk Assessment Routefinder

### Hassle-free health and safety for your business

You have to do risk assessments for your business – it's the law, and it makes good business sense too.

This free and simple guide from IOSH, Europe's premier body for health and safety professionals, will help you check how well you're managing your business risks. Go to:

[www.ioshroutefinder.co.uk](http://www.ioshroutefinder.co.uk)



# E-Learning

## Maintaining Training in the Credit Crunch

Health and Safety training is probably the biggest single expense and a specific requirement of the Health & Safety at Work Act 1974, but the current financial climate is causing headaches for many UK organisations.

Budgets are being squeezed and it's tempting to see training as an easy target for cutbacks. However, this is a false economy. If an

employee were injured or killed through lack of training, this could result in prosecution, a large fine or even imprisonment under the Corporate Manslaughter and Corporate Homicide Act 2007. So when a new technology such as e-learning comes along which can slash the costs and increase the effectiveness of staff training, it's not surprising that health and safety professionals everywhere are taking full advantage. A revolution in the way we train our staff is underway, and it is estimated that within 3 years as much as 50% of all staff training will be done through e-learning tools.

The HSE states that employers have a duty to provide information, instruction, training and supervision and make sure all their workers can understand it. This coupled with the ever-increasing burden of UK and EU health and safety legislation, means there is an escalating need for

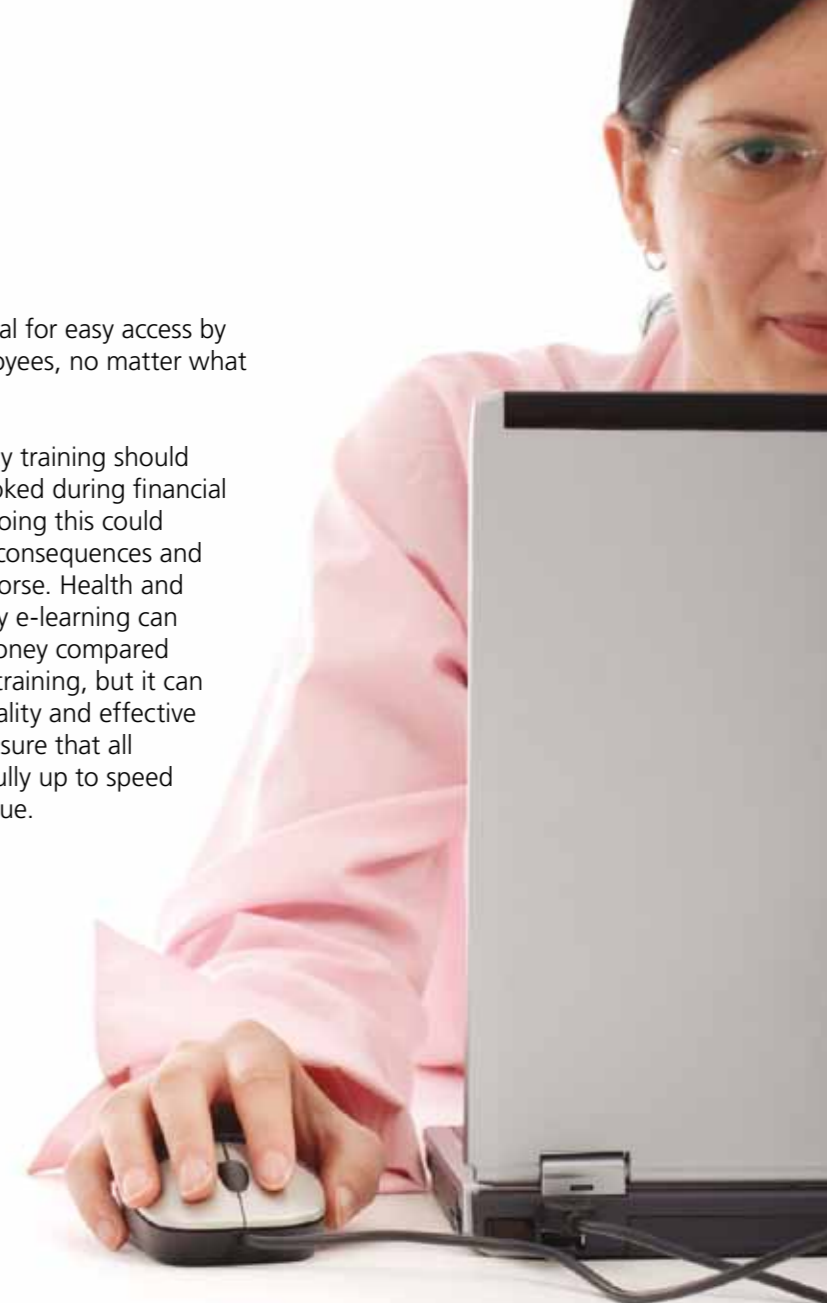
training. Employers should consider the most appropriate method of training delivery. Should you opt for traditional or more cutting-edge training? How does it fit in with your organisation? Traditional health and safety training may encompass in-house or off-site training which can be very expensive. But things have moved on and newer methods offer an attractive alternative.



According to Safety Media, traditional training in each health and safety subject costs the employer at least £50 per person, but it can cost as little as £10 per person if e-learning or online training is used. However, even though it costs less, the quality of the training is not compromised. E-learning has developed enormously in recent years, incorporating many interactive features and available in multiple languages, e-learning is now widely regarded as a mainstream training method. Employers, for their part, discover e-learning delivers sizeable cost and time savings, as well as effective staff training. The software is hosted on a

secure web portal for easy access by all of your employees, no matter what their location.

Health and safety training should never be overlooked during financial downturns, as doing this could have disastrous consequences and make matters worse. Health and safety training by e-learning can not only save money compared with traditional training, but it can provide high-quality and effective instruction to ensure that all employees are fully up to speed with this vital issue.



### HSE Statistics

- In 2008/09 nearly 378,000 people were injured at work
- 29.3 million working days were lost – 24.6 million due to work-related ill health and 4.7 million due to workplace injuries.

# Health & Safety E-Learning

## Health and Safety E-Learning from Seton

A unique and powerful E-Learning system for health and safety training. The system tracks all training using the built in Learning Management system. Each trainee is tracked individually and can be reported on using the in-depth reporting tools. With 46 courses available in over 30 subjects, this is the most comprehensive health and safety E-Learning system available on the market.

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

Train from as little as  
**£10.00** per person

Choose from  
**46 Courses**

Available  
**Online 24/7**



# A Guide to Fire Safety Signs



## Reception

### Safety Awareness Check List

**Knowledge of risks:** Yes No



Do all occupants know of areas containing hazards e.g. electrical mains cupboard/box that may be situated in reception?

Yes  No

### Understanding prohibition:



Are there any areas that are restricted to authorised personnel?

Yes  No

### Fire extinguishers:



Are all fire extinguisher locations clearly marked?

Yes  No



Is the class of fire identified on the body of the extinguisher?

Yes  No

### Responsible behaviour:



Do all occupants know of any areas where certain actions could increase risk, especially smoking prohibition?

Yes  No

### Escape route management:



Are all fire doors clearly marked? Fire doors should always be kept closed. Jamming them open is not allowed.

Yes  No



Are all fire exits clear of obstructions?

Yes  No

### Emergency Awareness Check List

The majority of Emergency Awareness elements can be communicated in just one sign – a Fire Action Notice provides the main objectives for staff and visitors whilst on the premises.



Go to [www.legislationwatch.co.uk/prod101](http://www.legislationwatch.co.uk/prod101)

Do you have effective signage that communicates the following points to your visitors?

	Yes	No
1. Activate Alarm	<input type="checkbox"/>	<input type="checkbox"/>
2. Occupants Evacuation	<input type="checkbox"/>	<input type="checkbox"/>
3. Assembly Point Arrival	<input type="checkbox"/>	<input type="checkbox"/>

Once a visitor has activated the alarm they should evacuate the building and go to the assembly point. Emergency behaviour requirements should be kept as simple as possible.

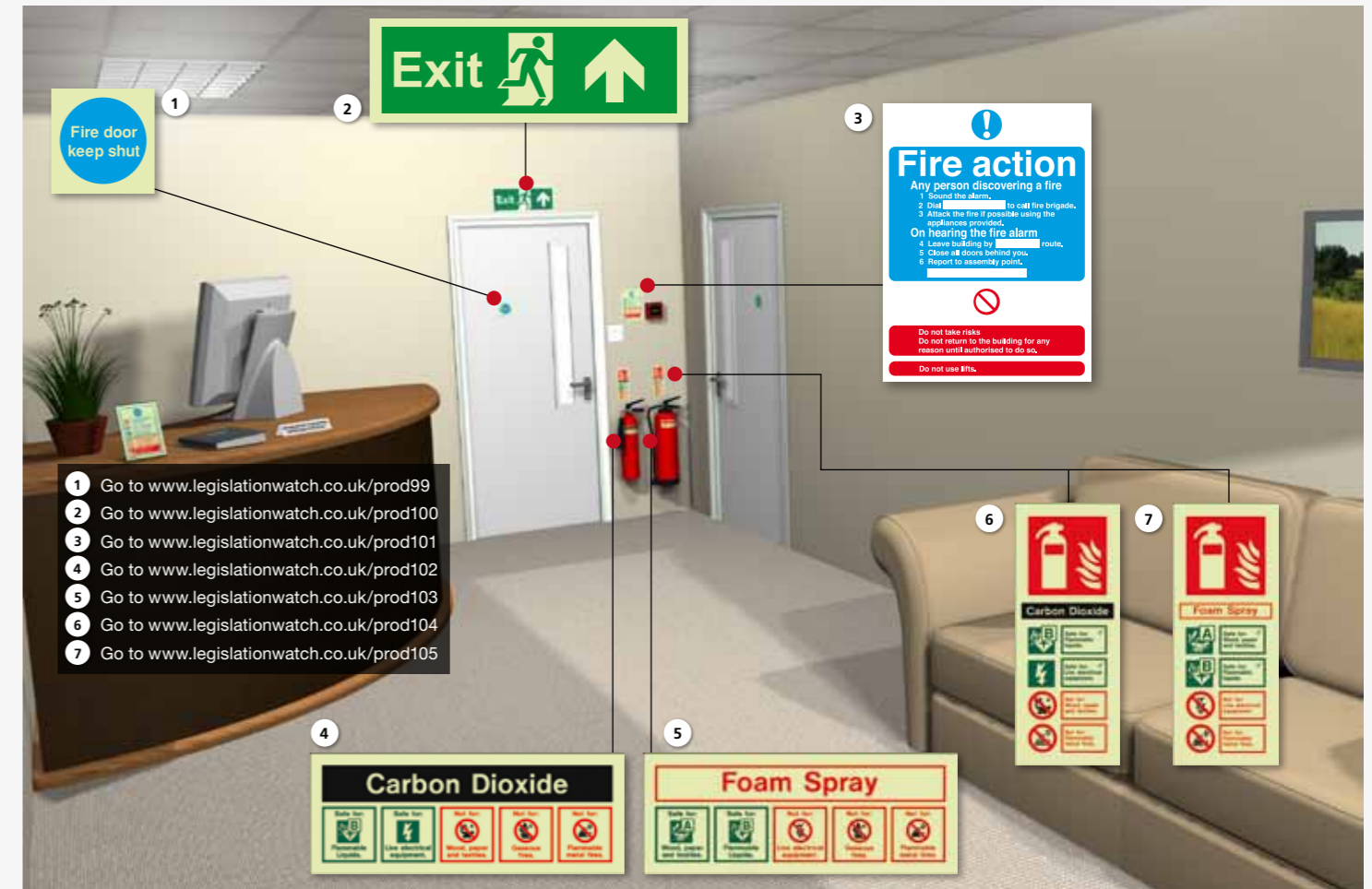
**Fire Authorities Arrival:** Yes No



Are there any gas valves or other risks e.g. propane gas heaters, that should be clearly marked for the fire services?

Yes  No

## Assessment Area: Reception



- 1 Go to [www.legislationwatch.co.uk/prod99](http://www.legislationwatch.co.uk/prod99)
- 2 Go to [www.legislationwatch.co.uk/prod100](http://www.legislationwatch.co.uk/prod100)
- 3 Go to [www.legislationwatch.co.uk/prod101](http://www.legislationwatch.co.uk/prod101)
- 4 Go to [www.legislationwatch.co.uk/prod102](http://www.legislationwatch.co.uk/prod102)
- 5 Go to [www.legislationwatch.co.uk/prod103](http://www.legislationwatch.co.uk/prod103)
- 6 Go to [www.legislationwatch.co.uk/prod104](http://www.legislationwatch.co.uk/prod104)
- 7 Go to [www.legislationwatch.co.uk/prod105](http://www.legislationwatch.co.uk/prod105)

The reception is one of the most important areas in your building. Everyone who enters the premises will come through this area. It should be a key information point for the fire safety messages – especially to visitors!

The reception area is where the security of personnel movement can be monitored, especially visitors and tradespersons. It should be a central point of fire safety communication to all occupants. When visitors and tradespersons sign in to the building, the receptionist should ask them to read a Fire Action Notice.



### Key Points:

The reception is the central point of all fire safety communication. When visitors and tradespersons sign-in, the receptionist should ask them to read a fire action notice.

For more information on the effectiveness of the Fire Action Notice in reception, look at the Means of Escape Guide for the Receptionist and How to call the Fire Service at [www.means-of-escape.com](http://www.means-of-escape.com)


# A Guide to Fire Safety Signs




## Stairways

### Safety Awareness Check List


#### Knowledge of risks:


	Do all occupants know of areas containing hazards e.g. electrical mains cupboard/box that may be situated in reception?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
--	---	------------------------------	-----------------------------

#### Understanding prohibition:


	Are there any areas that are restricted to authorised personnel?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
--	--	------------------------------	-----------------------------

#### Fire Extinguishers:


	Are all fire extinguisher locations clearly marked?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
--	---	------------------------------	-----------------------------


	Is the class of fire identified on the body of the extinguisher?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
--	--	------------------------------	-----------------------------

#### Responsible behaviour:

	Do all occupants know of any areas where certain actions could increase risk, especially smoking prohibition?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
--	---	------------------------------	-----------------------------

#### Escape route management:

	Are all fire doors clearly marked? Fire doors should always be kept closed. Jamming them open is not allowed.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
--	---	------------------------------	-----------------------------

	Are all fire exits clear of obstructions?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
--	---	------------------------------	-----------------------------

### Emergency Awareness Check List

The majority of Emergency Awareness elements can be communicated in just one sign – a Fire Action Notice provides the main objectives for staff and visitors whilst on the premises.




Go to [www.legislationwatch.co.uk/prod114](http://www.legislationwatch.co.uk/prod114)


#### Do you have effective signage that communicates the following points to your visitors?

1. Activate Alarm	Yes <input type="checkbox"/>	No <input type="checkbox"/>
2. Occupants Evacuation	Yes <input type="checkbox"/>	No <input type="checkbox"/>
3. Assembly Point Arrival	Yes <input type="checkbox"/>	No <input type="checkbox"/>

Once a visitor has activated the alarm they should evacuate the building and go to the assembly point. Emergency behaviour requirements should be kept as simple as possible.

#### Fire Exit Signs

	Are all directions for evacuation clearly marked?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
---	---	------------------------------	-----------------------------

	Are all open door systems clearly signed?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
---	---	------------------------------	-----------------------------

# Assessment Area: Stairways



Stairways are part of the main route to safety in an emergency and are one of the most important areas to manage.

Often staff see these areas as 'non areas' and leave boxes, unwanted furniture, rubbish for 'someone else' to dispose of or deal with. These areas must be kept clear at all times. In the event of a fire, stairways often become busy. Clarity of direction and a clear area for egress is paramount for both the escape of occupants and for the fire fighter to access.



#### Key Points:

Stairways must be kept clear at all times. In the event of a fire, they often become busy.

Human behaviour studies show that clear direction to safety is critical on stairways. Correct use of exit route signs with directional arrows is important for a safe evacuation.

#### In our next issue Assessment Areas:



# Reducing Your Insurance Premiums

By demonstrating a high quality health and safety risk management system you can actually make substantial 'savings' of up to 25% on your insurance premiums

**The Employers' Liability (Compulsory Insurance) Act 1969** requires employers to insure their liability to employees for personal injury, disease or death sustained in the course of their employment in Great Britain.

The size of the insurance premium you pay is based on the information you supply to your insurers and usually falls into three categories:

1. Your business activities
2. Your loss history – claims and accidents
3. The standard of your health and safety risk management system

Simon Toseland, Head of Health and Safety at Workplace Law, advises:

"Insurers will want to assess the measures you've put in place to minimise the risk of an incident occurring. This may involve an audit of your premises and if the assessors aren't happy with your approach to health and safety, your premiums will go up and at worst you might not be able to find an insurer prepared to cover you. This could make it impossible for you to continue trading."

## Reducing premiums

According to advice from the Department for Business, Innovation and Skills (BIS), by demonstrating a high quality health and safety risk management system you can actually make substantial 'savings' of perhaps up to 25% compared to similar businesses without such policies in place.

An effective Health and Safety Policy should include a written statement of policy and arrangements comprising of:

- Effective management control
- Clear allocation of responsibilities and resources

- Good communication
- Competent individuals and
- Employee consultation
- How health and safety is planned, based upon:
  - risk assessments and
  - prioritising actions to eliminate or implement safe work methods to control significant risks
- How health and safety performance is measured with:
  - proactive inspections and
  - reactive accident / incident investigation
- Reviews of:
  - health and safety organisation and arrangements &
  - the implementation of any necessary improvements to your health and safety management system

Finally, you should include the results of an independent audit which demonstrates your 'best practice' health and safety risk management system.

## Further information

Managing Health and Safety, Five steps to Success:  
[www.hse.gov.uk/PUBNS/indg275.pdf](http://www.hse.gov.uk/PUBNS/indg275.pdf)

British Insurance Brokers' Association:  
[www.biba.org.uk/ConsumerHome.aspx](http://www.biba.org.uk/ConsumerHome.aspx)

# 60 Seconds to win... an iPod Shuffle!

## 1. How many asbestos-related deaths are there per year?

- a) 4,000
- b) 150,000
- c) 2,000,000

## 2. Guards are fitted on machinery to prevent the risk of:

- a) The machine being stolen
- b) Accident or injury caused by contact with moving parts
- c) Accident or injury caused by contact with non-moving parts

## 3. When did the Corporate Manslaughter Act come into force?

- a) 6th April 2008
- b) 25th December 2009
- c) It hasn't been enforced yet

## 4. What is the Toolbox Talk subject this edition?

- a) Accident Reporting
- b) Ladder Safety
- c) Personal Protective Equipment

## 5. How many steps to Risk Assessment?

- a) 500
- b) 50
- c) 5

## How to Enter:

Go online to:  
[www.legislationwatch.co.uk/competition](http://www.legislationwatch.co.uk/competition)  
 Simply enter your email address and complete the 5 questions

## Congratulations to...

Steve Cox, Waitrose  
 Janet Davison, Fellow Productions  
 Andrew Birkin, Premier Foods  
 Robin Foster, Wiltshire Council  
**Winners of the F1 Factory Tour!**



# NEWS ROUND UP

# SPRING 2010

## Hazardous substance risk

A Leicester haulage company has been fined a total of £5,000 and ordered to pay costs of £4,900 for creating a "massive fire risk" by illegally storing huge quantities of highly flammable aerosols. The HSE found the firm had not properly managed the risks associated with storing large amounts of aerosol products at its Hilltop Industrial Estate site in Leicestershire.

## Flood costs

A new report from the Environment Agency has revealed the floods of summer 2007 cost the country a total of £3.2bn, including more than £2bn to homeowners and businesses and 400,000 lost pupil days. The average cost incurred per flooded business was between £75,000 and £112,000, with 95% of companies covered by insurance.



## Explosion death

Global defence company, BAE Systems, has been fined £80,000 after a worker was killed in an explosion at its Lancashire site. The HSE has been unable to establish the exact cause of the explosion as the deceased, Lynda Wilkins, was working alone. The investigation found that the company allowed unsafe working procedures to develop by providing too little supervision and monitoring.



## Call to link fines with turnover

Not linking fines with turnover is a gross undermining of the Corporate Manslaughter and Corporate Homicide Act 2007 says law firm Thompsons Solicitors. Proposals contained in the recent Sentencing Guidelines Council consultation said companies that cause death through gross breaches of care should face fines of more than £500,000, but these proposed fines are not linked to turnover.

## IOSH clarifies gritting policy

The Institution of Occupational Safety and Health (IOSH) has urged businesses to "do the right thing" by clearing snow and ice from public areas. This call from the safety body to promote "good neighbourliness and care for employees' safety" followed erroneous newspaper reports claiming IOSH was warning businesses not to grit public paths because this could lead to legal action.

## Quarry trespasser's fall

A quarry owner has been fined £10,000 plus costs of over £6,000 after a teenage trespasser was seriously injured. "The youth clearly should not have been trespassing in the first place, but quarry owners are more than aware of the dangers posed by their sites and have a duty to take reasonable precautions to prevent trespassers gaining access." Said HSE Inspector, Alan Strawbridge.

## First WEEE prosecution

In the first prosecution of its type by the Environment Agency for breaching the Waste Electrical and Electronic Equipment (WEEE) Regulations, Sita Metal Recycling Ltd has been fined £4,000 and ordered to pay full costs of £4,456. The Regulations require electrical and electronic equipment be repaired and refurbished and put back on the market or dismantled with parts recycled or disposed of safely.



## Guidance for safe waste

New HSE guidance has been produced to make Local Authorities aware of their legal responsibilities in procuring and managing waste and recycling services. The guidance aims to reduce deaths and injuries in the recycling industry, which has nine times more fatal accidents than the national average and four times as many workers suffering injuries.



## Container accident

Three companies have been fined a total of £283,332 after a man was paralysed from the waist down while working at a Shell oil refinery in Cheshire. During the removal of part of the concrete lining of the 'cracker' unit where crude oil is turned into various chemical components, a container carrying 500kg of waste materials fell 30 feet on top of Stephen Rizzotti.



## Bus crush fatality

A major bus company has been fined £400,000 after one of its employees died following being crushed at a bus garage in Uxbridge, Hillingdon. The HSE prosecuted Centrewest London Buses Ltd – part of the First Group – for safety failings leading up to the incident on 18th May 2004.



## 35% of workers feel unsafe

New research reveals that 35% of employees believe they work in an unsafe environment, while 20% would describe their co-workers as 'dangerous'. The survey of 1,000 UK workers conducted on behalf of Resource GB, a support services company, identified that 40% of UK companies have cut their cleaning and maintenance budgets since the beginning of the recession.

## Forklift accident

A construction company has been ordered to pay £4,500 after one of its workers was seriously injured when a forklift truck he was operating overturned. The victim was not trained to use the machine and was not wearing a seat belt when the incident happened.



## Snow conference

The Federation of Small Businesses (FSB) is calling for the Government to hold a national conference to review its contingency planning after weeks of snow and icy weather brought the UK to a standstill. The FSB argues that authorities did not learn from the lessons of February 2009's snowfall quickly enough and could have prepared better for the recent spate of bad weather.



## HSE crackdown on unsafe vehicle loads

Spot checks on hundreds of vehicles have been taking place in support of a new drive to ensure that loads are being transported securely. The HSE's Load Safety campaign is focused on reducing the number of death and injuries linked to workplace transport.



## £80,000 fine for construction death

A Welsh construction company has been fined £80,000 and ordered to pay costs of £29,798 after an employee had his head crushed at a site in Gloucestershire. Lance Taylor was killed while driving a mini digger – which he was not qualified to operate.



## Dangers of occupational asthma

Employers are being warned about the importance of protecting workers from occupational asthma after a firm was fined £26,000 when a member of staff developed asthma within weeks of being exposed to soldering fumes at work. She was working with rosin-based soldering wire in an enclosed space.



## MSD toolkit developed

Business in the Community (BITC) has launched a toolkit giving employers practical guidance on promoting musculoskeletal health in the workplace. The 'Working Joints and Muscles Toolkit' addresses the most commonly reported cause of work-related ill health in the UK. According to HSE figures (2007/08), work-related musculoskeletal disorders resulted in 8.8 million working days being lost due to sickness absence.

## Reminder of rules on injury reporting

A firm has been fined by magistrates for health and safety breaches and failing to promptly report an injury after an employee was injured when a mezzanine floor collapsed. The incident was only reported eight months later during the HSE's investigation into other health and safety concerns, breaching Section 2(1) of the Health and Safety at Work Act 1974 and Regulation 3(2) of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995.



Download more copies at [www.legislationwatch.co.uk](http://www.legislationwatch.co.uk)

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# LegislationWatch

Your Guide to Workplace Law and Legislation | Spring 2010 Edition

## Inside this issue...

- ✓ Legal Update Calendar
- ✓ 5 steps to risk assessment
- ✓ How to reduce insurance premiums
- ✓ Guide to fire safety signs
- ✓ Corporate manslaughter act
- ✓ Forklift safety tips
- ✓ Legionella update
- ✓ Asbestos – 10 years since the ban

...and much much more!