

BRUNSWICKS' REGULATORY NEWS

A monthly digest of recent prosecutions and what else is making the news in the regulatory field

EDITORIAL

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November has given us another bumper month of activities. In addition to the usual court cases one Parliamentary session ended with a rush of legislation hitting the statute books and then, following the Queen's Speech, another session commenced with all the pomp, circumstance and announcements. Then of course we have had the usual splurge of announcements to understand.

I hope this edition of Brunswicks Regulatory News gives you an insight into one of the busiest months in the regulatory calendar.

IN THE COURTS

GULLIVER'S WORLD FINED FOLLOWING CHILD'S DEATH

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Gulliver's World was fined £80,000 and ordered to pay £90,000 costs after pleading guilty to health and safety offences arising from the death of a disabled teenager Salma Saleem which occurred on 13 July 2002 at the amusement park.

Salma, died when she fell about 6.6 metres from a gondola on the double ferris wheel.

The company pleaded guilty to two charges. The first was for breaching s3 HSWA in that they failed to ensure the safety of someone not in their employment. For this the company was fined £70,000. Secondly for failing to have carried out a suitable and sufficient risk assessment. (reg 3 MHSWR) for which it was fined £10,000.

Paul Spurrier, HSE Principal Inspector

who managed the case, said : "*Salma attended Gulliver's World for what was intended to be a pleasurable family day out but it ended in the most tragic of circumstances.*

This tragic case brings home the importance to all fairground operators that they must ensure that their fairground rides are safe, by having their initial design thoroughly reviewed, by having them checked and adequately maintained on a regular basis, by keeping records of items replaced or repaired, by ensuring that their staff are trained in how the ride works, that they understand any precautions they must take with vulnerable passengers and that they understand what to do in an emergency situation."

22 November Chester Crown Court

Maximum penalty for these offences in this court is an unlimited fine.

DEATH ON A QUAD-BIKE

Colin and Sharon Moorhouse of Skipton were fined £12,000 and £1,000 respectively and ordered to pay costs of £12,260 for failing to ensure the safety at work of one their employees, Michael Fielden.

Mr Fielden was driving a quad bike which overturned killing him.

HSE Inspector Morag Irwin said following the court hearing:

"Sadly this is not an isolated incident. In the ten year period between May 1996 and March 2006 23 people were killed across the country in accidents at work on quad bikes. Of these 17 involved head injuries where no head protection was worn. If you don't wear a helmet you greatly increase the risk of serious injury, as this tragic case has shown. There are new designs

of lightweight, ventilated helmets now available which are cut away at the ears so that you can still have a conversation and hear extraneous noises like phones and animals. These can be bought for as little as £25 - not a great expense for something that may well save your life. Everyone thinks that it won't happen to them. But no-one is invulnerable and many quad bike accidents have happened to older, experienced farm workers. There are things you can do to manage the risk - always wear a helmet, maintain the vehicle properly, and consider getting some proper training in how to handle the quad bike."

3 November Skipton Magistrates' Court

Maximum penalty for these offences in this court £20,000 fine

SWINGING PENALTIES ON DIRECTOR AND COMPANIES FOLLOWING DEATH

Shaun Riley an employee of Chargot Limited was killed on 10 January 2003. He was driving an articulated dumper truck moving soil around a site when it overturned. Ruttle Contracting Ltd was the principal contractor for the works.

Both of these companies were prosecuted following the accident along with Mr George Henry Ruttle of Eccleston, Lancashire a director of Ruttle Contracting Ltd. Chargot Limited and Ruttle Contracting Limited were prosecuted for breaching their respective duties under s2 and s3 HSWA and were fined upon conviction after a trial £75,000 and £100,000 respectively. The prosecution costs required to be paid by each company was £37,500 and £75,000.

Mr Ruttle was prosecuted personally under s37 HSWA for having caused his company to commit the s3 HSWA breach. He was convicted after trial and fined £75,000 and required to pay £103,500 prosecution costs.

Ian Connor, the HSE Inspector who investigated the case, said:

"The truck was fitted with seat belts and rollover protection but Mr Riley was not wearing his belt and was neither trained or supervised on the work he was undertaking. Even though the truck overturned, there is every chance he would have survived the incident if he had been wearing his seat belt. It is vital that everybody who operates a dumper truck is properly trained and

that there is a high standard of supervision to ensure that they always use the vehicle safely. This tragic incident was entirely avoidable had sensible precautions, as outlined in the free HSE Construction Information Sheet "Safe Use of Site Dumpers",

30 November 2006 Preston Crown Court

Maximum penalty for each of these offences in this court is an unlimited fine.

Ed – The prosecution of this tragic case is unusual for at least two reasons. First the prosecution of a director personally for having caused his company to breach health and safety law under s37 HSWA. These prosecutions are rare, but becoming more commonplace. There are 3 formulations of this offence. The director can be prosecuted personally if he either caused or connived in the health and safety offence by his or her company, or if the offence arose as a consequence of his or her neglect. The neglect formulation is the most commonly used. Secondly the convictions arose after a trial – so the penalties were not subject to any discount for prompt pleas of guilt. The prosecution costs were inevitably significant after a trial. The total fines and costs imposed on the defendants in this case was £463,500.

THE RISK OF OVERHEAD POWER LINES

Lyons Landfill Ltd and Francis Michael Lyons (trading as Frank Lyons Plant Services) of Felstead, Essex were each fined £80,000 and to required to pay £35,000 prosecution costs following the death of a self-employed lorry driver, Mr Nathaniel Hugh Scollan (56) who was visiting a combined quarry and landfill site at Hollingson Meads Quarry, Harlow, on 10 Sept 2003

Mr Scollan was electrocuted when the grab of the crane mounted on his lorry came into contact with overhead power lines. The investigation revealed that Mr Scollan parked beneath the overhead lines when waiting for a load of ballast from the quarry. He apparently raised the lorry-mounted crane and sustained fatal injuries from the subsequent electric shock. The site was poorly laid out with stockpiles encroaching near the overhead lines, inadequate signs, poorly designed crossing points and inadequate measures taken to keep plant clear of the lines.

HSE Principal Inspector, Mike Gibb, said:

"This was a tragic death that could have easily been prevented. Operators of plant may make mistakes and all reasonably practicable steps should be taken to ensure their errors don't result in loss of life or serious injury. I encourage all employers to carefully plan and put into place sensible precautions to prevent

their workers, contractors or visitors to their site coming into contact with overhead power lines. Good management will reduce the risk of accidents happening. It is also important to remember that vehicles or mobile plant do not need to strike the overhead line for injury to occur. Electricity can arc across a surprising distance depending on the voltage and conditions."

7 November 2006 St Albans Crown Court

Maximum penalties for these offences in this court – unlimited fines.

Ed – the path to this sentencing hearing is itself interesting. On 13 October 2006 Lyons Landfill Ltd was convicted of an offence under Section 3 HSWA as was Francis Lyons (trading as Frank Lyons Staff Services). On 16 October 2006 Francis Lyons was acquitted of a separate offence relating to his activities as a director of Lyons Landfill Ltd.

I've dealt with the legal aftermath of cable strikes on several occasions and discussed the frequency of death or serious injury arising with the HSE. Informally I have been told that death or serious injury occurs in around 33% cases. This amply demonstrates the need to take reasonable precautions to prevent it happening.

JUST WHAT WERE THEY DOING THERE – ROCKALL?

On 14th June 2005, Ian Trumpess the owner skipper of the MV Invincible took a party of amateur radio enthusiasts from Stromness to Rockall, more than 200 miles out into the North Atlantic Ocean, despite having been told by the Maritime and Coastguard Agency (MCA) that his boat was not suitable for the voyage.

The group booked the Invincible after finding a web site which advertised that Mr. Trumpess had undertaken a similar voyage in the past. They arrived at Rockall on the 16th where the amateur radio enthusiasts made a series of radio transmissions before returning to Stromness.

In Kirkwall Sheriff Court Mr Trumpess pleaded guilty to a charge of failing to operate the ship in a safe manner, under the Merchant Shipping Act 1995.

He accepted that he had failed to take all reasonable steps to secure the safe operation of the vessel in that it sailed beyond the distance that it, the skipper, or the crew were qualified to go and without adequate means of communication.

In summing up Sheriff G Napier said:

"This was a reckless and foolhardy escapade, especially since you knew that you had been told not to proceed by the MCA. You took people to where there was a real danger and considerable doubt as to your ability to cope in an emergency."

After discount for an early plea the Sheriff fined Mr. Trumpess £5,000.

Tom Borland MCA Operations Manager for Scotland and Northern Ireland said:

"The vessel, its equipment and crew were not suitable to undertake this voyage. The punishment imposed by the court should send a strong message to the operators of this type of craft that such irresponsible behaviour will not be ignored by the MCA."

Ed – you do wonder about the sanity of all involved. At least the escapade was accomplished without death or injury – although clearly not without unacceptable risks being run.

CHORLEY FIRM PAYS £118,000 AFTER DEATH EMPLOYEE

Pin Croft Dyeing and Printing Co Limited was fined a total of £100,000 following the death of an employee in a tow tractor incident. They pleaded guilty to breaching the principal health and safety duty to safeguard the health, safety and welfare at work of an employee (s2 HSWA), for failing to make a suitable and sufficient risk assessment (reg 3 MHSWR) and for failing to ensure the tractor was maintained in efficient working order. (reg 5 PUWER)

Rosemary Leese Weller, the HSE inspector who investigated the case, said: "*Daryl's death was entirely preventable by simple health and safety precautions such as provision of a well maintained vehicle, properly maintained floor surface and by ensuring sufficient training in its use. Every year about 50 people are killed in accidents involving workplace transport.*"

This particular accident illustrates the importance of employers providing safe sites, safe vehicles and safe drivers."

Daryl was driving the three-wheeled battery operated vehicle at the premises of Pin Croft Dyeing and Printing Co Limited on Market St in Adlington, Chorley on 16 May 2005. The vehicle was not fitted with a seat belt and the cab doors were missing. The floor surface was uneven and Daryl had not received sufficient driver training. He was crushed, sustaining fatal injuries, by the rim of the cab when it toppled over.

29 November 2006 Preston Crown Court

Maximum penalty for these offences in this court – unlimited fines

ANOTHER FALL FROM HEIGHT BRINGS DEATH AND MISERY

Christopher Lucas from has been fined £15,000 at following the death of Steven Sinclair from Watford in a prosecution brought by the HSE.

Christopher Lucas runs Four Seasons a Double Glazing window replacement company. Steven Sinclair and was contracted by Mr Lucas with others to replace double-glazed windows. Mr Sinclair fell 11m to his death when installing glazing at Greville Place London.

Christopher Lucas pleaded guilty to a breaching s3 HSWA – accepting that he had not put adequate means in place to prevent falls.

Following the sentencing HSE Inspector Lisa Chappell said,

"The risks of working at height are well-known, yet falls remain the most common cause of death and injury in the construction industry. Mr Sinclair's family are grieving the loss of a son and brother following a fatal accident that could easily have been prevented. This case highlights once again the absolute necessity for work at height to be properly planned, and for equipment such as guard rails, barriers or harnessed to be used where appropriate."

27 November 2006 City of London Magistrates Court

Maximum penalty for this offence in this court £20,000.

Ed – given what happened and the obvious lack of precautions taken some may think the defendant was treated very leniently.

LACK OF INSURANCE AND WORKPLACE DEATH

Paul Overall pleaded guilty to not having Employers Liability Insurance and was fined £1,800 and costs of £708.

The case brought by the HSE follows its investigation into the death of 38 year old lorry driver Mark Fowell, who was crushed between two lorries whilst carrying out external checks on 20 February 2006. The investiga-

tion revealed that Paul and Charles Overall, trading as CT Overall Transport, failed to arrange any Employers Liability insurance even though Mark Fowell had been an employee for nearly two years.

9 November 2006 Stafford Magistrates' Court

ANOTHER REASON TO HAVE EMPLOYERS LIABILITY INSURANCE

Andrew Richardson of St Albans Road, Sutton was found guilty by the City of London Magistrates Court of not having the compulsory Employers Liability Insurance. He was ordered to pay fines, costs and compensation totalling £11,500.

He had pleaded not guilty of failing to have the required insurance on the sample dates of 14, 15 and 20 July 2005. Similar charges against his company Southern Gas Conversions Limited were dismissed as the Court felt that Mr Richardson was responsible for the breaches instead.

After a two-day trial where Mr Richardson represented himself, he was found guilty and was ordered to pay a fine of £500 plus the prosecution costs of £10,000.

The court heard that student Yana Jones (17) who had been working as a mechanic had suffered injuries to her left leg which has left her permanently scarred. She carried out a range of mechanical tasks for Richardson including paint stripping and brake changing. Richardson claimed in court that the mechanic students he paid £3 an hour were not workers, but were just attending his business to watch.

Richardson claimed he did not need insurance. The prosecution produced in court a questionnaire signed

by him in which he stated to Carshalton College that he did have insurance cover.

Given that Miss Jones could not make any claim for compensation under an Employers Liability policy the court ordered Richardson to pay her £1000 in compensation.

Mr Andrew Withers, the Health and Safety Executive Investigating Inspector said;

"Having Employers Liability Insurance is a legal requirement for anyone employing people to carry out work and this includes workers who might incorrectly be thought to be non-employees, but only trainees or on work experience. It is terrible when people get hurt at work, but at least having insurance means the victim can get some compensation to cover losses and help their recovery. Ms Jones thankfully did not suffer more serious injuries, but if she had, she might at only seventeen years old have been left unable to work again and yet not received a penny. I hope this case sends out the message that employers need to pay reasonable attention to preventing accidents and also providing insurance cover."

14 November 2006 City of London Magistrates Court

Ed— I wonder whether there has been any consideration of whether the Minimum Wage obligations were breached?

FATAL ENTANGLEMENT

David Willott of Grantham was killed as a consequence of becoming entangled with a Power Take Off (PTO) point at Church Farm Normanton. He was using a pump driven by a tractor PTO to unblock a blocked slurry tanker. There was no Power Input Connection Guard. Mr Willott's clothing caught on the shaft and he became entangled, which resulted in the amputation of his arm. He died later from multiple injuries.

Hillcrest EM Ltd, of Normanton pleaded guilty to breaching reg 11 PUWER 1998 for not ensuring that measures were taken to prevent access to a dangerous part of machinery and for breaching reg 3 (1) MHSWR1999 in that the company did not carry out a suitable and sufficient risk assessment. The Magistrates

fined the company £4,000. Costs were £2,232.

HSE Inspector Sian Tiernan said:

"This was a tragic accident which has killed a young man. Every year people are killed or seriously injured in accidents involving tractor PTOs and PTO drive shafts. Most of these accidents are preventable if the PTO and PTO drive shaft are fitted with guards of good design which are properly used and maintained."

8 November 2006 Melton Magistrates Court

Maximum penalty for these offences at this court - £5,000 fine per offence.

CONDITIONAL DISCHARGE FOR DEATH ON A DEMOLITION SITE

J. Routledge & Sons Ltd of Widnes, Cheshire, were given a two year conditional discharge and a source linked to the company agreed to pay £10,000 costs after the company pleaded guilty to breaching s2 HSWA following an accident which caused an employee's death. The company has ceased trading since the incident.

Anthony Hoare, of Litherland, Liverpool, was struck by a telehandler at the Great Lakes Chemical Works demolition site in Amlwch, Anglesey, in January 2005.

HSE inspector Debbie John said: "*Telehandlers, a mobile plant commonly used by construction companies, are often involved in a number of fatal accidents and we want to bring this to the attention of the construction industry. If you use these types of plant, you need to know what the risks may be and how to check whether you might have a problem your-*

selves. The HSE would like to draw your attention to a specific risk with telehandlers which may occur when working on sites where a telehandler needs to be reversed, where it is moving forward with a load, or where there is poor pedestrian segregation, there is a risk, due to the driver's limited or obscured visibility, of people walking around the site being struck."

10 November 2006 Wrexham Magistrates Court

Maximum penalty for this offence in this court £20,000 fine.

Ed – when sentencing an offender, notably when imposing a fine, the court must take account of the means of the defendant and the ability to pay – which in relation to a company that has ceased trading is not a great deal.

YET ANOTHER FALL FROM A FRAGILE ROOF

Timbmet Rochdale Limited has been fined a total of £25,000 and ordered to pay £8,408 in costs after pleading guilty to two health and safety offences following the death of an employee in a 10m fall from their factory roof in Rochdale.

David Carter a logistics manager employed by the company suffered fatal injuries after making his way onto the roof with a colleague to fix a blocked gutter. The roof was made of asbestos cement sheeting with Perspex roof lights. Mr Carter stepped onto one of the roof lights and fell.

The HSE investigation into the incident revealed that the company had failed to ensure that the premises were maintained in a safe condition and had not carried out a suitable risk assessment for working on or near fragile materials.

The company pleaded guilty to breaching s2 HSWA and reg 3 MHSWR and was fined the maximum amounts of £20,000 and £5,000 respectively for a hearing in the Magistrates' Court.

Speaking after the case, HSE investigating Inspector Peter Lennon said:

"There was a history of problems associated with the maintenance of the premises at Wood Street, in particular dust leaking from the rooftop extraction pipes gathered in the guttering and when it rained, the guttering became blocked. This caused leaks from the internal down pipes to flood the factory floor. On occasions this meant that production had to be stopped to clear up the water. The company was aware of the on-going problems with blockages but failed to act on this knowledge. Their inadequate maintenance procedures led to David Carter's decision to go onto the roof himself to fix the problems. The hazards associated with fragile roof materials are well known. But the company failed to identify the hazards associated with working on or near fragile materials even though contractors were used on occasions to work on or near the roof. A suitable and sufficient assessment would have identified the risks and what precautions to take when work on or near the roof was necessary."

2 November Trafford Magistrates Court

The maximum penalties available for these offences in this court were imposed in this instance

BROKEN NECK LEADS TO £5,000 FINE

Maintenance firm McFarlane Telfer was fined £5,000 and ordered to pay £5,556 costs following the fall of a welder fabricator some 3.2 metres. He broke his neck.

The incident took place on 24 May 2005 when Mr George St John was replacing the grating over an exterior light well at the Grosvenor House Hotel, Park Lane, Westminster. He was standing on the grating over a light well at pavement level when it gave way.

Following the hearing at, HSE Inspector Lisa Chappell said: *"The risks of working at height are well-known. Falls from height remain one of the most common causes of death and*

injury in the construction industry. Mr St John suffered serious injuries and this incident could have resulted in his death. This case highlights once again the absolute necessity for work at height to be properly planned, and for equipment such as crash decks or scaffold towers to be used where appropriate."

McFarlane Telfer of Maidenhead, Berkshire was prosecuted for an offence under Regulation 4(1) of the Work at Height Regulations 2005.

1 November 2006 City of London Magistrates Court

Maximum fine for this offence in this court £5,000 fine.

AND ANOTHER FALL FROM HEIGHT

Lotus Construction Limited of Otley, was fined £5,000 and ordered to pay costs of £1,143 and compensation of £500, for failing to provide an edge protection barrier to prevent the fall of a 17 year old sub-contractor working as a plasterer. The injured man, Richard Green, had only been working in construction for three months when he fell a distance of around 2.4 metres from first floor level.

The company pleaded guilty to breaching s3 HSWA – accepting it had failed to provide a safe system of work at a project to build a two-storey extension to RC Jones Motor Vehicle Repair Centre in Claycliffe Road, Barnsley.

HSE's investigating Inspector Mark Gough said:

"Falling is the biggest cause of workplace fatalities. Last year,

over 3,700 major injuries were recorded from falls at workplaces across the UK - sixty percent of those injuries coming as a result of working at below head height. Yet falls are preventable when work is planned properly, the risks are accurately assessed, and the correct equipment is used. Contractors and sub contractors alike have a duty to ensure that this preparation is done and that methods of work are safe. Had this happened in this case the young man involved would have avoided injury. With 71 people killed in 2004/5 it has to be recognised that construction is a dangerous industry and all those working in it must take responsibility for improving its safety standards."

2 November 2006 Barnsley Magistrates Court

The maximum fine in this court for this offence is £20,000

LACK OF FORESIGHT AND PRECAUTIONS

Factory Reconstruction Co (Manchester) Ltd was fined a total of £10,500 with pay £1,956 costs at after pleading guilty to three breaches of health and safety regulations. The charges were brought after Jaroslav Linka from Czech Republic suffered serious injuries to his left hand whilst using an inadequately guarded circular saw.

HSE Inspector Lisa Bailey said:

"Mr Linka was exposed to unnecessary danger whilst using a circular saw to prepare wood for the construction of pallets. As he worked his hand came into contact with the saw blade and he suffered severe lacerations to his left hand which could have been prevented with simple guarding and provision of adequate training in the use of a circular saw. Furthermore the company had not carried out a risk assessment for the work he was carrying out."

She continued: *"It is particularly important that companies employing foreign workers make sure that these workers are adequately trained and understand UK health and safety requirements. Employers must be certain that supervision and workers understand one another and that management decisions and instructions will be properly understood and acted upon"*.

The charges brought were under PUWER and MHSWR encompassed the failure to have a suitable and sufficient risk assessment, and the failure to provide appropriate information, instructions and training and for failing to provide adequate guarding.

30 November 2006 Trafford Magistrates Court

Maximum penalties for these offences in this court £5,000 per offence

REPORTS AND ANNOUNCEMENTS

STRESS AT WORK COSTS £4 BILLION A YEAR

According to the HSE half a million people in Britain currently experience work-related stress at a level they believe is making them ill. The financial costs to society are estimated at £3.8 billion a year.

The cost of work-related stress is a reality for the 1 in 5 people who say they are stressed or very stressed by their work. The cost to employers is also significant - in terms of staff absence and reduced organisational performance.

The HSE is striving to improve working practices so as to reduce the likelihood of stress arising in the workforce. The Management Standards are available, together with a comprehensive supporting toolkit, for

free from HSE's web site <http://www.hse.gov.uk/stress/standards/index.htm>

The HSE's Stress Management Standards apply to six aspects of work design that research has shown as potential stressors: -

- * Control;
- * Demands;
- * Support;
- * Relationships;
- * Role, and Change.

...and along with the rest of the detailed guidance on the web-site they are well worth reading.

CONTROL OF ASBESTOS REGULATIONS 2006

Those of us who work with the asbestos industry are going to have to get used to new regulations. Effectively the entire suite of asbestos controlling regulations have been swept away and replaced by the Control of Asbestos Regulations 2006. (CoAR 2006)

The Control of Asbestos at Work Regulations 2002 which contained the duty to manage the risk posed by asbestos fibres in non-domestic premises have been repealed – but all the duties and obligations incorporated into the new regulations with some tightening and some minor drafting changes. In other words at least the same

law but now in a different wrapper!

The Asbestos (Licensing) Regulations 1983 (as amended) have been repealed but with the substantive law also incorporated into CoAR 2006. The same is true regarding the Asbestos (Prohibitions) Regulations 1992.

The codification of the asbestos regulations will make the lawyers task of locating the law easier – but will in no way lessen the obligations and duties imposed on all regarding the proper management of asbestos containing materials and the risks they pose.

EQUALITY AND DIVERSITY IN THE WORKPLACE

In just over seven years, only a fifth of the workforce will be white, able-bodied, male and under 45. This is the fact that has driven Acas to develop its first equality and diversity online learning tool.

Stephen Williams, Head of the Equality and Diversity Unit at Acas said:

"It must be an intolerable situation to know you are working in an environment where you feel your contributions are not valued. Unfortunately many can suffer - for years sometimes - without being able to overcome this problem, and even more worrying is that employers are not trained to be aware of the types of issues that can make people feel undervalued and ineffective."

This has been the main driver behind Acas devising a series of equality and diversity e-learning tools designed to help both employers and employees recognise relevant issues and be able to address them.

The e-learning tool, on sexual orientation and gender reassignment is available at <http://www.acas.org.uk/elearning/> and provides a practical learning tool to assess an organisation's position and how any issues can be further identified and addressed. This new learning tool is provided alongside a free consultation from Acas as part of the Government's drive to promote good practice to underpin the Sexual Orientation and Religion and Belief Regulations 2003.

HSC PUBLISHES HEALTH AND SAFETY STATS FOR 2005/06

The Health and Safety Commission (HSC) has published the latest statistics on work-related ill health, workplace injury and enforcement in Great Britain. 'Health and Safety Statistics 2005/06' presents the top-level statistics, including reports on progress against the targets set in the 'Revitalising Health and Safety' strategy.

The statistics themselves are a "dry read." If you want more detailed data and commentary they are available on the HSE website at <http://www.hse.gov.uk/statistics>.

The number of working days lost in Great Britain (ie England, Wales and Scotland) due to work-related injury and ill health fell from 40 million in 2000/02 to 30 million working days in 2005/06.

The figures show the latest progress against ten-year targets to improve national health and safety performance by 2010. Progress to reduce ill health by 20 per cent is on track to meet the target, and reducing working days lost by 30 per cent is probably also on track. Fatal and major injuries also fell in 2005/06, though progress is not presently on track to meet the reduction target of ten per cent.

Ill health accounted for around 24 million working days lost. Stress and musculoskeletal disorders were by far the most common causes of absence, making up around three quarters of this figure.

HSC Chair Bill Callaghan said: "I'm delighted that the statistics released today demonstrate improvements across all three

of our target areas of ill health, injury and days lost. This is testament to the determination and commitment of staff across HSE and in Local Authorities to concentrate their efforts on those risks that matter. Since the start of the decade there has been a drop of over nine million working days lost. That is a success by any means. The good news in these statistics has to be counter balanced by the challenges we face; the outcome of the next spending review; achieving the most effective balance of interventions between paid publicity, inspection, stakeholder work and enforcement; the changing nature of workplace risks and the time it takes for our interventions and partnership working to bear fruit."

Reported non-fatal major injuries to workers fell for the second year in a row to just under 30,000, a drop of six percent on 2004/05. Agriculture and construction remain the two most hazardous industries, with average rates of self-reported non-fatal injuries to workers over the past three years of 2,020 and 1,790 per 100,000 respectively.

The statistics reveal a significant drop in enforcement activity but HSE Chief Executive Geoffrey Podger said in response: "I understand the concerns regarding the fall in enforcement and we have recently undertaken an audit of our enforcement activity, which has shown areas for improvement. Initial data for 2006/07 leads us to believe that the fall in enforcement has been significantly reversed and we will continue to monitor this closely."

You have been warned!

RADON CONCERNS

Employers across Northamptonshire and surrounding areas are being targeted by the HSE in an effort to raise awareness of the possibility of high levels of radon gas in the workplace.

The blitz is being run in partnership with local authorities and key stakeholders and aims to raise awareness of the legislation surrounding radon gas and to tell employers how to comply with the law. Radon gas is a naturally occurring radioactive gas that can seep out of the

ground and enter buildings. It can then build up to levels where it causes a significant radiation risk to those inside.

The Health Protection Agency estimate that radon exposure to individuals at work causes between 90 and 280 fatal lung cancers every year, with those who smoke tobacco being particularly at risk. It is estimated that there are over 16,000 workplaces in Great Britain with radon levels in excess of legal action levels.

GOOD PLANNING ENFORCEMENT PRACTICE OUTLINED

New guidance for local authorities on how to take planning enforcement action has been outlined by Housing and Planning Minister Baroness Andrews as she published the results of the Review of Planning Enforcement in the House of Lords.

The review showed strong support among respondents for the current statutory framework for enforcement and recommended that enforcement should remain at the discretion of local authorities. The review has also led directly to the introduction of Temporary Stop Notices (TSN) of which over 300 have been used in 2005/06 to stop unauthorised development on a temporary basis for up to 28 days without the same risks of having to pay compensation associated with "permanent" stop notices.,.

TSNs have been used successfully across England to stop a wide variety of unauthorised development in-

cluding:

- * damage to listed buildings, trees and wildlife sites;
- * unauthorised landfill, quarrying, tipping and storage of waste;
- * unauthorised gypsy sites; and
- * excessive building.

Baroness Andrews said:

"Enforcement plays a key role in maintaining the integrity and effective operation of the planning system as well as protecting our environment. This review has highlighted a number of important areas where the Government will continue to work with local authorities, the Planning Advisory Service and others."

The Good Practice Guide on Enforcing Planning Control will be updated next year and provide the latest information for local authorities on how to tackle a broad range of enforcement actions.

EXTRA HELP TO MEET LANDFILL DIRECTIVE TARGETS

A new support programme to help local authorities reduce the amount of waste going to landfill was announced as part of the existing Waste Implementation Programme (WIP).

The Waste Infrastructure Development Programme (WIDP) targets waste that cannot be recycled or composted. Support is to be provided to local authorities with project scoping, procurement strategy, technology choices, planning, community engagement, public consultation, through to negotiation, delivery of the project and the operational phase.

WIDP aims to complement and expand on existing work and resources to meet Landfill Directive targets by

- establishing the scale of residual waste treatment infrastructure needed to meet targets;
- staying abreast of requirements by monitoring the delivery of projects; supporting local authori-

ties responsible for delivering the necessary infrastructure in a timely and affordable manner; and

at a programme level, helping the public and private sectors work effectively together in solving a shared national challenge.

Director of WIP John Burns said

"WIDP will accelerate the building of the infrastructure needed to treat residual waste without compromising our efforts to minimise waste and increase recycling levels. Only a combination of these activities will allow us to meet our obligations for biodegradable municipal waste under the Landfill Directive. Despite constant improvement in our efforts to recycle and compost in an economically and environmentally efficient way, there is a balance to be struck between reducing levels of waste generated, and the need to treat residual waste. It offers the opportunity to extract value from an otherwise discarded resource stream."

ADM MILLING SOWS THE SEEDS OF SUCCESS

ADM Milling has scooped top honours by winning The Health & Safety Award at this year's National Business Awards. The award was presented last night by Bill Callaghan, Chair of the Health and Safety Commission, to the Brentwood-based company before more than 1,200 business leaders, press and other VIPs at a prestigious gala ceremony, hosted by BBC's Fiona Bruce at London's Grosvenor House Hotel.

Presenting the award to ADM Milling, Bill Callaghan, HSC Chair, said:

"Our congratulations go to ADM Milling which has demonstrated that well-managed health and safety is good for their business, good for their reputation and key to ensuring the health and well-being of all of their employees. We commend all of the finalists for the commitment they have shown in ensuring risks to their businesses and employees health and well-being are properly controlled."

ADM Milling, which is the UK's largest independent flour miller, has a record that demonstrates the benefits of integrating health and safety in its management processes, with its leaders, managers and employees fully engaged in preventing ill health and injury in the workplace. Over the last 12 months, the company has achieved a 34 per cent reduction in the number of injuries and the number of working days lost has also fallen by 38 per cent.

The National Business Awards recognises and rewards excellence, innovation and success. It is open to organisations of all sizes and from any industry sector - public or private. The programme allows the best of British businesses to showcase their achievements and benchmark their successes against firms and bodies of all types.

CARBON MONOXIDE CONCERNS

Following the recent death of a 59 year old Silsden man the HSE is issuing a public alert on the importance of having all domestic gas appliances regularly checked and serviced at this time of year.

Initial findings point to the likely cause being carbon monoxide poisoning as a result of a blockage on an open-flued gas fire. At a time of year when gas fires and boilers are being widely brought back into use as colder weather returns, CO poisoning caused by poorly maintained or inexpertly installed equipment is an ever-present risk.

The HSE is also continuing its investigation into the carbon monoxide incident at Crookhill Primary School, in Gateshead in which 25 pupils were taken to hospital

after complaining of feeling ill.

Pam Waldron, Head of Operations, HSE North East said:

"As part of its investigation into the carbon monoxide incident at Crookhill Primary School, Gateshead, the HSE has required Gateshead Council to carry out a full review of its arrangements for the maintenance of gas fired appliances. This has been formalised by the issue of an Improvement Notice requiring the review to be completed within three months. Gateshead Council has already completed an urgent review of priority establishments with similar types of installations as Crookhill Primary School. No significant problems were identified. HSE's investigation into the underlying issues which led to the carbon monoxide incident is ongoing."

Brunswicks' Healthcare Review

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IN PARLIAMENT

At the risk of being disrespectful to our Parliamentary masters the veritable splurge of law making that happened in the immediate run-up to the proroguing in November makes one wonder if our Parliamentarians had been administered a powerful purgative in late October.

The following acts of Parliament hit the statute books in November

- NATIONAL LOTTERY ACT
- SAFEGUARDING VULNERABLE GROUPS ACT
- POLICE AND JUSTICE ACT
- ROAD SAFETY ACT
- NHS REDRESS ACT
- VIOLENT CRIME REDUCTION ACT
- LEGISLATIVE REGULATORY REFORM ACT
- FRAUD ACT
- EDUCATION AND INSPECTIONS ACT
- COMPANIES ACT
- CIVIL AVIATION ACT
- ANIMAL WELFARE ACT
- ARMED FORCES ACT

In this bumper edition there isn't space to make comment on these acts – but no doubt they will surface in the ensuing months!

But, of course, as one Parliamentary session ends another one begins. And as we know this government isn't shy about legislating. Not that I'm complaining – as after all it pays my mortgage – but God help those that have to comply with it all.

The government has announced the following legislative programme for the 2006/07 session:

- Asylum and Immigration Bill
- Child Support Bill
- Climate Change Bill
- Concessionary Bus Travel Bill
- Consumers, Estate Agents and Redress Bill
- Corporate Manslaughter & Corporate Homicide Bill

- Counter Terrorism Bill
- Criminal Justice Bill
- Crossrail Bill
- Cultural Property (Armed Conflict) Bill
- Digital Switchover (Disclosure of Information) Bill
- Fraud (Trails without a Jury) Bill
- Further Education and Training Bill
- Greater London Authority Bill
- Human Tissue and Embryos Bill
- Investment Exchanges and Clearing Houses Bill
- Legal Services Bill
- Local Better Regulation Office Bill
- Local Government Bill
- Mental Health Bill
- Northern Ireland (Justice and Security) Bill
- Offender Management Bill
- Organised Crime Bill
- Party Funding Bill
- Pensions Bill
- Road Transport Bill
- Statistics and Registration Service Bill
- Tribunals Courts and Enforcement Bill
- Welfare Reform Bill

In addition there are plans to reform the House of Lords! Well at least we know what are representatives ought to be getting up to.

Now just in case you prefer the tortuous language that the government puts into the mouth of the monarch here is Her Majesty's speech in full:

“My lords and members of the House of Commons, my government will pursue policies aimed at meeting the challenges which the United Kingdom faces at home and abroad.

A stable economy is the foundation of a fair and prosperous society. My government will continue to maintain low infla-

tion, sound public finances and high employment. At the heart of my government's programme will be further action to provide strong, secure and stable communities, and to address the threat of terrorism.

My government will put victims at the heart of the criminal justice system, support the police and all those responsible for the public's safety, and proceed with the development of ID cards. A bill will be brought forward for the next stage of reform of the criminal justice system, giving the police and probation services new powers to protect the public from violent offenders and anti-social behaviour.

Legislation will be introduced to improve the way that offenders are managed and supervised. Measures will be brought forward to give law enforcement agencies new powers to combat serious and organised crime. A bill will be introduced to provide the immigration service with further powers to police the country's borders, tackle immigration crime, and to make it easier to deport those who break the law. A bill will be introduced to provide for trials without a jury in serious fraud cases. Legislation will be brought forward to improve the administration of justice by reforming the tribunal system, the qualifications for judicial appointment and the enforcement of judgments.

My government will publish a bill on climate change as part of its policy to protect the environment, consistent with the need to secure long-term energy supplies.

My government will continue its investment in, and reforms of, the public services in order to improve further their effectiveness and to help the most vulnerable members of society.

My government will take forward legislation to reform the welfare system, and to reduce poverty. A bill will be introduced to improve the system of child support. A bill will be introduced providing for long-term reform of pensions. Legislation will provide for free off-peak local bus travel for pensioners and disabled people.

My government's programme of educational reform will continue to raise standards in schools to help all children achieve their full potential. A bill will be introduced to reform the further education system so that it can better equip people with the skills that they and the economy need.

My government will carry through the modernisation of health-care based on the founding principles of the National Health Service. A bill will be introduced to provide a better framework for treating people with mental disorders. Draft proposals will be published to reform the regulation of human embryology.

A draft bill will be published to tackle road congestion and to improve public transport.

My government will publish proposals to reform the planning

system.

Legislation will provide for improved arrangements for consumer advocacy and for the regulation of estate agents.

My government will also continue its programme of reform to provide institutions that better serve a modern democracy. It will work to build a consensus on reform of the House of Lords and will bring forward proposals.

Bills will provide for reform of local government and enhanced powers for the Mayor and Assembly for London. Legislation will be introduced to create an independent board to enhance confidence in government statistics. Members of the House of Commons estimates for the public services will be laid before you.

My lords and members of the House of Commons my government will work closely with the devolved administrations in Scotland and Wales. My government will work towards the restoration of devolution in Northern Ireland, including by bringing forward legislation.

The Duke of Edinburgh and I look forward to our State Visit to the United States of America in May 2007 to celebrate the 400th anniversary of the Jamestown Settlement. We also look forward to receiving the President of Ghana and Mrs Kufuor.

My government remains committed to peace in the Middle East. It will continue to work to find a lasting settlement between Israel and the Palestinians, to support the new Iraqi government in its efforts to build an enduring constitutional settlement, and to assist the government of Afghanistan.

My government will work with the United Nations and European Union partners to prevent the spread of weapons of mass destruction, including addressing international concerns over North Korea and Iran, and to promote good governance.

My government will continue to work to build an effective and globally competitive European Union and will also work to strengthen the North Atlantic Treaty Organisation. My government will contribute to a modern and inclusive United Nations and will work to take forward the World Trade Organisation Doha talks. My government will continue its focus on Africa, including by seeking a resolution to the crisis in Darfur. I look forward to visiting Kampala next year for the Commonwealth Heads of Government Meeting.

My government will work to foster a strong partnership between Europe and the United States of America in order to meet these objectives.

Other measures will be laid before you.

My Lords and Members of the House of Commons: I pray that the blessing of Almighty God may rest upon your counsels.



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IN BRIEF

In the November the Department of Transport Rail Accident Investigation Branch has published two reports.

In relation to a train derailment at Oubeck North near Lancaster on 4th November 2005 the RAIB noted as follows:

On Friday 4th November a train travelling on the West Coast Main Line derailed after running into a landslip at a cutting at Oubeck North. The trailing wheelset of the leading bogie derailed and the train travelled a further 1430m before coming to rest in an upright position. There were no injuries as a result of this derailment but track damage was sustained.

The immediate cause of the derailment was the train running into material deposited on the track as a result of the cutting landslip. This failed due to the volume of water flowing through a concealed field drain into the slope, which was greater than usual due to the wet period over the preceding two weeks and excessive rain during the previous day. The root cause was that the field drain was hidden from view and therefore the infrastructure owner was unaware of it.

The RAIB has made six recommendations as a result of its investigation. The primary focus of the recommendations was on modifying existing drainage arrangements at Oubeck and identifying, prioritising and managing other cutting slopes prone to risks of earth flow due to drainage from neighbouring property.

And in relation to a runaway of a manually propelled trolley between Larkhall and Barncluith tunnel on 2nd November 2005 RAIB found that on Wednesday 2nd November a manually propelled trolley being used within an engineering possession on the partially built Larkhall branch in Scotland ran away from the trolley operator. It travelled over three miles down hill and ran onto a railway line open to traffic. The trolley came to a stand within Barncluith tunnel where a possible collision with a passenger train was prevented by the trolley activating a track circuit within the tunnel.

The immediate causes of the runaway were the use of a heavily loaded trolley on a steeper gradient than permitted, the brake lining material, and the contamination of the brake linings by a mixture of mud, fuel and oil.

The RAIB has made sixteen recommendations as a result of this investigation. They cover the specification, design and testing of manually propelled trolleys and their braking systems, safety checks prior to the use of trolleys, the Rule Book coverage for the use of manually propelled trolleys; competency in the use of manually propelled trolleys, company safety management; the dissemination of safety information, and product acceptance processes.