

Brunswicks Regulatory News

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Crane Accident

MRX Engineering Support Services Ltd, trading as Stackright Building Systems of Charley Wood Road, Kirby was fined £100,000 and ordered to pay £16,941 costs at Liverpool Crown Court. They were convicted of breaching S 2(1) HSWA in that it failed to ensure the safety of it's employees. The company had pleaded guilty at an earlier hearing at Knowsley Magistrates Court.

Welder Keith Wharton, aged 41, from Kirby was killed instantly and his colleague Christopher Cansfield, 31, from Bootle sustained severe injuries including a broken neck and leg in the incident on 8 March 2007.

HSE Inspector Iain Evans who investigated the incident said:

"Keith Wharton should not have died. His was an avoidable, pointless and unnecessary death in an environment where there were numerous safety issues. If the company which employed him had dutifully exercised its responsibility to ensure their safety, his family would not be here at court today grieving their loss. There is a very clear responsibility on employers and managers to safeguard their workers. There is plenty of advice and guidance within industry and from HSE on how to comply with the law. The failure to do so in this instance cost one man his life, and seriously injured his colleague."

The court heard that the Mr Wharton was killed and Mr Cansfield seriously injured when a steel lifting frame weighing more than half a ton fell from an overhead crane. There was no safety catch on the hook of the crane, which could have prevented the load from falling. The company should not have allowed loads to be moved over people's heads and the crane operators had not been adequately trained in its safe use.

Ed - all too obvious perhaps?

Electric Cables

SP Power Systems Ltd of Glasgow were prosecuted after Peter Mason was engulfed in flames and his colleague, Kieran Williams, thrown to the ground after one of them tripped and fell onto a live cable during construction work in Great George Street, Liverpool.

Peter Mason took the full force of the blast to his face and neck and had to run 40m out of the building in flames before being able to extinguish them in a puddle of rainwater. He was taken to the Royal Liverpool Hospital before being transferred to the specialist burns unit at Whiston Hospital.

Liverpool Crown Court heard that SP Power Systems Ltd had left the cable in a live condition for five months, but had failed to make it safe. SP Power Systems Ltd pleaded guilty to an offence under Section 3 (1) HSWA that they failed to take reasonable steps so that persons not in their employment were not exposed to risks. They were fined £32,000 and ordered to pay £15,000 costs.

Workmen on the site, where an existing building was being demolished and two blocks of apartments being built, came across a metal pipe which was sparking and was identified as a live cable that they had been unaware of. SP Power Systems Ltd were contacted and visited the site, sealing the end of the cable, but failed to make it clear to the site management team that the cable remained live. Believing the cable to be dead, work was allowed to continue on the site. The incident happened some six months later on the 8 March 2006, when 28-year-old scaffolder Peter Mason, from Birkenhead, and 17 year old plasterer Kieran Williams, from Crosby, were working in the building when one of them stumbled onto the cable causing it to explode.

HSE Inspector Wayne Crumpton said:

"This was an entirely avoidable incident that caused horrific injuries. SP Power Systems Ltd should have made it clear to the site management team that the cable remained live and their own systems should have alerted them to that fact. The cable was still live and should have been made safe by one of their own follow-up gangs very shortly after their first visit to the site. This incident could so easily have resulted in multiple fatalities and the message must go home to all those responsible for electrical systems on construction sites that this is a harsh environment and one that needs managing well."

Recycling Plant Problems

RCP Macpress (UK) Ltd, of Bridges Business Park, Horsehay, Telford, was fined £15,000 and ordered to pay costs of £2,496, after pleading guilty to breaching s2(1) HSWA. SCA Recycling UK Ltd, of New Hythe Lane, Aylesford, Kent, was also fined £15,000 with costs imposed of £3,042 after pleading guilty to breaching s3(1) HSWA.

Loraine Charles, the HSE Inspector who investigated the case, said:

“This incident demonstrates the importance of ensuring that employees are properly trained to carry out risk assessments and to properly operate permit-to-work systems - not just how to fill in forms. Risk assessments and permit-to-work systems are worthless unless companies make sure that employees are aware of what the hazards actually are and, therefore, carry out their work accordingly.”

On 23 July 2004, James Adams, and another engineer from RCP Macpress engineers, were at SCA Recycling UK Ltd’s premises in Herringham Road, Greenwich, London to repair a large waste paper recycling machine, known as a shredder or hogger. The shredder had been damaged when the fork of a forklift truck was inadvertently loaded into it hidden within a load of waste paper. Although the engineers filled in their company’s risk assessment form before starting the job, they had only been instructed on how to fill in the form, and not how to actually make an assessment of the risks. When the panel of the shredder that allowed access to the damaged area failed to open as easily as the engineers had expected, they resorted to attempting to push the panel open using a hydraulic jack able to exert a force sufficient to lift 25 tonnes – the estimated weight of the panel being approximately 100kg. The panel opened suddenly, but immediately shut again, trapping Mr Adams’ right ring finger and little finger resulting in the loss of the tips of both fingers.

Loraine Charles continued:

“A properly implemented permit-to-work system would have ensured that there was a detailed methodology for the work to be undertaken on the shredder, including how access was to be gained to area that was damaged. RCP Macpress (UK) Ltd, should have told the engineers that the permit remained valid only as long as the work proceeded according to this methodology. Had this happened, as soon as the access panel failed to open as expected, the engineers would have been compelled to return to the permit issuer, and both companies would have had the opportunity to evaluate what steps were needed to be taken to ensure that the work could be done safely.”

The HSE investigation revealed that SCA Ltd had a number of types of permit-to-work documents and a permit was issued to the RCP Macpress engineers. But SCA had failed to ensure that employees who issued permits had been properly trained and did not have a clear understanding of how the permit-to-work system should have been operated.

Good-eye

Weldex UK Ltd pleaded guilty to three breaches of the PUWER following an incident on 1 August, 2007, at its premises at Kingsway South, Team Valley, Gateshead.

HSE Inspector Martin Baillie, who investigated the incident, said:

“A worker was carrying out some grinding work when the grinding disc shattered and penetrated the visor he was wearing and hit him in the eye. As a result he has lost the sight in his left eye. Employers must prevent or control risks to people’s health from equipment they use at work. All work equipment must be suitable for use, regularly maintained and inspected and only used by people who have received adequate training.”

Gateshead Magistrates fined Weldex UK Ltd £3,500 on each charge and also ordered them to pay £2,832 in costs.

Ed – Weldex UK Ltd were charged with the following breaches of PUWER

reg 4(1) Every employer shall ensure that work equipment is so constructed or adapted as to be suitable for the purpose for which it is used or provided.

reg 9(1) Every employer shall ensure that all persons who use work equipment have received adequate training for purposes of health and safety, including training in the methods which may be adopted when using the work equipment, any risks which such use may entail and precautions to be taken.

reg 12(1) Every employer shall take measures to ensure that the exposure of a person using work equipment to any risk to his health or safety from any hazard ... is either prevented, or, where that is not reasonably practicable, adequately controlled.

In the Quarry

Wildmoor Quarry Products were prosecuted following an incident in Bromsgrove, Worcestershire when a 30kg (66lb) lump of sandstone caused serious head injuries to a worker. On 21st March 2007, a Wildmoor employee was working at a power-operated machine in the company’s Sandy Lane quarry when a lump of sandstone fell approximately 6 metres (20ft) and struck him on the head. The employee, who was not wearing head protection at the time of the incident, received serious head injuries.

Speaking after the case, HSE investigating inspector Ian Williamson said:

“It’s a fundamental expectation that employees should work in safety. A quarry is one of the most dangerous environments and working there calls for vigilance by employers and workers alike. Assessing risks and implementing safe systems of work, particularly on moving machinery, often only requires simple control measures but, in this case, screens, which may have prevented the boulder from entering the machine, were not sufficiently maintained.”

It also obvious that workers should wear suitable head protection in an environment where there are large, heavy, materials swiftly moving along at high level."

Wildmoor Quarry Products Ltd was fined a total of £5,000 and ordered to pay costs of £3,520 at Bromsgrove and Redditch Magistrates' Court on Wednesday 23rd April. The company pleaded guilty to breaching Section 2(1) HSWA.

Mr Williamson continued:

"To prevent illness or injury it is vitally important that appropriate safety instructions are followed and enforced by employers who must regularly ensure that employees are properly wearing the correct safety clothing, observing safety instructions and armed with all necessary information, training and equipment."

Ed - Quarrying still remains one of the most dangerous industries to work in. Since 2000 over 2,700 workers have suffered an injury reportable to HSE - 21 of those being fatal.

And another case in the Quarry

W&M Thompson (Quarries) Ltd based in Low Prudhoe, Northumberland, and Alan Armstrong, of Coxhoe, Durham, pleaded guilty to breaches of health and safety law following an incident on May 1, 2007 at Bishop Middleham Quarry near Ferryhill, Durham, in which a worker spent six days in hospital with three cracked ribs and bruised lungs after becoming trapped in a rotating, unguarded shaft between a tractor and a water bowser. Bishop Auckland Magistrates' court fined W&M Thompson (Quarries) Ltd £3,000 and ordered £1,756 in costs to be paid. Mr Armstrong was fined £1,200 and ordered to pay £500 costs.

HSE Inspector Martin Baillie, who investigated the incident, said:

"A guard on the machine had become damaged and was removed by the quarry foreman, Alan Armstrong. Mr Armstrong instructed the worker to operate the tractor and bowser without the guard in place. It later transpired that the risk assessment carried out in 2004 for the tractor and bowser required checks on the guarding to be carried out on a daily basis and for these checks to be recorded. However, at the time of the incident these checks were not being carried out. It is reasonable to expect that had the damage to the guarding been identified during earlier checks, the problem would have been rectified prior to this incident. The HSE does not take the decision to prosecute individuals lightly. However enforcement action will always be considered where a person at work, particularly one in a position of responsibility, has by their actions endangered the safety of work colleagues."

Ed - W&M Thompson (Quarries) Ltd was charged with contravening reg 5 (1) PUWER in that it did not ensure that a piece of work equipment was maintained in an efficient state, in efficient working order and in good repair. Alan Armstrong was charged with breaching Section 7 HSWA in that he did not take reasonable care for the health and safety of himself and of other persons who may be affected by his acts or omissions at work.

Worlds biggest brick manufacturer cracks

Wienerberger Ltd, based in Cheshire, pleaded guilty to two breaches of the Control of Substances Hazardous to Health Regulations 2002 namely reg 6(1) & reg 7(1) following an incident on May 15, 2007 at its Todhills Works in Newfield, County Durham, which resulted in one of its employees being hospitalised. Bishop Auckland Magistrates' Court imposed total fines of £2,000 and ordered £8,516 in costs to be paid.

HSE Inspector Fiona MacNeill who investigated the incident, said:

"It is vital for companies to carry out risk assessments if their employees are to be exposed to hazardous substances. In this case, Wienerberger Ltd did not make a suitable and sufficient assessment of the risk posed by fumes and gases generated by cutting galvanised steel dryer trams using oxy-acetylene, nor did they adequately control that exposure. Fumes from hot cutting galvanised steel contain zinc and are particularly hazardous to people and can cause illness."

Two employees were asked to do a 'one-off' job cutting up galvanised dryer trams using oxy-acetylene burning equipment. The trams are trolleys used to transport bricks through a dryer. However, Wienerberger Ltd neither carried out an assessment of the risks from metal fumes nor took steps to control any resultant exposure. Both men received high exposures which led them to suffer symptoms of metal fume fever which are 'flu-like' and include coughing, shortness of breath, fatigue and pains in muscles and joints. Symptoms normally subside within 24 to 48 hours.

Ed - obvious absence of forethought and proper planning.

Fork Lift Driver Prosecuted

Gerald David Wyatt, a forklift truck driver working at Eardisley Sawmills, Herefordshire has been prosecuted by HSE (Health & Safety Executive) following serious injuries caused to a colleague on 17th January 2007.

Wyatt pleaded guilty on Monday 7th April 2008 to failing to take reasonable care for the health and safety of other persons under Section 7 of the Health and Safety at Work Act 1974 so Worcester Crown Court imposed a fine of £1,750.

The Court heard that Wyatt was driving a rough-terrain forklift truck while the forks were loaded with a stack of 12 modular sheds. As he moved forwards the load significantly obscured his vision and a fellow employee was struck by the load causing a fractured pelvis, cuts and bruises.

HSE's investigating inspector Anne Robinson said:

"It is important that individuals are aware that they, as well as their employer, have duties under the law to take reasonable care of the health and safety of others who may be affected by their acts or omissions at work. Mr Wyatt's employer had employed an in-house forklift truck trainer and Mr Wyatt had received regular refresher training and re-testing. In this case his forward visibility was significantly obscured by the load and he could not see his colleague. The injuries inflicted could have been significantly worse, or even fatal. Operators of lift trucks must ensure that they operate them in accordance with the training they have been given to prevent such tragedies."

Remember to Lead

The Chair of the Health and Safety Executive (HSE), Judith Hackitt reminded board members and senior business directors to put effective health and safety performance high on their agendas. Speaking at Capita Senior Directors' Health and Safety Briefing in London Ms. Hackitt said,

"No matter how good the health and safety system, nor how competent those who manage it, without effective board-level leadership and oversight, the competing demands of running a business can push health and safety into a back seat."

The Corporate Manslaughter & Corporate Homicide Act, has focused the attention of directors on their responsibilities for health and safety. Now that the Act has entered into force, organisations should be re-examining their health and safety performance - and asking 'Are our board and board members playing an appropriate and effective role?'

Recent incidents such as the explosions at Buncefield and BP Texas City in 2005 clearly show the need for strong health and safety leadership in high hazard industries. But Ms Hackitt reminded her audience today that it is key for every business to consider its own risk profile and demonstrate leadership in managing those risks. The responsibilities apply in all businesses including those in the services sector.

Ms Hackitt's message on boardroom-level leadership was clear,

"The challenge now is very much with directors and boards who must seize the opportunity to critically evaluate the risks in their business and the adequacy of their leadership and to make changes. Directors and boards need to translate words into actions, and deliver - the ball is in their court."

Effective health and safety processes protect the workforce, meet legal and moral imperatives and bring business benefits from improved productivity, reduced sickness absence, raised staff morale and enhanced corporate reputation.

Ed - nuff said!

Schools Fruit and Vegetables

Latest results from the Pesticide Residues Committee's (PRC) programme of pesticide residue testing in fruit and vegetables supplied to school children in the Autumn 2007 term have been published. They show that none of the samples tested contained pesticide residues above the legal trading level.

Dr Ian Brown, chairman of the PRC, said:

"The results should reassure parents that the fruit and vegetables their children eat continues to be safe. I cannot emphasise more strongly that the positive effects of eating fresh fruit and vegetables as part of a balanced healthy diet far outweigh any concern about pesticide residues."

Tests carried out on 58 samples of six different fruit and vegetables showed that 16 samples did not contain any detectable residues, and 42 contained residues within the legal trading level, the maximum residue level (MRL). None of the samples tested contained pesticide residues above the MRL. Risk assessments concluded that the residues detected were unlikely to affect the health of children eating the produce.

Dr Brown continued:

"None of the results in the Autumn Term gave the PRC any concern for consumer health. They show that these fruit and vegetables supplied to school children either do not contain detectable residues or where residues are found they are in accordance with legal limits."

Ed - The PRC is an independent body which advises Government, the Food Standards Agency and the Pesticides Safety Directorate. The PRC carries out the SFVS testing to check that the fruit being given to school children is safe in respect of pesticide residues.

The maximum residue level, is the maximum concentration of a pesticide residue - expressed as milligrams per kilogram, or parts per million - legally permitted in or on our food and animal feeds. The levels are not safety limits, but are set at levels which protect the consumer. They are primarily a check that good agricultural practice is being followed, and an MRL exceedance does not automatically imply a hazard to health.

Construction Industry must do better ...

Early unvalidated figures from the HSE suggest that around 69 construction workers were killed in 2007/08. This points to a 10% improvement on the previous year's figures but as you'd expect the HSE has warned the construction industry not to be complacent.

HSE's Chief Inspector of Construction Stephen Williams has said:

"While it is encouraging that these unvalidated figures suggest that there has been a drop in deaths in the industry, there is absolutely no room for complacency. It is totally unacceptable that, once again, a significant number of lives have been lost and continue to be put at risk on construction sites. HSE will continue to take firm action against those who ignore safety precautions."

The numbers released are unvalidated and may change. Verification of initial reports of deaths at work can take considerable time in some circumstances, for example where death occurs some time after an injury, or where natural causes are subsequently determined.

Stephen Williams went on to say:

"The release of these figures comes very soon after HSE inspectors stopped work at a third of the 1000 sites visited during our recent spot checks on the refurbishment sector. We did this because we felt there was a real possibility that lives would be lost or ruined through serious injury. 395 enforcement notices were served during the spot checks and in 13 cases inspectors believed the situation on site to be so poor that prosecution is being considered."

Ed- I wonder if a similar effort was put into verifying the performance of other industries whether similar results would be revealed.

Unarranged overdraft charges

The High Court has confirmed the OFT's view that personal current account unarranged overdraft charges can be assessed for fairness.

This is an important early milestone for the OFT and the investigation into this area is of high consumer interest. There may need to be further hearings to determine any outstanding issues arising from the judgment. The timetable for next steps will be decided by the court at a hearing before the end of May.

This case was brought by the OFT in agreement with eight of the largest current account providers. The OFT will be working with them and other interested parties to ensure this market works well for consumers. It is important to note that this judgment only covers points of legal principle and does not determine whether the relevant charges are actually unfair. The OFT are continuing investigations into the fairness of these terms and will consider the position after reviewing the detail of this judgment.

Environmental Red Tape

New Environmental Permitting Regulations come into force this weekend in England and Wales, reducing red tape whilst protecting the environment and human health. Environmental permits are required for industrial and waste activities which could harm human health or the environment unless they are controlled. The new system means businesses will find it simpler and less costly to be environmentally responsible. Part of a joint Defra, Environment Agency and Welsh Assembly Government initiative, the Regulations which become effective on 6 April streamline and integrate Waste Management Licensing (WML) and Pollution Prevention Control (PPC) into one single regulatory system, replacing over 40 separate sets of regulations.

Joan Ruddock, Minister for Climate Change, Biodiversity and Waste, said:

“This is an important initiative that cuts down red tape and provides an easier and more flexible permit. The changes will have benefits for a wide range of low-risk businesses, but particularly for smaller enterprises, which often have limited time and resources to spend on form filling. In line with the government’s Better Regulation agenda these clearer and simpler regulations will reduce the administrative burden for industry and regulators, saving around £76 million over 10 years.” The Environment Agency’s Chief Executive Baroness Barbara Young stressed that: *“The new Environmental Permitting Regulations are in keeping with our role as a modern, risk based regulator. Not only will many operators have quicker, easier and more cost-effective regulation, but the Environment Agency will be able to concentrate more of its resources on the riskiest and worst performing operators, leading to a better protected environment.”*

Additional benefits and cost-savings will be delivered through the second phase of the Environmental Permitting Programme (EPP2): Defra, the Environment Agency and WAG are currently looking to expand the new single system by including further permitting regimes.

International Workers’ Memorial Day

International Workers’ Memorial Day (Monday 28 April) is being commemorated to “remember the dead: fight for the living”. This year HSE is supporting the aims of the day by enhancing its multi-lingual migrant worker website to provide guidance for workers from overseas and their employers.

Migrant workers are employed in a wide range of industries, some of them high risk, and may encounter unfamiliar risks in their work. The working environment and workplace health and safety culture may be very different from those in their country of origin. These factors, particularly where there are also language difficulties, may lead to migrant workers being put at increased risk of accidents or ill-health. The pages for workers have been translated into several languages, and are also available in English. Advice, guidance and sources of further information and help are accessible through page navigation and links to other relevant Government and non-Governmental agencies.

Geoffrey Podger, Chief Executive of the HSE said,
“All workers have the right to work safely and without risk to their health. With 241 people dying at work last year and 790,000 injured or made ill due to poor standards of health and safety, it is of utmost importance that health and safety processes are in place to protect workers’ lives. The website is a valuable tool for overseas workers and their employers and will help them to understand their roles and responsibilities under British health and safety law.”

Control of Noise at Work

The Control of Noise at Work Regulations 2005 (Noise Regulations) will come into force for the music and entertainment sectors on 6th April bringing them in line with all other sectors where the regulations have been in force since April 2006. The noise regulations will now apply to pubs and clubs, amplified live music events, orchestras and other premises where live music or recorded music is played. The HSE say thousands of people are exposed to loud noise at work, with 170,000 people in the UK suffering deafness, tinnitus or other ear conditions, as a result of exposure to excessive noise at work. These regulations aim to ensure workers’ hearing is protected from excessive noise at work, implement a European Commission Directive, and replace the Noise at Work Regulations 1989.

The regulations will introduce the following changes:

the level at which employers must ensure hearing protection is worn and where necessary hearing protection zones are signposted is now 85 decibels daily or weekly average exposure and the level at which employers must assess the risk to workers’ health and provide them with information and training and access to hearing protection should they wish to use it is now 80 decibels (daily or weekly average exposure).

there is also an exposure limit value of 87 decibels, taking account of any reduction in exposure provided by hearing protection, above which workers must not be exposed.

The regulations will require employers to:

- assess the risks to employees from noise at work;
- take action to reduce the noise exposure that produces those risks;
- provide employees with hearing protection if it is not possible to reduce the noise exposure enough using other methods;
- make sure the legal limits on noise exposure are not exceeded;
- provide employees with information, instruction and training;
- carry out health surveillance where there is a risk to health.

Ed - employees will have a duty to comply with the measures their employers introduce under the Control of Noise at Work Regulations in accordance with his or her instructions. This includes using control measures where present, wearing hearing protection when required; taking care of hearing protection and noise control equipment provided and reporting any defects or difficulties in using them. Employees also have a duty to present themselves during working hours for health surveillance where this is required.

HSE's Myth of the Month

Health and Safety Laws Banned hanging baskets

Back in 2004 a town did briefly take down its hanging baskets over fears that old lamp posts would collapse. This was an overly-cautious reaction to a low risk.

However, after quick checks the hanging baskets were replaced and have been on lamp posts in the town every year since.

Despite this, the story continues to be repeated and the danger is someone will believe it is a genuine requirement and follow suit.



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