

# Brunswicks Regulatory News

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## Tragic Fairground Accident

Oakwood Leisure Ltd has been fined £250,000 and ordered to pay £80,000 costs after pleading guilty to a charge under the s3(1) HSWA for an incident, which resulted in the death of 16-year old Hayley Williams.

Hayley, from Ponytpool, fell 100ft from the Hydro Ride at the Oakwood theme park in Pembrokeshire in April 2004.

HSE Inspector Phil Nicolle said:

“Our thoughts are very much with Hayley’s family. This tragic case should serve as a warning to all fairground operators that safety must be their top priority. Fairgrounds, including theme parks, attract and entertain millions of people safely each year but regrettably accidents and incidents do still happen. Yet the majority of incidents are, as in this case, caused by management failings. Our investigation showed that there were systematic failures by Oakwood Leisure Ltd to ensure their staff were properly trained and supervised to make sure they were following the basic safety procedures which are essential for rides like the Hydro. No death or serious injury at a fairground or theme park is acceptable and proper controls of hazards are essential. As in this case, incidents that do occur are investigated thoroughly to ensure that any remedial measures needed are identified and put in place to reduce the possibility of similar incidents.”

Ed – This tragic court case made national television news. Almost all of us will have enjoyed such attractions and can readily imagine the horror of such a thing happening to us.

This incident was about rudimentary things such as ensuring that the safety harnesses were suitable and sufficient and were being used appropriately.

## Man Dies as Wall collapses

Taylor Woodrow Construction Ltd has been fined £200,000 and ordered to pay £71,400 costs after pleaded guilty to a charge under s3(1) HSWA.

John Walsh, 53, of Bristol died after a wall collapsed in March 2004, throwing him from his ladder. He was employed as a supervisor with sub-contractors Ferson Construction Services Ltd to build a block work supporting wall at a site in Senedd, which included a cavity between the wall and the concrete frame of the main structure for insulation and damp-proofing. Mr Walsh was filling the cavity with cement when the wall surged outwards due to the

pressure, jettisoning him backwards.

HSE inspector Alun Williams said:

“There are recognised procedures in the construction industry for backfilling and cavity insulation which would have prevented the wall from surging outwards and then use of ladders was meant to be strictly controlled on site yet one was in use despite a method statement to the contrary. The company failed to ensure the method statement was followed and in doing so failed to manage the activities of others.”

## Toxic Gas

JG Pears (Newark) Ltd of Hartcliffe, Sheffield, has been fined £100,000 and ordered to pay £38,052.44 costs, by Nottingham Crown Court after pleading guilty to breaching s2(1) HSWA and reg3(1)(a) MHSWR.

On the 26 February 2006 an employee from Balderton was working with a man from Low Marnham, near Newark, to clear a blockage in a condenser which was connected to a storage vessel at the blood and feather processing plant. The employees had not been informed that the vessel was likely to contain either hydrogen sulphide or carbon dioxide, as potential by-products of the rendering process. A risk assessment had not been carried out. Hydrogen sulphide is very toxic by inhalation. Carbon dioxide is considered toxic when inhaled at high concentrations. Gas had built up behind the blockage and when it was cleared the gas was suddenly released. The two men both inhaled the gas and had to be resuscitated at the scene by workmates. One of the men also required artificial ventilation for a period of four days. Another employee from New Ollerton, who was standing nearby when the incident happened, was also treated in hospital after inhaling the gas.

A HSE investigation revealed that staff had not been provided with safe systems of work or given instruction, training or supervision and that the company failed to undertake sufficient risk assessments.

HSE Inspector Francine Clarke, said:

“All employers have a duty of care towards their employees, making sure they have the correct knowledge, training and supervision to undertake tasks. A sufficient risk assessment should identify all hazards associated with maintenance tasks, including the risks of hazardous gases, and employers need to make sure workers have the correct skills and knowledge to do tasks safely. In this case the company did not ensure a risk assessment was done before the job, nor did they ensure the staff were skilled for the task. When safe systems are not in place, it is only a matter of time before something goes wrong.”

Ed – I'd like to think the company was aware of the potential for toxic gases to build up beforehand.

## Wheelchair Tragedy

Staffordshire County Council has been fined a total of £83,000 and ordered to pay costs of £21,000 by Stafford Crown Court, after pleading guilty to breaching s3(1) HSWA.

The prosecution followed an incident that occurred in June 2007 outside the house of a 90-year-old lady. As a service user of the Wombourne Day Centre she was sitting in a wheelchair when it fell from the back of a vehicle operated by Staffordshire County Council. She suffered internal injuries and died 3 days later in Russell's Hall Hospital.

HSE's investigation found that the wheelchair used at the time of the incident had defective brakes and there were no footrests fitted. It appeared that the wheelchair footrests were lost several years ago yet, despite their absence, the wheelchair continued to be used daily to transport service users.

No daily or weekly checks were carried out on this wheelchair as a matter of routine, despite the Council having legal duties to do exactly this. The combinations of tyre wear from several years' use, poor adjustment of brakes and lack of footrests all contributed to the incident. Following the accident the Council found other regularly-used wheelchairs with defects and of the 47 in use in 16 centres around Staffordshire six were found to have defects, including the brakes.

The investigation also found that Staffordshire County Council had no system to audit that procedures were in place for the necessary checks on the wheelchairs used in its transport vehicles to convey service users.

HSE's investigating inspector Ian Williamson said:

"Lack of maintenance, lack of routine safety checks and the absence of a system for the management of wheelchair safety were all major contributory factors. It is vital that equipment used in the working and care environment is maintained so that its performance does not deteriorate to such an extent that it puts people at unnecessary risk. The legal duty of care is very firmly vested in all employers to plan, organise, monitor and review procedures for checking equipment. It is easily foreseeable that brakes that have not been maintained over a period of time pose a serious risk to the safety of wheelchair users and others. A suitable risk assessment or a schedule of routine checks and maintenance, carried out by competent staff, should have identified, recorded and led to the correction of any defects. Staffordshire County Council failed in its duty by exposing day patients to such obvious risk. It is essential to ensure that all equipment is not only regularly checked and maintained but that staff receive adequate information, instruction and training in the safe use of that equipment."

Ed – I've commented before about the hypocrisy associated with local authorities. All County Councils are well provided for in term of financial resources. Typically they receive over 80% of the monies earmarked to local government in their counties. Staffordshire's annual

revenue budget exceeds £400 million.

When will authorities learn that such things cannot be ignored or left to chance.

## **Hospital Incident causes Death**

South Birmingham Primary Care Trust has been fined a total of £20,000 and ordered to pay costs of £17,500 after pleading guilty to breaching s3(1) HSWA.

The prosecution follows an incident that occurred on 25 March 2006 in the Elderly Directorate of Moseley Hall Hospital. Two auxiliary nurses were transferring 90-yr old Alice Belle from a commode to a bed, using a large sling and a battery-operated lifting hoist, when she fell from the sling to the floor and died at the scene.

HSE's investigation found that neither the hoist nor sling was defective but that the patient had slipped from the sling as it was too large. A coroner's verdict, in September 2007, was recorded as 'accidental death to which neglect contributed'.

HSE investigating inspector Amanda James said:

"Alice Belle was a frail and vulnerable 90-yr old for whom the large sling, used at the time of the accident, was unsuitable. The moving and handling risk assessment, in place at the time, did not specify which sling should be used for the patient. A suitable risk assessment, carried out by competent staff, would have identified and recorded the appropriate type and size of sling and this should then have been communicated to all staff involved in moving and handling the patient. South Birmingham Primary Care Trust failed in its duty by exposing the patient to grave risk. It is essential to ensure that all equipment, including hoists and slings, is appropriate for the individual being moved or handled. It is also vital that professional carers and nursing staff receive adequate information, instruction and training in the correct selection and safe use of that equipment."

In a three-year period, from April 2004 to April 2007, HSE and local authorities received reports of approximately 92 incidents involving falls to patients or service-users, in the health and social care sector, where a hoist or sling was involved.

Judge Bill Davis QC, in summing-up, said:

"Those who are most vulnerable need the most careful care and by pleading guilty the PCT accepted that, in this case, they didn't give proper care."

## **Finger crushed in confectionary Machine**

Britannia Superfine Ltd, based in Chaucer Industrial Estate, Polegate, has been fined £10,000 by Lewes Crown Court for breaching reg 3(1)(a) MHSWR. They were also fined

£30,000 for contravening reg 11 (1) PUWER. The company were ordered to pay full costs of £13,000.

HSE prosecuted the confectionary company following an incident on 5 October 2007, when a maintenance engineer went to view the job he had been allocated for the following day on the confectionary machine. Whilst viewing the unguarded rack and pinion gearing, he slipped and placed his hand out to prevent himself from falling, resulting in his hand resting on the rack just as the pinion rolled across it. His right index finger was crushed and had to be amputated above the second knuckle.

HSE Principal Inspector, Russell Adfield, said:

“Industrial machinery presents many safety hazards and the proper safeguarding of equipment is essential if staff are to be protected. To expose staff to the dangers from unguarded machinery is unacceptable - and HSE will take action against those who fail to prevent injury risks.”

Ed – Regulation 3(1) (a) Management of Health and Safety at Work Regulations 1999 states: “Every employer shall make a suitable and sufficient assessment of the risks to the health and safety of his employees to which they are exposed whilst they are at work.”

Standard stuff.

## **Asbestos is No Entertainment**

Dean Entertainments Ltd, 191 Nicol Street, Kirkcaldy has been fined £28,000 and Edward Dean Melville a director of the company has been fined £7,000 by Dunfermline Sheriff Court after both pleaded guilty to charges under s3(1) and s37(1) HSWA respectively.

Dean Entertainments Ltd contracted Ainslie Homes Ltd to act as Principal Contractor for the project at the Ballroom. Ainslie Homes Ltd and Dean Entertainments Ltd both share the same business address and Mr Melville is a director for both companies.

This was a major refurbishment, which required the involvement of a number of different trades. The work included the demolition of existing partitions, the installation of a new stairway, an extension to an existing mezzanine level and the installation of a new lift. All of this work involved significant disturbance of the fabric of the building.

Work continued on the project despite concerns being raised by the tradesmen about the possible presence of asbestos within the building. Work was stopped by HSE after they were contacted directly by one of the site workers.

HSE Principal Inspector Jim Skilling said:

“This was a very serious incident which allowed a significant number of tradesmen to be exposed to airborne asbestos fibres over an extended period. The effects of exposure to as-

bestos fibres can take as long as 20 to 30 years to manifest themselves. Almost 4,000 people are dying every year due to unrecognised exposure to asbestos early in their working lives. Legislation came into force in May 2004, which requires the person in control of any non-domestic premises to identify and assess asbestos in those premises. Dean Entertainment Ltd and Mr Melville failed to establish if asbestos was present within the Ballroom prior to allowing work to commence, despite being informed on at least two occasions that a survey had to be carried out. Mr Melville was unable to provide any evidence to support his argument that there was no asbestos in the building. He also failed to deal correctly with concerns, voiced on a number of occasions, from those working within the building about the possible presence of asbestos.

He used a contractor, who did not have an asbestos removal licence, to remove almost a quarter of a tonne of material from the Ballroom site. Even then the material was identified on a waste disposal site document as asbestos.”

Ed - This is a continued sign of the growing desire to hold directors personally to account. A s37 requires a demonstration that the company's breach of health and safety law was attributable to the director's consent, connivance or his neglect

Section 37(1) Health and Safety at Work Act 1974 states:

“Where an offence under any of the relevant statutory provisions committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.”

## **Lucky escape**

Denso Manufacturing Midlands Ltd, of Minworth, Sutton Coldfield, has been fined a total of £28,000 and ordered to pay costs of £5,278 by Birmingham Magistrates' Court after pleading guilty to breaching its duties under s2(1) and 3(1) HSWA and reg3(1) MHSWR.

The court heard that Denso Manufacturing Midlands Ltd was decommissioning the fire suppression system in the basement substation of its old works in Shaftmoor Lane, Hall Green, Birmingham. As part of preparing the site for clearance, on 31 October, 2007, two employees of the company released carbon dioxide from 11 large cylinders into the small basement room, unaware that it was heavier than air and would not be able to escape.

Completely unaware that the gas had been released, a contract electrician re-entered the substation but decided to leave immediately because he noticed an unpleasant taste to the air. Once outside, he felt weak, was taken to hospital and treated for gas inhalation.

The court also heard that the concentration of carbon dioxide in the air was well above the level liable to cause lack of consciousness. Had the contract electrician lapsed into uncon-

sciousness it is unlikely that he would have been found for some considerable time and this would have made the chances of him being revived increasingly unlikely.

HSE's investigation revealed that no risk assessment had been carried out by the company to identify the risks arising from the move to Minworth and decommissioning of the Shaftmoor Lane factory.

HSE inspector Ed Fryer said:

"Quite clearly the lack of any risk assessment whatsoever enabled a very dangerous situation to develop. Management arrangements for the health and safety of employees and non-employees were grossly inadequate. It would be too frightening to speculate what the consequences might have been, not only for the two employees or the contract electrician but for anybody who unwittingly entered that basement after the gas had been released."

## **Gas Fitting Problems**

Andrew Goodison, has been fined a total of £1,500 and given a three-year conditional discharge by Sheffield Crown Court after pleading guilty to 7 breaches of the Gas Safety (Installation and Use) Regulations 1998.

The HSE was contacted in March 2007 by a Sheffield resident about work on gas appliances at their home carried out by Mr Goodison. HSE's subsequent investigations showed that Andrew Goodison, who trades as RGS Building Services and RGS Electrical and Building, had carried out gas work at 5 properties in the Sheffield area.

Goodison pleaded guilty to seven charges, six of which related to carrying out gas work without proper accreditation, and one charge for falsely claiming to be a registered gas installer.

HSE inspector Chris Chambers said:

"Andrew Goodison has repeatedly put lives at risk by carrying out gas work without the proper accreditation. The HSE has worked very hard to identify as many of his jobs as possible and would appeal to any person who has had gas work carried out by this man to arrange for a registered installer to check his work to make sure it is safe. We would also call on anyone who has had gas work carried out by Mr Goodison since April 2007 to contact the Sheffield Office of the HSE on 0114 291 2332. HSE will not hesitate to prosecute individuals who break the law in this way and put people's lives at risk."

Ed - Regulation 3(3) The Gas Safety (Installation and Use) Regulations (GSIUR) states: "...no employer shall allow any of his employees to carry out any work in relation to a gas fitting or service pipe work and no self-employed person shall carry out any such work, unless the employer or self-employed person, as the case may be, is a member of a class of persons approved for the time being by the Health and Safety Executive for the purposes of this

paragraph.'

Regulation 3(7) GSIUR states: 'no person shall falsely pretend to be a member of a class of persons required to be approved under paragraph (3) above.'

## **Fall from a height**

William Birch and Sons Ltd of Osbaldwick, York, has been fined £12,000 and ordered to pay costs of £2,500 after pleading guilty to breaching s3(1) HSWA. Employee Karl Thackrah was also fined £2,500 and has been ordered to pay costs of £3,500 after pleading guilty to breaching s7 (a) HSWA.

The prosecution follows an incident on 2 August 2007 in which Karl Thackrah and Chris Cook, the platform's hirer, fell from the elevating work platform which they were using to access the first floor of Mr Cook's house in Bootham in order to touch up paintwork. The MEWP was sited at the side of the A19 without the necessary warning road signs to indicate that the working platform was projecting into the carriageway. Members of the public witnessed both men being seriously injured as they were thrown out of the platform which was at first floor level, onto the road side when their access platform was struck by a passing lorry

HSE Inspector Paul Robinson said:

"This incident caused serious injuries to two people and could have been much worse. Moreover, it need never have happened given more basic care and planning. Work at height must always be properly planned, appropriately supervised and carried out in a safe manner and this is particularly important in a roadside situation where other vehicles and members of the public are involved. The company, William Birch & Sons Ltd, had provided, training information and equipment for Mr Thackrah but it failed to ensure that the particular risks involved in the work at this location were adequately assessed and controlled. Their employee, Karl Thackrah, failed to take reasonable care while setting up and operating the platform. The consequences were life-threatening for the two men involved, with Mr Cook being in a coma for a month. Whilst both have partially recovered there remains considerable suffering. HSE will not hesitate to prosecute in situations where people's lives are put at risk in this way."

Ed - MEWP = Mobile Elevated Work Platform for those not in the know!

s7 (a) HSWA states: "It shall be the duty of every employee while at work to 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."

## **Cooking up a Problem**

Caltherm (UK) Ltd, of Newcastle-under-Lyme has been fined £10,000 and ordered to pay costs of £3,377 by Newcastle-under-Lyme Magistrates' Court after pleading guilty to breach-

ing s2 (1) HSWA.

On 18 January, 2008 a 22 year-old employee of Caltherm (UK) Ltd, was helping to move an industrial steam-heated 'DMT' liquid oven weighing 800kg (over three-quarters of a ton) when the oven fell from the two pallet trucks that were being used to move it. He received three breakages to his left foot and five dislocated toes. The oven had been built, in the company's premises on Rowhurst Industrial Estate, for the manufacture of glass.

HSE inspector Wayne Owen said:

"Insufficient safeguards existed for the protection of employees because no risk assessment had been conducted for the movement of ovens in the premises. Lack of information, instruction, training and planning for the movement of such heavy equipment, coupled with an unsuitable means transport, all contributed to an unsafe system of work which led to the accident. The worker's injuries were sufficiently serious to cause some long-term discomfort and adversely affect his work capabilities. Safe working practices should clearly have been observed and suitable risk assessments undertaken. Many incidents could be avoided if companies ensured that they had established a safe way of tackling jobs and ensuring that competent persons are regularly assessing and minimising the associated risks."

## **Poor Management**

Mr Mir Baz Khan of East Dean, Rotherham has been fined a total of £5,000 and ordered to pay costs of £3,000 costs by Rotherham Magistrates' Court after pleading guilty to breaching reg 16(a) and 22(1)(a) Construction (Design and Management) Regulations 2007, and s3(2) HSWA.

The prosecution follows three visits over an eight-month period by HSE inspectors to the site on Fitzwilliam Road, Rotherham, where Mr Khan was carrying out the development of apartments. These visits resulted in the site being closed on each occasion.

Despite significant advice and information being given to Mr Khan, he persisted in operating the site without effective site safety management. There was a lack of proper toilets and eating facilities as well as serious lapses in the standards of scaffolding, electrical installations and fire precautions, all of which put at risk the safety of workers on the site.

Safety concerns had been raised by others directly with Mr Khan prior to HSE's visit but these, as well as HSE's warnings, went unheeded.

HSE inspector Rob Cooper said:

"HSE has gone to great lengths to help Mr Khan but he failed repeatedly to act upon the good advice he was given. If he had employed professionals to manage his site he could have avoided the significant fine awarded against him today. This would have made not only good safety sense but also good business sense. As a result of that poor judgement, Mr Khan now has a criminal record. HSE is committed to improving conditions in this sector of

the construction industry and to prosecuting where standards fall well below those required by law. It is also worth noting that anyone having construction work done, should take advice from their architect or engineer regarding their duties under safety law.”

Ed – we often see s3(1) HSWA prosecutions – so here is the text for s3(2)

“It shall be the duty of every self-employed person to carry out his undertaking in such a way to ensure, so far as is reasonably practicable, that he and other persons (not being his employees) who may be affected thereby are not thereby exposed to risks to their health and safety”

Regulation 16(a) CDM 2007 states: “Where a construction project is notifiable, the client shall ensure that the construction phase does not start unless the principal contractor has prepared a construction phase plan”

Regulation 22(1) (a) CDM 2007 states: “The principal contractor for a project shall plan, manage and monitor the construction phase in a way which ensures that, so far as is reasonably practicable, it is carried out without risks to health or safety”

## **Man’s hand crushed**

W H Davis Ltd of, Langwith Junction has been fined £5,000 and ordered to pay £2,380.75 costs by Mansfield magistrates after breaching s2 (1) HSWA.

On 19 September 2007, whilst working on a three roll bending machine, Matthew Parker, 19, of Mansfield Woodhouse had his hand crushed after his left hand glove was drawn into a rolling machine.

The injuries to Mr Parker were so severe they resulted in multiple fractures to all four fingers and the amputation of the tip of the little finger on his left hand. The first three fingers were crushed so badly they were split open to the bone while the thumb was split on one side. Mr Parker was detained in hospital for five days and had two operations to his fingers. He has been unable to work since the accident and will be undergoing further treatment in the New Year.

Principal inspector of Health and Safety for Nottingham Maureen Kingman said:

“For a young man who works with his hands and needs dexterity, these are the most debilitating of injuries which could have been avoided if the company had safe systems of work in place. All companies should ensure that work is risk assessed and appropriate measures are put in place so that workers’ safety is not compromised. There were a number of failures in WH Davis’ safe systems including failure to train a new member of staff and failure to ensure that the machine stopped immediately when the emergency trip device was activated.”

## **Degloving Accident**

M P Bio Science International Ltd has been fined £2,000 and ordered to pay £3,000 costs after pleading guilty to breaching s33(1) (c) HSWA and contravening reg11(1) PUWER, for failing to take measures to prevent access to a dangerous part of machinery.

The accident happened on 15 August 2007, when an employee attempted to unblock a powder blending machine which had jammed. An access panel was removed while the machine was still running, and when the employee put his hand inside to free the blockage he came into contact with a rotating ribbon blade.

The employee received serious injuries which included the degloving (excessive skin and tissue removal) of his index finger between the second and third knuckle, and the severing of all the tendons and ligaments. Similarly tendons and ligaments in his third finger were also severed and all of the fingers were badly cut. After initial hospital treatment and physiotherapy the employee continues to suffer restricted movement and was unable to work for almost two months.

HSE inspector Stuart Parry said:

“These debilitating and painful injuries could have been avoided if the company had correctly guarded the machine. The access panel was removed frequently for cleaning, maintenance and to unblock material, so it should have been fitted with an interlocked safety switch. This would have prevented this accident as any moving parts inside the machine would have been stopped when the panel was lifted off. Companies should ensure that access to dangerous parts of their equipment is prevented through robust and reliable measures, and that their systems of work do not expose their employees to unacceptable levels of risk.”

Ed - M P Bio Science International Ltd is now in Members Voluntary Liquidation.

## **Working at a height**

Kelly's Storage Ltd has been fined £2,000 after pleaded guilty to breaching reg 6(2) Construction (Design and Management) Regulations 1994. They also pleaded guilty to s3 (1) HSWA, and were fined £8,000. They were also ordered to pay costs of £5,000.

Brian Graham (trading as C B Draughting) pleaded guilty to contravening s3 (2) HSWA and has fined £1,000 and ordered to pay £1,000 costs.

Two workers were on the roof, one undoing the old roof sheets and the other cutting the 12-metre-long roof sheets. One roof worker stepped onto a loose sheet and fell. There was no system in place to prevent the worker from falling or to mitigate the effect of the fall. He fell over five metres and sustained a fractured hip and a broken elbow.

HSE inspector Abosedo Ogunsekan said:

“Roof work is a dangerous task and accounts for around one in five construction fatalities and a lot more serious injuries and permanent disabilities every year. Most roof work accidents are preventable with adequate planning and management control. In this case, Kelly’s Storage Ltd had substantial influence and contractual control over how the project should have been run. Designers like Brian Graham should acknowledge the limitations of their competencies and experience and the impact their decision can have on other persons, and should not work in areas where they have no knowledge”.

Ed - Regulation 6(2) Construction (Design and Management) Regulations 1994 states: The client shall not appoint as principal contractor any person who is not a contractor.

## **Flouting the Law**

Kulwinder Bola, owner of the Royal Renaissance Hotel in Skegness, has been found guilty of ignoring a prohibition notice issued by the HSE. He has also found guilty of employing an unregistered gas fitter to install pipe work and gas catering appliances and failing to appoint a planning supervisor in respect of the project to refurbish the hotel.

Mr Bola received a 12 week custodial sentence, suspended for 1 year for ignoring the HSE prohibition notice. He was also ordered to carry out 200 hours of community service within the year and to pay the full court costs of £20,623. Mr Bola received a conditional discharge for the other two charges.

The three charges resulted from an HSE Inspector’s site visit in July 2006.

Mr Bola was found guilty of breaching reg 6 (1) Construction (Design and Management) Regulations 1994; reg 4 Gas Safety (Installation and Use) Regulations 1998; and s22 HSWA.

HSE inspector Judith McNulty-Green said:

“It is extremely important that gas appliances and pipe work are installed by a CORGI-registered fitter. Always use a registered fitter. It is easy to check if a fitter is registered as there is a free phone number to call or you can check on the CORGI website. Never be tempted to cut corners or save money - you will be putting your health, or even your life, at risk. Every year 20 people lose their lives from carbon monoxide poisoning. When the inspector visited the hotel on 4 July 2006 a number of items were found to be immediately dangerous, including the gas supply to appliances. Four appliances were fitted with flues and required extraction but no extraction system was operational. Due to the danger of carbon monoxide, those appliances were disconnected from the gas supply and a prohibition notice was served banning their use.

However, the defendant told his chefs they could use the banned equipment.

The HSE takes very seriously breaches of notices. Ignoring the ban was extremely dangerous and posed a serious risk to employees at the hotel. I agree with District Judge Blake’s comments that notices are issued to keep people and places safe and this sentence sends out an

important message.”

Ed – Regulation 6(1) Construction (Design and Management) Regulations 1994 states: “Every client shall appoint- (a) a planning supervisor; and (b) a principal contractor in respect of each project.

Regulation 4 Gas Safety (Installation and Use) Regulations 1998 states: “Where an employer or a self-employed person requires any work in relation to a gas fitting to be carried out at any place of work under his control or where an employer or self-employed person has control to any extent of work in relation to a gas fitting, he shall take reasonable steps to ensure that the person undertaking that work is, or is employed by, a member of a class of persons approved by the Health and Safety Executive under regulation 3(3).”

## **Pint and Mile saved**

The future of the pint of beer and the mile has been secured, after the Government’s persuaded our EU colleagues to lift European legislation that would have required the UK to sell beer in litres and measure road traffic distances in kilometres.

Legislation agreed by the European Parliament will allow the UK to continue its use of the mile for roads, the pint for draught beer, cider and bottled milk, and the troy ounce for precious metals. This opt out has been granted indefinitely.

The Government also secured the future use of imperial units for all other uses, provided they are used alongside metric equivalents - in the form of dual labelling.

Secretary of State for Innovation, Universities and Skills, John Denham, who’s Department are responsible for national weights and measures said:

“People in Britain like their pint and their mile. They should be able to use the measures they are most familiar with, and now they can be sure that they will continue to do so. We made strong arguments for the UK’s right to carry on using pints and miles and maintaining dual metric and imperial labelling. I know how important this is to the British people and businesses and am grateful for the Commission’s support”.

Ed- but in the long terms was this wise or necessary. Even the US has recognised the sense of adopting SI units – the US military use them extensively and so do we!

## **Saving Money**

The Department for Business Enterprise and Regulatory Reform has informed us that businesses are saving an estimated £418 million a year from the costs of dealing with employment law, new research has found.

They say that free advice and simple online tools have helped firms cut the time and money

they spend on compliance. More than a million small firms have been contacted by the Department for Business in a campaign to tackle the administrative costs of dealing with six key areas of employment law.

Ed – doesn't that level of usage tell you something about the complexity of the law? The estimated savings are a substantial increase on previous expectations of £365 million saved by May 2010.

Employment Relations Minister Pat McFadden said:

“Our ambitious programme to cut the costs of regulation on business is already achieving positive results, but there is still more we can do. For example, new changes to dispute resolution that will cut costs further were approved by Parliament last month. Giving businesses free and clear advice cuts their costs because if they are getting good advice free from the Government they have to spend less on outside consultants. It also helps make sure workers' rights are respected. In the present economic climate we are focussed on doing everything we can to help business, without harming rights at work.”

The impact of the Employment Guidance Programme, which started in 2005, was praised by an independent panel including the CBI, British Chambers of Commerce and Trades Union Congress, in particular its commitment to make a real difference for business on the ground. Research firm ORC surveyed more than 1,000 companies earlier this year. Their findings point to big cuts in the amount of money spent by business on administering:

- \* Maternity and paternity leave and pay
- \* Flexible working time applications
- \* Working time and 48-hour opt-out record keeping
- \* National Minimum Wage

The research also found that 74% of businesses found compliance easy, up from 51% in 2005. Just 8% still found compliance difficult.

A key part of the Employment Law Guidance Programme has been helping firms avoid unnecessary and costly over-compliance with regulation.

As well as contacting employers directly with advice and support, the programme has created new online tools and sample forms to help show employers what they need to do quickly and clearly. A direct mailing campaign has reached more than a million small businesses, including 700,000 contacted last month.

## **Northwest Safety**

In total 19,135 people were killed or injured in work-related incidents across the North West of England last year according to the latest figures from the HSE. That's an average of almost 368 incidents every week. The figure, which includes 28 deaths, is a stark reminder to the region's employers and their staff that they should strive to make their workplaces safer in

2009.

David Sowerby, HSE's North West Regional Operations Manager, said:

"Behind these statistics are cases of real suffering and, for some, hardship through loss of income. We are asking that businesses take practical action to manage the risks people face in their day-to-day work. Each year at this time HSE reflects on the number of incidents in the preceding 12 months, and each year the same patterns are repeated. Again, our inspectors have found that falling from height and being struck by falling or moving objects were among the chief causes of death and injury. If workplaces could eliminate these factors, both of them avoidable, these startling figures would be hugely reduced. HSE is here to address the very serious health and safety issues at the root of these statistics, not the banning of people playing conkers."

Businesses are urged to:

- \* Use safe platforms with guarded edges for working at height;
- \* Secure ladders properly where these have to be used;
- \* Secure loads before moving them;
- \* Lay workplaces out to keep vehicles and pedestrians apart, where possible.

David Sowerby continued:

"Simple assessments of risk, ease of tasks, accessibility, exposure to harmful substances and training can prevent many incidents. HSE works with a number of partners to provide free advice and education to those both carrying out and managing work and we need businesses and self-employed people to work with us to help reduce injuries and make the North West a safer place to work. Each of the injuries catalogued here is not only a personal tragedy for the individual concerned and their family, it also translates into lost working time and a cost to the business involved. When it comes to workplace safety we cannot be complacent, we all have a role to play in 2009."

Ed- this is one example of figures published by the HSE comparing and contrasting health and safety performance in the regions.

## **Problem Premises**

A tough new power to close premises involved in persistent anti-social behaviour has now come into force. Home Secretary Jacqui Smith has announced the implementation of the law at a conference for frontline anti-social behaviour practitioners.

Police and local authorities can now apply to magistrates' courts to close privately owned, rented, commercial and local authority premises. The new Premises Closure Order extends existing crack house closure powers, which have been used successfully to close over 1,000 crack houses and bring respite to hundreds of local communities since they were introduced in 2004, to other premises associated with persistent nuisance.

Home Secretary Jacqui Smith said:

“Anti-social behaviour has no place in our daily lives. Perceptions of anti-social behaviour have fallen in recent years but we will never let our guard down. I want the public to know that we’re right behind them and taking action. The new premise closure order power will enable police forces and local authorities to close any premises - privately owned or rented accommodation - that cause significant and persistent disorder in the local community.

That means no-one will be able to hide from the law if they cause serious nuisance to their neighbours. Premises closures will only be used as a last resort, but they make it clear that anyone who thinks they can flout the law and get away with it is just plain wrong.”  
Households will have plenty of warning that a closure is imminent. The closure power has been used successfully in Scotland since 2004. Twenty-six premises have been closed including a massage parlour in Strathclyde which had made life hell for the local community with constant visitors, kerb crawlers and harassment of female residents.

Councillor Hazel Harding, Chair for the Local Government Association’s Safer Communities Board, said:

“Councils work 24/7 to keep residents safe and local areas free of anti-social behaviour. Premises closure orders will be a useful weapon in helping councils create places where people want to live. It’s important to be clear though, councils will only ever use these orders as a last resort and after giving people every possible warning. Town halls will always be careful to consider the effect that a premises closure order could have on children and vulnerable adults.”

Local authorities and police are expected to use this power as a last resort, once the full range of appropriate anti-social behaviour interventions have been tried without success. Owner-occupiers and tenants will be able to return to their properties after three month period and will continue to be monitored to ensure they have changed their behaviour. Local authorities and police can apply for an extension if they believe it would be in the community’s best interest. Anyone who breaches the terms of the order by returning to the premise could face up to six months in prison and or a £5,000 fine.

## HSE's Myth of the Month

### Myth: Children are banned from throwing snowballs

Every year we hear inaccurate stories about children who aren't allowed to throw snowballs, and swimmers who can't take their traditional winter dip in the local lake. All this in the name of health and safety.

If we spend time on the trivial risks there's a chance we'll miss the most important ones. We need to focus on finding ways for things to happen, not reasons to stop them – a sensible approach to managing risk focuses on practical action to tackle risks that cause real harm and suffering.



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