

Update from adams-payne safety ltd

Health, Safety & Welfare Consultancy

Winter / Spring 2008 Newsletter

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Useful Numbers:-

| | |
|----------------------------------|--|
| HSE Info line | 0870 154 5500 |
| HSE Books | 01787 881165 |
| HSE Website | www.hse.gov.uk |
| Incident Contact Centre (Riddor) | 0845 300 9923 |
| British Standards Institute | 020 8996 9001 |
| Trades Union Congress | 020 7636 4030 |
| Environment Agency | 0870 850 6506 |
| Fire Protection Association | 020 7902 5300 |

COMMENT

Welcome to the new look 'Update' – a simpler format for those tired eyes perhaps! I could probably be accused of changing things for the sake of it – maybe it is not an improvement after all – though I guess it's too late now! I believe that reviewing things from time to time, perhaps using our often neglected creative skills, can bring things back to life. I often try to breathe new life into what might seem routine documents, making them seem more interesting and friendly (even if they are not). We are all under incredible time pressures but just occasionally it doesn't hurt to re-visit those policies and risk assessments and give them a new emphasis, making them more interesting and user-friendly. **Tony Payne**

Employers and 'at-work' drivers and vehicles

Police now treat road-traffic accidents as potential 'crime scenes' where someone has been seriously injured or killed. Where those involved are driving for work, their companies will also be investigated to determine whether basic safety checks have been carried out. This will include ensuring that vehicles have a valid MOT certificate and that staff are insured for class 1 business use as well as holding a valid licence. Companies where employees receive a cash allowance or expenses to use their own car are thought to be most at risk, as informal arrangements with could lead to problems. Companies found to have neglected their responsibilities following an accident could be charged under the Corporate Manslaughter and Corporate Homicide Act from April 2008. Furthermore, insurance companies will be able to pass liability for accidents on to employers if they are found to have incomplete paperwork and insurance.

The HSE's guidance on driving for work safely can be downloaded from: www.hse.gov.uk/pubns/indg382.pdf or visit www.thinkroadsafety.gov.uk

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When to test 'home' office equipment

The HSE recommends the following frequencies for PAT (portable appliance testing) of electrical equipment (source: www.hse.gov.uk/electricequip.htm#condition)

| Type Of Equipment | User Inspection | Formal Visual Inspection | Combined Inspection and Test |
|--|-----------------|--------------------------|---|
| IT equipment such as desktop computers; photocopiers & fax machines | No | 1 to 2 years | None if double-insulated, otherwise up to 5 years |
| Double-insulated equipment (not hand held) such as fans & table lamps | No | 2 to 3 Years | No |
| Earthed (Class I) equipment such as electric kettles & (some) floor cleaners | Yes | 6 months to 1 year | 1 to 2 Years |
| Cables and plugs + extension leads | Yes | 1 Year | 2 Years |

Roofing Boss Jailed

The owner of a roofing firm has been jailed for two and a half years for manslaughter. He was successfully prosecuted by the Crown Prosecution Service after an investigation by Police found he had failed to provide workers with safety harnesses until after one of his employees was fatally injured in a 7.6 metre fall through a skylight. They also found that he had allowed the victim on the roof without adequate training and experience to work at height. He tried to persuade officers he had issued harnesses but they discovered the equipment had only been purchased after the fatal incident. The owner was charged with gross negligence manslaughter, conspiring to pervert the course of justice and failing to protect his employee contrary to section 2(1) of Health and Safety at Work Act 1974.

Fall victim's family awarded £21,000

A company director has been ordered to pay £21,000 to the family of a casual employee who was killed falling from a high platform during renovation work. The Court heard that the employee, who had been hired by the company as a casual labourer, had little experience of working at height and that the Company had failed to supervise him properly. He had also not received a site induction. There were various deficiencies in the edge protection of the work platform and the roof structure was not a safe place of work. It was also noted that the Company did not have compulsory employer's liability insurance. They pleaded guilty to breaching section 2(1) of the Health and Safety at Work Act 1974 for failing to ensure the safety of its employees. The director pleaded guilty to the same offence under section 37(1) of the Act, which says that directors and managers will also be guilty of an offence if committed with their consent or connivance, or due to their neglect.

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Workplace Transport

A Company has been fined £35,000 following an incident that led to a worker, who did not speak English, having his leg amputated. They pleaded guilty to two breaches of s2 (1) of the HSWA 1974 in failing to ensure its employees safety. The first breach concerned a failure to give information and instruction, for which they were fined £20,000. The worker was struck in the back of the leg by an approaching 20-tonne loading shovel, leading to a subsequent amputation. The second breach of s2 (1) concerned the site itself, which was not arranged so that pedestrians and vehicles could circulate safely - there being no clearly identified walkways – for which they were fined £15,000.

Lorry fall results in £120,000 fine

The death of a lorry driver in a fall from a loaded vehicle has cost his employer almost £150,000 in fines and costs. The employee suffered fatal injuries when he fell off the side of a curtain-sided lorry. He, along with a colleague, was manoeuvring a long kitchen worktop while standing on top of other worktops on the vehicle. The lorry curtains were open and when he toppled off the side, he fell just over two metres onto the concrete yard below. Within days, the HSE served an 'Improvement Notice' on the company requiring it to carry out a suitable and sufficient risk assessment for climbing onto loads, pallets or other items on lorries used for kitchen and furniture deliveries. The court fined the firm £120,000 with £28,185 costs, after it admitted failing to ensure employee safety as required under Section 2(1) of the Health and Safety at Work Act 1974.

The HSE has provided advice on the risks from falls during vehicles loading and unloading - see www.hse.gov.uk/fallsfromvehicles/index.htm. It includes safety checklists and practical guidance on the good practices adopted by other companies.

Machine Guarding

A mineral products manufacturer has been fined £50,000 after an employee sustained severe injuries when he fell on to a moving conveyor belt. Employees were in the habit of going into the area to shovel the spilt material on to the conveyor belt, climbing over the belt while it was still running to access the other side. In mitigation, the firm said it had fitted a key capture system to prevent the belt running while work was carried out. However, it admitted it had not carried out a proper risk assessment, though has since added a hand rail and footplates to the pit stairs to make it easier to climb over the conveyor. The company should have known that it was foreseeable that workers might leave the belt running while people were in the area. It was also foreseeable that adjustment work on that kind of conveyor would need to be done.

The company pleaded guilty to breaching s2 (1) of the Health & Safety at Work Act 1974 by failing to safeguard its employees. It was also ordered to pay £2484 in full HSE costs.

In Brief..... If you are a 'client' considering having building work done, the HSE has issued a guide covering their duties under the Construction (Design and Management) Regulations 2007. The guide, "Want Construction Work Done Safely?", is available free at www.hse.gov.uk/pubns/indg411.pdf

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Worker fatalities by main industry

The most common cause of worker fatality is falling from height, followed by being struck by a moving or falling object and being struck by a moving vehicle. In 2006/07, these three causes together accounted for nearly half of all fatal injuries to workers. A Health & Safety Commission (HSC) report also revealed that:

- In agriculture there were 34 fatalities and the rate of fatal injury was 8.1 deaths per 100,000 workers.
- In construction there were 77 fatalities. The rate of fatal injuries was 3.7 deaths per 100,000 workers.
- In manufacturing there were 35 fatalities and the rate of fatal injury was 1.1 per 100,000 workers.
- In the services sector there were 85 fatalities and the rate of fatal injury was 0.35 deaths per 100,000 workers.
- The rate of fatal injury to workers has fluctuated in recent years with no statistically significant trend.

Corporate Manslaughter

The Corporate Manslaughter and Corporate Homicide Act becomes law on 6 April 2008. Companies should, at the very least, prepare in the following ways:

- Consider standards – what benchmarks are you working to?
- Are all risk assessments completed, up to date and reviewed?
- Have you implemented a sound health & safety management system with documented records?
- Are you allocating sufficient resources, including time and money, to health and safety?
- Have you reviewed the company's policies and procedures?
- Have you developed a sound safety culture – regardless of documents, policies and procedures?
- Are employees able to report health and safety concerns confidentially?
- Have you checked the extent of any insurance policies in place, including cover for covering criminal costs for directors or officers of the company?

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Fire Safety and Staff Training

Ensuring that employees in a building know what to do if they discover a fire or hear the fire alarm signal is a vital part in a company's emergency plan. The Regulatory Reform (Fire Safety) Order requires that employees be given adequate fire instruction on induction and, as appropriate, periodically thereafter. Initial training should be given as part of any induction course for new employees. If this is not within a short time of joining the company, new employees should be given basic instruction concerning escape routes, fire procedures, fire alarm signals, etc on the day they begin work in the building. At the very least, they should initially be given a tour of all escape routes, including any alternative routes that do not form part of the normal access routes. Standard fire instruction leaflets are not always adequate; the instructions should be tailor-made for the building. Instruction should be given to all persons who work in the building, including casual and temporary workers. Periodic refresher training should not be time consuming - it may involve no more than a 30 minute talk or DVD session. These training sessions should not just reiterate the standard fire instructions for the building, but should also raise the awareness of the employees by encouraging fire prevention awareness and good practice.

New Publications

A new leaflet entitled "Employing workers from overseas – Guidance for employers in agriculture and food processing" (INDG414) is available from HSE Books (www.hse.gov.uk/pubns). The number of migrant workers, particularly from Eastern Europe, has increased in recent years. At the beginning of 2007 there were approximately 1.5 million in the UK, employed across most industrial sectors, but in particular in agriculture and food processing, construction, healthcare, hospitality and catering, and cleaning. This leaflet gives essential guidance to employers, employment agencies, gang masters and other labour providers on their responsibilities for the health, safety and welfare of temporary (including migrant) workers.

Another new leaflet, also available from the HSE (www.hse.gov.uk/pubns), is "Want construction work done safely? - a quick guide for clients on the Construction (Design and Management) Regulations 2007" (INDG411). Anyone having construction or building work carried out has legal duties under the Regulations, unless they are a domestic client.

The guide will help you ensure that your construction project is safe to build, safe to use and safe to maintain. Good health and safety planning will also help ensure that your project is well managed.

New Disability Website

The HSE has developed a website with the Disability Rights Commission (DRC) to promote good practice in disability equality at work. You can access the site at:

www.hse.gov.uk/disability/index.htm

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Jail for Phone Motorists

Motorists who drive while using handheld mobile phones could face up to two years in jail, following new guidance on what constitutes 'dangerous' driving by the Crown Prosecution Service (CPS). Most drivers using handheld mobiles will still face the standard penalty of a fine and points. However, the new guidelines mean that where driving falls short of what is safe, prosecutors can now press charges of dangerous driving, rather than the lesser charge of careless driving.
(source IIRSM Newsletter)

Holiday Entitlement

The statutory holiday entitlement increased from 1st October 2007 from 4 weeks (20 days) to 4.8 weeks (24 days). Statutory holiday can include bank and public holidays.



And Finally...

The comments, observations, views and advice contained in this newsletter are for general guidance only and are not a substitute for competent expert advice or reference to Acts and Regulations or other legal sources in individual cases and circumstances. Advice can be obtained from, amongst others, Insurers and Solicitors, Enforcing Authorities and your own competent person. You should always ensure that you obtain competent professional advice in individual situations.