



Prosecutions

£300,000 Fine for Confectionery Firm

The UK's largest confectionery firm has been fined a total of £300,000 after an employee was crushed to death in one of its sweet-making machines.

The Health and Safety Executive (HSE) prosecuted Tangerine Confectionery Limited, of Vicarage Lane, Blackpool, following the death of employee Martin Pejril at its Poole factory.

The company that manufactures sweets such as Sherbet Dip Dabs, Mojos, Black Jacks in addition to Butterkist popcorn appeared before Bournemouth Crown Court.

The court heard 33-year-old Mr Pejril, a Czech-born starch room operator, was clearing a blockage in one of the machines at Tangerine's Alder Road plant in Poole, in February 2008.

He climbed into the machine but as the mechanism restarted he became trapped. Mr Pejril subsequently died of his injuries and was pronounced dead at the scene.

The company was found guilty of breaches under Section 2 of the Health and Safety at Work etc. Act 1974 and of breaching Regulation 3 (1) (a) of the Management of Health and Safety at Work Regulations 1999.

The company was fined £150,000 for the HSWA charge and £150,000 for the regulations charge and ordered to pay full costs of £72,901.65.

Following the hearing, HSE inspector, Simon Jones, said:

"This tragic case highlights the need to ensure that machines are safely isolated before any maintenance takes place so it cannot unexpectedly start up. Simply pressing a stop button does not adequately isolate a machine.

"If the machine in this case had been properly isolated from the electrical power source before Mr Pejril attempted to clear the blockage, this accident would never have happened.

"A proper risk assessment would have highlighted the dangers of entrapment. All employees need to be adequately trained in correct company procedures - whether it's for clearing blockages, operating machines or any other high risk activity."

Lack of Basic Safety Measures

A sole trader who erects farm buildings has been fined £15,000 after his employee broke both his legs when he fell three metres from the roof of an Aberdeenshire farm building.

Mr Robert Peter Mackie, 36, from the Turriff area, who was trading as RDM Engineering at the time of the incident was prosecuted after the incident. He pleaded guilty to of breaching section 2(1) of the Health and Safety at Work etc Act 1974 [82534].

Banff Sherriff Court heard how, on 20 November 2008 an employee was fixing a roof sheet onto the roof of a new potato store at Little Hilton Farm, near Turriff, Aberdeenshire, when he slipped and fell from the edge of the roof. He landed on an adjacent roof below, breaking his leg in two places.

There were no safety measures in place, such as guard-rails to prevent falls from this section of the roof and the work at height had not been properly planned and controlled by Mr Mackie.

Following the case, HSE Inspector Liz Standen said:

"All employers carrying out work at height must ensure that the risks are fully assessed, the job is thoroughly planned and that suitable equipment is used. There is no excuse for leaving roofs under construction unguarded against falls.



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"I find it very frustrating that people continue to be needlessly injured and killed because of a lack of basic planning and simple precautions.

"HSE statistics show that during 2008/09 10 people died and 1,423 were injured in Scotland while working in construction. These incidents are nearly always preventable when using the right equipment for the job."

Asbestos Fine

A building firm has been fined after refurbishment work triggered the temporary closure of a country club near Darlington over fears of exposure to asbestos.

Nationwide Building Contractors Limited - which is registered at 1640 Parkway, Solent Business Park, Whiteley, Fareham, Hampshire - was fined a total of £4,500 at Darlington Magistrates' Court over the incident. The company was found guilty, in its absence, of breaching Regulations 5, 11 and 16 of the Control of Asbestos Regulations 2006 [232269], between 7 January and 6 March 2008.

The company had been contracted to refurbish Hall Garth Hotel Golf and Country Club, at Coatham Mundeville, near Darlington.

When HSE inspectors visited the site, they found that work was carried out without adequate checks for asbestos or asbestos-containing materials, and served a Prohibition Notice - immediately stopping construction work. Further investigations found large amounts of asbestos pipe lagging in walls and floor voids where work had been undertaken.

HSE worked with local Environmental Health Officers and the hotel management to ensure that asbestos fibres had not spread to the occupied areas of the hotel. The hotel was voluntarily closed while tests were undertaken. Fortunately the test results in the public areas were negative.

After the case, HSE Inspector Victoria Wise said:

"Construction and maintenance workers are the most at-risk groups from asbestos-related diseases due to the nature of their work. The widespread occurrence of asbestos as a product in buildings constructed or refurbished prior to 2000, means that inadvertent disturbance of asbestos-containing materials can be frequent and regular where asbestos products have not been adequately identified or managed.

"Nationwide Building Contractors could have prevented this risk and should have ensured that the asbestos containing materials in the work areas had been identified and, where necessary, removed - then the information passed on to those who were liable to disturb the fabric of the building.

"This prosecution should act as a reminder to those in the construction industry, and those in control of the repair and maintenance of buildings, of the importance of ensuring that a suitable and sufficient assessment for asbestos has been carried out and that the correct control measures are in place to ensure that exposure to asbestos is prevented, so far as is reasonably practicable."

Asbestos products have been widely used in the UK since the end of the 19th century and were used in the construction and refurbishment of buildings until 1999.

Asbestos can cause a number of fatal or serious respiratory conditions if fibres are inhaled. Asbestos exposure is the most serious occupational health issue in the UK, and is responsible for approximately 4,000 deaths each year.

Nationwide Building Contractors Ltd is now in liquidation.



News

Optical Radiation Regulations

New regulations further protecting workers from the dangers of hazardous sources of artificial light came into force last week.

The Control of Artificial Optical Radiation at Work Regulations meets a European Union Directive to ensure that standards are set and harmonised across Europe to protect workers from harm arising from exposure to hazardous sources of artificial light.

Some sources of artificial light, particularly UV radiation and light from lasers can harm the eyes and skin of workers and must be properly managed.

Workers in Great Britain are generally well protected from dangerous sources of light and the majority of businesses know how to manage the risks effectively. Therefore the regulations will mean few practical changes for most businesses, including those who are already managing the risks.

To help those businesses who are not already managing the risks understand what's required and what they need to do, HSE is producing guidance to ensure workers can remain appropriately protected.

Common sources of light in the workplace such as office lights, photocopiers and computers are not affected by the regulations

Reminder to Employers over Smoking

Businesses have been reminded about the law surrounding smoking in vehicles used for work purposes, following the fining of a taxi driver last month who was repeatedly caught smoking in his cab.

Paul Dagleish, who drives a hackney carriage, was spotted smoking in October 2009 by an enforcement officer. There were no passengers on board.

Dagleish had received two previous written warnings about smoking in his cab. He did not pay a £50 fixed penalty notice issued after the latest offence and the matter was brought before Carlisle Magistrates' Court last month. Dagleish did not attend and the case was proven in his absence. He was fined £200 and ordered to pay £75 costs plus a £15 victim surcharge.

Regulations on smoking means that most enclosed vehicles used by the public or for work purposes must be smoke-free. The law stipulates that an enclosed vehicle and any enclosed part of a vehicle must be smoke-free if it is used:

- by members of the public or a section of the public (whether or not for reward or hire)
- in the course of paid or voluntary work by more than one person (even if those persons use the vehicle at different times, or only intermittently).

Smoking in a smoke-free premises or vehicle can attract a fixed penalty notice of £50 or a fine up to £200. Failure to display no-smoking signs in smoke-free premises and vehicles can attract a fixed penalty notice of £200 or a fine up to £1,000. Failing to prevent smoking in a smoke-free premises or vehicle can lead to a fine up to £2,500.

Study into Mobile Phone Use

The world's largest study on the safety of using mobile phones has been launched by researchers in London. The project will recruit 250,000 phone users across five different European countries including the UK.

It will last between 20 and 30 years and aims to provide definitive answers on the health impacts of mobile phones.

Research to date has shown no ill effect, but scientists say those studies may be too short to detect longer term cancers and other diseases.

The study is known as Cosmos - the cohort study on mobile communications.



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It is being funded in the UK by the Mobile Telecommunications and Health Research programme, an independent body, for an initial five year period.

A member of that group, Professor Lawrie Challis, said the study was crucial.

"We still cannot rule out the possibility that mobile phone use causes cancer. The balance of evidence suggests that it does not, but we need to be sure."

The co-principal investigator of the study, Dr Mireille Toledano from Imperial College London, added that there are still "gaps in our knowledge, there are uncertainties.

"The best thing we can do as a society is to start now to monitor the health of a large number of users over a long period of time - that way we can build up a valuable picture as to whether or not there are any links in the longer term.

She stressed the study was not just about brain cancer.

People were now using mobiles in many different ways including surfing the web, which means the phones are not always held against the head.

She added: "We will be looking at a range of different health outcomes, including other forms of cancers such as skin cancers and other brain disease such as neurodegenerative diseases.

"We will also be monitoring things like if there's a change in the frequency of symptoms such as headaches, tinnitus, depression or sleep disorders.

"These are things that people commonly report in association with their mobiles and these are things we are going to be following up on over time as well."

One of the greatest concerns about research to date is that it has usually depended on participants recalling how much they have used their phones.

Scientists say this can affect the outcome. The Cosmos project will be prospective - meaning that it will record actual phone use into the future.

Around 100,000 mobile phone users in the UK across different networks will be invited to take part.

Mobile phone users will also be recruited in Finland, Denmark, Sweden and the Netherlands.

Dr Toledano says the scientists will monitor mobile usage but not the numbers people call. And once participants fill in a questionnaire and give permission to access their records the project will operate very much in the background.

"It's really not intrusive," she said. "Most of it is very passively done, once they've given us their permission to sign up, we've really made it very easy and that's why we'd encourage people to take part."

The researchers will report their initial findings in five years.

They will monitor WIFI, cordless phones and the use of baby monitors by participants as well as mobiles, to obtain a complete picture of exposure to all types of electromagnetic radiation.

More than 70m phones are in use in the UK at present, out of a global total of 6bn.



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Salus Be Wise

This study is sensible. According to the World Health Organisation 'the absence of evidence of detrimental effects on health associated with mobile phone use is not evidence of absence of such effects'. Although long-term, it is hoped that the investigation will help settle once and for all the ongoing debate about the safety of mobile phones. The effects of using a mobile phone whilst driving, however, have long been established.

Advice from RoSPA points out that, drivers who use a mobile phone, whether hand-held or hands-free are much less aware of what's happening on the road around them and fail to see road signs. It is also suggested that, amongst other things, such drivers react more slowly and take longer to brake.

The use of a hands-free phone while driving does not significantly reduce the risks, as the problems are mainly caused by the mental distraction that results from engaging in a phone conversation while driving.

It is illegal to use a hand-held mobile phone while driving. Employers can be held liable as well as the individual driver if they require employees to use a hand-held phone while driving. It can also be an offence to use a hands-free device while driving. Depending on the individual circumstances, drivers could be charged with 'failing to have proper control of their vehicle'. The use of any type of mobile phone could lead to prosecution in more serious cases.

Employers who require staff to use any mobile phone while driving for work could be prosecuted if an investigation were to reveal that such use of the phone contributed to a crash.

Advice and resources for employers can be found on the Barbour service, for example:

- Driving at Work (Barbour Guide)
- Model policies
- Forms and checklists
- Guidance documents (eg RoSPA's Driving for work: mobile phones [

Pilots' Body Claims 'Profit Before Safety'

The recommencement of flights over Europe despite the continuing presence of ash from the Icelandic volcano prompted a pilots' organisation to warn that commercial considerations are being put before safety.

The European Cockpit Association (ECA), which represents nearly 39,000 professional flight crew from 38 European countries, said its members have first-hand experience of dangerous effects of ash clouds and have urged European airspace authorities to consider safety first in all operational decisions.

The Association warned: "Operational decisions should be based on the strong safety culture developed over many decades in our industry, whereas financial problems should be addressed with financial solutions – never should the two be mixed."

UK air safety regulator the Civil Aviation Authority (CAA) revised its position on flying in volcanic ash clouds yesterday (20 April), and air-traffic control services resumed last night. In a statement, the National Air Traffic Services (NATS) said: "The situation continues to be dynamic as a result of changing weather conditions and the prediction of dense areas of volcanic ash."

However, the ECA believes more data is needed on where the volcanic matter poses a risk and where it has sufficiently dispersed, and that this crucial information must be shared with pilots. It said: "If, after careful consideration, safety authorities have concluded certain airspace poses no further threat, the final decision passes through the airline to the pilot of the particular flight – who must be given as much clear information as is available to make the final decision to fly. Pilots have always been, and always will be, best placed to protect the safety of our passengers, crew and aircraft."

It concluded: "Operational decisions require a 'safety first' approach and, separately, financial crises require a financial solution. ECA supports the European authorities in separately addressing both the risks to lives and to the financial survival of our sector."

The International Air Transport Association has estimated the loss to the global airline industry as a result of the crisis to be £1.1 billion. However, Transport Secretary Lord Adonis refuted claims that the decision to lift flight restrictions was taken in



response to pressure from the industry, claiming the turning point was the CAA's advice on safe levels of ash in the atmosphere. He added that the advice of aircraft engineers and manufacturers was crucial to the decision.

BALPA, the UK pilots' union, welcomed the decision to reopen airspace in view of the "huge financial impact on an industry already struggling with the economic downturn." The union recently presented its manifesto on airline safety to election candidates, which highlights its concerns over the transfer of responsibility for setting airline safety standards from the CAA to an EU body, the European Aviation Safety Authority (EASA).

A major bone of contention is EASA's plans to set standards for Flight Time Limitations – the fatigue avoidance rules that govern when pilots can and cannot fly to maintain safety – much lower than those currently in place in the UK. If this happens, warned the union, British lives will be put at more risk.

Added general secretary, Jim McAuslan: "It looks at present that EASA wants to jettison the high standards of the UK's Civil Aviation Authority, which are based on science, and this at a time when 15 to 20 per cent of all fatal air accidents have pilot fatigue as a key contributing factor. Parliamentary candidates of all parties need to work with us to protect their constituents' safety."

Guidance

Planning Offshore Business?

This HSE document gives guidance and advice on health and safety issues for those planning to do business in the UK offshore oil and gas industry.

Companies planning to operate in UK waters are advised to contact the appropriate HSE office at the earliest possible stage. Apart from submitting a safety case in certain circumstances (see below), the HSE generally do not need to give consent to start operations; however notification may be needed in some cases, such as for well operations.

Goal-setting law

The health, safety and welfare of all personnel on offshore installations is protected by law. UK health and safety law follows a goal-setting approach. Instead of a prescribed checklist of things to do, which may not be right for all circumstances, goal-setting law sets out the objectives to be achieved. Duty holders must:

- systematically identify hazards
- assess the risks and the consequences of those hazards being realised
- put in place suitable procedures and measures to control the risks.

Goal-setting law allows duty holders to choose the most appropriate methods or equipment available to meet the legal requirements.

Primary responsibilities are placed on those who create and/or have the greatest control of the risks associated with a particular activity. Those who create the risks at the workplace are responsible for controlling them.

The Health and Safety at Work etc Act 1974 and its associated regulations mainly place duties on employers. Offshore, this includes installation owners and operators and contractors. Employees also have duties under the Act. Everyone has a part to play in ensuring healthy and safe conditions at work. However, in the four sets of specifically offshore-sector regulations (set out below), responsibility is mainly placed on the primary duty holders, ie, operators of production installations and owners of non-production installations. They are in overall control of the installation and must co-ordinate the health and safety activities of all the companies and personnel present.

Regulations specific to the Offshore sector are:

- the Offshore Installations (Safety Case) Regulations 2005
- the Offshore Installations and Pipeline Works (Management and Administration)
- the Offshore Installations (Prevention of Fire and Explosion, and Emergency Response) Regulations 1995
- the Offshore Installations and Wells (Design and Construction, etc) Regulations 1996 (DCR). [114376]



Other regulations under the Health and Safety at Work etc Act 1974 apply both onshore and offshore. They address hazards common to all industries, for example:

- manual handling
- working at height
- electrical equipment
- noise and radiation
- hazardous substances
- use of work equipment.

High Voltage Electric Motors for use in Hazardous Atmospheres

This comprehensive HSE Offshore Information Sheet provides guidance to users of Ex certified High Voltage (HV) motors in use in hazardous areas on offshore oil and gas installations located on the UKCS.

The objectives are to introduce and provide:

- information on the ignition risks of Ex certified high voltage motors used in hazardous areas
- current information on the ignition risks of these motors
- advice on the management of motors constructed to older, revised or withdrawn standards
- information as to how the ignition risks of these motors are currently managed by users
- information on the actions required by users in the management of these ignition risks of HV motors.

Relevant legal requirements

The Offshore Installations (Prevention of Fire and Explosion, and Emergency Response) Regulations 1995 , Regulation 9(2)(d) requires measures to control electrical or other sources of ignition.

The Electricity at Work Regulations 1989 , Regulation 6(d) requires measures to control electrical sources of ignition.

The Provision and Use of Work Equipment Regulations 1998 [144700], Regulation 12(2)(e) requires measures to control unintended explosions.

Offshore Helicopter Flights - Implications of Volcanic Ash

This notice, issued by the HSE following the Icelandic volcano eruption, is to remind duty holders of the legal requirements that should continue to be complied with during the disruptions to helicopter use.

The guidance sets out a number of action points including Action Point (a):

Personnel transfer operations using lifting equipment and personnel carriers should only be undertaken when the particular circumstances make it essential, and it is not reasonably practicable to transfer personnel by less hazardous means.

The current restrictions [in light of the volcanic ash as at April 2010] on helicopter availability temporarily changes the balance of the reasonable practicability arguments. Transfer of personnel suspended from a crane to a vessel may be undertaken provided all necessary precautions are undertaken to ensure safety.

Actions points (b) - (g) set out in the information sheet provide further advice. In addition to using a suitable carrier, the crane must be suitable for lifting persons, marked accordingly and maintained in good condition.

The notice also covers working time.

It concludes that the HSE does not foresee any significant impact on offshore safety as a result of these travel delays, subject to the careful consideration of human fatigue for those affected and the careful control of any associated hazards.



Reports

FiReControl: Fifth Report

The aim of the FiReControl project is to enable the function of the Fire and Rescue Service (FRS) to be carried out with greater speed, responsiveness and efficiency: it proposes to replace the existing 46 local FRS control rooms with nine purpose-built Regional Control Centres (RCCs). These centres will handle emergency 999 calls, mobilise resources and support the management of incidents, underpinned by a resilient network technology.

This House of Commons Committee report discusses the project and makes several recommendations, summarised below.

The FiReControl project is part of a key strategic objective of the Department for Communities and Local Government (CLG), but its current status is uncertain. CLG and the main IT contractor, EADS, have had an adversarial relationship. Issues include:

- no revised contract
- no currently agreed project plan
- until recently, there has been a lack of consultation and collaboration between CLG, EADS and those intimately involved in the Fire and Rescue Services (and some criticise the standard of the present consultation)
- project management has been severely criticised, with a rapid turnover of crucial CLG and EADS senior staff
- the costs of the project have escalated
- severe delays to the project mean that Fire and Rescue Authorities may now be expected to migrate to the new system at the very time that they should be concentrating on the high-profile safety concerns presented by the Olympic Games in 2012.

There are fears that the project, as it being currently managed, will lead to a less efficient and less safe service.

The report notes, however, that if CLG were to abandon the FiReControl project now, not only would all the claimed benefits of the project in terms of greater speed, responsiveness and efficiency be lost, but it would cost an extra £8 million more than if it were left to proceed. CLG is not quite at the point of no return, but it very soon will be. The report recommends that CLG should continue with the project, with renewed vigour, but this recommendation is conditional on CLG:

- resolving its contractual dispute with EADS and implementing a viable project plan
- closely monitoring delivery of FiReControl against interim milestones and examining alternative viable options for delivery to be implemented in case of any slippage
- addressing the shortcomings in its management of the project
- consulting fully with FRS staff and professionals in defining end-user requirements
- taking further steps to shift the negative perception of the project and to influence fire and rescue authorities to make the positive decision to switch to the new system
- providing assurances that the safety and security of the Olympic Games will not be compromised during the roll-out of the new Regional Control Centres.

Doppler Monitoring of Compressed Air Workers

This HSE research report presents the analysis of Doppler data obtained from compressed air tunnel workers at the Belfast Sewer Project from November 2008 to February 2009, with reference to pre-existing information on Doppler monitoring of compressed air tunnel workers.

The pressure exposures for the compressed air work shifts ranged from 0.67 to 1.8 bar gauge, with 21 work shifts monitored. Data from 65 Doppler monitoring sessions conducted on 17 individuals are set out in the report. Some individuals were monitored on more occasions than others, depending on shift patterns, other work commitments and willingness to remain on site after the work shift had ended. In this respect, compliance at attending monitoring sessions varied markedly between individuals.

The first measurement occurred at around 30 minutes after decompression, and continued at 15 or 30 minute intervals for two to three hours. The Kisman Masurel (KM) Doppler scoring system was used to measure VGE and the full range of possible KM scores of 0 to 4 was recorded during the Doppler monitoring sessions. The Kisman Integrated Severity Score (KISS), which



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gives information on the bubble load over the whole monitoring period, was used as an additional means of analysing decompression stress.

Doppler data were grouped for different pressure exposures: 1.8 bar gauge, 1.2 bar gauge and <1.0 bar gauge. No bubbles were discerned in 10 of the monitoring sessions, five of which were in the same individual. Peak Doppler scores were recorded on all but 15 occasions, when the individuals discontinued the monitoring sessions before a reduction in the score was recorded. Thirty-six of the 65 Doppler monitoring sessions (55 %) demonstrated resting Grade III or higher VGE. A significant difference in resting median KM score ($P<0.002$) and the resting KISS ($P<0.01$) was demonstrated between the 1.8 bar gauge SODT line 9 and <1.0 bar gauge exposure groups at 120 minutes post decompression.

There was one reported case of decompression illness from one of the work shifts, following exposure to 1.8 bar gauge decompressing on SODT line 8.

It is recommended that:

- a review of the Swanscombe Oxygen Decompression Table should be conducted
- doppler monitoring of compressed air workers should include recompense or other incentive to achieve greater compliance with the monitoring schedule
- planning for future Doppler monitoring studies should rationalise the time requirements for monitoring with the tunnellers' commitment to shift work
- prophylactic decompression is not warranted based solely on an individual's Doppler VGE score
- with the SODT, Doppler monitoring is not required for pressure exposures to <1.0 bar gauge
- complete records of each compressed air worker's Doppler scores and pressure exposures should be maintained.