



Prosecutions

Vineyard Owner Killed - £200,000 Fine

The owner of a Cornish vineyard died after a delivery of empty wine bottles crashed onto him when they fell from the tail lift of a lorry he was helping to unload.

Gregory Distribution Ltd of North Park, North Tawton was fined £200,000 with £16,993 costs at Truro Crown Court following a prosecution by the Health and Safety Executive (HSE).

The company pleaded guilty at an earlier hearing before Bodmin Magistrates to breaching Section 3 (1) of the Health and Safety at Work Act by exposing someone to risk by failing to ensure adequate arrangements and procedures for the unloading of pallets.

The incident happened in April 2008, when George Musgrave, the owner of Polmassick Vineyard at St Ewe, near St Austell, was helping to unload a delivery of empty wine bottles from the back of a Gregory Distribution lorry, driven by an agency driver.

The load fell from the tail lift causing fatal head and chest injuries.

HSE Inspector, Simon Jones, said: "This tragic accident highlights the dangers involved in unloading large and heavy loads using a tail lift. Employers should ensure that employees are given the right equipment, information, instruction and training to allow them to unload loads safely.

Salus Be Wise

"Where employers use the services of agency staff they should ensure that those agency staff are aware of the systems of work in place and have the skills and training to undertake the required tasks.

"Tail lifts should be examined by a competent person at least every six months to ensure that they are safe to use.

"If these simple measures had been taken then this accident would not have happened and Mr Musgrave would not have died in these tragic circumstances."

£195,000 Fine for Architect's Practice and Construction Company in Fall Case

An architect's practice and a construction company involved in a Somerset development have been fined a total of £195,000 following a fatality on the site.

Express Park Construction Company Limited (EPCC), of Harley Street, London, pleaded guilty to breaching Section 3(1) of the Health and Safety at Work etc Act 1974 for failing to safely manage subcontractors working for it.

The architects involved, Oxford Architects Partnership, of Bagley Croft, Hinksey Hill, Oxford, pleaded guilty to breaching Regulations 13, and 14, of the Construction (Design and Management) Regulations 1994, which require designers to take safety considerations into account.

EPCC was fined £75,000 and ordered to pay costs of £68,000 and Oxford Architects Partnership was fined £120,000 and ordered to pay costs of £60,000 at Bristol Crown Court.

The court heard that on 26 January 2005 David Cairns (64) was working for EPCC sub-contractors H&F Air Conditioning Limited, at the newly-built 'Exchange' building at Express Park in Bridgwater, Somerset.



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Mr Cairns was working on the air conditioning plant, which was built on a platform accessed via a ladder at the edge of a flat roof. The roof only had a low parapet, which was not high enough to prevent Mr Cairns falling nine metres to the ground.

Speaking after the hearing, HSE Inspector Sue Adsett, said:

"This is a tragic case where both the failings of the construction firm and the architects led to Mr Cairns' death.

"While it is rare for designers to be charged with breaching health and safety legislation, they must be aware they can be held responsible where bad design is an important contributory factor to a work-place fatality.

"Designers must ensure that plant and equipment can be accessed safely, and that safety harnesses are only used as a last resort.

"HSE will not hesitate to take enforcement action against any company or individual who fails to carry out their health and safety duties, especially when that failure results in a tragedy, as in this case."

Mr. Cairn's family, who were at court, said:

"The loss of David has deeply affected us all and he will be greatly missed. Our hope is that lessons are learnt within the construction industry so that other similar incidents are prevented. Safety should be paramount during all stages of the building process so that another family doesn't have to suffer the loss that we have."

Biscuit Company Fined

One of the UK's leading food manufacturers has been fined £10,000 after a worker had two fingers sliced off in one of its mixing machines.

McVities manufacturer United Biscuits (UK) Ltd, was prosecuted by the Health and Safety Executive (HSE) after an investigation into the incident on 9 April 2009 at a cake baking site in Halifax.

Halifax Magistrates court heard how an employee, who asked not to be named, lost two fingers on her right hand when she attempted to clear a blockage in an industrial sized mixer, used to combine ingredients for flapjacks.

HSE's investigation found the employee had to scale a two metre fixed step ladder in order to reach the machine, empty the mixture inside, and then restart it. Although the mixer had stopped, the blades inside were still rotating and when she reached in her fingers were severed.

The company pleaded guilty of breaching section 2 (1) of the Health and Safety at Work Act 1974 after the incident at the McVities Cake Company on Hopwood Lane. In addition to the £10,000 fine, the company was also ordered to pay £2,889 in costs.

After the hearing, HSE Inspector Rachel Brittain said:

"An incident like this should not happen in any company, but taking place in such a large scale food manufacturer such as this is absolutely unacceptable.

"Preventing access to moving parts and fitting guards is an elementary and essential precautionary measure and inexpensive. By not putting these measures in place United Biscuits failed to fulfill its duty of care to its employees."



Unlicensed Asbestos Removal

A Pontypool building firm carried out unlicensed asbestos removal, even though it had been warned that materials they were handling contained the potentially dangerous substance.

In a prosecution bought by the Health and Safety Executive (HSE), Caerphilly Magistrates' Court heard Ron Couch Building Contractors Ltd, were replacing a central heating boiler at a private property in High Street, Pontypool.

Carpenters from the Griffithstown-based firm removed a cupboard door clad with asbestos insulation board (AIB) in order to take out the boiler.

A supervisor from a licensed contractor working in a nearby property approached the men when he saw the door outside and warned them of the presence of AIB.

The law states that any work involving AIB must be done by licensed contractors but the HSE investigation found workers were instructed by a senior manager to seal the walls of the cupboard with plasterboard.

At a hearing in Caerphilly Magistrates' Court, Ron Couch Building Contractors Ltd Panteg Station, Station Road, Griffithstown pleaded guilty to two charges under the Control of Asbestos Regulations 2006. The company was fined a total of £2,500 and ordered to pay £1,250 costs.

HSE Inspector Steve Richardson said:

"The company was well aware of its legal duties in terms of asbestos work as, prior to this incident, it carried out removal of the asbestos boiler flue in a safe manner using qualified personnel.

"AIB poses less of a risk if not damaged, but this work exposed the edges of the board increasing the risk of releasing asbestos fibres which could be inhaled by the workers and anyone else using the premises.

"This is one of the main reasons why this type of work must be carried out by a licensed contractor, and the work should have stopped as soon as the company was made aware it was AIB."

Asbestos is the single greatest cause of work-related deaths in the UK. Asbestos in good condition is safe unless fibres become airborne and are inhaled, which can happen when materials are damaged. Inhaling high levels of asbestos fibres increases the risk of getting an asbestos-related disease.



News

One-in, One-out Regulation System

The Business Secretary, Vince Cable, last week announced a comprehensive package of measures to support the Government's drive to tackle unnecessary government interference and red tape. The measures aim to help transform the relationship between people and government by changing how regulations are drawn up, introduced and implemented.

The announcement means that government interference in businesses and third sector organisations will have to meet much more rigorous tests before being introduced.

From 1 September, a groundbreaking new One-in, One-out system will begin. When Ministers seek to introduce new regulations which impose costs on business or the third sector, they will have to identify current regulations with an equivalent value that can be removed.

The new rule has been designed to apply initially to domestic legislation affecting businesses and the third sector, with Ministers intending to expand the system in due course. To reinforce this radical new approach to how Whitehall will introduce new laws and regulations, and to ensure that the costs of red tape are being properly addressed across the entire British economy, the Government has also:

- agreed a set of Principles of Regulation that Government departments must apply when considering new regulations impacting upon business, social enterprises, individuals and community groups
- asked the independent Regulatory Policy Committee to perform the role of externally scrutinising the evidence and analysis supporting new regulatory proposals, prior to policy decisions being made. It will also analyse proposals for the implementation of EU legislation. In doing so, the RPC will help drive up the accuracy and quality of Impact Assessments
- provided the opportunity for the public and businesses to tell the Government which onerous regulations they believe should be removed or changed through the Your Freedom website.

Ministers will also be taking a rigorous approach to tackling EU regulations and gold plating. The Government will engage earlier in the Brussels policy process; take strong cross Government negotiating lines; and work to end so-called 'gold-plating' of EU regulations so that when European rules are transposed into UK law it is done without putting British business at a competitive disadvantage to other European-based companies.



Guidance

Reducing Exposure to Wood Dust

The European Federation of Building and Woodworkers (EFBWW) and the European Confederation of Woodworking Industries have published a brochure setting out some concrete ideas to help minimise workers' exposure to wood dust. The brochure offers a number of technical solutions to reduce exposure to wood dust (suction systems, direct capture by woodworking machinery, new types of abrasives, etc).

Wood dust is a major health risk for the 2.9 million workers in the wood and furnishing sector in the EU. Studies on the woodworking industry in North America, Canada and Sweden have shown that up to 13.5% of people exposed to wood dust suffer from respiratory problems. Wood dust can also cause diseases of the skin and various types of cancer (in particular, those of the ethmoid and sinuses). Dust from hardwood is classified as 'known to be carcinogenic to man' by the World Health Organization.

The European directive ensuring the protection of workers against carcinogenic agents sets a occupational exposure limit value which is binding only for hardwood dust (exotic woods, beech, oak, etc). The European Trade Union Confederation would like to see the imposition, as part of the ongoing revision of that directive, of a binding limit value likewise for dust from softwood (resinous wood).

While the European directive has the merit of setting a binding limit value at European level (set at 5 mg/m³ per eight hours worked), it is debatable whether it offers sufficient protection. In some Member States, for example (Germany, Sweden, Denmark, the Netherlands), the binding limit value falls to 2 mg/m³. Finland has even set it at 1 mg/m³ for new factories. That being so, the editors of the brochure believe that the European limit value is not based on scientific observations, and reiterate that they have been anxious for several years for the European Commission to put forward an alternative value.