

Prosecutions

Chocolate Manufacturer Fined over Fractured Finger

High street chocolate chain Thorntons has been fined after a worker broke her finger while operating a wrapping machine.

Ellen Yardley, 37, from Derbyshire was working at the company's Somercotes plant on a foil wrapping machine, where chocolates were wrapped in foil and dispensed down a chute into a tray.

During a short break in production, while the machine was still running, Ms Yardley attempted to clean the inside of the output chute which had become covered in caramel. However, the cloth she was using became tangled in rotating parts which gripped the chocolates and her right hand was dragged into the machine.

Ms Yardley's middle finger was fractured and cut, and she was off work for 10 weeks following the 17 November 2009 incident.

An investigation by the Health and Safety Executive (HSE) found the machine had guarding installed but it was inadequate.

A subsequent audit of other machines in the factory found safety improvements were necessary to a range of machines, including preventing access to dangerous parts or repairs to existing safeguards.

Thorntons PLC, of Thornton Park, Somercotes, Derbyshire, pleaded guilty to breaching Regulation 11(1) of the Provision and Use of Work Equipment Regulations 1998 and Regulation 3(1)(a) of the Management of Health and Safety at Work Regulations 1999.

Recently, Southern Derbyshire Magistrates' Court fined the company £20,000 and ordered it to pay full costs of £7,680.

After the hearing HSE inspector Stuart Parry said:

"Thorntons should never have allowed the machinery guarding to fall below the legal safety standards. It was effectively asking its employees to work on machines that put them at risk of injury.

"It was entirely foreseeable that the inadequate guarding could lead to injury and even if Ms Yardley had not used a cloth, her hand could still have been drawn into the machine while cleaning it.

"If the company had carried out an adequate risk assessment of its machinery, its workers would not have been put at risk and in Ms Yardley's case painfully injured."

£60k Fine after Worker Breaks Neck

A Lichfield logistics firm has been fined after a forklift driver broke his neck when a computer cabinet he was loading onto a trailer fell on him.

Barry Hill, 60, was operating the truck at Palletways (UK) Ltd, Fradley Distribution Park, when he noticed that one of the cabinets was rocking on the forks.

Stafford Crown Court heard Mr Hill got out of the forklift to catch the cabinet but it fell forward, hitting him on the head and knocking him to the ground. His neck and right wrist were broken and he has not worked since the incident on 22 August 2008.

After the incident Mr Hill was bleeding from a visible head wound, but the depot manager did not know who the first aiders were and took him around the site looking for help rather than leaving him in the office with a colleague.

A trained first aider assessed Mr Hill but did not recognise the seriousness of his injuries. Nobody called an ambulance and instead the first aider drove Mr Hill by car to a hospital with no accident and emergency unit, from where he was airlifted to Heartlands Hospital, Birmingham.

He spent six days in hospital and 14 weeks in halo traction and still suffers from discomfort in his neck. He has been left partially disabled following the incident.

A Health and Safety Executive (HSE) investigation into the incident found that Palletways (UK) had failed to assess the risks of moving and loading goods, and to instruct, monitor and supervise forklift drivers properly.

In addition, the company did not have a clear system for dealing with employees who had suffered incidents or injuries at work.

Palletways (UK) Ltd of Wood End Lane, Fradley, pleaded guilty to breaching Section 2 of the Health and Safety at Work etc. Act 1974. The company was fined £60,000 in total and ordered to pay £41,339 costs.

News

Network Rail to be Prosecuted over Grayrigg Crash

Network Rail is to be prosecuted over the Cumbrian rail crash at Grayrigg in which one passenger died.

The Office for Rail Regulation (ORR) said it had started criminal proceedings for a breach of health and safety law. Margaret Masson, 84, from Glasgow, died after the Virgin train derailed on the West Coast Main Line in February 2007.

In November, an inquest jury found poorly maintained points were to blame for causing her death. The train went over a "degraded" set of points at 92mph and careered down an embankment, leaving 88 people injured.

Network Rail is facing a charge under section 3(1) of the 1974 Health and Safety at Work. The ORR said: "This results from the company's failure to provide and implement suitable and sufficient standards, procedures, guidance, training, tools and resources for the inspection and maintenance of fixed stretcher bar points."

Network Rail managing director Robin Gisby said: "Network Rail has not hidden from its responsibilities - the company accepted quickly that it was a fault with the infrastructure that caused the accident.

"We again apologise to Mrs Masson's family. Since the derailment Network Rail has worked closely with the authorities, conducted comprehensive and detailed investigations and made substantial changes to its maintenance regime."

Challenge Panel to be Established

Government ministers have asked the HSE for the establishment of a regulatory challenge panel following a recommendation made in the Löfstedt report. The panel will examine issues raised by businesses where they believe an HSE or local authority health and safety inspector has given advice that is incorrect or disproportionate.

The panel will be chaired by former Environment Agency regulator, Tricia Henton, and will comprise independent panel members who have the competence and experience to assess advice that has been given on regulatory matters.

The Independent Regulatory Challenge Panel will only investigate complaints about health and safety which the complainant believes is incorrect or goes beyond what is required to control the risk adequately.

The panel members are independent and will be competent and experienced to assess advice that has been given on regulatory matters.

The role of the panel is 'advisory' although it is expected that "regulators will respect the independence of the panel and its advice and where appropriate take it onboard."

Key aspects are:

- cases from 30 June 2011 onwards will be considered
- the panel will not examine issues where other independent appeals processes exist eg enforcement notices or prosecutions
- complainants must first try to resolve the matter with the relevant HSE or LA inspector and their manager
- complaints will be reviewed thoroughly and the complainant informed of the findings
- outcomes will be made available on the HSE website

- existing complaints procedures can be used if complainants are not satisfied with the panel outcome. These are: writing to the HSE or Local Authority Chief Executive
- involving the relevant MP/Councillor and the Parliamentary and Health Service Ombudsman or Local Government Ombudsman.

Replace 'Competence' in Regulations Review

Responding to the recent government report by Professor Löfstedt on the review into existing Health and Safety legislation, the NASC (National Access & Scaffolding Confederation) have reacted in particular to the recommendation to review the Work at Height Regulations by 2013.

Since their introduction in 2005 these regulations have provided an increased awareness to both operatives and employers on the inherent risk when working at height, including what the requirements are to work safely and legally. However some aspects of the regulations can be improved.

One particular 'grey' area is the use of the terms 'competent' and 'competence' which occur frequently throughout the current legislation. These terms are both ambiguous and open to interpretation, say the NASC. This non-specific term has resulted in different interpretations and hence different standards of safety protocol – yet these terms are also at the 'heart' of the regulations.

The NASC recommend that these terms be replaced by the term 'qualified' (as already adopted in the gas fitting industry). The work at height industry, including scaffolding can demonstrate clearly and accurately that an individual is 'qualified' by virtue of the fact that he has completed suitable training, which includes theoretical, practical and on site experience – the aptitude of the Scaffolder to continue to carry out his/her skilled works is also challenged every five years to ensure continued compliance. Scaffolding contracting companies are also able to be audited to ensure continued compliance/qualification via existing regulated protocol such as the NASC's membership criteria which is already acknowledged by many clients and main contractors as the only method of determining scaffolding prowess that meets all current Scaffolding and Health & Safety legislation.

By replacing the terms 'competent' and 'competence' with the clear and indisputable term 'qualified' the new edition of the regulations in 2013 will help achieve the objectives of the report's recommendation - ensuring that those actions carried out in accordance with the Working at Height legislation are proportionate. Adoption of the term 'qualified' will also help overcome those continually legislation challenging sectors, such as SMEs and the self-employed.

The NASC has written to Whitehall to reaffirm this point which would appear a simple yet effective recommendation to help the government meet its objectives of the review.

Reports

Solutions to Safety and Health Risks in the Construction, Healthcare and HORECA Sectors

This report seeks to contribute to, and inform the development of compilations of preventive solutions to safety and health risks in three sectors. The solutions aim to describe a wide range of innovative and evidenced-based preventive solutions that organisations can integrate into their daily workplace practices.

The three specific occupational sectors focused on by the report are:

- healthcare
- construction
- the hotel and food service sector (HORECA).

Some of the solutions are occupation-specific, while other approaches and tools are applicable across occupational sectors and can be tailored to meet the unique and/or commonly experienced risks faced in each occupational sector.

In addition to the scope per sector, only a limited number of risk categories in each of the three sectors has been analysed and evaluated, namely:

- risks from psychosocial load
- risks from physical load
- risks of slips, trips and falls
- risks caused by dangerous substances.

A wide range of preventive solutions and toolkits was identified. These solutions were then used to develop sector-specific checklists

Guidance

Reporting Incidents of Exposure

If people, animals or wildlife have been affected by exposure to biocides, the HSE advise that medical advice is sought and then the incident be reported to the appropriate authorities. The department to contact depends on the type of incident being reported. For an effective investigation to be undertaken, the incident should be reported as soon as possible.

What incidents of exposure should I report?

Incidents of exposure can happen in two different ways;

- one-off exposure to a large amount of a biocide. This usually has an immediate effect on the health of people, animals or the environment, although the effects might be delayed; or
- longer-term exposure to small amounts of biocides. This may cause delayed and less clear-cut symptoms of ill health.

It is important to report both types of exposure to the relevant authority.

What information do I need to give?

Get as much information as you possibly can about the product involved, either from the product label, the person using the product or the manufacturer.

It is especially important to get the product name and active ingredient(s), the approval number (if the product has one) and the name of the manufacturer. This information can be found on the label and the approval number should have a prefix of 'HSE or BPR'. If possible have the actual product label or the product safety data sheet available. It is also important to give details of:

- when, where and how the exposure happened
- what you were exposed to
- how long the exposure lasted
- whether there were any extreme weather conditions at the time (for example high winds or a very hot or cold day)
- effects of the exposure (eg report/information from health professional).

The information obtained from these incidents can alert the HSE to any unforeseen issues and could result in a reassessment of biocide product approvals to prevent further incidents. Evidence obtained can also be used to enforce the responsible use of these chemicals.

An incident should still be reported even if all of this information is not immediately available.

Incidents Involving People

If you feel unwell or are worried about your health following exposure to biocides you should seek immediate medical advice (NHS Direct, NHS Walk in Centre, GP or hospital etc). If possible obtain as much information about the product/treatment that caused the incident as you can as this will help the medical staff. All health professionals have access to specialised advice and information through the National Poisons Information Service (NPIS). Once you have done this, you can report the incident to the relevant authority (HSE or Local Authority) nearest to the area where the incident took place.

Incidents Involving Wildlife, Livestock or Pets

If your pet/livestock or wildlife has been affected, seek veterinary advice. If possible obtain as much information about the product/treatment that caused the incident as you can as this will help your vet.

The Wildlife Incident Investigation Scheme (WIIS) investigates the deaths, not just of wildlife, but also of livestock and some pets, where there is evidence that biocide poisoning may be involved.

Incidents involving the Environment

If you think that the environment has been polluted then initially the incident should be reported to the Environment Agency (EA) or the Scottish Environment Protection Agency (SEPA) as they are responsible for preventing the pollution of watercourses and contamination of land. Environment Agency inspectors will investigate reported cases of pollution caused by biocides and will take the necessary enforcement action.

Construction – Advice on Slips and Trips

This HSE advice has been issued for the construction sector. It points out that contractors and others in control of construction sites must manage work so that people can move safely around the site.

The site should be kept in a clean and orderly condition so as to reduce the chance of injury through slips and trips.

Everyone can make a contribution to reducing slips and trips on site. If you see a risk, sort it, or report it to someone who can.

Key aspects of construction slips and trips include:

- uneven surfaces
- obstacles
- trailing cables
- wet or slippery surfaces
- changes in level.

Several thousand construction workers are injured each year following a trip or slip whilst at work on a building site. Around 1,000 of these injuries involve someone fracturing bones or dislocating joints.

Most could be avoided by the effective management of working areas and access routes, such as stairwells, corridors, footpaths and site cabins.

Involving the workforce can help identify problem areas and increase the reporting of 'near misses'.

Uneven surfaces

Many slips and trips occur when people are walking on uneven surfaces. The risk can be reduced by providing walkways that are:

- clearly designated as a walkway
- provided with good conditions underfoot
- signposted and provided with adequate lighting.

You can also use mechanical lifting aids rather than carrying unwieldy loads that block the view ahead and make sure everyone wears suitable footwear with a good grip.

Obstacles

Other slips and trips happen because there is something in the person's way, such as building materials or waste.

You can help avoid these incidents by:

- housekeeping - everyone keeping their work and storage areas tidy
- deliveries - planning deliveries to minimise the amount of materials on site
- waste - designating areas for waste collection, providing skips and bins where needed and making clear the responsibilities for waste removal.

Trailing cables

If you can use cordless tools you may not need to use cables. Where you need cables for temporary lighting or mains-powered tools, run them at high level, especially along corridors.

Wet or slippery surfaces

Treat slippery surfaces with stone (mud) or grit (for ice) or provide temporary covering.

Signpost any slippery areas and make sure footwear with a good grip is worn.

Changes in level

Where you cannot avoid small changes in level, such as in doorways, consider installing ramps. If you cannot do this, use signs to warn workers to look out for the change in level.