



Prosecutions

£20,000 Fine for Work at Height Breaches

A man was left with multiple broken bones when the scissor lift he was working in was struck by an overhead crane and fell to the ground.

Steel erector Alexander Struthers, 36, from Thankerton, South Lanarkshire, was using a scissor lift - often called a cherry picker - to drill holes in the roof at a paint workshop at steel fabrication firm BHC Ltd in Carnwarth on 3 April 2008.

There was an overhead crane installed in the workshop to move steel around and Mr Struthers was working with his back towards it at the time of the incident. He did not hear the crane moving towards him as it hit the scissor lift basket he was in, knocking it five and a half metres to the ground

As a result, Mr Struthers broke his hip, pelvis, thigh bone, knee, ankle and nose. He was in hospital for six days and endured a nine-hour operation to repair various bones.

A subsequent operation has left him with an 18-inch pin in his thigh bone as well as various pins, metal plates and screws in his hip, pelvis and ankle. He is in constant pain, still attends physiotherapy and walks with the aid of sticks.

BHC Ltd pleaded guilty to breaking Regulation 4 of the Work at Height Regulations 2005 at Lanark Sheriff Court. The firm admitted failing to ensure the work at height was properly planned, appropriately supervised and carried out in a reasonably practicable safe manner and was fined £20,000.

Following the case, Health and Safety Executive (HSE) Inspector Eve Macready said:

"This completely avoidable incident has had an enormous impact on Mr Struthers' life.

"If BHC Ltd construction had properly planned or supervised the work they would have recognised that the overhead crane was a hazard and stopped it being used while Mr Struthers and his colleagues were working on the roof."

Salus Wise

"Duty holders have an obligation to ensure all work at height is properly planned and a proper risk assessment has taken place."

Employee Welfare Fine

A London window manufacturer has been prosecuted for ignoring two Improvement Notices requiring them to bring employee welfare facilities up to a clean and hygienic standard.

At the City of London Magistrates' Court, the Health and Safety Executive (HSE) prosecuted TLC Glazing Ltd, of Willow Lane Industrial Estate, Mitcham, Morden.

The court heard that on 20 May 2010, at a routine inspection of the factory, the HSE found the toilets in a poor state of repair. They were very dirty, with no supply of hot water, no soap for hand-washing and no means of hand-drying.

The inspection also found that the area where employees were supposed to take rest breaks and eat lunch was not properly equipped, and was covered in dust and debris from the adjacent workshop.



The HSE inspector served two Improvement Notices on the company, giving them a month to bring the employees' welfare facilities up to a decent standard.

When the inspector returned a month later on 18 June, TLC Glazing Ltd had taken no action to comply with the notices, and the toilets facilities and rest area were in the same poor state.

HSE Inspector Clare Hawkes, said:

"The law requires employers to provide a minimum basic standard of clean and hygienic welfare facilities for workers. There's no excuse for not providing them.

"Failure to provide decent facilities or to comply with enforcement notices are serious matters. TLC Glazing showed complete disregard for the welfare of its employees and for the law."

TLC Glazing Ltd pleaded guilty to breaching section 33(1)(g) of the Health and Safety at Work etc. Act 1974. **The company was fined £5,000 and ordered to pay £1,968 costs.**

Care Home is Fined £18K

A Liverpool nursing home has been fined £18,000 after an 81-year-old woman fell to the ground while being lifted out of bed.

Frances Shannon fell three feet and suffered a broken shoulder as well as injuries to her back and elbow. The wife, mother of two and grandmother of one died in the Royal Liverpool University Hospital the following day.

The Catholic Blind Institute, which runs the Christopher Grange nursing home, was prosecuted by the Health and Safety Executive (HSE) for failing to carry out regular checks of the lifting sling being used. It pleaded guilty to the offence and was sentenced at Liverpool Crown Court on 17 January 2011.

The court heard that Mrs Shannon was being moved from her bed to a wheelchair at the Christopher Grange Nursing Home, on Youens Way in Knotty Ash, on 4 December 2008 when the sling failed.

Sarah Wadham, the investigating inspector at the HSE, said:

"Mrs Shannon's fall would have been prevented if the Catholic Blind Institute had complied with the law for using equipment to lift people.

"There should have been regular checks of the sling and it should have been thoroughly examined at least once every six months. Sadly this did not happen.

"I would urge care providers, including NHS trusts, primary care trusts and care homes, to ensure that they carry out the necessary examinations and inspections of lifting equipment, to prevent similar tragic incidents in the future."

The Catholic Blind Institute was charged with breaching Regulation 9(3) of the Lifting Operations and Lifting Equipment Regulations 1998. It was ordered to pay £13,876 towards the cost of the prosecution in addition to the fine.



“Horrendous Disregard for Health and Safety”

A construction company endangered the lives of both its workforce and the public while demolishing an old factory in Leicester city centre.

Saleh Properties Ltd, of North Evington, Leicester, was demolishing a disused factory in Orson Street on 21 April last year to make way for new homes when an inspector from the Health and Safety Executive (HSE) found that the building was at risk of collapse.

Leicester Magistrates' Court heard workers had **removed structural parts of the building without properly supporting it**. Some workers were even spotted standing on the roof, demolishing parts of the building by hand, and were working at height without suitable equipment to prevent falls.

The HSE inspector immediately stopped work and served prohibition notices preventing any more activity until a demolition plan was in place and a competent supervisor was on site.

Missing safety signs and fencing were ordered to be installed to ensure members of the public were kept away from the unsafe building.

Saleh Properties Ltd, of 109 Coleman Road, North Evington pleaded guilty to breaching Regulations 9 (1)(a) and 28 (2) of the Construction (Design and Management) Regulations 2007 and two breaches of Regulation 6 (3) of the Work at Height Regulations 2005. The company was fined £4,000 and ordered to pay costs of £1,084.

Inspector Stephen Farthing said:

"Saleh Properties showed a horrendous disregard for health and safety which was not only putting workers at risk, but also passing members of the public going about their daily lives. There was a real danger of this building collapsing.

"The site supervisor had no training in health and safety, no method statements or risk assessments had been carried out before the work started and there were no welfare facilities for workers.

"To run a construction company in this manner is wholly unacceptable and this prosecution shows that [the] HSE will clamp down on small construction companies failing to adhere to basic health and safety regulations."

Teenager's Hand Trapped – Three Hours into First Day

A Walsall metal forming company has been prosecuted after a teenage worker lost parts of two fingers on his very first day working at the plant.

The nineteen-year-old, who did not wish to be named, had only started work three hours earlier for Goscote-based JKL Industrial Services Ltd, when his hand became trapped in a power press.

The Health and Safety Executive (HSE) prosecuted JKL Industrial Services Ltd, of Canalside Close, Goscote, following the incident on 28 October 2009, in which the worker's left hand was seriously injured.

Walsall Magistrates' Court heard that the injured man, from Sutton Coldfield, was feeding strips of steel through a power press, punching 10cm shapes from the metal when his hand became trapped in an unguarded part of the machine.

As a result of his injuries, his middle and ring fingers had to be amputated at the first joint.

JKL Industrial Services Ltd pleaded guilty on Monday 17 January to breaching Regulation 11 of the Provision and Use of Work Equipment Regulations 1998. The company was fined £5,000 and ordered to pay £2,534 costs.



HSE inspector Eve-Marie Edwards said:

"This young man has suffered permanent and debilitating injuries from an incident that should never have happened.

"JKL Industrial Services did not provide adequate guarding for the power press, failed to maintain the machine properly and failed also to ensure it was thoroughly examined by a competent person.

"Furthermore, the company had not given the worker sufficient information, instruction, training or supervision to operate the power press safely."

News

Construction Products – Labelling Rules

Construction products containing hazardous substances will have to be clearly labelled as such, to protect the health and safety of construction workers and users of construction works, under new rules on the EU-wide sale of construction products approved by [the European] Parliament.

The committee voted unanimously to endorse an agreement reached with the Council in December on a new EU regulation on the marketing of construction products. This agreement enshrines important concessions won by MEPs on the labelling of hazardous substances.

The Council took up 60 of 83 amendments tabled by the committee (31 fully and 29 partially or in substance).

Labelling of hazardous substances

Under the new regulation, the 'declaration of performance' already required for every construction product will have to include information on hazardous substances, as required by the 2006 REACH Regulation, so as to make the contents clear to all potential users and ensure a high level of protection of health and safety.

In addition, the Commission will draw up a report assessing the specific needs for information on these hazardous substances, and taking account, *inter alia*, of the need to ensure a high level of protection of the health and safety of workers using construction products and of users of construction works. Its assessment must also have regard to requirements on recycling and/or re-use of parts or materials. If appropriate, this report is to be followed up by legislative proposals.

Small firms

The regulation is to simplify, update and replace current rules, simplify procedures so as to reduce red tape, especially for micro-enterprises, and ensure transparency. Micro-companies manufacturing construction products may choose to use new simplified performance assessment procedures, provided that they can demonstrate the products' compliance with requirements by methods equivalent to those laid down in harmonised standards.

The new rules also include an exemption from the declaration of performance requirement for construction products manufactured in a traditional manner or in a manner appropriate to heritage conservation and in a non-industrial process.

Protecting the environment and health

Many other amendments accepted by the Council refer to the need to protect the environment and promote recycling of construction products. They also stipulate that when assessing the performance of a construction product, account must be taken of the health and safety considerations relating to its use throughout its entire life cycle.



"I'm delighted that the construction industry now has a solid, workable regulation for the foreseeable future", said Parliament's rapporteur Catherine Stihler (S&D, UK), adding that "I'm confident that the improvements in CE marking, transparency, and rules for smaller companies, whilst retaining the highest standards of safety, will give the construction industry the reassurance it needs in the current economic climate".

Next steps

The regulation will formally enter into force 20 days after its publication in the Official Journal of the European Union. However, many of its provisions will apply only as from 1 July 2013, as a transition period is needed to allow companies time to adjust.

Consultation Following Lord Young Report

Companies offering cash incentives to attract people to make compensation claims through them – including for personal injuries – will be stopped under new proposals.

Currently, some companies promise people a financial reward – for example: 'We'll pay you £200 immediately after our solicitors approve [y]our claim'. This is designed to attract people who may be led to believe they can receive a large payout for minor incidents such as slips, trips and falls.

The proposed rule change would stop the offering of cash payments or similar benefits to attract claimants and forms part of the Ministry of Justice's response to Lord Young of Graffham's report on compensation culture, 'Common Sense, Common Safety'.

The rule change is a targeted restriction and is unlikely to have a detrimental effect on the majority of legitimate claims management businesses.

Kevin Rousell, Head of Regulation at the Ministry of Justice said:

"We have accepted Lord Young's report and plan to take the necessary steps to ensure that the concerns raised about the marketing practices of some claims management businesses are tackled at the earliest opportunity. This consultation is an important step towards tackling irresponsible marketing."

The consultation, published online, closes on 10 February 2011. Subject to the outcome of the consultation the Ministry of Justice plans to implement the rule change in April 2011, in line with Lord Young's published implementation timetable.

The proposals see amendments to the Client Specific Rule 6(b) of the Conduct of Authorised Persons Rules 2007.

Lord Young wrote to the Head of Claims Management Regulation to set out specific concerns about claims management businesses and identified the use of inducements that might encourage claims being made, as a particular problem. This form of marketing for claims management businesses is currently regulated under the Compensation Act 2006.

The MoJ estimates that around five per cent of all regulated businesses currently offer these types of inducements and within that five per cent, the majority of those firms appear to be smaller and not generally operating on a national scale.

Guidance

A Quick Guide to Health and Safety in Ports



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The Health and Safety Executive (HSE) has published a quick guide for those responsible for maintaining health and safety standards at ports and for those working at, or visiting such areas. This guidance identifies the main hazards at ports, explains how to reduce their risks and describes what action is necessary to comply with the relevant law.

Legislation

Ports are subject to the Health and Safety at Work etc. Act 1974 (HSW Act) that applies to workplaces in general. They also need to comply with other subsidiary legislation, for example, the Management of Health and Safety at Work Regulations 1999: However, there is additional legislation that applies specifically to this industry. This includes the:

- Docks Regulations 1988
- Dangerous Substances in Harbour Areas Regulations 1987
- Loading and Unloading of Fishing Vessels Regulations 1988.

Merchant Shipping and Fishing Vessel Health and Safety Regulations (as opposed to the HSW Act and associated regulations) apply to a ship's crew working on board a vessel where they are under the control of that ship's master. These regulations are enforced by the Maritime and Coastguard Agency (MCA).

Key hazards

The main hazards to be found in a port environment can be summarised as:

- workplace transport
- lifting operations
- falls from height
- dusty cargoes
- musculoskeletal disorders
- slips and trips
- working in confined spaces
- lone working
- other hazards, such as noise and exposure to fumes and/or hazardous chemicals.

This guidance describes the typical risks associated with all the aforementioned hazards and provides advice on how best to reduce such risks. The guidance also lists the laws that apply to each hazard type. The specialised and high-risk activities associated with handling dangerous goods and hazardous cargoes at docks are not covered in this guidance and the reader is directed to other information sources.

Conclusion

The HSE classifies ports as high risk environments because they are often operating 24 hours a day and are subject to the vagaries of the weather, time pressures and potential communication difficulties, in what is often a multi-lingual environment. Consequently, the HSE is adamant that the risks in this environment must be carefully managed.