



Prosecutions

Slips and Trips Highlighted after Chocolate Maker is Fined

The Health and Safety Executive (HSE) is warning employers after the prosecution of Thorntons Plc, Derbyshire after an employee slipped and suffered serious injuries to his hand.

The company, based at Thorntons Park, Somercotes, pleaded guilty to breaching Section 2(1) of the Health and Safety at Work Act 1974 for failing to provide a safe system of work. At Derby Magistrates' Court the company was fined £12,000 and ordered to pay costs of £4,548.

The incident occurred on 5 November 2007 when Ashley Taylor, 23, from Shirland slipped on a wet mat while working on a conveyor belt to cool a depositor (the machine that puts the filling into the centre of chocolates). His hand went through the depositor hopper and was jammed in the rotating rollers causing broken bones and tissue damage. The fire services were called to help free him. He has been unable to work since.

Slips, trips and falls have equated to more than 700 serious injuries in Derbyshire in 2007/08 (85% were slips or trips). Nationally, 61 people died and more than 14,000 suffered serious injury, which produced an estimated cost of £700 million.

HSE Inspector for Derbyshire, Noelle Walker said, "In this case, a combination of the wet surface and inadequately guarded rollers led to this injury, which could so easily have been avoided. This is just one of a significant number of accidents involving the cleaning and maintenance of food machinery, and companies must ensure that they have the right systems in place to protect their staff from hazardous situations".



HSE Warns of the Dangers of Poor Safety Precautions after Worker Fall

Following a prosecution case in which a worker was injured after falling into a pit, the Health and Safety Executive (HSE) is warning businesses of the importance of implementing safe systems of work and of ensuring that plant is properly maintained.

The case concerned John Webberley, an employee of Dairy Crest Ltd, of Esher, Surrey, who was working at premises in Telford, Shropshire. On 17 June 2007, a pit containing a milk by-product effluent was being emptied by means of a 3 inch (75mm) hose connected to a tanker. Mr Webberley was using water from a hot water hose to melt the solidifying milk by-products in an attempt to prevent a thick crust forming. Unfortunately, the metal grating upon which he was standing was not secured in place and neither was it a good fit.

Consequently, he slipped and fell into the 6 feet (1.9m) deep pit, sustaining significant injuries to his groin.

At Telford Magistrates' Court, Dairy Crest Ltd pleaded guilty to breaching Section 2(1) of the Health and Safety at Work etc Act 1974. The company was fined £18,000 and ordered to pay costs amounting to £2,675.

The Court heard that Dairy Crest had not provided and maintained a safe system of work. Nothing had been done to secure the grating or to protect anybody from falling into the pit. It was regular practice to remove the grating whilst the pit was being emptied, but there were no suitable safety precautions to govern this procedure. Furthermore, due to lack of maintenance, the grating could have given way at any time.

HSE inspector David Kivlin made the point that the Regulations require employers to ensure that safe systems of work are followed and ensure that plant and equipment is safe to use. Pit covers and gratings must be of a suitably strong construction and be kept in a good state of repair. He added that, in this instance, the employer had not made a suitable assessment of the risks associated with emptying the pit. If this had been done, the accident could easily have been avoided. He concluded with the reminder that falls continue to be one of the principal causes of fatalities to workers.



HSE Initiative to Help Migrant Workers in the Construction Industry

The Health and Safety Executive (HSE) is recruiting outreach workers to work alongside its inspectors and compliance officers to increase interaction with migrant workers in the construction industry – the largest groups being Poles, Romanians and Indians.

In London especially there are large numbers of migrant workers and the HSE has identified them as a particularly vulnerable group within the construction sector.

Problems that migrant workers face can include:

- poor English
- a lack of understanding of UK health and safety standards
- awareness of employment rights
- lack of experience or skills.
- exploitation by employers
- unpaid wages
- grievances with employment rights.

The outreach roles, based in London endeavour to improve awareness for this group of workers. Outreach workers' jobs will include construction site visits; liaison with immigrant community organisations, local authorities, faith communities, further education colleges, trade unions and employers; organising events and developing links, networks and partnerships.

HSE inspectors are also visiting London construction sites this month to ensure that site operators are not putting their workers or the public at risk of death or injury. Inspectors are targeting principal contractors to look at how they are managing areas such as working at height, good order on site, and the risks associated with exposure to asbestos.

Enforcement action is to be expected if standards of safety lapse. In February last year, in a similar initiative more than a third of the construction sites visited by HSE received enforcement notices because they fell so far below acceptable standards. Of the 162 sites in the capital that were inspected, enforcement action was taken in 55 cases.



Guidance

Guide on New and Expectant Mothers at Work

Pregnancy, although not an illness in itself, is a condition which employers and employees must, by law, make special provision for. Similarly, new mothers, particularly those who are breastfeeding are afforded certain rights in the workplace. The Health and Safety Executive (HSE) has published guidance on new and expectant mothers in the workplace, mainly aimed at health professionals looking to protect such patients' health in the workplace. This guidance also serves as a useful reminder to employers of their duties in this area.

New and expectant mothers are covered by the general legal requirement contained within the Management of Health and Safety at Work Regulations 1999 which states that employers must assess workplace risks for all employees, specifically new and expectant mothers. These are defined as women who are pregnant, have given birth within the previous six months, or who are breastfeeding. Workplace hazards that could pose a health or safety risk to new and expectant mothers must be identified, and this information passed on to all female employees of childbearing age.

Employees falling within the category of new and expectant mothers also have a duty under health and safety law. They must inform their employer in writing that they are pregnant. Once this has taken place, the employer is required to carry out a risk assessment specific to that employee, looking at their place in the workplace and any risks that are specific to them. Where risks are identified the employer is required to take action, and the actions should be monitored and reviewed regularly.

The pregnant employee should be asked to participate in carrying out the risk assessment, and any pregnancy-related medical conditions she is suffering from, such as high blood pressure, should be taken into account. As well as this, any health problems that are caused by the woman's work should be taken into account - these should include physical hazards such as ergonomics and noise etc, biological agents, such as infections, chemical hazards such as handling of pesticides, and also working conditions - such as lone working, inadequate facilities etc.

Following the employee-specific risk assessment, advice may be passed on to the employee on one of two certificates. These are:

- Medical Statement (Med 3) - where a doctor gives a patient advice on their ability to perform their own or usual type of work, this is recorded on medical statements. Where this relates to work adjustments in relation to pregnancy and breastfeeding, the doctor should record this in the "Remarks" section on the Med 3, and select Section (a), which states "you need not refrain from work".
- Maternity Certificate (MAT B1) - this is a certificate which is issued by a doctor or midwife around week 20 of pregnancy and is necessary where a woman wants to claim Statutory Maternity Pay (SMP) or Maternity Allowance (MA).

In all cases, pregnant women should be encouraged to remain at work, where possible, however where a pregnant woman has to be signed off work, a Med 3 form should be used.

The guidance also covers the need for adequate rest facilities to be provided for pregnant and breastfeeding women, and also night working, particularly mentioning that if a medical professional advises that a new or expectant mother involved in night working is suffering detrimental health effects because of this, the employer has a duty to find her alternative day time work.



REACH – Substances of Very High Concern

The HSE has produced a leaflet to help employers understand the requirements under REACH for Substances of Very High Concern (SVHC).

REACH (Registration, Evaluation, Authorisation and restriction of CHemicals), the system for controlling chemicals in Europe, became law in the UK on 1 June 2007.

SVHC are substances that have hazards with serious consequences, eg, they cause cancer, or they have other hazardous properties and/or remain in the environment for a long time with their amounts in animals gradually building up.

The criteria in REACH, Article 57 for SVHC are:

- substances meeting the criteria for classification as carcinogenic, mutagenic or toxic for reproduction (CMR) category 1 or 2 in accordance with Directive 67/548/EEC
- substances which are persistent, bio-accumulative and toxic (PBT) in accordance with the criteria set out in Annex XIII of the REACH Regulation
- substances which are very persistent and very bio-accumulative (vPvB) in accordance with the criteria set out in Annex XIII of the REACH Regulation
- substances giving rise to an equivalent level of concern to substances meeting the above criteria. Such substances may have endocrine disrupting properties or have properties, that although not meeting the criteria for being a CMR, PBT or vPvB, there is scientific evidence of probable serious effects to human health or the environment. Such substances will be identified on a case-by-case basis.

Substances meeting these criteria may be placed on one or both of the following two lists:

- the 'Candidate List'
- the 'Annex XIV List'.

Some substances that meet the criteria may not appear on either list.

A potential SVHC may be prioritised by national REACH Competent Authorities, or by the European Chemicals Agency (ECHA) at the request of the European Commission (EC), and a dossier prepared for nomination of the substance for inclusion on the Candidate List.

The list of proposed substances is then published on the ECHA website and interested parties are invited to submit comments within a set timeframe. If no comments are received, the substance will be automatically included on the Candidate List. If comments are received, ECHA will refer the dossier to its Member State Committee where agreement will be sought as to whether the substance meets the Article 57 criteria. If a unanimous agreement is not met, the EC will prepare a draft proposal on the identification of the substance and a final decision subsequently taken in accordance with the comitology procedure laid out in Article 133.

Once a substance is placed on the Candidate List specifically, the following responsibilities are placed on industry.



Duty to communicate information on substances in articles

Suppliers of an article containing a substance that is on the Candidate List in a concentration above 0.1 % weight by weight (w/w) must provide the recipient of the article with sufficient information, available to the supplier, to allow safe use of the article including, as a minimum, the name of the substance (Article 33). This applies when the article is supplied to recipients who are to use it as part of their work.

Equivalent information should be supplied to the general public if requested, within 45 days of the request.

Duty to communicate information on substances in preparations

Suppliers of a preparation not classified as dangerous according to Directive 1999/45/EEC ('Dangerous Preparations Directive') must provide the recipients on request with a safety data sheet if the preparation contains at least one substance on the Candidate List, present at concentrations of at least 0.1% (w/w) for non-gaseous preparations or 0.2% for gaseous preparations.

Duty to communicate information on substances

Suppliers of a substance that appears on the Candidate List must provide a safety data sheet for the substance to their customers.

Notification

Suppliers of articles containing substances that appear on the Candidate List must submit a notification to ECHA when the following conditions are met:

- the substance has been included on the Candidate List as discussed above and
- the substance is present in the articles above at a concentration of 0.1% weight by weight (w/w) and
- the total amount of the substance in the articles exceeds one tonne per producer or importer per year and
- the substance has not yet been registered for that specific use.

There may be no obligation to notify if the producer or importer can exclude exposure to humans or the environment during normal or foreseeable conditions of use and disposal.

A typical notification will include:

- the company's details
- the identity of the substance
- the substance's classification and labelling
- a brief description of the use of it in the article and the uses of the article.

Notification is required from 1 June 2011 and thereafter at the latest six months after the substance has been included on updates of the Candidate List.



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Authorisation

Some SVHCs may need to be authorised for specific uses. ECHA will publish the first proposed list of priority substances that will require authorisation by 1 June 2009.

The only way it will be possible to use substances listed on Annex XIV will be to obtain an authorisation from the EC. When a substance is placed on Annex XIV a 'sunset date' will be set after which its use will be prohibited unless an authorisation has been granted for that use. An application for an authorisation must be made not less than 18 months before its sunset date.

Authorisations will be 'time limited' and will need to be renewed.

Authorisation can be granted in two ways:

1. the use of the substance is considered safe as long as the risks are adequately controlled, and the conditions of the authorisation are met
2. the use of the substance can be demonstrated to be so important on socio-economic grounds that its continued use outweighs the risks to human health and the environment.



Reports

Unchecked Eyesight Represents a Safety Risk

A report of a survey from the College of Optometrists concludes that, in the UK, many workers of middle age are avoiding attending an eyesight test and are possibly posing a risk to the safety of others as a result.

The report suggests that one in five drivers aged 35-55 has driven despite knowing that their eyesight is poor. Furthermore, as many as 9% of workers of middle age operate heavy machinery even though they are aware that their eyesight is not correct.

According to the study, 28% of respondents admitted putting off having their eyesight tested for up to six months after realising that their eyesight had deteriorated, and 21% had delayed for up to five years.

The principal reasons give for this avoidance were the perceived ageing affects of wearing spectacles (43%) and the cost of contact lenses and glasses (18%). The group most likely to avoid a visit to the opticians was middle-aged men, of whom one in three stated that they would not go for an eye test even if they noticed a deterioration in their sight.

Dr Susan Blakeney, Optometric Adviser to the College of Optometrists, concluded that failing eyesight seemed to fall rather low in the list of priorities of many middle-aged people. She pointed out that this was somewhat worrying given that many of them are continuing to drive.

A study carried out by Specsavers underlined this concern. Out of 546 drivers who agreed to undergo a voluntary sight check, 25 were unable to read a number plate at the minimum distance required. Indeed, one driver had to be taken to within two metres of the plate before he was able to read it.

According to the 2009 edition of the Workplace Law Handbook, employers have a statutory obligation to provide eyesight tests for their employees if the workers are Display Screen Equipment users. There is no evidence at present to the effect that DSE use causes permanent eyesight damage. It can, however, accentuate pre-existing eye conditions, resulting in temporary visual fatigue or headaches.

Employers are required to provide users or operators with an appropriate eye and eyesight test if they request it. The employer has a liability to pay, but DSE users are not obliged to take the test.