

Prosecutions

Fife farming company fined after worker loses two toes

A farming company has been fined after a worker had to have two toes from his right foot amputated, when he became entangled in machinery inside a grain reception pit.

On 4 September 2009, due to heavy rain, the grain reception pit at the premises of R Todd & Company at Blacketyside Farm, Fife, had filled with about twelve inches of water. Peter Ednie, 26, from Kirkcaldy, Fife, after discussions with Robert Todd, was trying to empty rainwater from the pit using a bucket. His foot became caught in the unsheathed part of a screw auger inside the pit.

A screw auger is a type of conveyor used to transport grain between the different parts of a grain drying system and consists of a large screw which rotates inside a steel tube. Part of it has to be exposed to collect grain and transport it. Although the screw auger was switched off and not rotating, the power to it had not been isolated before Mr Ednie entered the pit.

While Mr Ednie passed the buckets of water to a colleague standing outside the pit, Mr Todd was cleaning a nearby grain drying bin. This required him to unload the bin and remove left over grain by activating a different screw auger conveyor that ran from the drying bin to the storage bin.

But when he went to the control panel he mistakenly activated the switch for the screw auger inside the grain reception pit where Mr Ednie was working. The auger started to rotate, trapping Mr Ednie's right foot.

Mr Ednie's small toe had been severed and his fourth toe was badly injured. He underwent surgery to have the fourth toe amputated and a metal splinter was also removed from his foot. His foot still feels constantly cold, he has no feeling in his third toe. This means he sometimes finds it difficult to walk due to the pain in his foot and also walks with a limp.

Mr Ednie was not able to return to work for six weeks and now no longer works for the company.

An investigation by the Health and Safety Executive (HSE) found that there was no risk assessment in relation to any activity that required employees working inside the grain reception pit.

A generic risk assessment document obtained during the HSE investigation did state that no unguarded machines should be cleaned unless they were switched off, but did not explain that power to the machinery must at all times be isolated. It was also found that at no point during his employment had Mr Ednie been given the opportunity to read or consider this risk assessment.

At Kirkcaldy Sheriff Court today (Tuesday 11 October 2011) R Todd & Company was fined £20,000 after it pleaded guilty to breaching Section 2(1) of the Health and Safety at Work etc Act 1974.

Chemical firm in court over major incident in Cheshire

A chemical manufacturer has appeared in court following a major incident at its factory in Cheshire which put workers' lives in danger.

Thor Specialities (UK) Ltd was prosecuted by the HSE after a chemical reaction got out of control at its plant on Wincham Avenue in Wincham, Northwich, releasing toxic and flammable substances into the production area.

Chester Crown Court heard the consequences of the incident on 23 August 2007 could have been fatal.

The court was told an employee at the factory had been adding a solid chemical into a vessel containing a liquid chemical. He wrongly assumed he could increase the rate at which the chemical was added when they initially failed to react. The chemicals then reacted rapidly, leading to an uncontrolled 'runaway reaction'.

None of the workers were in the production hall when the alarms - set off by the incident - began to ring, but one of them returned to investigate. He was driven back by the fumes and fled from the building.

The HSE investigation concluded the company had failed to adequately assess the risks of the chemical reaction and ensure that suitable control measures were in place.

It also found the employee had not received adequate training, instruction and supervision on the operating procedures, and did not appreciate the danger of increasing the quantity of the chemical.

Thor Specialities (UK) Ltd pleaded guilty to breaching Section 2(1) of the Health and Safety at Work etc Act 1974 by putting workers at risk. The company, which produces chemical products for the newspaper, cosmetics, and construction industries, was fined £25,000 and ordered to pay prosecution costs of £15,000 on 14 October 2011.

Speaking after the hearing, the investigating inspector at HSE, David Hair, said:

"It is only luck that none of Thor's staff were in the production hall at the time of the incident as it's unlikely they would have been able to escape unharmed without help.

"They would have been at serious risk from toxic chemical exposure, or a flash fire or explosion, if the flammable vapours released had ignited. They could easily have suffered permanent injuries or even been killed.

"Chemical factories must make sure safety is their top priority. Unfortunately, on this occasion, Thor failed to ensure its safety procedures remained at the highest of standards."

Thor Specialities operates as a Top Tier site under the Control of Major Accident Hazard Regulations. It therefore has a legal duty to prevent major accidents and limit the effects of any incidents on people and the environment.

Firm fined after worker hit by forklift

A Lincolnshire farming company has been fined after a worker was hit by a forklift truck.

Agency worker Algis Jevsejevas, 45, fractured his left leg in the incident at CW Dobbs and Son's premises near Spalding on 21 October 2010.

Mr Jevsejevas, who was living in Kings Lynn at the time of the incident but has since returned to his home in Lithuania, was walking across the floor of a potato grading shed to get labels for boxes when he was hit by the reversing vehicle.

A Health and Safety Executive (HSE) investigation found the company had failed to ensure the shed was organised in such a way that vehicles and pedestrians could move around safely.

After the hearing HSE inspector Neil Ward said:

"This incident need not have happened. **The company should have made sure, so far as was reasonably practicable, that there was physical segregation between its workers and its vehicles.**

"Since the incident, the farmer has put up a barrier but has also moved the labels to another part of the shed, next to the grading line, so people don't have to walk across the shed. This goes to show how simple and inexpensive preventative measures can be."

CW Dobbs and Son Ltd, of Home Farm, Hollands Chase, West Pinchbeck, Spalding, pleaded guilty to breaching Regulation 4(1) of the Workplace (Health, Safety and Welfare) Regulations 1992 at Spalding Magistrates' Court. The company was fined £7,000 and ordered to pay £2,588 costs.

Worker Injured by Chemical Splash

A hotel has been fined after a member of staff was injured when oven cleaner splashed into her face. Magistrates in Darlington heard that Whitworth Hall Country Park Ltd, in Spennymoor, **had failed to ensure the cleaning product was properly and safely stored.**

A young employee was injured when the chemical, which was in a container without a lid and which was not stored where it should have been, splashed into her eyes, face and neck in May 2009.

An investigation by Durham County Council's safety and occupational health team found that staff had access to dangerous chemicals in an unlit store which was contrary to the company's own procedures.

Whitworth Hall Country Park Ltd pleaded guilty to breaching a Section 2 (1) of the Health and Safety at Work Act 1974 and Regulation 8 of the Workplace (Health, Safety and Welfare) Regulations 1992.

The company was fined a total of £8,700 for the two offences and ordered to pay £3,299 costs and a £15 victim surcharge.

The company was prosecuted by Durham County Council, which is responsible for enforcing health and safety laws in businesses including warehouses, shops and offices.

Joanne Waller, head of environment, health and consumer protection for Durham County Council, said: "This case should serve as a warning to other businesses that they need to take their responsibility for the health, safety and welfare of their staff seriously.

"It is not enough for employers to simply have risk assessments and procedures written down – they must also make sure their staff are aware of them and follow them properly."

Laundry firm fined for ignoring safety notices

A Battersea laundry firm showed scant regard for employee wellbeing and safety after ignoring instructions to make it easier and safer for workers to move heavy loads.

Niva UK (Ltd), trading as Sunbeam Laundry, failed to act on two separate Improvement Notices served by the Health and Safety Executive (HSE) following a routine inspection of its premises at the London Stone Business Estate, on Broughton Street, on the 6 May 2010.

The first Improvement Notice required the removal of bags of laundry and other items from walkways, including a stairway, and the entrance to a female staff toilet. The second required an urgent review and improvements to reduce the lifting and handling of laundry.

City of London Magistrates' Court heard that when HSE made a return inspection two months later, Niva had done nothing to comply with either notice. Employees were still carrying heavy loads through blocked walkways and were routinely risking tripping and falling as a result.

After the hearing HSE Inspector Clare Hawkes said:

"The law requires employers to provide walkways that are clear of obstructions so employees can move around freely and safely without risking injury from trips and falls.

"Also where employees are at risk of injuring themselves from handling heavy and cumbersome loads, and from awkward postures, the employer must take action to reduce those risks. Yet Niva UK Ltd turned a blind eye to both of these requirements.

"HSE will continue to take action against companies who shirk their responsibilities in this way. Employers who do not comply with enforcement notices are very likely to find themselves in Court."

The company pleaded guilty to two separate breaches of Section 33 (1)(g) of the Health and Safety at Work etc. Act 1974 for failing to take action and was fined £2,000 and ordered to pay £5,062 in costs.

Lorry driver fined after worker crushed in brick clamp

An experienced lorry loader operator from Radstock, Somerset has been fined after another worker was crushed in the brick clamp of the lorry loader, leaving him with serious internal injuries.

Yeovil Magistrates' Court heard how, on 18 November 2010, Mark Pratten, 53, a lorry loader operator working for Saint Gobain Building Distribution Ltd (trading as Jewson Builders Merchant), attempted to use a brick clamp on a lorry crane to lift Peter Hoy, 47, a self-employed general builder off the roof of a cabin while he was collecting building materials from a construction site at Mayfield House, High Street, Rode.

The pallet of materials they were collecting was behind an eight foot wall and it was not possible to pick them up normally with the lorry crane that the men were using. In trying to guide the crane into place Mr Hoy climbed onto the roof of the cabin and to get down quickly Mr Pratten tried to lift him with the grab of the crane.

Mr Hoy walked between the arms of the clamp, which was at waist height, in preparation to gain a foot or hand hold. As he did so, Mr Pratten attempted to move the arms. However, he used the wrong switch and inadvertently operated the clamp button.

The arms clamped Mr Hoy's waist, fracturing his pelvis and causing crush-related internal injuries, including nerve damage. His injuries are so severe that he is still off work.

An investigation by the HSE found that Mr Pratten fell far short of the appropriate standard required of a lorry loader operator in attempting to use the lorry loader in an unsafe manner and also lift Mr Hoy with the clamp.

This was in spite of the fact that Mr Pratten was fully trained to use the lorry loaders and had more than 20 years' experience in that line of work. He was also familiar with the controls on the machine he was using and aware of its capabilities, including the fact that the brick clamp was not suitable for lifting people.

Speaking after the prosecution, HSE inspector Helena Tinton said:

"Even if the clamp had not been activated, attempting to lift Mr Hoy down from the cabin roof with a brick clamp was in no way safe.

"Two people's lives have been seriously affected in this incident: Mr Hoy is still suffering from health problems related to his internal injuries and does not yet know when he will be able to return to work. Mr Pratten has lost his job after this action which went against all his training and years of experience."

Mark Pratten pleaded guilty to breaching Section 7 of the Health and Safety at Work Etc. Act 1974 and was fined £1,500 with £1,000 costs.

Technicians fined after Stafford petrol station explosion

Two technicians have been fined £600 after neglecting safety procedures which led to an explosion at a Stafford petrol station. Raymond Read and Jeffrey Moss were also ordered to pay more than £3,000 court costs following the blast at Stafford Services on the northbound carriageway of the M6.

Read, 34, of Waterford Road, Witney, Oxfordshire, and Moss, 38, of Woodford Way, Witney, Oxfordshire, pleaded guilty at Stafford Magistrates' Court recently to offences under the Health and Safety at Work Act 1974.

The court heard how Read and Moss had been filtering fuel in one of the petrol tanks for Brize Norton-based E&S Environmental Services. **There are strict controls for carrying out the high-risk process, which were not followed. The pair had also failed to follow their company's own safety and risk assessment procedures.**

There were culmination of failures, included not isolating an electrical charge from the pumps and not earthing the tanks, which led to the explosion. Had the explosion gone down into the tanks, which contained 27,000 litres of fuel, the results could have been catastrophic. The whole service station area had to be evacuated following the blast on 4 October 2009.

Councillor Pat Corfield, Staffordshire County Council's cabinet member for communities, said it had been fortunate that no-one was hurt.

"This basic failure to follow standard safety procedures in a high risk filtering process could have led to serious injuries or worse.

"Stafford North services are very busy and this incident could have had potentially fatal consequences."

News

HSE Costs Scheme 'Could Damage Relationships'

Proposals to charge small firms for 'material' faults found during inspections by the HSE could damage relationships and may be seen as a way to raise revenue rather than improve compliance, Federation of Small Businesses (FSB) has warned in response to a consultation which closes today.

The HSE has proposed to extend its current systems of cost recovery to include a fee for intervention where an inspector will charge for the inspection and any subsequent actions when a material fault has been found. The HSE estimates that for an inspection that results in a letter, the cost to business could be at least £750.

The FSB argues that for a small or micro business, a bill of £750 or more for a material fault could be extremely damaging, especially during difficult economic times. The proposal currently states that micro firms will in general receive the same level of fees as large businesses.

The FSB's response warns that this will disproportionately affect micro firms as fees of this level will have a greater effect on the ability of the business to function and grow.

The FSB has also raised concerns that small firms may view the proposal as a revenue-generating exercise which could damage the HSE's relationship with business.

The business group says it is worrying that the proposal fails to clarify whether the money raised would go to the HSE or to the Treasury. The FSB believes that if it goes to the HSE, firms could fear that their inspection has been influenced by the need to raise money – particularly in the context of the 35% budget cut to the HSE.

John Walker, National Chairman, Federation of Small Businesses, said: "The FSB has a real concern about these proposals as they stand. Not only could they add to the fear that many small businesses have about health and safety regulation, but could have a serious impact on their relationship with the inspector, which if positive can help compliance to the benefit of the business and society.

"£750 is a hefty fee for small and micro businesses especially during difficult economic times. Most small businesses do not have the same resources that larger firms have to buy-in expert help and yet they are required to be experts in a wide range of complicated regulations. Instead of penalising them with large bills, the HSE should be there to help and support small firms to be compliant. For many small firms this proposal will be seen as anti-growth."

9 million British families at deadly risk

GasSafe Register says that millions of Britons are putting themselves and their families at risk by turning a blind eye to the hazards posed by unsafe gas appliances.

Of the 21 million gas-using homes in the UK, almost half (9 million) do not have annual safety checks on their gas appliances and a shocking 1.6 million admit to never having had appliances checked. 97% understood that they were risking the possibility of carbon monoxide poisoning, gas leaks or explosions by not having their appliances checked regularly.

When asked why they didn't have their appliances checked, 37% cited cost as the main reason, 29% claimed it was only necessary if a problem needed fixing, 17% simply forgot to, and 8% said it was someone else's responsibility.

Corinne Sweet, psychologist said, "Generally people tend to bury their head in the sand and believe something such as a serious accident couldn't happen to them, and are very shocked when it does. The report from the Gas Safe Register shows that although people are aware of the risks of not having their appliances checked, 43% don't have it done, a shocking statistic, which just highlights that British families really are playing with fire when it comes to gas safety.

Safety expert blames 'macho culture' for industry accidents

A leading process safety expert and author has cited industry's 'macho culture' as one of the main causes of health and safety lapses.

Trevor Kletz, who spent almost 40 years at ICI, said many senior managers have "taken their eye off the ball" and that a "get stuck in" approach has been behind many recent incidents.

Speaking at the Hazards Asia Pacific process safety conference, organised by the Institution of Chemical Engineers and the Chemical Industries Council of Malaysia in Kuala Lumpur at the end of September, Kletz said: "Many workers don't see the need to follow all the rules, or the permit-to-work procedures. Our job, they say, is to get stuck in and get the job done, not fill in forms. In time this macho approach becomes the local custom and practice."

Simply blaming senior management for putting the pursuit of money ahead of safety is wrong, Kletz warned. "It's easy to point the finger at management and assume that a culture of cutting corners started at the top, but it is worth remembering that the same culture can also originate at the bottom, driven by the desire to get the job done. The task of management is to know this and make sure it is done properly."

Stay Safe: Plan Bonfire Night in Plenty of Time Says RoSPA

The Royal Society for the Prevention of Accidents (RoSPA) is urging people to plan ahead to ensure they and their guests stay safe at parties.

The safest place to enjoy fireworks is at properly-organised displays, it is recognised that not everyone can attend such events.

Good preparation is vital if you are arranging a fireworks celebration at home. Now is a good time to start thinking about issues such as:

- the law concerning fireworks
- whether you have enough space for your guests to watch from a safe distance
- who will be attending your party - will there be lots of children around?
- suitable sites for a bonfire, if you're having one
- who will be responsible for setting off the fireworks.

RoSPA's fireworks website has everything you need to know about planning a safe fireworks display. It provides details on UK law, including the licensing arrangements in Northern Ireland (where fireworks are traditionally used to celebrate Halloween), and tips for setting up a display.

Sheila Merrill, RoSPA's public health adviser, said: "Remember that planning in advance for fireworks parties at home is key to putting on a safe - and impressive - display. It's a sad fact that each year, hundreds of people are injured by fireworks on and around Bonfire Night, and many more people are injured at private parties than at large public displays.

"If you can't get to an organised fireworks display, which are often of extremely high quality, please don't leave safety until the last minute. Make sure you know what you're doing - and what to do if things go wrong."

Phil LeShirley, RoSPA's product safety adviser, said: "When purchasing fireworks, always use a reputable retailer. Don't be tempted to buy from door-to-door salesmen, the back of a van or at car boot sales - even though the prices may be tempting. Illegal fireworks can be extremely dangerous as they have usually been made to much lower standards than legal goods."

The minimum age for buying category 2 fireworks (the type suitable for garden displays) is 18 across England, Scotland, Wales and Northern Ireland. When buying fireworks, ensure the packaging carries the "CE" mark or is marked with "BS 7114".

Guidance

Managing contractors: A guide for employers

Managing contractors is a guide for small to medium-sized companies in the chemical industry, but it will also be of use to other industries and larger companies.

It focuses on companies with 50 staff or less and has been produced in consultation with chemical companies.

Section 1 of the guidance aims to assist companies in understanding the nature of the problem. It includes a short self-assessment questionnaire to help readers establish how much work they need to do to improve contractor management standards.

Section 2 gives an overview of key health and safety law pertinent to the subject including the Construction (Design and Management) Regulations 2007.

Section 3 provides a checklist based on the successful health and safety management model (HSG65) but specific to the topic of contractor management. Readers are invited to use it to assess the effectiveness of their current approach. It's followed by an action planning form for documenting all of the improvement areas identified.

Section 4 explores 5 practical steps for managing contractors:

- Step 1: Planning
- Step 2: Choosing a contractor
- Step 3: Contractors working on site
- Step 4: Keeping a check
- Step 5: Reviewing the work.

This section is supplemented by some practical exercises which ask readers to consider a typical scenario. The exercises involve a) hazard identification, b) identifying the risks arising from the hazards and c) risk elimination and control. The use of permit to work systems is also explained.

The guidance is punctuated with examples of accidents and their causes as well as quotes from managers at real sites. The quotes highlight business advantages of implementing particular types of systems as well as explaining the health and safety advantages.

NB: please contact the Salus office on 01978 290950 if you require any further advice or support in 'Managing your Contractors'.

Revision of HS(G) 195: Music & Events Guidance

As reported in The Briefing in December 2010, the HSE began working on a revised version of HS(G) 195, 'A guide to health, safety & welfare at music and similar events' in early 2010. There was an initial consultation period involving those with an interest in the industry.

The HSE promised that there would be a further round of consultation on a final draft of the guide, to held later in 2011. This consultation period is now coming to an end.

The revised guide focuses on risk assessment and management. It is aimed primarily at organisers of music and similar events, although the principles set out in the guide may be applicable to other events.

Some parts of the draft relate to topics not covered by the Health and Safety at Work etc. Act 1974, eg general fire safety and provision of welfare facilities for the audience. The HSE's Events Industry Forum have included this advice at the request of the industry so the guide is as helpful to organisers as possible. The draft does not seek to replace existing guidance on these issues. Rather it attempts to complement existing guidance and signpost

the reader to it for more detail. HSE are consulting with other authorities and government departments about this additional material.

Consultees are invited to comment, by completing a comments form on the following points:

- whether there is any material that goes beyond compliance with the law and why
- whether there is any material in the guide that an organiser would not be able to comply with and why
- if there are any inconsistencies or inaccuracies in the draft.

The deadline for returns is Friday 11 November 2011. It will not be possible to accept comments after this date.

CHIG 0401 - Revision 1 - Safeguarding Requirements for Landing Gates on Goods-only Hoists

Goods only construction hoists form a key part of many construction projects. They aid in the movement of materials on site which helps to reduce or eliminate the risks associated with manual handling, lifting operations and vehicle movement. As with all machinery however, in order to be safe, they must comply with the requirements of the law. With innovation and significant changes in the availability of hoist gate interlocking systems, it is clear that the safety devices available for this equipment have moved forward.

This guidance, developed by the Construction Plant-hire Association's Construction Hoist Interest Group (CHIG), reflects the changes which have taken place. It aims to give direction and information to the construction hoist industry on how to best comply with the legal requirements of both the Supply of Machinery (Safety) Regulations and Lifting Operations Lifting Equipment Regulations LOLER - in particular Regulation 6(2).

Regulation 6(2) relates to landing gates for temporarily installed construction hoists (goods only) at sites where construction work is being carried out.

Since the original publication of this document in 2004 significant changes have taken place in the state of the art of design and availability of hoist gate interlocking systems. This, together with the introduction of the Work at Height Regulations 2005, has required the updating of this document to take account of these issues, which give improvements to overall safety, and to set a date by which all hoist suppliers should supply legally compliant gates with their hoists.

In summary the changes to the guidance are:

- all hoists with full height gates must have interlocking systems which both prevent the landing gate being opened unless the hoist platform is at the landing (mechanical interlocking) and the hoist platform moving unless all the landing gates are closed (electrical interlocking)
- this means that full height gates with a mechanical self closing latch are no longer acceptable
- reduced height gates manufactured after 29.12.09 must have interlocking systems which both prevent the landing gate being opened unless the hoist platform is at the landing (mechanical interlocking) and the hoist platform moving unless all the landing gates are closed (electrical interlocking)
- inclusion of guidance on compliance with the Machinery Directive 2006/42/EC and CE marking for components not provided by the original hoist manufacturer.

Whilst it is appreciated that the upgrading of existing hoists and landing gates will take time, CHIG members consider it is important that this is carried out within a reasonable time scale. After extensive discussions with the Health and Safety Executive it has been agreed that this upgrading will be completed by 31 December 2011.

Reports

Managing asbestos in schools outside local authority control

In 2010/11 HSE focused on schools outside local authority control as the latest initiative in a series of interventions targeting asbestos management in schools. The primary aim was to determine the level of compliance with the Control of Asbestos Regulations 2006 (CAR) in a sample of targeted schools. HSE inspectors inspected a random sample of 164 non-local authority schools in England, Scotland and Wales. The schools included four types: foundation, independent, academies and voluntary aided.

87% of the schools visited as part of the survey were aware of who the dutyholder was under the Regulations and who had the overall legal responsibility for management of maintenance and repair of the premises. However, there was still confusion in some schools over roles and responsibilities.

Schools that bought back services from the local authority were often uncertain or unaware of their own duties and were reliant on the local authority. Even where schools buy in asbestos management expertise from local authorities, as happens with a number of voluntary-aided schools, the governing body as the employer retains the overall responsibility for health and safety issues, including asbestos management. The governing body needs to be aware of what is involved in the duty to manage asbestos and ensure that everyone whose work is liable to bring them into contact with ACMs has the appropriate competencies.

51 schools (31%) had no written asbestos management plan. There was a tendency to rely on asbestos surveys even where these were not as comprehensive, up to date or accessible as they should have been. Some schools relied unquestioningly on an asbestos management plan provided by the local authority without being fully conversant with the contents and without taking the measures necessary to incorporate local knowledge.

115 out of 164 schools (70%) had a comprehensive system in place to ensure that anyone that may disturb ACMs is provided with information on any asbestos present. In 20 cases (12%) there was no system in place at all.

Where in-house operatives undertook building and maintenance work, fewer than half of those schools (39 out of 80) had ensured that the operatives had received the appropriate level of asbestos training.

Inspectors took enforcement action in 28 of the 164 schools (17%) – serving a total of 41 Improvement Notices:

- 17 were served for a failure to provide adequate training
- 14 for a lack of a written asbestos management plan
- 8 for a failure to implement a suitable system to manage the risks from asbestos
- 2 for a failure to undertake a survey/assessment of the presence of asbestos containing materials (ACMs)