



Prosecutions

Walkers Crisps Fined £200,000

Walkers Snack Foods Ltd and chemical distributor Omnichem Ltd have been fined a total of £350,000 after a worker was killed by a cloud of toxic gas.

John Marriott, 59, of Scalford, near Melton Mowbray, was working for Omnichem on 19 July 2006 when he was seriously affected by green chlorine dioxide fumes.

The Health and Safety Executive, which brought the prosecution, informed Leicester Crown Court that Mr Marriott was driving a lorry containing four steel tanks, two with sodium chlorite and two containing hydrochloric acid, to the Walkers' site in Beaumont Leys, Leicester.

Both chemicals are used by Walkers' to turn waste starch into food-grade for snacks. Mr Marriott inadvertently mixed up the hoses on the tanks while transferring the two chemicals from the lorry, causing them to produce green fumes of chlorine dioxide.

"This incident was entirely preventable," said HSE inspector Sue Thompson.

"Basic risk assessments and clear procedures could have avoided Mr Marriott's tragic death but as it was there were a catalogue of serious failings.

"Employees who had tried to help Mr Marriott did not know the type of operation that was being carried out, nor the nature of the gas being released. They had no appropriate training and they had no idea what to do.

"It took about an hour after the appearance of the gas cloud for Walkers to realise the gravity of matters, and to get employees out of the area. Walkers had no planned evacuation procedure for a chemical emergency at this location, which was a major failing.

"There were insufficient written procedures for deliveries of chemicals and for the receipt of chemicals, and the tanks were also insufficiently labelled."

Walkers Snack Foods Ltd pleaded guilty to Health and Safety offences and was fined £200,000 plus £39,000 costs. Omnichem Ltd admitted the same charges and was fined £150,000 and ordered to pay £29,229 costs.

Mr Marriott and a Walkers' employee who tried to help were taken to Leicester Royal Infirmary. The Walkers' employee was in hospital for 30 hours, with breathing difficulties, but later recovered. Mr Marriott's condition gradually deteriorated, and he died from the effects of the gas a month later on 17 August 2006.

Missing Risk Assessment leads to Accident

A fabric manufacturer has been fined after a worker's arm was so badly crushed he had to have metal plates inserted to help support his broken bones.

Agency worker Robert Dunn, 32, of Ringwood, South Bretton, Peterborough, was operating a fabric winding machine on 4 November 2009 when his left arm was drawn into the roll of material and crushed, breaking all three arm bones. He also suffered ripped cartilage in his left knee, caused by the sudden movement.

E-Leather Limited appeared at Peterborough Magistrates' Court and admitted breaching Regulation 11(1) of the Provision and Use of Work Equipment Regulations 1998 and Regulation 3(1)(b) of the Management of Health and Safety at Work Regulations 1999.



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The company, based at the Kingsbridge Centre, Sturrock Way, Peterborough, was fined £13,500 and ordered to pay £5,000 in costs.

An investigation by the Health and Safety Executive (HSE) found inadequate safety guards on dangerous parts of machinery and no sufficient and suitable risk assessment in place.

HSE Inspector Alison Ashworth said:

"Robert Dunn suffered a terrible injury because of an incident that was entirely avoidable. Proper safety guards play an important role in protecting workers from dangerous moving parts and the company had a responsibility to ensure suitable guarding was in place. Had a suitable and sufficient risk assessment been carried out then this issue would have been highlighted straight away.

"HSE will continue to prosecute companies that fail to carry out their duty to ensure the health and safety of their employees."

Glass Maker Fined after Premises Found to be Contaminated by Lead

A Black Country glass maker has been fined £3,600 after its premises were found to be contaminated by lead.

An unannounced Health and Safety Executive (HSE) inspection of the site at Pedmore Road Industrial Estate in Brierley Hill found the levels of lead contamination to be above the occupational exposure limit. This created a significant and substantial risk to the health of employees in the factory itself and in the office areas.

Staffordshire Crystal Ltd, trading as Brierley Crystal, pleaded guilty to breaching Regulation 5 of the Control of Lead at Work Regulations 2002 and Regulation 25(2)(b) of the Workplace (Health, Safety and Welfare) Regulations 1992. As well as the fine, the company were also ordered to pay £7,000 costs.

Stourbridge and Halesowen Magistrate's Court heard how on 27 October 2009 a routine inspection was carried out at the site, which produced lead cut crystal items, which identified that exposure to lead was not being adequately controlled.

HSE's investigation concluded that the company had not carried out suitable and sufficient risk assessments and that their employees were put at serious risk to their health as exposure to lead was not being adequately controlled. Six improvement notices were served to ensure that the company complied with the law.

The visit also found there wasn't even a place for workers to properly wash their hands or a rest area for workers to have meals. In good weather they would go outside, but otherwise they would have lunch in the factory, greatly increasing the prospect of them ingesting lead.

HSE inspector Jenny Skeldon said:

"This was a proactive prosecution following a routine visit to the premises. Lead exposure is a recognised cause of occupational ill health and this requires adequate control measures to either prevent or control exposure. Good personal hygiene such as hand-washing before eating or drinking is also very important in controlling exposure.

"Firms that are operating with lead-based materials need to ensure their workers are protected at all times, not just in the processing areas where they are carrying out their duties, but also the rest and eating areas."



News

Lord Young Comments on Forthcoming Report

Town halls that wrongly ban events on health and safety grounds could face making big compensation payouts, under plans being considered by the Government. Teachers could also be given assurances that they are not liable for everyday mishaps and accidents during school trips and after-hours clubs.

Lord Young, who has drawn up the proposals at David Cameron's request, said he wanted to inject 'common sense' into the health and safety regime. However, critics accused the peer of focusing on 'silly' incidents rather than ensuring people were properly protected at work and in the community.

Speaking to the BBC, Lord Young said that while there was "nothing wrong with health and safety" its remit had spread over the last ten years to cover "everything."

"It's been the same laws that apply to a heavy manufacturing or chemical plant, apply to an office, to a shop and to a classroom and that is nonsense.

"So we find people the whole time filling in forms and spending an enormous amount of time and effort instead of doing what they should be doing which is looking out and using common sense."

Richard Jones, of the Institution of Occupational Safety and Health, has commented that the regulations were often used as "convenient excuse" for not doing something.

"Most of the crazy stories Lord Young referred to are the result of lack of advice, fear of being sued or people not wanting the cost and trouble of running an event properly," he said.

"Real health and safety isn't over the top - it enables things to happen, playing a key and positive role in successful and confident societies," he said, adding that he would welcome greater clarity on why decisions are taken."

TUC Health and Safety Officer Hugh Robertson said: "The signs are that Lord Young's report gets the balance completely wrong.

"For sure silly things are sometimes done in the name of health and safety and the behaviour of some claims firms can be reprehensible." But the real health and safety scandal in the UK is the 20,000 people who die each year due to injury or diseases linked to their work."

The report is due to be issued after the Conservative Party conference.

Hotel Owners face Fire Breach Prosecution

The owners of a Newquay hotel which caught fire, resulting in three deaths, are to be prosecuted for fire safety breaches, Cornwall Council says.

The Penhallow Hotel burnt down in August 2007. Peter Hughes, 43, his mother, Monica, 86, and Joan Harper, 80, all from Staffordshire, died.

About 90 people managed to escape from the fire at the 54-bedroom hotel.

Three other individuals were also to face charges for breaching fire safety, the council and fire service added.

The blaze, which happened on 18 August 2007, was attended by more than 100 firefighters. It is believed to have started in a hotel bar drink store and spread to the rest of the building.



Flames reached 30ft (9.1m) into the sky and the building, in Island Crescent in the town, was later demolished as result of the damage.

The council said the charges were being brought following a comprehensive investigation into fire precautions at the building.

It was taking out the prosecution for alleged breaches of the Regulatory Reform Order (Fire Safety) 2005 [219319], it said.

Cornwall Coroner Dr Emma Carlyon recorded an open verdict at an inquest in June 2009 into the deaths of the three guests.

Summonses had now been issued on both the owners of the hotel and three individuals employed by the company, the council said.

The first court hearing will take place at Bodmin Magistrates' Court on 21 October.

Head Teacher Guilty in Safety Case

A head teacher who took students who had been drinking on to a school roof before one fell has been found guilty of failing to ensure their safety.

John Summerfield led sixth formers on to the roof of Sacred Heart Catholic College in Crosby, Merseyside, during an A-level results party.

Student Joel Murray fractured his skull after tumbling through the skylight, Liverpool Crown Court heard.

Summerfield, 65, was convicted of breaching the Health and Safety at Work etc Act.

The jury took less than two hours to reach its decision and Summerfield bowed his head as the guilty verdict was read out to the court.

He will be sentenced on 29 October at Liverpool Crown Court and has been told he will receive a fine.

Judge Nigel Gilmour QC said: "This was a moment of folly. He is a very caring teacher.

"He was doing what he thought would increase the enjoyment of the evening for some of the pupils and, in doing that, he didn't really think about the safety aspects of taking them on to the roof."

During the trial the court was told the group of 10 to 12 students had consumed no more than two glasses of wine or beer during the celebrations in August 2008.

Mr Murray, then aged 18, placed his foot on the skylight, tumbled through and landed in the corridor 2.5m (8ft) below.

He perforated an eardrum, broke his ribs and suffered permanent damage to his eye, as well as fracturing his skull.

The court heard Summerfield had given the teenagers a verbal warning not to walk near the skylight but had wanted to show them some of the renovations to the school building. He was one of the only keyholders for a locked door which was opened so the students could access the roof.

The prosecution argued that, once the locked door was opened, the principal no longer demonstrated 'reasonable care'.



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The Lowest Price May Not be the Safest

Contracts won by bidding the lowest possible price have been highlighted as a potential future risk to health and safety by the HSE's Alan Plom.

The HSE's expert on health and safety in the horticulture industry said less public-sector money would mean more contracting out with an ultimate result in contractors undercutting one another in competitive bids, ending in the using of unskilled staff.

"The cheapest option is not necessarily the best because it can mean undercutting and using people who are not properly trained," he said. Plom also warned of his concerns over the move to the voluntary sector of some aspects of amenity management.

Highlighting many of the key risk areas for amenity workers, he cited all types of work on slopes - and noted that strimming on slopes was an area without any guidance where a good practice standard was required.

Power lines were also a source of risk with the "nearest thing we have had to a major incident" the consequence of workers who were realigning a pitch hitting a power line with a pole. Three ended up in hospital with serious burns but "they could have died", said Plom.

Other concerns included a lack of awareness among many local authorities of the standards scheme for contractors working on highways (Sector Scheme 18).

Plom also warned contractors using machinery to get all the information they could from manufacturers about their operation. "In this sector civil claims are increasingly about hand and arm vibration. If you don't have the data and records, the complainant will win."

Above all, he stressed the need to carry out risk assessments that are site specific. "These are essential and you must get the right information from manufacturers."



Guidance

2010 – Time to Reclassify Your Chemicals!

The European Chemicals Agency has issued important information for EU based:

- downstream users
- companies selling chemicals in EU/EEA countries
- EU based importers.

Downstream Users

Downstream users need to classify, label and package the chemical substances and mixtures that are placed on the market in EU countries, in line with the new Regulation on classification, labelling and packaging (CLP).

You are considered to be a downstream user under CLP if you are:

- a formulator of mixtures, ie you use substances and mixtures supplied to you for the formulation of other products that you place on the market, eg adhesives, cleaning products, paints, motor oils
- a re-filler who is transferring substances or mixtures supplied to him from one container of packaging into another
- a re-importer who benefits from the exemption from registration under Article 2(7)(c) of the REACH Regulation.

Companies selling chemicals in EU/EEA countries

You need to classify your chemical substances in line with the new CLP Regulation by 1 December 2010.

For many substances, you need to notify the CLP classification to the European Chemicals Agency by 3 January 2011.

The new CLP Regulation will affect you if you are:

- a registrant under REACH
- a manufacturer or importer of substances or mixtures (preparations) that you place on the market
- a downstream user, - you use substances or mixtures supplied to you for the formulation of other products that you place on the market, eg adhesives, cleaning products, paints, motor oils
- a distributor (retailer), - you store and place on the market a substance or a mixture for others
- a producer or importer of articles that are explosive or that contain substances that are intentionally released or are on the Candidate List of Substances of Very High Concern
- involved in research and development of chemicals.



EU based importers

If you place chemical substances and mixtures on the Community market by importing them into EU territory, you are considered as an importer under the new CLP Regulation.

As an importer, you need to classify, label and package the chemical substances and mixtures that you import in line with the CLP Regulation. In addition, you need to notify the CLP classifications of your substances to the Classification and Labelling Inventory established at the European Chemicals Agency.

You are also considered to be an importer under the CLP Regulation if you are:

- a re-importer who is importing into an EU country the same substances or mixtures that have previously been exported from an EU country when the supply chain is different or the substances involved have not been registered under REACH or notified to the Inventory before they were exported
- a re-filler who is supplied with substances or mixtures by an actor outside the EU
- a distributor who is supplied with substances or mixtures by an actor outside the EU
- an importer of explosive articles.

How to Notify Substances to the Classification & Labelling Inventory

This guidance has been published by the European Chemicals Agency. It highlights that importers and manufacturers must notify hazardous substances if they are placing them on the market, on their own or in mixtures and irrespective of the tonnage.

Other notification highlights set out in the guidance are:

- importers and manufacturers must notify substances subject to registration under the REACH Regulation if they are placing them on the market
- existing registrations of substances placed on the market may need to be updated with the CLP classification and labelling
- from 1 December 2010, notification should be made within one month of placing a substance on the market
- the first notification deadline is 3 January 2011
- notification is free of charge.

This document contains information to help establish if substances must be notified to the Classification and Labelling Inventory, which has been set up at the European Chemicals Agency (ECHA). It will also explain how to prepare for and submit a notification in accordance with Regulation (EC) No 1272/2008 (CLP Regulation). It does assume, however, a level of familiarity with the key concepts and terms of classification and labelling – these are not explained in this document.

The guidance may be especially useful if a company manufactures and places substances on the market in EU1 countries, or imports substances or mixtures from non-EU countries into the EU.

The document is important if a company carries out one or more of the following activities and places the involved substances or mixtures (preparation) on the market:



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- manufactures substances (including isolated intermediates) subject to registration in accordance with the REACH Regulation
- imports substances (eg dye stuffs) subject to registration in accordance with the REACH Regulation
- manufactures or imports substances which are classified as hazardous, irrespective of the quantity involved
- imports mixtures containing hazardous substances, irrespective of the quantity involved
- imports articles containing substances which are subject to registration under REACH Article 7.