



## Prosecutions

### Local Council Prosecutes Over Temperature

**Carlisle Council prosecuted a clothing company for forcing their staff to work in ridiculously cold conditions.**

An inspector visited the Internacionale women's clothing store in Scotch Street, Carlisle after receiving a complaint about cold conditions in the store. He found that **staff had to work with the main doors open during trading hours and that the heating system was not working. He recorded a temperature of 7.6°C, which is well below the legal minimum of 16°C. The first floor and storeroom were warmer but still below 16°C.**

On that occasion the shop was served with an enforcement notice but they decided to ignore it and on two further occasions the Council recorded temperatures below the legal minimum in February and March in one area of the shop. According to magistrates the company put seeking profit ahead of the legal requirement to keep staff warm.

**Internacionale admitted breaching workplace temperature regulations and was fined £2,000 plus costs by Carlisle magistrates.**

### Asbestos Fine for Pub Chain

**A major UK pub operator has been fined after three electricians and two plumbers were exposed to asbestos during refurbishment works at a Darlington pub.**

Mitchells & Butlers Retail Ltd was refurbishing the vacant White Horse pub on Harrowgate Hill in Darlington, when the construction workers were potentially exposed to deadly asbestos fibres.

**A HSE investigation found that the company had commissioned a survey to check for the presence of asbestos in June 2007, but it was restricted to only those areas where the proposed refurbishment works were to be carried out. The refurbishment plans were then changed before work started.**

Bishop Auckland Magistrates' Court heard how on 28 September 2007, the electricians and plumbers started work in a kitchen area which had not been included in the original survey.

The ceiling tiles in the kitchen contained asbestos which meant that when the workers drilled into them with power tools, in preparation for new electrics and plumbing, dust and debris covered their faces and clothing, potentially exposing them to asbestos fibres.

Mitchells & Butlers Retail Ltd, of Fleet Street, Birmingham was fined a total of £14,001 after pleading guilty to breaching Section 3(1) of the Health and Safety at Work etc Act 1974 and Regulation 5 of the Control of Asbestos Regulations 2006, and ordered to pay costs of £11,781.45.

HSE Inspector Victoria Wise said:

"Construction and maintenance workers are among those most at risk from asbestos-related diseases due to the nature of their work. Asbestos is still widely present in buildings constructed prior to 2000, so workers can often inadvertently disturb materials containing asbestos if the correct survey has not been carried out to check for its presence and appropriate control measures put in place.



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"Mitchells & Butlers Retail Ltd knew there was asbestos in the building and should have ensured that all the areas where work was to be done had been checked for asbestos and the necessary precautions taken.

**"Everyone who owns or operates commercial premises built prior to 2000 must ensure that a suitable and sufficient assessment for asbestos has been carried out prior to any construction work starting.**

"In addition construction and maintenance workers should have asbestos awareness training so that they can recognise that some materials may contain asbestos and know what action to take."

### Printing Firm Fined

An Oxfordshire printing firm has been fined after a worker was injured when part of his hand was pulled into a printing machine.

The 40-year-old employee was clearing jammed booklets from a stacker machine at Bicester printers, BenhamGoodHeadPrint Limited, when the incident happened.

During the HSE prosecution Banbury Magistrates' Court heard the stacker machine at the firm's Launton Road premises used belts that ran over rollers to move the booklets along to be packaged for delivery.

On 4 May 2009, the worker, also from Bicester was removing some of the booklets from under one of the belts when the machine started up and caught his left thumb between a feeder belt and a roller. His thumb was pulled under the roller and then crushed and cut as the machine started up again.

The man required both internal stitches and external stitches to his badly lacerated thumb and was off work for six weeks.

The HSE investigation showed a guard was missing from the machine, which would have protected the rollers and prevented access to the moving parts. Work to use and un-jam this machine was also not properly planned. Since the incident, the company has installed a guard over the roller.

BenhamGoodHeadPrint Limited, of Chaucer Business Park, Launton Road, Bicester, pleaded guilty to breaching, Regulation 11(1) of the Provision and Use of Work Equipment Regulations 1998 and Regulation 3(1) of the Management of Health & Safety at Work Regulations 1999. The company was fined £4,000 with costs of £3,289.

HSE Inspector, Sharron Cripps, said:

"This incident highlights the dangers associated with cleaning and maintaining printing machines. It is important when undertaking a risk assessment to consider less frequent activities such as un-jamming blockages, as in this case.

"This incident was avoidable, and had this type of work been properly planned, then this would never have happened."



### News

#### Lord Young's Replacement

Business Minister Mark Prisk has taken over Lord Young's health and safety reform recommendations, review of employment law and how Whitehall supports small businesses.

Mr Prisk, who has the better regulation brief at the Department for Business, will see through the reforms to health and safety regulations that the Prime Minister's former enterprise adviser recommended in his report in October.

The Institute of Directors said it was disappointed the Prime Minister had not appointed another 'enterprise tsar' to lead independent reviews of obstacles to business growth and jobs.

Miles Templeman, director general, said: "Lord Young's remit was nice and specific. Someone was going to do it and we would get feedback from it. Now it's gone into the general regulation hopper. We were hoping they would appoint someone else, a businessman, to do it."

### Guidance

#### COSHH, CLP and REACH

Two new European Regulations are already having an impact on the way chemicals are supplied, packaged and labelled.

##### CLP Regulation

The European Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures – the CLP Regulation – came into force in all EU member states, including the UK, on 20 January 2010. The CLP Regulation:

- adopts in the EU the Globally Harmonised System (GHS) on the classification and labelling of chemicals
- is being phased in through a transitional period which runs until 1 June 2015
- applies to substances from 1 December 2010, and to mixtures (preparations) from 1 June 2015
- applies directly in all EU member states. This means that no national legislation is needed
- is overseen by the European Chemicals Agency (ECHA)
- will replace the Chemicals (Hazard Information and Packaging for Supply) Regulations 2009 – CHIP – from 1 June 2015.

The intention of the CLP Regulation is very similar to CHIP – substances and mixtures that are placed on the market should be classified, labelled and packaged appropriately. But because CLP adopts the GHS, in time, the same classifications and labelling will be used throughout the world.



### Changes to be aware of...

#### *New hazard pictograms*

Although the CLP hazard pictograms are very similar to the CHIP hazard symbols, they have a new shape, new design and a new colour.

#### *Hazard statements*

New hazard statements will replace the CHIP risk phrases.

#### *Precautionary statements*

New precautionary statements will replace the CHIP safety phrases.

#### *Signal word*

The CLP introduces a new requirement for labelling – a signal word, either 'warning' or 'danger' depending on the severity of the hazard.

#### *New duties*

There are also new duties like notification under the new Classification and Labelling Inventory.

### **REACH Regulation**

REACH is a European Union Regulation concerning the Registration, Evaluation, Authorisation & restriction of CHemicals.

REACH aims to fill a gap in what we know about the chemicals used every day in industry and in consumer products. It takes a broad view of chemical use, and places new duties on businesses depending on where they sit in the supply chain.

One of the main new systems set up by REACH is called 'Registration'. Companies who manufacture chemical substances or import them into Europe – either on their own or mixed together to make chemical products - are at the top of the European supply chain. These companies have to 'register' a dossier of technical information about each substance they manufacture or import above a tonne a year with the ECHA in Helsinki.

If you buy your chemical within Europe, or in quantities below a tonne a year, you will not have to take part in the new REACH 'Registration' system.

REACH should result in more information being passed down the supply chain to users – for example safety data sheets will give more information about the exposure scenarios and risk management measures that should be taken when using a product.

In time, REACH will result in some particularly hazardous substances being taken out of use altogether, and some will have to be specifically 'authorised' for use.

REACH is a complex new system, and companies who manufacture, import, sell, or use chemicals should find out more.



What Businesses need to do...

- plan for the effects of REACH and CLP
- understand your position in the supply chain and take any appropriate action
- understand the potential impact of any changes in classification
- ask your supplier for feedback
- check the information on the safety data sheet
- make sure your risk assessment is up to date.

### Ceiling Failure Investigation

HSE recently completed a fatal accident investigation following the failure of the ceiling of a frozen food store.

Two men fell to the floor of the store when insulation panels supporting the ceiling separated from the steelwork. One of the men died from his injuries.

The store was constructed in the 1970s. The insulation panels consisted of a sandwich of steel sheets bonded to polyurethane foam. These were bolted to a metal support frame, with engineering grade plastic bolts. The manufacturer of the panels and bolts is unknown. The design is believed to have been common and there are likely to be many of these stores still in use.

Following the accident, the investigation revealed that the bolts had consistently failed at the point where the thread entered the metal nut which secured them into the supporting frame. Tests have identified fatigue and corrosion (due to oxidation and exposure to chlorine) as the main reasons for the deterioration of the bolts. Some of the bolts which had failed dropped down slightly but remained within the panels; others were flush but had also failed. Therefore there were no obvious signs of failure.

Dutyholders are reminded that:

- ceilings and roofs should be presumed to be fragile until it is proved that they are not
- environmental conditions may cause deterioration of ceilings, roof claddings or their supports, making them incapable of taking a person's weight
- panels should not be used as a working platform unless it has been confirmed by a competent person that both the panels and their supports have been specifically designated for that purpose and are suitable
- guidance on loading capacities should always be sought from the manufacturer/supplier if possible
- where frequent access is required then independently supported walkways should be installed, or boards used to spread loading for other prolonged work activities. Again, guidance from manufacturers, suppliers and designers should be followed.

HSE asks dutyholders, with structures containing insulation panels that are suspended in a similar manner, to: ensure that access to these panels is prevented until their condition is established; carefully examine the fixing/support systems from underneath for signs of deterioration; and if repairs are required, seek the advice of designers and manufacturers.



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### Safe Maintenance in Practice – Success factors

A factsheet issued by the European Agency for Safety and Health at Work points out the importance of proper maintenance, noting that buildings and machinery become unsafe if they are not maintained properly. Yet maintenance in itself can be a high-risk activity. Safe procedures for maintenance operations should be part of companies' safety management systems. This is more likely to happen if there is management commitment, employee involvement, effective risk assessment, good communication, safety training and effective use of more than one preventive measure. Many companies consider maintenance operations at the design stage of buildings and equipment to help eliminate risks during future maintenance operations.

Key success factors in the prevention of risks during maintenance operations are detailed, and set out under the following headers:

- management commitment and safety culture in the organisation
- involvement and participation of the employees
- a well-conducted risk assessment
- preventive measures according to the prevention hierarchy
- combination of preventive measures
- safe work procedures and clear guidelines for maintenance work
- effective and continuous communication
- continuous improvement/development
- safety training
- maintenance included in the comprehensive health and safety management system.