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## HEALTH, SAFETY & PREMISES

Changes effective 01 October 2008 have been made to the Employers' Liability Compulsory Insurance Act 1969. These changes, about which DWP consulted in 2007, now permit the display of ELCI insurance certificates electronically and remove the requirement to keep copies of out of date insurance certificates (although employers are strongly advised to keep a complete record).

## QUICK HITCHES NO LONGER SUPPLIED

The HSE has confirmed that European manufacturers have voluntarily agreed to cease supply of semi-automatic quick hitches in the UK. The agreement comes after discussions between HSE and industry and is effective as of 01 October 2008.

The agreement will mean that in the future when buying a quick hitch, only manual or automatic hitches will be available. This does not mean that all semi-automatic hitches are illegal. When used in accordance with the manufacturer's instructions, they can still be used safely. The HSE will be looking closely at quick hitches on site.

The HSE are continuing to look very closely at semi-automatic quick couplers, and have issued guidance to its inspectors to identify the type of couplers to watch out for.

HSE advice on quick couplers:

- > Excavator operators should be adequately trained on the use of quick hitches in general.
- > Excavator operators should be competent to use the specific hitch on the machine they use.
- > The manufacturer-specified retaining pin must be available on the machine.
- > Operators should only use pins which have been designated for this specific use.
- > There should be a system for checking that the pin is in place on the hitch before starting the work and every time a different attachment is fitted.
- > Operators should be instructed not to use the machine unless they are satisfied that the quick hitch is secured in place. If the operator cannot see from the cab of the vehicle due to poor weather etc he must check from the ground.

- > Those in control of sites should undertake random checks to ensure the precautions are being implemented.

Owners and users should still be able to order spare parts for current semi-automatic hitches from manufacturers.

## NEW CHIP REGULATIONS

The Chemicals (Hazard Information and Packaging for Supply) (Amendment) Regulations 2008 enter into force on 01 October 2008. The regulations implement into national legislation European Commission Directive 2006/8/EC, commonly known as the second Adaptation to Technical Progress of the Dangerous Preparations Directive (the 2nd ATP).

The changes do not affect the main legal duties but do adjust:

- > the rules and procedures for classifying and labeling a chemical preparation containing carcinogens, mutagens and substances toxic for reproduction;
- > the generic concentration limits to be used for the evaluation of the hazards for the aquatic environment;
- > the classification and labeling requirements for preparations containing ozone depleting substances; and
- > the specified warning phrases on labels for certain preparations to make them clearer and more consistent.

As a result of some of these changes, chemical suppliers may need to take account of any large quantities of newly re-classified chemicals they have stored on site at any one time to ensure that they comply with the Control of Major Accident Hazards Regulations 1999 (as amended).

## ENVIRONMENTAL MANAGEMENT SYSTEMS

The main principle of an environmental management system (EMS) is that it commits the organisation to continual improvement through identification and control of environmental impacts. This is achieved by managing the causes of the impacts.

The standard can apply to any type of organisation, and it uses a documentary, systems-based approach to incorporate all environmental responsibilities and it requires compliance with the law.

To implement an EMS there a number of tasks to be undertaken:

- > Produce an environmental policy;
- > Identify and monitor environmental impacts, e.g. through environmental auditing;
- > Set measurable targets to continually improve environmental performance;
- > Review the EMS regularly;
- > Keep environmental records and reports;

- > Provide environmental awareness training for staff;
- > Produce a directory of the environmental legislation to be complied with.

Some organisations develop their own in-house systems which may be appropriate for their sector or size, however others seek certification.

BS 8555

A new British Standard, BS 8555, was launched in 2004 to help organisations put in place a full EMS by taking a phased approach which breaks the implementation process down into stages.

ISO 14001

Most organisations seek independent certification against the international standard ISO 14001 which specifies all the requirements necessary for a robust environmental management system.

EMAS

EU Eco-Management and Audit Scheme (EMAS) is a voluntary EU-wide scheme which gives recognition to organisations that have implemented ISO 14001 and produced a public statement about their performance.

**ASBESTOS - THE HIDDEN KILLER**

HSE's national campaign; "Asbestos: the hidden killer" launches online on Monday 13th October with a new website. Every week 20 tradesmen die from asbestos-related disease. If you carry out work on a building that was built or refurbished before the year 2000, you could have been exposed to asbestos, without even knowing it.

The new HSE website provides comprehensive guidance on asbestos including information on where it is found, handling asbestos and common myths. Information is available at:

<http://www.hse.gov.uk/asbestos/hiddenkiller/index.htm>

**EU DIRECTIVE ON WASTE SET FOR APPROVAL**

At the October meeting of the EU's Environment Council, member states are set to rubber stamp the text of the new waste framework Directive which would replace the existing framework Directive, the hazardous waste Directive and the waste oil Directive.

Member states will then have two years to implement the requirements, which are likely to come into force in 2009/2010, which includes targets for the recycling of materials.

**BRITISH SAFETY COUNCIL LEVEL 1 EXAMINATIONS**

We are delighted to announce that we will continue to offer the British Safety Council Level 1 training course and examination in 2009 for a low fee of £40.00 +VAT per person.

Since we started offering the examinations in February this year we have had an abundance of enquiries for

places, with many clients being placed on reserve lists for future courses.

We have had a 100% pass rate to date with excellent feedback from delegates; particularly regarding the content and delivery of the course.

*"I expected the day to drag but it went very quickly. Doug [Wicksted] is a good lecturer."*

*"The course was presented in a clear, jargon free manner."*

*"Good course – I have vastly improved my knowledge of health and safety."*

On a separate note, all our core training courses are currently being reviewed and we are looking to expand on the number and type of courses we are able to deliver. Information will be provided to Clients in due course, however in the meantime we would appreciate feedback regarding any specific courses you would like to be available.

**HSE MYTH OF THE MONTH**

**MYTH:** Health and Safety laws ban bonfires



**THE REALITY:**

Despite the story of a rugby club showing a film of a bonfire instead of lighting a real one, health and safety legislation doesn't ban them.

Over the coming months, millions of people will be enjoying Diwali and Guy Fawkes Night celebrations. So if you're organising a public event, now or at any other time, don't let it go up in smoke – take practical steps to manage the risks responsibly, and sensibly.

**COMMON SENSE APPROACH PREVAILS**

The owner of a room where another firm's employee was injured when he fell from a ladder that he found there is not liable to contribute to his damages, according to the Court of Appeal. This revoked a previous decision which required it to pay 25% of the personal injury damages.

In August 2002 Adam Mason was servicing electronic equipment belonging to East Potential's neighbor, London Borough of Redbridge, but which was on the wall of a room in a building owned by East Potential. Mr. Mason suffered spinal injuries when he fell from a ladder he had found in the room and used to access the equipment. There was no fault with the ladder; it was just too short for the task.

The judge originally held that East Potential was liable to Mr. Mason in the same way as his employer, Satelcom, because non-employers who control work equipment were liable under the Provision and Use of Work Equipment Regulations 1998 (PUWER) for its foreseeable non-suitability under Regulations 4(1) and 4(4).

East Potential submitted that even if it did have some control over the ladder, this was limited and did not extend to controlling its use once Mr. Mason entered the room. It argued that Mr. Mason had used the ladder in his own way for his own purpose and that it was not reasonably foreseeable that it would be used unsuitably.

This is a step back from a previous presumption that independent contractors go onto your premises to undertake a job, you are deemed in control even if they take foolish decisions.

## **DATES FOR YOUR DIARY**

The following open course being held at CQMS' Training Room in Grantham still has spaces available:

### **CQMS SEMINAR: CORPORATE MANSLAUGHTER**

#### **What is the course?**

Corporate Manslaughter: Awareness of the New Act

#### **When?**

06 November 2008 10:00 am – 13:00 pm.

#### **Who should attend?**

The course is essential for all Directors and Senior Managers.

#### **What is the cost?**

Free of charge to CQMS Ltd clients

To book your place on the any of the detailed training courses, please contact CQMS' offices on either:

- > Tel: 01476 566665
- > Email: [training-events@cqms-ltd.com](mailto:training-events@cqms-ltd.com)

## **WHAT COULD GO WRONG?**

The following articles have been taken from the press and are provided as an example of recent prosecutions made under failings in Health and Safety Legislation.

### **DIRECTOR JAILED FOR MANSLAUGHTER**

Mr. Sharaz Butt, Director of Alcon Construction Ltd, Norwich, was prosecuted by Norfolk police with assistance from the HSE following an incident in January 2008.

Mr. Wu Zhu Wend was working for Alcon Construction on the refurbishment of a building in Trowse, Norfolk, when he fell 12 feet through a skylight. His injuries were fatal.

Sharaz Butt pleaded guilty to manslaughter, and was sentenced to 12 months in jail. He was also disqualified from acting as a company Director for 5 years after pleading guilty to breaching Section 37 of the Health and Safety at Work etc Act 1974.

Alcon Construction was given a nominal fine of £10 however the judge stated that the fine would have been much larger, in the region of thousands of pounds, had the company been in a position to pay that amount.

### **£335,000 FOR FAMILY OF MAN CRUSHED TO DEATH**

The family of a Gloucestershire man who was killed at work on 3 May 2003 has been awarded £335,000 compensation at the High Court in London.

The claim was brought against the man's employer by his widow and his two children, with support from the trade union Unite.

Dean Thomas, from Lydney in Gloucestershire, worked for J R Crompton Limited from 4 May 1984. The company manufactured perforated paper for use in products such as tea bags.

JR Crompton was successfully prosecuted by the Health and Safety Executive in 2006 after Mr Thomas was crushed by a hydraulic lowering device whilst working inside the enclosure of a paper slitter-rewinder machine when a workmate pressed the wrong button.

Samantha Brown of Thompsons Solicitors, who represented the Thomas family, said: "The death of Mr Thomas was a tragic accident which could have been avoided. This family has, understandably, suffered deeply as a result of their loss, a suffering made worse by the company's allegations that Dean contributed to his own death and which ultimately led to the case proceeding to a trial.

"We are pleased that this fight was successful and to have helped the family obtain the compensation that they rightly deserve."

### **600KG GLASS PANEL FALLS ON CONSTRUCTION WORKER**

The HSE have warned businesses to ensure that they have safe systems of work in place during lifting and removal activities following an incident in Kensington where a panel of glass fell on a worker leaving him with a broken pelvis.

The company, Brookfield Construction UK Ltd, had employed a subcontractor to undertake work. The subcontractor, Scheldebouw UK Ltd, was removing glass panels from the roof of the site. The injured person, Mr. John Rooney, was standing on the back of his lorry waiting for a scaffold stillage to be lowered onto the lorry. Next to him was another lorry owned by a different contractor, which was transporting the glass panels from the site. The lorries were close together and there was a significant camber in the road, which meant that the bed of the lorry transporting the panels was not level and was tilting towards the pavement.

An A-frame stillage containing three glass panels was lowered onto the adjacent lorry. In an effort to assist the other lorry, Mr. Rooney climbed onto it and one of the glass panels fell onto him, causing his injuries.

Lisa Chappell, HSE Inspector, said: "This incident once again highlights the need for contractors to ensure that all aspects of lifting and removal operations are fully planned and measures to work safely are clearly

## **CQMS Limited**

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SOURCES: HSE/HSC WEBSITE, ENVIRONMENT AGENCY WEBSITE, BRITISH SAFETY COUNCIL WEBSITE, ROSPA PUBLICATION (SAFETY EXPRESS), VARIOUS TRADE PUBLICATIONS. ALL INFORMATION DETAILED IS TO PROVIDE INFORMATION AND GUIDANCE ONLY.

communicated to all workers. Had these simple steps been taken, the injuries to Mr. Rooney could have been avoided.”

Scheldebouw UK Ltd was fined £20,000 with costs of £10,000 after pleading guilty to breaching Section 3(1) of the Health and Safety at Work etc Act 1974.

Brookfield Construction UK Ltd was also fined £18,000 with costs of £9,962 after pleading guilty to the same breach.

### **JAIL FOR SCAFFOLDING BOSS**

Philip Wolstenholme, the owner of scaffolding firm, A1 Access Scaffolding, is serving three months in prison after one of his employees fell six metres from scaffolding in January 2007.

A poorly supported scaffold board snapped as employee Scott Mitchell walked across it and he was thrown to the ground, suffering two fractured vertebrae and a shattered heel. He had two pins and two screws inserted into his back.

A1 Access Scaffolding had previously been served with an Improvement Notice in November 2005 after a worker fell from height as a scaffold collapsed. He suffered ankle and shoulder injuries and his mobility is still impaired. Wolstenholme was required to ensure workers were competent to do the job and that scaffolding was properly inspected. In March 2006 a complaint about substandard scaffolding led the HSE to serve a Prohibition Notice requiring Wolstenholme to properly train employees before allowing them to assemble or disassemble scaffold.

Wolstenholme pleaded guilty to breaching Sections 2(1) and 33(1)(g) of the Health and Safety at Work etc Act 1974 for failing to take reasonable steps to ensure employees' safety and contravening a Prohibition Notice.

### **UNLICENSED STORAGE OF HAZARDOUS WASTE LEADS TO FINE**

Graig Environmental of Pontypridd has been fined £15,000 for keeping bonded asbestos at their premises, without having a Waste Management Licence or Permit allowing them to do so.

When the officers visited the Graig Environmental site they saw a considerable amount of bonded asbestos in a number of skips. Investigations showed that the site did not have a Waste Management Licence permitting these materials to be kept there. The company were subsequently reported for the breaches of environmental legislation.

Bob James, Senior Environmental Crime Officer, Environment Agency Wales said after the case:

“A company such as Graig Environmental, who have been involved for some considerable time in the waste business, should have been aware of their obligations when handling hazardous waste. The seriousness of the crime has been highlighted by the level of punishment and should serve to deter the company and its directors from committing such crimes in the future. We hope this case also sends out a message to anyone else, contemplating doing anything similar.”

### **FATAL FALL LEADS TO £171,000 FINE FOR SAINT GOBAIN**

Saint Gobain Building Distribution (SGBD) was ordered to pay £171,000 in fines and costs at Lincoln Crown Court for the fatal incident which took place at another of the French-owned group's UK subsidiaries in August 2005.

LGV driver Nigel Sargeant was adjusting a load of metal telegraph poles on a flat bed trailer to adjust their height because he believed they had been stacked too high to clear low bridges. He cut the bands around one of the bunches of poles, which then rolled sideways underneath him causing him to fall more than 4.5 metres. He sustained fatal head injuries.

SGBD was fined £60,000 for failing to plan the necessary preventative and protective measures, and another £60,000 for failing to have an adequate risk assessment. These were breaches of Regulations 5(1) and 3(1) of the Management of Health and Safety at Work Regulations 1999. Costs of £51,000 were also imposed. The fine is equivalent to 0.3% of SGBD's 2006 turnover, which was £32.9 billion.

Jo Anderson, who investigated the incident on behalf of the HSE, said the poles were a new batch with a lower weight relative to the traditional wooden ones, which lead to workers loading them to stack higher on the trailer. This created an unsafe load that rose above the 4.5 metre high securing pins spaced along the bed.

Ms. Anderson said that although the site's operations manager was tasked with managing safety, aided by a health and safety adviser, neither had thought to risk assess loading the new product or to develop a safe system of work, or to supervise the process.

### **COMPENSATION FOR HAVS**

A Norfolk roadworker has won £262,000 in compensation after his union claimed that he was forced out of his job at the age of 25 as a result of a Hand Arm Vibration Syndrome (HAVS) injury.

According to the law firm Adrian Bideau developed HAVS and Carpal Tunnel Syndrome as a result of using vibrating tools such as breaker packs, whacker plates and saws.

Greg Grant, regional secretary for the Eastern Region of the public-sector union, said that the condition was caused by over-use of vibrating tools and that Norfolk city council encouraged staff to work more hazardously because of a bonus scheme they operated.

Mr Bideau said that, despite having decompression surgery on both wrists, he has not been able to return to his former employment and was retired on ill-health grounds in April 2005.

The Council has now reportedly introduced a system whereby exposure to vibratory tools is monitored and controlled, and the bonus scheme has been scrapped.