

LEGAL ALERT

HEALTH & SAFETY BULLETIN

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HEALTH & SAFETY - MORE AMENDMENTS

Some of the core Health & Safety Regulations were altered to varying degrees on the 17 September 2002 when a number of amendments to them came into force. In summary these are as follows:

Health & Safety (First Aid) Regulations 1981

There is now a requirement to ensure that any first aid room provided pursuant to the regulations is accessible to stretchers and to any other equipment which may be needed to convey patients to and from such a room.

Health & Safety (Display Screen Equipment) Regulations 1992

The amendment has deleted the reference to workstations first put into service on or after the 1 January 1993. There are similar updating references to the eye and eyesight test. Equivalent deletions are made in relation to the part of the regulations which deal with the provision of training to users in the use of the workstation.



Manual Handling Operations Regulations 1992

An additional paragraph is included in these regulations which attempts to clarify what matters are to be looked at when deciding whether a manual handling operation involves a risk of injury and also in determining the appropriate steps to reduce that risk.

These matters are:

- The physical suitability of the employee to carry out the operation.
- Clothing and footwear that he or she may be wearing.
- Knowledge and training.
- Any matters revealed in the generic risk assessment carried out under Regulation 3 of the Management of Health & Safety at Work Regulations 1999.
- Whether the employee is within a group of employees who have been identified in that generic assessment as being especially at risk.
- The results of any health surveillance.

Personal Protective Equipment at Work Regulations 1992

Some fairly minor amendments are made with regard to the suitability of personal protective equipment. The regulations now take into account the period for which the equipment is worn and also the characteristics of any workstation. There is a new requirement whereby the employer has to ensure that, where hygiene is an issue, personal protective equipment is provided for use by one individual only. Information, instruction and training which already is required to be comprehensible is now to be made clearer by demonstrations which are to be organised at suitable intervals.

Workplace (Health Safety & Welfare) Regulations 1992

These have been amended to require that where the workplace is in a building that it should have a stability and solidity which is appropriate to its use as a workplace. Temperature requirements are amended so that the excessive effects of sunlight on temperature are to be avoided and at the other end of the spectrum a workplace is to be adequately insulated where necessary. Restrooms are now to include suitable arrangements to protect non-smokers from discomfort caused by tobacco smoke.

Provision and Use of Work Equipment Regulations 1998

Regulation 11 in relation to guarding has been amended so that if the measures required by the regulations cannot be achieved then there has to be a provision of such information, instruction, training and supervision as is necessary.

The amendments are relatively small in nature but nonetheless as of 17 September require compliance.



p r o t e c t i o n i n a h o s t i l e e n v i r o n m e n t . . .

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ASBESTOS

Most people are aware these days of the dangers of asbestos. Regulations governing how an employer should protect an employee have been in existence for many years. An employer has, already, a duty to protect their employees by preventing exposure to asbestos or controlling such exposure to the lowest practicable level. With that in mind, an employer should make an assessment of the likely exposure of employees to asbestos dust.

Asbestos is insidious and there can be a long gap after exposure to asbestos before any disease becomes apparent. This can be as long as 60 years, but generally, no less than 10 years. Unfortunately, deaths as a result of asbestos related diseases number some 3,000 each year. It is forecast that this will not relent for at least 10 years and possibly not even then. There are generally three types of asbestos which can still be found in premises, blue, brown and white. Certain white asbestos products were not in fact banned until the late 1990's and this may lead to a view, which is arguably a misconception, that buildings built in the 1980's and early to mid 1990's are safe. In fact, this may not be the case.

A further tightening up of the rules which govern asbestos is the forthcoming introduction of a duty to manage asbestos. This requires a number of steps to be taken, if you own, occupy, manage or have responsibility for premises which contain asbestos. You will be required to manage the risk that asbestos poses. In summary you will need to:

- Check if asbestos is present;
- Examine the material containing asbestos to see what condition it is in;
- Work under the presumption that the material you are considering in fact contains asbestos unless there is strong evidence to suggest that this is not the case;
- If there is material in poor condition arrange for it to be looked at and sampled by a Specialist;
- Prepare records of the location and condition of a material on a plan or drawing which will easily identify the material concerned.

You have to prepare and implement a plan to manage all these risks, and assess if the condition of the material, or its location, means that it is likely to be disturbed. If it is likely to be disturbed, then it should be removed as should occur if it is in poor condition.

For more detailed advice on this very important task of managing asbestos in your premises please speak to Chris Platts.

NOTIFYING THE BAD NEWS

The Health & Safety Executive have recently issued updated advice for employers on how to report accidents pursuant to the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR). The HSE is keen that employers use their Incident Contact Centre.

Although these regulations have been in force for over six years even now sometimes their requirements are not fully appreciated. The regulations require employers, the self-employed or those in control of work premises to report to the HSE deaths, major injuries, accidents resulting in three days away from work, diseases and dangerous occurrences.

Major injuries include fractures (other than to fingers, thumbs and toes), dislocations of the shoulder, hip, knee or spine, temporary or permanent loss of sight, injury resulting from electric shocks and certain types of unconsciousness and acute illness.

There is a general requirement to report any absence of over three days which stems from an injury sustained at work. This includes both accidentally sustained injuries and also deliberate assaults.

It is important also not to overlook dangerous occurrences which are equally reportable. These may involve collapsing or failing of lifting equipment, explosions, electrical overloads causing fire or explosion. There are numerous other occurrences set out within the regulations themselves.

The Incident Centre allows various means of contact. You should keep a record of any reportable injury, disease or dangerous occurrence which it can be in any format you prefer. The HSE themselves through the Incident Contact Centre will post a copy of their record if you report the incident by telephone or by the website. That is your opportunity to alter any information that may have been incorrectly recorded.



WHERE DO YOU RUN FOR COVER?

There is a growing (and accepted) perception that insurance costs have in the recent months risen substantially. Rocks and hard places are words that spring to mind because every employer is compulsorily required to take out insurance that will provide cover in the event of a claim being pursued by an employee for compensation because of injuries sustained at work. It would appear that insurers are becoming more nervous about this particular market and that this has resulted not only in higher premiums (in some cases phenomenally higher) but also in insurers wishing to impose upon companies a compulsory excess. This means organisations are required to pay those claims with a value within the excess themselves. Furthermore, in some cases that could mean the employer paying each and every such claim rather than the figures being looked at on a cumulative basis.

If claims are made it is important therefore that you are in a position to look at them critically and armed with appropriate information. The best way of achieving this is to ensure full accident documentation is completed and that those witnesses who may be able to help are interviewed at the earliest opportunity, ensuring you have a reliable record of what occurred. Whilst this may only confirm the need to pay a claim, at least you will have the comfort of not having to pay damages by default, owing to a lack of accurate information.

It always helps to attempt to make health & safety procedures as tight as possible. Whilst this would hopefully have the effect of reducing accidents in the first place, it may be that demonstrating such measures will persuade insurers that the premium should not be as high. It does, nonetheless, seem to be the case that occasionally even those with good track records and sound procedures in place are not being given the benefit of those achievements.

The further worry arises as to the cost of those claims within the excess, which has to be borne by you. If a claim is one to settle then it becomes purely a matter of damage limitation. There may, however, be cases to defend. This firm has individuals with longstanding experience of dealing with such claims and bringing them to a conclusion in a cost effective and efficient way. Please contact Chris Platts if you require any further information or help on such claims.

Other insurances are not compulsory and there may be a temptation not to renew property liability, or public liability, or product liability cover. At the end of the day this has to be a business decision but damages claims can be very expensive and the proliferation of awards in excess of a million pounds over the last 3 or 4 years should make any organisation think twice before foregoing such insurance.

INFORMATION

**If you have any queries on any aspect of Health & Safety law please contact:
Chris Platts at Hull on 01482 323239**

This Bulletin is for the use of clients and will be supplied to others on request.

It is for general guidance only. It provides useful information in a concise form.

Action should not be taken without obtaining specific advice.

We hope you have found this bulletin useful.

If, however, you do not wish to receive further mailings from us, please write to

Mrs. Pat Coyle, Rollits, Wilberforce Court, High Street, Hull, HU1 1YJ.

**The law is stated as at 17 September 2002
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