

KEEP IT SAFE

BFFF QUARTERLY HEALTH AND SAFETY UPDATE

APRIL 2014

Welcome to the BFFF quarterly Health and Safety newsletter 'Keep it Safe'.

INSIDE THIS ISSUE

- * **BFFF Health & Safety Initiatives**
- * **Safety Focus Feature**
- * **HSE Food Industry Case Studies**
- * **Legislative Update**
- * **Q & A's**
- * **Guidance**
- * **Enforcement Action**



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We do hope you find 'Keep It Safe' a valuable read.

Please contact BFFF on 01400 283096 or email joannahancock@bfff.co.uk if you have any health and safety issues or wish to receive additional/back copies

All reasonable care is taken in the preparation of this newsletter, but no liability is accepted for any loss or damage caused to any person, company or organisation relying on any statement or omission in the contents.



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CONTENTS

BFFF HEALTH AND SAFETY INITIATIVES

Primary Authority - Fire Safety
Chief Fire Officers Association (CFOA)- Business Engagement Forum
BFFF Health and Safety Working Group
Working at Height in Cold Stores Guidance
Working at Height on Refrigerated Vehicles / Trailers
Members' Collated Health and Safety Statistics
HSE Food Manufacturing Forum

SAFETY FOCUS – HEALTH SURVEILLANCE

The Purpose of Health Surveillance
Legal Requirements
Forms of Health Surveillance
Practical Health Surveillance

HSE FOOD INDUSTRY CASE STUDIES

Case Study: Fall from Stepladder
Case Study: Arm Caught in Unguarded Rollers
Case Study - Company insists all visitors must be shown the asbestos register

LEGISLATION UPDATE

Final Text of F Gas Regulation Agreed
Revised Asbestos ACOP
Revised ACOP for Workplace Regulations
New report on Health and Safety (Offences) Act 2008
Forty years of the HSWA
HAVE YOUR SAY – CDM CONSULTATION

Q&AS

Selection of respirators for ammonia refrigerants
Fixed electrical testing

GUIDANCE

Overhaul of guidance on work at height
“Healthy Workplaces Manage Stress” - EU-OSHA Campaign
April deadline for new Health and Safety Law Poster
HSE Guidance on repairs to fork arms
Outcome of HSE triennial review
Legionella Dutyholder Event
HSE issues MEWP Safety Alert
Revised manual handling guidance for food industry
Changes to Asbestos Licencing

ENFORCEMENT ACTION

Food manufacturer fined after worker injured
Family firm fined
Lincolnshire farming company fined for forklift death

BFFF HEALTH AND SAFETY INITIATIVES

PRIMARY AUTHORITY - FIRE SAFETY

We are delighted to announce the launch of our Fire Primary Authority exclusive to members. This important addition to our Primary Authority portfolio enables members to obtain consistent fire safety advice for their businesses through a dedicated Fire authority. Our partner is Lincolnshire Fire and Rescue (LFR). The scheme is open to all BFFF members with premises in England and Wales.



Members feedback to our recent survey has enabled us to work with LFR to plan 'assured' industry standard guidance and topics at the top of our agenda are;

- Fire Risk Assessments
- Business continuity
- Emergency Planning
- Training

The BFFF scheme will also offer members bespoke fire safety advice for their business.

We are holding a seminar to launch the scheme on the 20th May, please see attached flyer for details or follow the web link to book <http://bfff.co.uk/bfff-launches-fire-primary-authority/>

CHIEF FIRE OFFICERS ASSOCIATION (CFOA) BUSINESS ENGAGEMENT FORUM



BFFF is now an active member of the CFOA Business Engagement forum which held its inaugural meeting on the 8th April. CFOA is the professional voice for the UK fire and rescue service and chairs this new forum.

As part of the Business, Innovation and Skills (BIS) 'Focus on Enforcement review: enforcement

At this first meeting CFOA outlined some of the guidance documents already on the horizon being:

of the Regulatory Reform (Fire Safety) Order 2005' CFOA are leading this new business engagement forum. The forum comprises of key stakeholders to

- Standardising fire service notices and Letters
- Online pre-audit prior to inspection by the fire service
- CFOA unwanted fire signals proposal
- Fire Service training competency framework

BFFF will be working with our partner, Lincolnshire Fire and Rescue to include the membership within the consultation exercise for these new guidance areas. Therefore we are delighted to be part of this new forum and look forward to including the industries view in these areas.



FIRE SAFETY PRIMARY AUTHORITY SCHEME

FREE SEMINAR

Tuesday 20th May 2014

9.30am – 1pm

Lincolnshire Fire & Rescue HQ

South Park Avenue, Lincoln LN5 8EL

BFFF have worked to provide cost effective, competent and impartial fire safety advice to members.

We have chosen to partner with Lincolnshire Fire & Rescue to deliver the **Fire Safety Primary Authority Scheme**.

The Lincolnshire team have been working with BFFF for a number of years and are eager to support our members.



The two schemes available to members will offer bespoke advice and industry level guidance on areas of fire safety that affect the Frozen Food Sector. We will provide advice on issues such as:

- Fire Risk Assessments
- Training
- Business Continuity
- Emergency Planning

Key benefits for signed up members include:

- Advice and guidance which has Regulatory backing and is very difficult to challenge
- Access to dedicated Fire Service Professionals who are experts in the Frozen Food Sector
- Prospective insurance scheme for members of BFFF's Fire Safety Primary Authority

Want to know more?



Come along to our **FREE** Seminar at the Lincoln Fire HQ where the BFFF team and representatives from Lincolnshire Fire & Rescue and the Better Regulation Delivery Office will talk through the scheme, answer queries and provide advice on signing up to the scheme.

This Seminar is designed as an information event for Managers and Directors from all BFFF members so please feel free to join us.

Please complete the attached booking form and return by fax or email to Hazel Cranidge on hazelcranidge@bfff.co.uk / 01400 283098

For more information about the scheme, please contact:

Joanna Hancock
Tel: 01400 283096
Email: joannahancock@bfff.co.uk

Crystal Holmes
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Email: crystalholmes@bfff.co.uk

Another great benefit exclusively for members!

BFFF HEALTH AND SAFETY WORKING GROUP

The BFFF Health and Safety working group met for the first time this year on the 29th January when they discussed the new initiatives that we have planned for this year. These included developing the new Primary Authority schemes, working on the outcomes from the collated members' health and safety statistics, guidance for working at height on refrigerated vehicles and reviewing the guidance for working at height in cold stores.

BFFF also updated the group on the trilogue agreement that has been reached between the European Council Presidency, the

EU Parliament and Commission on the F Gas regulations and the way they are to be enforced. The final text of the F gas regulation has been agreed and more detail is enclosed later within this newsletter.

The meeting was rounded off with a very informative presentation by one member business on the management of Legionella bacteria within their water systems. It was highlighted as an important topic and will be presented again at the BFFF Health & Safety Seminar in July.

These are important areas of work

for our industry and more detail on each topic is enclosed within this newsletter however please feel free to contact Joanna Hancock for more information on any of the areas. We would like to take this opportunity to thank the working group for their support and hard work on behalf of our members and the industry. They bring a wealth of experience to a very productive and open expert group available as a resource for all members to raise any industry level issues. So please feel free to contact Joanna Hancock with any points that you would like to raise.

WORKING AT HEIGHT IN COLD STORES GUIDANCE

Throughout 2006 & 2007 the BFFF worked with the Food Storage and Distribution Federation (FSDF) to develop guidance in full consultation with HSE to provide our industry with special dispensation for the use of non-integrated working platforms (e.g. cages) in cold stores in certain circumstances. As part of the development process, BFFF members were consulted on the systems of work they had in place in this area and BFFF worked to

present the industry case.

In December 2013 we started the process of reviewing the guidance and started with understanding the current working practises in operation within cold storage businesses and whether technology has changed. As such we launched a survey for members to confidentially complete in this area. We would like to thank everybody who has already taken part and the results have clearly

shown that technology has not changed and likewise working practises have remained the same amongst our members.

Your feedback has shown that this guidance remains extremely relevant for our members and the next stage of the review is to consult with HSE. We will be approaching them over the next few months so we shall keep you updated on the process.

WORKING AT HEIGHT ON REFRIGERATED VEHICLES / TRAILERS

We have now received comments on the draft guidance from the HSE and our Primary Authority Partner, Wakefield DC which we have debated with the industry stakeholder group.

Joanna Hancock is now reviewing their feedback and liaising with the HSE and Wakefield to reach final agreement so that the guidance can then be issued.

The guidance recognises that unless fixed access equipment is employed, the use of work restraint equipment is fundamental to the safety of refrigeration engineers whilst working at height on refrigerated vehicles.



MEMBERS' COLLATED HEALTH AND SAFETY STATISTICS

Firstly, thank you once again to all the members that contributed to our Health and Safety statistics for 2012.

Over the past few months we have been analysing the top three accident categories for our members, to look at the detail behind the accidents and whether collectively we can work to reduce the accidents in these areas.

The top 3 producer issues were:

- Hit by moving/ falling object
- Slips and Trips
- Hit by something fixed/ stationary

The top 3 wholesaler and LSP issues were:

- Slips and Trips

- Hit by moving/ falling object
- Manual Handling

We discussed these results at the BFFF health and safety working group meeting, and it was agreed by all present that the main benefit of the statistics was to provide a benchmark and comparison for individual businesses against the industry.

We are now asking all members to contribute to our accident data for 2013. We would like to encourage as many members as possible to take part and confidentially share their data with us. So please feel free to take part in this initiative, by contacting emmacranidge@bfff.co.uk. We shall look forward to receiving your data in due course.



HSE FOOD MANUFACTURING FORUM

BFFF is delighted to be an active and illustrative presentation for part of this forum comprising of trade associations for the food sector, unions and HSE representatives discussing the focus topics for the industry and influencing the strategy for HSE in our sector.

The last meeting of the forum took place in March when Joanna Hancock was accompanied by Paul Harnetty, Operations Director for The Authentic Food Company Ltd. We had invited Paul to present to the forum to share their initiatives on worker involvement and slips and trips with the forum. Paul provided the group with an enlightening

and illustrative presentation for discussion at the group which was very well received by the group and was great opportunity to showcase some of the work by our members.

Other key areas of discussion at the meeting included the following:

- HSE strategic review
- HSE focus for 2014
- Review of the HSE guidance- Recipe for safety
- Implications of self-employed workers relating to health and safety law

- Managing stress campaign
- Tackling hidden labour exploitation

More details will be included within the next edition of Keep it Safe however please feel free to contact Joanna Hancock for any details in the mean time.





HEALTH & SAFETY SEMINAR

Wednesday 2nd July 2014
 Ricoh Arena, Coventry CV6 6GE
 9.30am - 3.30pm

Presenters include:

HSE
 Fire Service
 BFFF
 Local Authority
 Palmer & Harvey Ltd
 DriverMetrics
 HSL
 DLA Piper
 JLT Specialty Ltd
 R&R Ice Cream UK Ltd

Topics to be covered:

- HSE priorities and target areas for 2014/5
- Legionella control and prevention
- Fire case study
- BFFF Primary Authority Scheme and industry statistics
- Keeping safe whilst working on refrigerated vehicles/ trailers
- Working at height in cold stores
- Accidents and bad practises caught on camera - industry case study
- Behaviour based driver safety
- Safety Climate tool
- Prosecution case study
- Employer's & Public Liability Claims - Ministry of Justice Reforms & Protocols

Event Sponsored by:



Feedback from the 2013 Seminar:

- An excellent Health and Safety event that should be a must attend for all BFFF members as it allows great collaboration within the sector **Peter Waddington, Allied Foods**
- A very informative seminar with a short, sharp delivery style to keep your attention. **Lee Lambert, Ardo**
- A must see event for anyone in this sector, good cross section of topics and good presenters. **Peter Armstrong, TAFC**

PRICE: £99 + VAT per member delegate
 £125 + VAT per non-member delegate



Now Introducing Exhibitor Spaces!

Contact Kate Miller for more information and to book your space.
 Email: katemiller@bfff.co.uk
 Mob: 07933 704270

SAFETY FOCUS - HEALTH SURVEILLANCE

THE PURPOSE OF HEALTH SURVEILLANCE

The purpose of health surveillance is to ensure the protection of employees by the early detection of any ill effects on the health of employees caused by the work or the materials used for the work, with a view to ceasing, controlling or minimising the exposure of the person and preventing the effects.

Health surveillance is not intended to be a control measure in itself, but is intended to be a check that the control measures that are in place are functioning.

If ill health is detected, it may mean that control measures have failed.



LEGAL REQUIREMENTS

Many pieces of legislation have a specific and explicit requirement for health surveillance or medical inspections. The following outlines the main legislation applicable to cold stores:

Management of Health and Safety at Work Regulations 1999

Regulation 6 of the Management of Health and Safety at Work Regulations 1999 contains the requirement for health surveillance.

“Every employer shall ensure that his [or her] employees are provided with such health surveillance as is appropriate having regard to the risks to their health and safety which are identified by the (risk) assessment.”

Control of Substances Hazardous to Health Regulations 2002

Regulation 11 of COSHH states the following.

“Where it is appropriate for the protection of the health of his employees who are, or are liable to be, exposed to a substance hazardous to health, the employer shall ensure that such employees are under suitable health surveillance.”

Health surveillance is necessary where an employee is exposed to a substance or process listed in Schedule 6 to COSHH, Health surveillance should take place in the following circumstances:

- There is an identifiable disease or adverse health effect which may be related to the exposure.
- There is a reasonable likelihood that this may occur under the particular work conditions.

Working Time Regulations 1998

Under regulation 7 of the Working Time Regulations 1998, an employer shall not assign an adult worker to work which is to be undertaken during periods which will deem the worker a night worker, unless the employer has ensured that the worker has the opportunity of a confidential free health assessment before taking up the assignment.

Where the worker has already had a health assessment prior to doing similar work on an earlier occasion, and the employer has no reason to believe that the assessment is no longer valid, then it is not necessary to conduct another assessment. The employer shall also ensure that each night worker he or she employs has the opportunity of a free health assessment at regular intervals of whatever duration may be appropriate in each case.

FORMS OF HEALTH SURVEILLANCE

Health surveillance takes different forms depending on the level of risk to the health of those exposed and the nature of the hazardous substance. Many pre-existing, non-work related health problems can be exacerbated by exposure to cold environments.

The first step is to identify and document the need for health surveillance in your workplace risk assessment. (The Management of Health & Safety at Work Regulations 1999- Regulation 3)

Working in a sub zero environment is a hazard. Employees may suffer ill health or injury (eg frostbite) from prolonged exposure to sub zero temperatures (particularly those with certain pre-existing medical conditions). Extreme cold may also lead to gradual loss of awareness of risk.

In the cold store environment, health surveillance includes the following:

- Collecting, maintaining and reviewing relevant health records.
- Pre- employment health screening of Cold store employees.
- Where the disease or harm has obvious external signs, such as circulatory problems, there should be regular checks for these by a responsible person with sufficient information to be able to recognise them. This could be a supervisor who has received additional training, first aider, qualified occupational health nurse or doctor.
- Employees must also receive information on how to recognise symptoms of cold stress. Ongoing monitoring of employees could include the completion of questionnaires by employees to identify any ill health.

If the likelihood of disease is significant or employees showing signs of ill health then health surveillance should involve enquiries, inspections and examinations by a qualified person, e.g. an occupational health nurse or doctor.

In workplaces where the risk of serious harm is low, it could be considered reasonable not to undertake any health surveillance beyond the recording of the details. This should not include any clinical information obtained from a medical professional, unless the employee has given informed consent (preferably in writing).

A risk assessment should identify an appropriate selection of medical tests and examinations to enable a decision regarding any damage to the health of these individuals. The selection of the tests and examinations is based on the hazards to which the person is exposed and the likely level of exposure.

PRACTICAL HEALTH SURVEILLANCE

Once it is decided that health surveillance is appropriate, it should be maintained during the employee's employment unless the risk to which the worker is exposed and associated health effects are short term. The minimum requirement for health surveillance is the keeping of an individual health record.

Where appropriate, health surveillance may also involve one or more health surveillance procedures depending on their suitability in the circumstances.

HSE has recently launched a suite of web pages providing additional straight forward advice in the area of health surveillance.

They can be accessed by the following web link: <http://www.hse.gov.uk/health-surveillance/>



HSE FOOD INDUSTRY CASE STUDIES

CASE STUDY: FALL FROM STEPLADDER



ties or foot been prevented.

supports to stop it from moving. It slipped as he went to get some tools and he fell three metres to the floor below, banging his head on

Action

The company pleaded guilty to breaching Section 2(1) of the Health and Safety at Work etc. Act 1974 and were fined £10,000 and ordered to pay £11,690 in costs.

Advice

After the hearing the investigating inspector said:

“This incident could easily have proved fatal. You do not have to fall from a great height to lose your life and work at height remains one of the most significant causes of fatalities and major injuries in the workplace.

“Extreme caution must be taken at all times, and the onus is on employers to ensure work is properly planned and supervised, and that adequate safety precautions are taken. That didn’t happen here, and the engineer has been left with a permanent injury.”

Summary

A food company has been prosecuted for safety failings after a 49 year-old engineer fractured his skull and was left partially deaf after a three metre fall.

The worker sustained the serious head injury while investigating a fault with a data logger attached to a cooling unit. The employee had accessed the unit via a free-standing ladder resting against the rear of the chiller without any top

The engineer spent four days in hospital following the incident. He damaged a bone in his right ear, which left him partially deaf and unable to work for a month following the fall. He also has debilitating tinnitus and has only been able to work reduced hours since his injury.

The HSE investigation established that had the ladder been better secured, or a safer alternative provided, such as an elevated work platform, then the fall could have

CASE STUDY - COMPANY INSISTS ALL VISITORS MUST BE SHOWN THE ASBESTOS REGISTER

Issue

A member of staff has been told that all visitors to the building where she works have to be shown the comprehensive asbestos register, even if they are only coming for a meeting and not doing any physical work. For example a visitor attending a verbal meeting with the store manager has to sign to say they have seen it. The building is a retail outlet with back offices and does have managed asbestos in some areas but not all. The enquirer would understand if

the visitor was a contractor doing works to the building fabric, but felt this was over-the-top and wonder if the myth busters could confirm.

Decision

The serious health risks from exposure to asbestos are well known. The Control of Asbestos Regulations (CAR) 2012 contain a duty to pass on information about asbestos to people liable to disturb it in the course of their work or visit. However, there is no reason why people visiting

simply to attend a meeting would need to see this information. New guidance published by the Retail Asbestos Working Group (RAWG), and supported by HSE, provides sensible, practical, advice on managing asbestos and working with asbestos containing materials in trading stores and shops. The guidance confirms that the measures described by the enquirer go beyond what is needed to manage the risk of exposure for visitors.

CASE STUDY: ARM CAUGHT IN UNGUARDED ROLLERS

Summary

A Cornish bakery company were prosecuted after a nightshift cleaner got caught-up in the unguarded machinery of a moving conveyor belt and had to be released by co-workers.

The worker had both forearm bones broken in her right arm when the incident happened in the early hours of 10 December 2010.

The 27 year-old worker was part of a team cleaning the production equipment at the company's bakery. She had been instructed to clean a conveyor production line by the previous shift cleaning supervisor, who had left site a few hours before the incident.

The line was running when she began working on the conveyor. She started cleaning dough from a moving steel pressure roller on the end of the conveyor using a metal scraper blade. The scraper slipped and her gloved right hand and arm were drawn into the nip or 'pinch point' between the steel roller and the rubber belt of the conveyor, breaking both bones broken in her right forearm.

The HSE investigation revealed that the fixed guard that should have been in place on the equipment had been missing for a considerable period of time, at least a year before the incident happened. The worker had also not received training on how to clean the conveyor safely, nor had she seen the machine's cleaning instructions.

HSE found that the company's training systems, staff training records and cleaning instructions were inadequate, inconsistent and confusing. Whilst some staff cleaned the conveyor when it was stopped, others cleaned the roller in the same manner as the injured employee.

The Court heard there had been a previous incident and a number of near-misses relating to the unguarded rollers, which management was not aware of. The cleaning staff had been exposed, over many months, to a serious risk due to the missing guard and incomplete training procedures.

Action

The company pleaded guilty to a breach of Section 2(1) of the Health and Safety at Work Act 1974 and guilty to breaching Regulation 11 (1) of the Provision and Use of Work Equipment Regulations 1998. They were fined a total of £14,000 and ordered to pay £15,000 in costs.

Advice

Speaking after the investigation the HSE Inspector said:

"This serious incident at the bakery was a classic 'accident waiting to happen'.

"Machinery such as conveyors should be fitted with a guard to prevent this sort of accident happening. There is plenty of well-established guidance from the HSE and the industry on how machinery can still be properly cleaned with appropriate guards in place.

"HSE produced specific guidance on flat belt conveyor safeguarding as this causes over 30 percent of all food industry machinery accidents - more than any other type. Many of these accidents happen during normal activities like cleaning, as in this case.

"The worker had surgery on her broken arm and has experienced a great deal of pain and discomfort through her ordeal. It has taken a considerable period of time since the accident for her to recover to a more normal situation with her injured right arm. The company has provided physiotherapy and

supported her rehabilitation and she remains an employee.

"Employers should avoid the risks of serious accidents by ensuring appropriate guards are fitted and used along with safe working procedures. Good training for all staff is vital and should ensure tasks can be done safely. This company fell short of what their health and safety responsibilities required."

Further information on safe use of conveyor belts in the food industry can be found on the HSE website at <http://www.hse.gov.uk/food/machinery.htm>

LEGISLATIVE UPDATE

FINAL TEXT OF F GAS REGULATION AGREED

The final text of the F Gas Regulation was agreed on 14th April 2014 by European Council along with a press release from the EU.

BFFF are members of the Air Conditioning and Refrigeration Industries Board, ACRIB, who have a working group whose role is to collate information from member organisations, disseminate information to the wider industry and assist legislators with interpretations or technical matters.

As the F Gas text has now been agreed by both the European Parliament and Council, it has only to undergo legal and linguistic

review before being published in the Official Journal. No substantive changes can now be made.

The ACRIB group is now assembling a summary of industry concerns regarding the interpretation of the Regulation and its implementation. It will use these in stakeholder discussions with Defra.

The particular categories are:

- Commercial Sector
- Industrial Sector
- Transport
- Air conditioning, Heat pumps, Chillers (Building services)

- Equipment Manufacturers
- Refrigerant distributors/wholesaler network
- Training and qualifications
- Contracting companies/Individuals working in technician roles (eg installation, service, maintenance etc)
- Domestic / small commercial
- End users

BFFF will keep you updated on the progress and please contact Joanna Hancock for further details and copies documentation up to date.

REVISED ASBESTOS ACOP

The HSE has published a new updated Approved Code of Practice (ACOP) on the Control of Asbestos Regulations 2012, combining two existing ACOPs on the subject, and focusing on both management of and work with asbestos.

Two ACOPs, L127 (The management of asbestos in non-domestic premises) and L143 (Work with materials containing asbestos) have now been consolidated into a single document: **L143 - Managing and working with asbestos. Control of Asbestos Regulations 2012. Approved Code of Practice and guidance.** By combining the two ACOPs and clarifying the contents, HSE intends to make legal compliance clearer to asbestos dutyholders and bring its guidance in line with the 2012 Regulations.

The Control of Asbestos Regulations 2012 came into force on 6th April 2012, updating and replacing the previous 2006 law. Amongst other changes, the Regulations introduced new definitions of “asbestos cement”, “asbestos coating”, “asbestos insulation”, “asbestos insulating board”, “short duration work” and “textured decorative coatings”. The definition of “relevant doctor” was also amended along with a new definition of “licensable work with asbestos”.


Health and Safety Executive

Managing and working with asbestos

Control of Asbestos Regulations 2012

Approved Code of Practice and guidance



L143 (Second edition)
Published 2013

This publication contains the Control of Asbestos Regulations 2012, the Approved Code of Practice (ACOP) and guidance text. Two ACOPs, L127 (*The management of asbestos in non-domestic premises*) and L143 (*Work with materials containing asbestos*) have been consolidated into this single revised ACOP. The presentation and language has been updated wherever possible. It provides guidance text for employers about work which disturbs, or is likely to disturb, asbestos, asbestos sampling and laboratory analysis. It also provides guidance on the specific duty to manage asbestos on the owners and/or those responsible for maintenance in non-domestic premises.

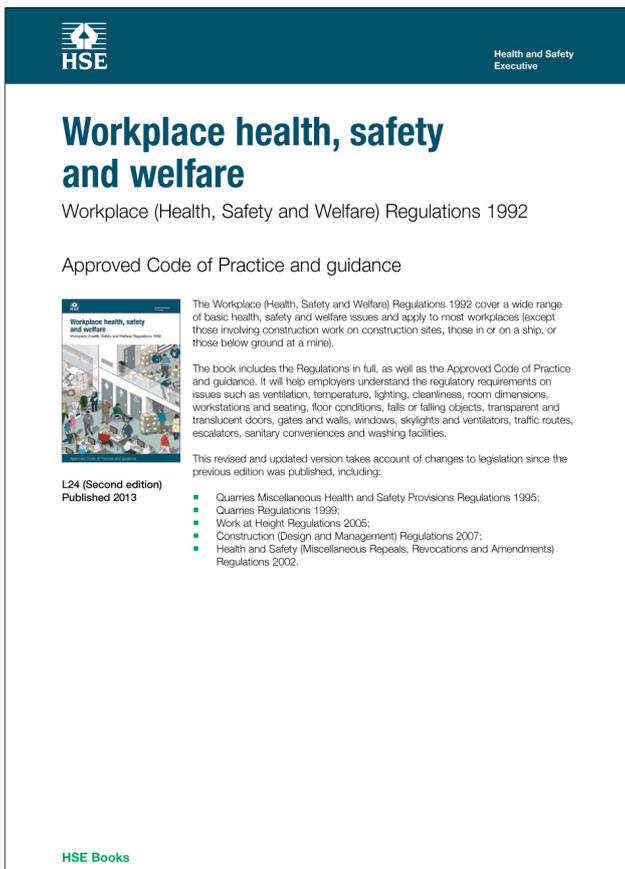
The Regulations set out your legal duties and the ACOP and guidance give practical advice on how to comply with those requirements. The Regulations give minimum standards for protecting employees from risks associated with exposure to asbestos.

The Regulations came into force on 6 April 2012, updating and replacing the previous 2006 law. They contain new requirements for certain types of non-licensable work with asbestos on notification of work; designating areas where you are working on asbestos; medical surveillance and record keeping.

HSE Books

Page 1 of 116

REVISED ACOP FOR WORKPLACE REGULATIONS



- on construction sites
- in or on a ship
- below ground in a mine.

The HSE has emphasised that legal responsibilities to protect workers' health and safety are not altered by any changes to the ACOP.

The revisions from the previous edition (published in 1992) include:

- simplifying the language to clarify what dutyholders must do to comply with the Workplace (Health, Safety and Welfare) Regulations 1992

The HSE has updated its ACOP on the Workplace (Health, Safety and Welfare) Regulations 1992.

The update follows a consultation on the ACOP, which was designed to make it easier for employers, building owners, landlords and managing agents to understand and meet their legal obligations and so reduce the risks of over-compliance.

The ACOP was one of several identified for review and revision, consolidation or withdrawal in line with a recommendation by Professor Ragnar Löfstedt in his November 2011 review on health and safety legislation.

The Workplace (Health, Safety and Welfare) Regulations 1992 cover a wide range of basic health, safety and welfare issues and apply to most workplaces except for those involving work:

- updating the ACOP to include the provisions of the Health and Safety (Miscellaneous Amendments) Regulations 2002
- improving guidance and referring to the most up-to-date and relevant standards for advice
- removing out-of-date duties and requirements that are superseded by more recent legislation.

NEW REPORT ON HEALTH AND SAFETY (OFFENCES) ACT 2008

The Department for Work and Pensions has published a new report on the effects of the Health and Safety (Offences) Act 2008, concluding that tougher penalties are being handed out to employers who breach serious health and safety laws.

The Health and Safety (Offences) Act 2008 came into force in January 2009, having been introduced as a Private Members Bill. The effect of the Act, which has received surprisingly little media attention since its introduction, was to:

raise the maximum fine for the lower courts from £5000 to £20,000 for most health and safety offences

make imprisonment an option for more health and safety offences in both the lower and higher courts

make certain offences, which were triable only in the lower courts, triable in either the lower or higher courts.

The new report, Health and Safety Act 2008: Post-legislative Scrutiny Memorandum 16 January 2014, concludes that the changes introduced under the 2008 Act have led to more cases being tried in the lower courts, higher fines and more jail terms for unscrupulous employers. In particular the report notes that:

86% of cases were heard in the lower courts after the Act came into force — compared with 70% prior to its introduction

the average fine imposed by the courts involving breaches of health and safety regulations alone

increased by 60%, from £4577 to £7310

for cases involving breaches of both health and safety regulations and the Health and Safety at Work, etc Act 1974, the average increase was 25%, from £13,334 to £16,730

a total of 346 cases attracted fines of more than £5000.

Commenting on the issue, Mike Penning, Minister of State for Health and Safety, said, “By handing greater sentencing powers to Magistrates and Sheriffs it has sent a clear message to unscrupulous employers that if they do not take their responsibilities seriously they will face stiff penalties, which include heavy fines and — in the very worst cases — prison.”

FORTY YEARS OF THE HSWA

The Chair of the HSE, Judith Hackitt, has kicked off her risk assessment blog in 2014 by marking 40 years since the Health and Safety at Work, etc Act 1974 (HSWA) received Royal Assent.

In her opening post she says of the HSWA, “Arguably it is one of the best pieces of legislation on the statute books — although we know it is often misunderstood and misinterpreted. It has protected millions of British workers, and driven sharp reductions in incidents of occupational death, serious injury and ill health.”

The HSE Chair points out “remarkable” changes in the past 40 years. In 1974, fatalities to employees stood at a massive 651.

In comparison, the latest figure for 2012/13 has declined to 148 (for employees and the self-employed combined).

The blog points out that before the 1974 Act a host of different regulations were in place: some industries were swamped with prescriptive rules while others had little or no regulation at all. The HSWA was put in place to tackle this.

Interestingly, and echoing the current regulatory atmosphere, Ms Hackitt notes that the 1972 Robens Report concluded there were too many regulations and that what was needed was a regulatory regime that set broad, non-prescriptive goals for duty holders,

underpinned by a fundamental principle, ie “those that create risk are best placed to manage it”.

Hailing the durability of the HSWA, Ms Hackitt said, “The Act that emerged... swept away detailed and prescriptive industry regulations; it created a flexible system where regulations describe goals and principles, supported by codes of practice and guidance. Based on consultation and engagement, the new regime was designed to deliver a proportionate, targeted and risk-based approach. Forty years on this approach still applies.

“The legacy is a safety record envied around the world.”

HAVE YOUR SAY – CDM CONSULTATION

HSE has today opened a 10-week consultation on proposals to replace the Construction (Design and Management) Regulations 2007 (CDM 2007).

The revision of CDM 2007 aims to deliver a substantially simpler set of regulations that are easier to understand and comply with, but which retain vital safety protection.

Key changes being proposed include:

replacement of the CDM co-

ordinator role with a principal designer role within the project team;

introducing a duty on information, instruction, training and supervision to replace the duty to assess competence;

removal of the domestic client exemption and transfer of these limited duties to the contractor/designer; and

replacement of the Approved Code of Practice (ACOP) with tailored

None of the proposals on which HSE plans to consult are set in stone: - we want to hear from those affected to help shape the final regulations.

The consultation document is available here: <http://www.hse.gov.uk/consult/condocs/cd261.htm>

The consultation opened on 31 March 2014 and closes on 6 June 2014



Q & A'S

SELECTION OF RESPIRATORS FOR AMMONIA REFRIGERANTS

Q. We have taken on a coldstore that uses ammonia as the refrigerant. This is the first time we have operated with ammonia refrigerant as a business so have no past experience; what advice can you give on the specifications of respirators we would need as part of our emergency planning?

A. HSE's publication Respiratory protective equipment at work - a practical guide, in particular Page 45, contains information about respiratory protective equipment in relation to ammonia refrigeration. It may also be useful to look at 3M's Respirator Filter Selection Guide.

In relation to safety issues with

ammonia refrigeration, HSE's Example risk assessment for chilled warehousing may be helpful. HSE is currently revising its withdrawn publication, Safe management of ammonia refrigeration systems (PM81) and, although still in draft form, HSE has provided BFFF with the following paragraphs which provide a useful starting point:

Emergency arrangements



provided to keep below the lower explosive limit)

• closing valves to isolate the system into smaller sections and to prevent further gas escape.

The risk assessment should determine the personal protective equipment likely to be needed for access and rescue, bearing in mind that the response time of

• should carry other early warning systems, eg ammonia detection and warning

Systems for communication (including where lone workers are involved) should be addressed - having just emergency self rescue breathing apparatus and ammonia monitors are not good enough. Communications systems/alerts and how and when to respond should be in place.

Procedures for evacuation of the remaining people likely to be affected should be prepared and the information passed to the relevant competent, nominated person.

The employer should establish the local emergency services may mean immediate emergency entry, eg for rescue, may be needed.

These should cover, in particular:

- detection of gas escape
- raising the alarm
- emergency venting of plant
- isolation of electrical appliances (if adequate ventilation is not

Those entering the plant:

- should have on-person suitable emergency self rescue breathing apparatus
- must be trained and drilled on its use

Well thought out and rehearsed emergency plans with properly trained and equipped staff and with safe, quick access to essential control valves whose function is clearly identified, is a major factor in containing a gas escape.

FIXED ELECTRICAL TESTING

Q. What requirements are there for the frequency of fixed electrical testing, contractor competence and testing certificates?

A. All fixed wiring systems require periodic inspection and testing. However, the time periods between inspections and tests varies according to the relative risks and

inherent hostility of the working environment. BS 7671:2008 + A1:2011 recommends that fixed installations should be tested and inspected as shown in the following table:

Type of installation	Maximum period between inspections
Commercial Premises	5 Years
Industrial Premises	3 Years
Emergency Lighting	3 Years
Fire Alarm System	1 Year
Temporary Installations	6 Months



was carried out safely.

The acceptable registration bodies for electrical contractors in the UK are:

- the National Inspection Council for Electrical Installation Contracting
- the Electrical Contractors' Association
- SELECT (Scotland's trade association for the electrical, electronics and communications systems industry).

These periods are recommendations made by the Institution of Engineering and Technology (IET) and are not legally enforceable, except where indicated. However, if an incident were to occur, an enforcement body would use them as guidance to decide if everything was done "as far as is reasonably practicable" to protect against danger.

The inspection, testing and maintenance of electrical systems should be carried out only by competent individuals; in this case, qualified electricians or electrical engineers who are members of a nationally recognised registration scheme.

Premises owners should check the paperwork submitted by any electrical contractor and take up at least one reference from a recent client to check that previous work

Following completion of routine inspection and testing, a Periodic Inspection report (PIR) should be provided, detailing particulars of the installation and a schedule of full test results to enable comparison with earlier results to assess the extent of any deterioration in the system. The certificate should also state:

- the full extent of the parts of the system tested (notes of omissions may be very important)
- any restrictions which may have been imposed on the tester and which may have limited his or her ability to report fully
- any dangerous conditions found during inspection and testing, instances of non-compliance with the IET Wiring Regulations

and any variations that are likely to arise in the future

- the recommended date for the next periodic inspection and testing.

Issues identified in the PIR will be coded depending on the urgency of action required.

- Code 1: requires urgent attention as a dangerous or potentially dangerous condition has been identified and action is required immediately to make the installation safe.
- Code 2: requires improvement.
- Code 3: requires further investigation.
- Code 4: does not comply with BS 7671.

Once any remedial work has been completed, a new PIR should be issued to confirm that the remedial work has been carried out in accordance with BS 7671.

Where an installation was constructed to comply with an earlier edition of the IET Wiring Regulations, tests should be made as required by BS 7671 as far as it is applicable and the position fully explained, with suggestions for any necessary action included.

GUIDANCE

OVERHAUL OF GUIDANCE ON WORK AT HEIGHT

The HSE has overhauled its guidance on working at height, with the aim of setting out the requirements in clear, simple terms and debunking common myths that can confuse employers.

The revamp forms part of the Government's plans to abolish or improve outdated, burdensome or over-complicated regulations and has been developed through the Red Tape Challenge.

A government source pointed out that more than a million British businesses and 10 million workers are estimated to carry out jobs involving some form of work at height every year. Falls are one of the biggest causes of death and serious injury at work.

Key changes were said by a source

at the Department for Work and Pensions to include:

- providing simple advice about the dos and don'ts of working at height
- "busting some of the persistent myths about health and safety law", such as the banning of ladders
- offering targeted advice to helping business in different sectors manage serious risks sensibly and proportionately
- helping workers to be clearer about their own responsibilities for working safely.

The new guidance is available online and focuses on:

- basic advice for those working at height

- common work at height myths
- information on the dos and don'ts.

HSE have also:

- released an updated version of their guidance document INDG 401 **Working at Height – A brief guide**
- withdrawn previous guidance documents INDG402 **Safe use of ladders and stepladders: An employers' guide**, INDG403 **A toolbox talk on leaning ladder and stepladder safety** and INDG405 **Top tips for ladder and stepladder safety** and replaced them with new document INDG 455 **Safe use of ladders and stepladders: A brief guide**.

"HEALTHY WORKPLACES MANAGE STRESS" - EU-OSHA CAMPAIGN

The European Agency for Safety and Health at Work (EU-OSHA) runs biennial 'Healthy workplaces campaigns' on specific health and safety topics. The previous campaign focused on leadership and worker involvement. The Campaign for the next 18 months, is entitled "Healthy workplaces manage stress".

Stress is a major cause of sickness

absence and costs business a great deal of money and causes sufferers a lot of misery. But despite its sensitive nature, stress and other psychosocial risks can be successfully tackled, and reduced; tackling stress in the workplace is worth the effort. It leads to improved worker health, cuts costs related to sickness absence and improves organisational performance.

HSE provides the UK Focal Point for EU-OSHA and has developed a website to support the campaign, attached to its Stress website. This explains the various activities that EU-OSHA are undertaking, there is some useful information in its leaflets as well as explanation of how you can get involved with events, getting your own event noticed or promoting what you've done to tackle stress.

APRIL DEADLINE FOR NEW HEALTH AND SAFETY LAW POSTER

The HSE has reminded employers that they must display the new version of the health and safety law poster, which outlines key health and safety legal points for the benefit of workers, or issue the latest corresponding leaflet or pocket card, from 5 April 2014.

Employers have a legal duty under the Health and Safety Information for Employees Regulations 1989 to display the approved poster in a prominent position in each workplace or provide each worker with a copy of the approved leaflet/pocket-card.

In 2009, the HSE produced a new version of the previous 1999 version of the poster following research which showed that the 1999 versions of the law poster and law leaflet were visually unappealing and rarely read.

The new versions were redesigned to be more readable and engaging. The poster and leaflet were also made available in a range of formats as part of HSE's commitment to make health and safety information more accessible.

Employers were given a deadline of April 2014 to use the new materials. Employers may continue to display existing copies of the 1999 health and safety law poster until 5 April 2014, as long as they are readable and contain up-to-date contact details.

Employers can also continue to give workers copies of the equivalent 1999 leaflet until 5 April 2014. After this date, the 2009 approved poster must be displayed or workers given personal copies of the 2009 equivalent pocket card/leaflet.

In the case of the new poster, employers do not have to add contact details of the enforcing authority and HSE's Employment Medical Advisory Service.

Employers may add details of any employee safety representatives or other health and safety contacts, but this is not compulsory.

For further information about the new poster and leaflets, see www.hse.gov.uk/contact/faqs/lawposter.htm.

HSE GUIDANCE ON REPAIRS TO FORK ARMS



As part of its larger Vehicles at Work microsite, HSE have published online guidance on repairs to fork arms of fork lift trucks. The guidance is intended to help prevent sudden failure of fork arms, many of which have been observed by HSE to be repaired by persons with no understanding of metallurgical welding and heat treatment aspects and utilising "village blacksmith" repair methods.

The guidance outlines applicable British Standards, covering technical characteristics, repair performance standards, testing requirements and further recommendations on the inspection and repair of fork arms.

The guidance can be accessed at www.hse.gov.uk/workplacetransport/lift-trucks/repairs.htm.

OUTCOME OF HSE TRIENNIAL REVIEW

The Department for Work and Pensions (DWP) has now published the outcome of the triennial review of the HSE, concluding that its functions are still required and that it should be retained as a non-departmental public body (NDPB).

The review broadly confirmed the role of the safety watchdog, as well as ruling out any plans for privatisation of its functions.

In his foreword, Martin Temple, who led the review, said, "Having considered the evidence, I concluded that there is a continuing need for the functions that HSE delivers, and a very strong case for those functions to continue to be delivered by an arms-length body."

He added, "However, this is not to say that there is no room for improvement, and I have identified a number of areas where there is scope for innovation and change."

One key area of criticism in the report was the HSE's Fee for Intervention (FFI) Scheme.

Martin Temple raised concerns that "FFI is a penalty or fine regime, but without any of the usual safeguards for such statutory schemes", and "that the introduction of FFI is linked to the need for HSE to fill the gap in its budget".

In response to the review, EEF, the manufacturers' organisation said it agreed "wholeheartedly with the main conclusions of the report"

but that the report had "missed an opportunity" to look in more depth at establishing a unified health and safety agency (including local authorities) to cover all workplace health and safety issues.

The outcome was also welcomed by Frances O'Grady, General Secretary of the Trades Union Congress (TUC), who said, "There was huge support from all those who responded to the review for the work of the HSE as a public body."

The report can be accessed at www.gov.uk/government/publications/triennial-review-report-health-and-safety-executive-2014.

LEGIONELLA DUTYHOLDER EVENT

HSE and the Legionella Control Association (LCA) are running a joint legionella dutyholder event taking place on 30th April 2014 at Drayton Manor Hotel. The event is intended to provide legionella dutyholders, responsible persons and persons in control of premises with guidance for working within the law, maintaining good practice, managing risk and taking ownership.

The topics covered include:

- sustained compliance by effective management of the risk
- risk assessment
- control scheme
- implementation
- record keeping
- compliance indicators



HSE ISSUES MEWP SAFETY ALERT

In February HSE issued a safety alert on the Genie Z135/70 Mobile Elevated Work Platform (MEWP) following an accident in which an operator was killed when the MEWP became unstable and overturned whilst it was working at or very close to its maximum height. Following initial investigations, HSE concluded the MEWP's operational stability may be compromised by the incorrect measurement of the boom angle sensors.



Genie, the MEWP's manufacturer, had already issued a Safety Notice in July 2013, which required the immediate removal of all Z135/70 MEWPs from service until suitable had been performed.

HSE have detailed the action required for owners:

Remove from service any machines for which the required calibration checks have not been completed

Regularly inspect, service and maintain the MEWP as per the manufacturer's requirements

Only carry out work regarding the manufacturer's safety notice in accordance with the recommendations in the machine service manual

Calibration of angle sensors should be confirmed from ground level using an inclinometer prior to any functional checks being undertaken by an operator using the platform controls

For further information see www.hse.gov.uk/safetybulletins/mewp-genie-z135-70.htm.



REVISED MANUAL HANDLING GUIDANCE FOR FOOD INDUSTRY

HSE have published an updated version of its guidance document HSG 196 **Moving food and drink - Manual handling solutions for the food and drink industries**, which covers manual handling risks and solutions. It covers:

- the main causes of injuries
- handling raw materials
- production
- packing into containers
- stacking and moving containers
- handling equipment
- off-site delivery

Download at www.hse.gov.uk/pubns/priced/hsg196.pdf.

CHANGES TO ASBESTOS LICENCING

From 1 April 2014 asbestos licence holders will no longer be required to submit a copy of their licence with asbestos notifications. The original purpose of this notification was to demonstrate that a suitable licence was held at notification however key information about all asbestos licences are now available on the HSE's website and a web based notification system will go live later this year.

Asbestos is still the single greatest cause of work-related deaths in the UK (more than 4,500 per year) and all employers need to be aware of their responsibilities of managing it. It is now 10 years since the "duty

to manage" asbestos in all non-domestic properties was introduced in 2004 and yet many business owners are not aware of what they must do to protect people working in or on the building.

Who is required to have a licence?

Work with particular asbestos-containing materials can only be carried out by somebody who holds a licence issued by HSE. Licences are granted for a limited period of time (usually one or three years), enabling HSE to review licences and the performance of licence holders at regular intervals.

For those doing licensed work, the current Regulations require that employers must keep a health record for employees and they must also be kept under regular medical surveillance. The health record must be kept for 40 years after the date of the last entry in it. If an employee has been exposed to asbestos, the health record must note the following:

- the date, time and how long the exposure to asbestos was for
- the type of asbestos (if known)
- the levels of asbestos exposed to (if known)

ENFORCEMENT ACTION

FOOD MANUFACTURER FINED AFTER WORKER INJURED



A food business in Burnley was fined in February following an accident in which a worker lost the tips of his fingers in a pasty making machine in 2012.

The 35 year-old employee was feeding a cheese and onion mixture into the machine when his fingers were struck by pistons. The HSE investigation identified that part of the machine's guarding had been removed to allow workers to feed the mixture into the machine while it was operating.

Reedly Magistrates' Court in

Burnley fined the company £1,000 and ordered it to pay £5,002 in prosecution costs after pleading guilty to a breach of the Provision and Use of Work Equipment Regulations 1998 by failing to prevent access to dangerous machine parts.

Following the hearing, HSE Inspector David Myrtle said:

"The injuries suffered by the employee have had a significant impact on his life but his injuries could have been even worse. If the machine had been set up with

larger pistons, as it was on some days, he could easily have lost all of his fingers.

"The machine was entirely safe to use when it was installed but, by overriding an essential safety feature to speed up production, the company exposed employees to an unacceptable and entirely avoidable level of risk.

"It is vital manufacturing companies put the health and safety of their staff before profits, otherwise incidents like this will continue to happen in the future."

FAMILY FIRM FINED

In a similar case also tried in February, a family firm in North West London was fined after admitting a breach of the Health and Safety at Work etc Act 1974 when a worker lost the ends of two fingers in a badly guarded machine.

The 45 year-old worker suffered partial amputation of the ring finger and injury to the little finger of his right hand when it was caught in a rotating drum that he was trying to clean. HSE found that his employer had failed to make sure the machine's guarding prevented workers from getting too close to

dangerous moving parts.

The company was fined £4,000 and ordered to pay £1,477 in costs at Westminster Magistrates' Court. Following the prosecution, HSE Inspector Saif Deen said:

"This worker has been severely affected by the injury and now has a long-term impairment. It may have serious consequences on his future work prospects, especially where dexterity is a requirement.

"If Dina Foods had ensured the machinery was suitably

guarded, the incident would not have happened. It was only after enforcement action by HSE that the firm introduced measures that should have been taken before to protect against access to dangerous parts of the equipment.

"It is not uncommon for employees in manufacturing industries to be injured when cleaning unguarded, operating machinery. The law specifies the measures that should be taken and HSE will prosecute companies which have sub-standard safety precautions in place."

LINCOLNSHIRE FARMING COMPANY FINED FOR FORKLIFT DEATH

A Spalding farming business has been ordered to pay more than £200,000 in fines and costs after a farm manager was killed when he was hit by a forklift truck.

The worker was walking from his car across the yard at Middle Farm on Mill Marsh Road in Moulton Seas End when he was struck on 31 October 2010.

His employer was prosecuted by the Health and Safety Executive (HSE) after an investigation found the company did not have effective measures in place to allow vehicles and pedestrians to move around the site safely.

The Court heard that the worker, who had worked for the firm for

38 years, was making his way to a potato grading shed when he crossed the path of a forklift being driven by a farm employee. He died at the scene of the incident after being crushed by the vehicle.

Safety consultants had carried out a risk assessment in 2003 which highlighted the need for pedestrians and vehicles to be segregated, but the firm did not fully implement these findings.

Workers were allowed to park their cars in areas of the site, which meant they walked across the path of workplace vehicles when walking to, or from, their cars. Some workers used the same entrance to the grading shed as the forklift truck

The business was fined a total of £165,000 and ordered to pay £39,500 in costs after pleading guilty to two breaches of the Health and Safety at Work etc Act 1974.

After the hearing, the HSE Inspector said:

"If [the businesses] had taken effective steps to keep employees safe, [the worker] would still be alive today.

"Employees on foot were using the same doorway as the forklift truck, which meant there was a significant risk of them being struck.

"The company should have managed the yard so that people and vehicles were not sharing the same space."





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