



THINKING ABOUT THE WINTER - YOUR LEGAL RESPONSIBILITIES

Cold weather, snow and ice can cause and accentuate many work-related risks which have to be dealt with by organisations. Slipping on icy walkways is an important hazard which can affect both employees and members of the public. Low working temperatures can present particular health and safety problems. Getting to and from work in snowy conditions puts staff at risk. Driving for work in ice and snow is especially dangerous.

All of these issues give organisations difficult choices and judgements to make. Should they allow their staff to stay at home and avoid journeys to work in snowy conditions? Should staff be sent home early to avoid difficult or risky journeys altogether? Should they allow their staff to drive for work when the weather makes such journeys especially dangerous? What legal outcomes could there be if an employee is killed or injured when making such journeys? What workplace hazards are there? How much effort should be expended to keep paths and walkways free of ice and snow? What are their liabilities should someone fall and injure themselves?

What are the legal requirements for maintaining working temperatures when the outside temperatures are below zero?

Dealing with the issue of the consequences of wintery weather presents employers with many difficult questions about risk, and their legal duty to deal with those risks.

LEGAL OUTLINE

Firstly, under common law organisations have to take reasonable care of those who could be affected by the activities of that organisation. In practice, this means that an employee or a member of the public who slips on ice on a means of access provided by or in the control of the organisation can bring a civil claim against that organisation. It means that an employee who is killed or injured while driving for work in bad weather may be able to claim compensation against his or her employer. It means that ill-health effects of low temperatures may result in civil claims.

Secondly, there are legal duties placed upon employers by Health and Safety legislation. Breaching these legal duties can result in criminal prosecution leading to fines and, in extreme cases, imprisonment.

The main legal requirement is the Health and Safety at Work etc. Act 1974 (HASAWA) which requires employers and others to protect their own employees and also third parties who could be affected by their work activities. This will include consideration of the impact and consequences of wintery weather. These duties are supplemented by other legal requirements.

Regulation 3 of the Management of Health and Safety at Work Regulations 1992 requires risk assessment of all work activities and this will include considering the issue and effects of cold weather. Risk assessments should encompass all work-related risks, including those caused by winter weather.

As always the amount of effort spent on such risk assessments should be in proportion to the likely risks.



LOW TEMPERATURES IN THE WORKPLACE

The Health and Safety (Workplace) Regulations 1992 with its associated code of practice (ACOP) require the temperature inside workplaces to be reasonable. What is a reasonable temperature is dependent on the work activities and circumstances and guidelines are given in the ACOP. For workrooms where there is no work which involves severe physical effort eg an office, then the temperature should not drop below 16°C.

Of course in the frozen food industry this minimum temperature cannot be achieved. In these situations warm clothing, hot drinks, warm rest areas, time limitation in the cold areas and similar measures should be taken.

DRIVING FOR WORK

The requirements of HASAWA include the time when employees are driving, or riding at work, whether this is in a company or hired vehicle, or in the employee's own vehicle (but not the daily commute).

Wintery weather can cause extreme risks and the effects of snow and ice can make driving very dangerous. Risk assessments performed under the Management Regulations should include driving for work.

The risk assessment may need to include when not to drive at all and in what circumstances this action may have to be taken.

Guidance and requirements for maintenance of vehicles are also required, as well as information about safe driving techniques in bad weather from sources such as the Highways Agency, ROSPA, the AA and the RAC.

SLIPS

One of the most significant risks associated with wintery weather is the risk of slips due to snow and ice on walkways and paths. Employers have a duty of care not just to their own staff, but also to non-employees such as the public and other visitors. Serious injuries can result from slipping on ice and while prosecutions do occasionally take place following slipping accidents, potentially expensive civil claims are more likely.

Employers therefore need to be prepared for bad weather and take reasonable action to keep paths and walkways free from ice and snow. This is not an exact science and it is sometimes impossible to keep all accesses free from snow and ice, all of the time.

The risk assessment should have identified priority walkways and take appropriate action to keep them safe. This will include the use of salt and grit as well as warning signs.

Employers need to be able to show that they have properly considered the issue and have spent an appropriate amount of resources commensurate with the risk.

The Government and HSE have been keen to stress that they consider clearing public pathways outside the workplace to be a good thing, but to follow their 'snow code' including sensible tips such as not using hot water to clear ice.