



## REGULATIONS IMPLEMENTED

The Control of Noise at Work Regulations 2005 (the Noise Regulations) came into force for all industry sectors in Great Britain on 6 April 2006 (except for the music and entertainment sectors where they come into force on 6 April 2008).

The aim of the Noise Regulations is to ensure that workers' hearing is protected from excessive noise at their place of work, which could cause them to lose their hearing and/or to suffer from tinnitus (permanent ringing in the ears).

The Control of Noise at Work Regulations 2005 replace the Noise at Work Regulations 1989 (except for the music and entertainment sectors where the 1989 Regulations will continue to apply until 6 April 2008).

The level at which employers must provide hearing protection and hearing protection zones is now 85 decibels (daily or weekly average exposure) and the level at which employers must assess the risk to workers' health and provide them with information and training is now 80 decibels. There is also an exposure limit value of 87 decibels, taking account of any reduction in exposure provided by hearing protection, above which workers must not be exposed.

## CDM SAFETY REGULATIONS REVISION DELAYED BY SIX MONTHS

The Health and Safety Executive has delayed implementation of the revised Construction (Design and Management) regulations by up to six months.

The Health & Safety Executive announced that the launch of the revised Construction (Design and Management) Regulations has been put back to allow the construction industry time to produce an approved Code of Practice advising on how to deal with the revised CDM Regulations.

## CONSTRUCTION INDUSTRY

2.2 million people work in Britain's construction industry, making it the country's biggest industry. It is also one of the most dangerous.

In the last 25 years, over 2,800 people have died from injuries they received as a result of construction work. Many more have been injured or made ill.

Between April 2004 and March 2005, 71 workers died and thousands were injured as a result of construction work. The main causes of the fatal accidents were:

- > falling through fragile roofs and rooflights
- > falling from ladders, scaffolds and other work places
- > being struck by excavators, lift trucks or dumpers
- > being struck by falling loads and equipment
- > being crushed by collapsing structures

## MAJOR FIRE SAFETY REFORM TO COME INTO FORCE IN OCTOBER

New fire safety rules affecting all non-domestic premises in England and Wales will come into force on 1 October 2006 the Office of the Deputy Prime Minister has announced.

The Regulatory Reform (Fire Safety) Order, made in June 2005, is the biggest overhaul of fire safety legislation in decades.

Originally, it was due to come into force this month (April) but in January the department announced it was deferring to give business and stakeholders more time to prepare.

Announcing the new date in a written statement, the ODPM Minister responsible for fire safety Jim Fitzpatrick said today (6th) March:

"The Government's over-riding aim is to save more people from death and injury by reducing risk and preventing fires.

"Over the coming months, we will continue to work with stakeholders to ensure that all those affected by the new rules have the support that they need."

The ODPM is working with a range of partners from industry and the fire and rescue service on a publicity strategy to raise awareness of the new laws amongst those affected.

There will also be a series of guides published to assist those preparing fire risk assessments.

## FIRE SAFETY REFORM CONTINUED

The main effect of the changes will be a move towards greater emphasis on fire prevention in all non-domestic premises, including the voluntary sector and self-employed people with premises separate from their homes.

Fire certificates will be abolished and will cease to have legal status.

The Fire Safety Order will apply in England and Wales. (Northern Ireland and Scotland will have their own laws.) It covers 'general fire precautions' and other fire safety duties which are needed to protect 'relevant persons' in case of fire in and around most 'premises'. The Order requires fire precautions to be put in place "where necessary" and to the extent that it is reasonable and practicable in the circumstances of the case.

Responsibility for complying with the Fire Safety Order will rest with the 'responsible person'. In a workplace, this is the employer and any other person who may have control of any part of the premises, eg the occupier or owner.

If you are the responsible person you will have to carry out a fire risk assessment which must focus on the safety in case of fire of all 'relevant persons'. It should pay particular attention to those at special risk, such as the disabled and those with special needs, and must include consideration of any dangerous substance likely to be on the premises. Your fire risk assessment will help you identify risks that can be removed or reduced and to decide the nature and extent of the general fire precautions you need to take to protect people against the fire risks that remain.

If you employ five or more people you **must** record the significant findings of the assessment.

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## SCREENING FOR HAND ARM VIBRATION 'IS VITAL'

A leading medical consultant has warned firms of all sizes to carry out regular screening for hand-arm vibration syndrome.

Dr Roger Marcuson, who has studied a wide range of cases of hand-arm vibration syndrome and is a consultant vascular surgeon in Manchester, warned that firms which failed to carry out a proper risk assessment of tool use put

workers' health in jeopardy and could face huge compensation claims.

He said: "You cannot put your head in the sand any longer. All employers have a duty to assess the risk of vibration, to record that assessment and to take appropriate action." Dr Marcuson's warning followed a study of 75 of his cases for compensation for hand-arm vibration injuries.

He found a wide variation in both the age of workers with the syndrome and the time it took symptoms to appear from less than five years to over 30 years in some cases.

This highlighted huge differences in victims' experience on site and in workers' susceptibility to vibration injuries.

He said the fact that someone was free from symptoms now did not mean he would not suffer them in days, months, or years. He stressed that it was essential to have a thorough health programme.

He said: "One guy can have been on the tools since aged 16, using them quite happily, but at aged 52 he gets the first symptoms, such as tingling. Another worker could get the symptoms within a few months of starting work, since so much depends on the type of tool and how it is used. It needs continued vigilance throughout a worker's career. Early freedom from symptoms does not preclude the later onset of problems."

The current HAV regulations say employers should make regular occupational health assessments, either with qualified in-house staff, or for smaller companies, by bringing in someone such as an occupational health nurse.

Dr Marcuson said: "It will be more difficult for smaller companies and those with rapid turnover, but the risks of vibration exposure are always present. If a small company gets a big insurance claim, they could be in trouble. Pre-employment screening, education and regular health surveillance is required. It should be an annual assessment if the worker is at high risk. The workers themselves should take some responsibility", he added.

He said: "Employees have to report symptoms such as tingling or pins and needles at the earliest opportunity". It is probably unrealistic to prevent all cases of HAVS, but later stages are avoidable if recognised early.

Close monitoring to detect further deterioration is necessary and moving to non-vibration exposure jobs may be required.

But once it gets to the point of not being able to hold a glass, it is probably irreversible.

## **RECENT PROSECUTIONS:**

### **COCKLERS TRAGEDY HIGHLIGHTS NEED FOR HIGH SAFETY STANDARDS**

Following the successful prosecution for manslaughter following the death of 23 cockle pickers on Morecambe Bay in February 2004 the Health and Safety Commission (HSC) has today taken the opportunity to re-emphasised the importance of worker protection imposed by health and safety legislation.

The HSC chair, Bill Callaghan, said: "The successful prosecution can never compensate for the tragic loss of 23 lives. Nevertheless, today's verdict highlights the need to ensure sensible health and safety arrangements are in place for all workers in Britain, whatever their nationality or migrant status".

### **CONSTRUCTION BOSS JAILED**

Construction boss Wayne Davies was jailed for 18 months for manslaughter last week following the death of a labourer.

Davies ran A&E Buildings of Knighton, Powys, and was involved in a project to build a steel-framed barn on a farm near Stourbridge, south Staffordshire, in February 2004. During construction labourers Mark Jones and Adam Waygood worked at roof height in a 'home-made' basket on the forks of a telehandler.

The telehandler tipped over, throwing both men 8 m to the ground. Mr Jones died and Mr Waygood received serious injuries.

Davies owned both the telehandler and basket and was found guilty of manslaughter at Hereford Crown Court. HSE principal inspector Joy Jones said: "This case is a reminder to all those involved in the construction industry of their legal obligations to manage health and safety.

"The verdict shows that Wayne Davies failed in both his duty to ensure the safety of his employees and in his responsibility to provide safe and suitable means of working at height."

### **LIFT ENGINEER WINS £1 MILLION COMPENSATION**

The solicitors, Michelmores, have announced that a 40-year-old client has been awarded £1 million in compensation after surviving a 150-foot fall down a lift shaft.

Gary Smith, of Stanford-le-Hope in Essex, was working as a lift engineer on a maintenance platform at Canary Wharf in London's Docklands when the supporting rope snapped.

He plunged 150 feet down 11 floors onto the wooden deck below. A 110 lb lift motor, which had also been on the platform, fell on top of him.

His solicitors said that as he was working at night, the accident went unnoticed and so he lay bleeding and semi-conscious in total darkness for five hours until a colleague raised the alarm.

When they tried to rescue him, the fire brigade knocked a hole through a wall four floors above and inadvertently showered him with building debris.

Eventually, rescuers broke through the basement wall. In the process, the unfortunate Mr Smith was hit on the head with a hammer.

He was taken to Whitechapel hospital, where he remained for eight weeks. He suffered multiple injuries to both legs and his right shoulder, and has undergone more than 20 operations.

Mr Smith sued the lift manufacturers Kone Plc. They admitted liability after accepting that Mr Smith had been working with unsafe equipment and that the maintenance platform should have been supported by a secondary braking system.

### **RAIL BOSSES SENT TO JAIL FOR 11 YEARS**

The Construction industry could face more individual prosecutions and tougher penalties following the Tebay trial.

Rail bosses Mark Connolly and Roy Kennett were sent to prison last week for a total of 11 years last Friday and experts predict the sentences will have the same impact on the industry as the £15 million fine imposed to the gas supplier Transco last year after an explosion that killed four members of a family in Lanarkshire in 1999.

Specialist health and safety solicitor Ron Reid from law firm Shoosmiths said: "Transco's fine last year broke the mould and this case will do the

same for the level people can receive for manslaughter.

If it's right, and they did replace the hydraulic lines with ball bearings to save money, one has to wonder if the sentence was long enough. I'm not surprised at the sentence. If anything I'm surprised it's not longer. Life is the maximum term for manslaughter.

You hear about people who take risks but this was engineered to cut costs." More health and safety prosecutions are increasingly focusing on individuals.

Mr Reid added: "I think we will see changes in health and safety prosecutions for individuals and more severe penalties for failure. This will make senior managers sit up and take notice."

Health and safety offences related to death are being dealt with more severely.

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