

SIMPLY SAFE – NOVEMBER 2008

NEW LEGISLATION.....THE HEALTH AND SAFETY OFFENCES ACT 2008

Higher fines for health and safety offences could be on the way from January under the new Health and Safety (Offences) Act, which received Royal Assent on 16 October. The Act, which comes into force on 16 January 2009, amends Section 33 of the Health and Safety at Work Act to raise the maximum penalties available for offences in the lower courts from £5,000 to £20,000. It also makes most offences imprisonable. For example, magistrates and judges can now imprison individuals convicted under Sections 7, 8 or 37 of the HSW Act which cover breaches by individual directors and employees. Minister for work and pensions Lord McKenzie has stressed that prison should be reserved for the most serious offences. He said: "It is generally accepted that the level of fines for some health and safety offences is too low. These changes will ensure that sentences can now be more easily set at a level to deter businesses that do not take their health and safety management responsibilities seriously and further encourage employers and others to comply with the law. Furthermore, by extending the £20,000 maximum fine to the lower courts and making imprisonment an option, more cases will be resolved in the lower courts and justice will be faster, less costly and more efficient. Jail sentences for particularly blameworthy health and safety offences committed by individuals, can now be imposed reflecting the severity of such crimes, whereas there were more limited options in the past. Some offences that would have been tried in the lower courts will now go to trial in the higher courts and prison sentences handed down by lower courts could be considerably longer".



The Act was introduced to Parliament in 2007 as a Private Member's Bill and according to Lord McKenzie; the Act has the government's wholehearted support. The Sentencing Guidelines Council is also due to publish new guidelines on penalties for corporate manslaughter convictions and deaths at work in the coming months.

THE A-Z OF FOOD SAFETY

E is for.... E. coli. E. coli is a bacteria that causes food poisoning, and is normally found in the guts of animals and humans. There are many different types, and one type which can cause serious illness is Verocytotoxin producing E. coli O157 which has been found in raw and undercooked meats, unpasteurised milk, dairy products, raw vegetables and unpasteurised apple juice. Symptoms normally take about 2 days to develop but may start within a day. The main symptom is diarrhoea. In some cases, particularly in children under the age of 6 and in the elderly, infection can lead to diarrhoea, which may be bloody and severe, kidney failure, and sometimes death. Although the bacteria can survive refrigeration and freezer storage, thorough cooking of food and pasteurisation of milk will kill them.



WHAT IS REACH?

REACH is a new European Union regulation concerning the **R**egistration, **E**valuation, **A**uthorisation and restriction of **CH**emicals, which replaced a number of European Directives and Regulations with a single system. Although the Regulation came into force in June, the registration process for manufacturers and importers is well underway. They must register all chemicals with the European Chemicals Agency (ECHA), otherwise it will be illegal to supply or import them into the EU. REACH will make things better for you as it's designed to provide more information on chemicals and increase confidence in their safe use. In particular, better information on the hazards of chemicals and how to use them safely will be passed down the supply chain by chemical manufacturers and importers through improved Safety Data Sheets. Unless you make or import chemicals yourself, it is highly unlikely that you will need to register chemicals. If your chemicals are sourced from EU suppliers it is their responsibility to register them, however, if your chemicals come from a non-EU supplier then you will have to register as an importer. Generally, if you are using chemicals or mixtures of them (e.g. paint, lubricants, and cleaning agents) in the way that is expected then REACH probably won't mean significant changes for you. If your business relies on using unusual chemicals (that aren't very common) you may need to contact your supplier to find out if they will be registered by whoever makes or imports them. It is possible that some companies, for business reasons, may decide not to register chemicals. If so, then you may need to find an alternative supplier or even re-think your processes. REACH will apply in addition to COSHH and will sit alongside it. The ECHA will publish a list of pre-registered substances on its website www.echa.europa.eu from the 1st January 2009. This means that you can check that the substance that you use has been pre-registered. If the substance you use is not on the list, you should notify the ECHA and provide details of your current supplier, and remember, if it is not registered then it may have been illegally supplied or imported into the EU, therefore should not be used!

PROSECUTION NEWS..... LANDMARK PUB NOISE VICTORY!!!

Courts can take into consideration that residents who complain about noise at pubs knew it was there before they moved in.

That is the important message from a landmark High Court case involving a licensee who was originally cleared by Magistrates in December 2006 of three allegations of failure to comply with noise abatement notices. The case centered on noise nuisance allegedly suffered by a neighbour whose garden adjoins the pub garden. Magistrates took the view that the complainant knew there was a pub next door when she moved into her house four-and-a-half years earlier and that the licensee had done everything he could to keep noise to a minimum. Following complaints, he closed part of the garden, restricted numbers in the garden to 40 even though he is allowed 100, put up prominent signs asking for noise to be kept down, banned live music in the garden and even paid for another neighbour to have double glazing fitted! The Council had launched an appeal in the High Court but the Judge ruled that magistrates had been entitled to take into account that a pub had been there before the resident moved in. He added that the licensee's willingness to install double glazing in a different neighbors' shows that he was willing and able to carry out further works where there was cooperation from a neighbour. A legal expert said: "this is a very important case because it highlights the fact that if licensees use best practicable means to keep noise down they may be able to avoid prosecution in future. This will not, of course, stop neighbors' from seeking a license review under the Licensing Act 2003 on the grounds of the public nuisance licensing objective"



AND FINALLY.....DECK THE HALLS!!!

As Christmas approaches, you will be starting to decorate your premises. Many accidents occur as a result of untrained staff attempting to carry out such activities, so take care when putting up decorations.

Guidance is provided in your risk assessment manuals, and activities above 3 meters must be managed safely. Working at height must always be avoided unless staff have specialist training and equipment. If this is not available, then you will need to make alternative arrangements, such as hiring contractors. DO NOT put your employees at risk!!! Remember to also take special care if candles will be used, in order to prevent fires. Further information on Christmas safety will be provided in our Christmas edition of Simply Safe next month.....!!!

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