

## **SIMPLY SAFE**

### **OCTOBER 2009**

#### **INSURERS CALL FOR UK EMPLOYMENT LAW CHANGES**

As the number of compensation claims being pursued within the licensed trade sectors appears to be increasing, the Association of British Insurers (ABI) has asked the government for UK employment law changes that would see a new streamlined system for dealing with work-related insurance claims. It suggests employers' liability insurance claims become subject to the same rules as the new system for personal injuries on road-traffic accidents.

From April 2010, new rules on road traffic accident personal injury claims should ensure victims receive compensation more quickly. The ABI has welcomed the changes but called on the government to revise UK employment law by extending the new system to cover employers' liability insurance.

Nick Starling, ABI's general insurance and health director, said: "The ABI has long argued for a simpler, more streamlined compensation system that works in the interests of consumers, so we completely support today's announcement. This new process will cut down on delays, and reduce the high legal costs that are paid for through motor insurance premiums. It is now vital that employees injured at work have the same opportunity as those injured on our roads to benefit from this new process, so we call on the Government to extend it to cover employers' liability insurance claims."

#### **A TO Z OF FOOD SAFETY**

##### **M is for Maintenance**

Poor maintenance can lead to food businesses being issued with improvement notices, or even being shut down. Damaged surfaces, peeling paint, rusty equipment, etc. contravene food safety regulations, because they cannot be cleaned adequately and can expose food to physical contamination. Supervisors should conduct daily checks for any obvious defects in both the premises and the equipment, e.g. damaged or missing wall tiles, damage to the flooring, loose fittings, damaged electrical cables, badly scored chopping boards, and so on. Food handlers must also understand that they should report any defects they find. Any maintenance, be it routine planned maintenance or otherwise, should be undertaken by competent contractors at times when food is not being prepared, after which the area will need to be cleaned, checked and made safe before food production can be commenced.

#### **LADDER EXCHANGE**

The Health & Safety Executive's Ladder Exchange Initiative this year will run from 1 September until 31 December 2009. The Ladder Exchange Initiative is simple; if you have a ladder which is bent, broken or battered you can part exchange it for a new one.



## RECENT PROSECUTIONS – DANGEROUS MACHINERY

1. The Health and Safety Executive (HSE) has warned employers to assess workplace machinery risks properly to ensure they have adequate safeguards in place. The warning follows HSE's prosecution of a Bedfordshire poultry company after an employee's finger was amputated by unguarded parts of a machine. The company was fined £5,000 with £4,850.80 costs after pleading guilty to Regulation 11(1)(a) of the Provision and Use of Work Equipment Regulations (PUWER) 1998.

A female employee started the scraper cleaning system in the chicken sheds. However, the drive cable had become entangled and would not run. She attempted to fix the machine by pulling on the cable. When the cable started to move, her finger was pulled in between the pulley and the cable, and she suffered severe injuries resulting in the amputation of a finger.

The HSE investigation identified that the machine was not adequately guarded as the guard had been removed for a previous repair and had not been refitted. HSE Inspector said: "The dangers of using .... machines without suitable safeguards are well known. Serious injuries such as amputation can result when limbs, or parts of limbs, become trapped by moving parts. This serious incident could and should have been prevented by the company by ensuring that dangerous parts were adequately guarded. This case illustrates how things can go wrong when risks are not properly controlled and HSE will not hesitate to take action against those who fall short of the law in such a way."

*Note: Accidents such as this are not uncommon in bakeries and kitchens, where guards are removed and/or not replaced if they become defective on blenders, meat slicers and mixers. It is vital that any defective equipment is identified and taken out of service. In addition, suitable risk assessments must be drawn up, together with a programme of staff training in the use of all dangerous machinery.*

2. The Health and Safety Executive (HSE) is warning employers that machinery and equipment need to be properly maintained and adequate training provided, after a Staffordshire apprentice suffered serious foot injuries when a forklift truck overturned. The owner of the company has been fined a total of £1,750 and ordered to pay costs of £2,250 at Stoke Crown Court after he pleaded guilty to breaching health and safety legislation. The charge related to a 17-year-old employee who was operating the forklift truck in June 2008, when it overturned, causing serious foot injuries. Although the youngster had been told not to drive the fork lift truck, he still managed to use it after the key had been left in the controls.

The court heard the vehicle was found to have a number of defects, while the owner was unable to produce any record to show that a thorough examination under the Lifting Operations and Lifting Equipment Regulations had been carried out. It also emerged that another employee had been using the truck, as well as the owner, without adequate training. Following its investigation into the incident, the HSE charged the owner with a contravention of Regulation 9(1) of the Provision and Use of Work Equipment Regulations 1998; as well as a contravention of Regulation 9(4) of the Lifting Operations and Lifting Equipment Regulations 1998.

*Note: It is vital that appropriate arrangements are made for the custody of the key of any mobile work equipment. In this case, the forklift truck had also not been subjected to its mandatory inspection as required under LOLER, which would have identified the critical safety defects. In addition, the owner did not ensure that adequate training had been given to those operating the forklift truck, including himself. Thus, he would have known more about what maintenance and thorough examination was necessary and about the importance of preventing unauthorised access to the key.*

