



Medway Safety Limited  
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# Health & Safety Update

*The information contained within this update is provided to existing and prospective clients of Medway Safety to assist them with the early identification of changes in health and safety legislation that may affect their business. This information should not be regarded as a full interpretation of the legislation.*

## Asbestos Worker Protection Directive

The EC published its formal proposal to amend the Asbestos Worker Protection Directive on 27<sup>th</sup> July 2001.

The intention was to refocus the protective measures currently in force on to those who are now considered more at risk from exposure to asbestos, eg. Maintenance and asbestos removal workers.

The main provisions are:

- New single limit of 0.1 fibres per cm<sup>3</sup> as an 8 hour time weighted average (TWA). Therefore all types of asbestos, including chrysotile, will have the same control limit.
- New criteria for deciding what work will be exempt from complying with the full requirements of the Directive.
- Requirement for employers to identify presumed asbestos containing materials before beginning demolition and maintenance work.
- Requirement to provide appropriate training for all workers who are, or who are likely to be, exposed to asbestos.

These regulations are due to come in to force on the 15<sup>th</sup> April 2006

## Marketing & Use Directive – Restriction on the Level of Chromium VI in Cement

The proposals are to implement the supply and use ban on cement and cement preparations in which the level of Chromium

VI is more than 0.0002% by weight unless supplied for use in a controlled and automated process in which there is no risk of contact with the skin.

There shall also be a requirement for such preparations to be marked with information on packing date, storage conditions, storage period, except where intended for supply to an automated process.

It is anticipated that this legislation will be in force in January 2005

## Physical Agents (Noise) Directive

The EU implemented the Directive in December 2002, the UK has three years to implement legislation.

The main provisions are:

- An assessment of the noise levels to which workers may be exposed.
- Weekly averaging of exposure in justifiable circumstances
- A reduction of 5 dB(A) in the first and second action levels.
- A limit on personal noise exposure, taking account of any hearing protection worn, of 87dB(a) and 200 Pascals.
- Transitional period of two years for the music and entertainment sector.

Guidance is likely to be available in January 2005, with the regulations coming in to force in 2006.

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## Physical Agents (Vibration) Directive

This Directive came in to force on 6<sup>th</sup> July 2002 when it was originally published in the Official Journal of the EU. The member states have three years from this time to implement the Directive.

The significant requirements of the Directive are as follows;

- Reduce exposure to a minimum
- Provide information and training
- Assess exposure levels
- Carryout a programme of measures to reduce exposure and provide appropriate health surveillance when the exposure reaches the exposure action value.
- Keep exposure below the exposure limit value.
- Transitional period for Whole Body Vibration (WBF) until the end of 2010 for limit values for equipment in use by 2007. New equipment will be expected to comply after this time, with the exception of forestry equipment who have until 2014.

These regulations will be made in December 2004 and shall come in to force on 6<sup>th</sup> July 2005.

## Update on the Working Time Directive

This is concerned primarily with aspects of the original Directive that excluded certain sectors and activities from the Directive.

Originally introduced in 1998 these regulations have been amended numerous times.

The significant changes here are as follows;

- The Directive was extended to include road, rail, sea, air, inland waterway and lake transport; sea fishing, offshore oil and gas; and doctors in training.
- The Civil Aviation (Working Time) Regulations 2004 came in to force on the 13<sup>th</sup> April 2004.
- The DoT is responsible for implementing the Directive in relation to people performing mobile road transport activities (lorry driving etc). This imposes a maximum 60 hour

week provided that the average does not exceed 48 hours over a four month period. Night shift working is limited to 10 hours. There are also entitlements to 4 weeks annual leave and health assessments if they work nights.

- For junior doctors, the regulations came in to effect on 1<sup>st</sup> August 2004 and will be followed by a five year transitional period, with weekly working time limits of 58 hours for the first three years and 56 for the next two years.

You should also be aware that the EC has recently set out ways in which the Directive could be tightened up to prevent abuse of the 'opt-out' clause.

## Fire Safety - Regulatory Reform Order

UK fire safety provisions are scattered across more than 100 different pieces of legislation, all with many implications on businesses, and some with overlaps between their requirements.

### *Summary of the Consultation Document*

- Fire certificates will be no longer issued.
- Each individual company will be responsible for their own fire safety. The employer must conduct a fire risk assessment regardless of the size of the risk. The identified responsible person would therefore take full corporate liability.
- If five or more people are employed, this risk assessment must be documented.
- Extended scope of consideration now to include property safety, fire fighter safety and the environment around the site as well as just protecting life. This means that allowing a building to be sacrificed is unacceptable due to the risk to neighbouring buildings and fire fighters. The responsible person would have a duty to protect the fire brigade.

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- Unlike the Fire Precautions (Workplace) Regulations, the Fire Safety Order places emphasis on business continuity and containing and preventing the spread of small fires. The effectiveness of fire extinguishers is clearly recognised as a major provision in doing just this.
- Protection is explicitly extended to all occupants and not just employees. Visitors, contractors or passers-by also have to be considered in the risk assessment.
- Fire fighters are to have greater authority to gain entry to premises and remove samples after a fire.

#### *What are the implications for business?*

The long term saving if all businesses carry out a fire risk assessment could be around £110 million based on a reduction of workplace fires.

Overall the legislation will be less burdensome and clearer, with the fire brigade reinforcing the Safety Order's requirements.

#### *Who is responsible?*

- Employer with control of a workplace, failing that the...
- Person with overall management of a building or the
- Occupier of premises; or the
- Owner of premises (i.e. empty buildings)
- Whilst other people like landlords have some control, the primary responsibility rest with employer

The responsible person will be held accountable. Under the 'Act' he will be strongly advised to nominate a competent supplier, one that can demonstrate it has 'the appropriate skills and experience'. Both or either party may be held responsible at the time of inspection or post incident.

Whilst renewing the focus on the fire risk assessments and training the Act will state that fire brigades can advise on but not carry out fire risk assessments.

#### *Timings*

- Proposed to be implemented: January 2005

#### **Corporate Killing - Update**

Many of you will no doubt have read the various reports from different institutions labelling this as 'scapegoat' legislation.

It has continued to struggle to gain support, however the Prime Minister himself has committed himself (as far as any politician ever does) to this new 'Bill'.

Currently the government is due to announce further details on the proposed new offence and a timetable for its implementation this autumn.

#### **Guidance Update**

The following are publications that have recently been revised.

- 'Safe Use of Gas Cylinders' this gas cylinder safety sheet, can be downloaded free from [www.hse.gov.uk/cdg/pressure.htm](http://www.hse.gov.uk/cdg/pressure.htm)
- A new guidance booklet on how to investigate the causes of accidents at work has been published by the HSE. Copies of 'Investigating accidents and incidents' (HSG245) are available from HSE Books, price £9.50

#### **Prosecutions Round Up**

*Dalebrick* fined £320,000 for numerous breaches of asbestos legislation.

*Nationwide Heating Systems Limited* – Director was sentenced to 12 months imprisonment due to an explosion in a boat yard that killed a worker. A fine of £90,000 was also imposed on the client as they did not select a competent contractor!

DIY giant *B&Q* has been ordered to pay out £800,000 in fines and costs after a woman was crushed to death by a reversing forklift whilst shopping at her local branch.

The *Sunlight Services Group* was fined £325,000 after a court heard how an employee died from heat exhaustion after being trapped inside a washing machine for two hours.