



News from



Award Health & Safety Ltd

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CPS brings first *Corporate Manslaughter* charge !

The Crown Prosecution Service (CPS) has announced it is bringing the first ever charge under the Corporate Manslaughter and Corporate Homicide Act 2007. On 23 April, the CPS authorised a charge of corporate manslaughter against Gloucestershire-based Cotswold Geotechnical Holdings over the death of 27-year-old employee Alexander Wright. Wright, a junior geologist, was killed in September 2008 when the sides of the pit in which he'd been collecting soil samples collapsed and crushed him. The pit had been excavated as part of a survey at a site in Stroud. As well as corporate manslaughter, Cotswold Geotechnical Holdings has been charged with breaching Section 33 of the Health and Safety at Work Act (HSW Act). Company director Peter Eaton has been charged with gross negligence manslaughter and with breaching Section 37 of the Health and Safety at Work Act, which states that where a company's offence is committed with the consent, or due to the connivance or neglect, of a director, the director will also be guilty of that offence.

Eaton will appear before Stroud magistrates on 17 June to face charges as an individual and on the company's behalf. Kate Leonard, reviewing lawyer at the CPS Special Crime Division, said: "Under the Corporate Manslaughter and Corporate Homicide Act 2007 an organisation is guilty of corporate manslaughter if the way in which its activities are managed or organised causes a death and amounts to a gross breach of a duty of care to the person who died. "A substantial part of the breach must have been in the way activities were organised by senior management. "I have concluded that there is sufficient evidence for a realistic prospect of conviction for this offence." The penalty for a conviction for corporate manslaughter is an unlimited fine for the organisation, while a conviction for gross negligence manslaughter carries a maximum sentence of life imprisonment for the individual.

Removing premises registration and record keeping requirements What this change means to you.....

From 6 April 2009, employers will no longer have to register the factories, offices and shops in which their employees work with the relevant health and safety authority.

This is because new rules have removed the requirements to register under the Factories Act 1961 and the Offices, Shops and Railway Premises Act 1963.

This means that from 6 April 2009:

* factory employers will no longer have to complete the F9 form and register with the Health & Safety Executive (HSE);

* office and shop employers will no longer have to complete the OSRI form and register with their local authority; and

* railway operators no longer have to complete the OSR7 form to register certain track-side buildings.

However, these changes do not affect the registration or form filling requirements of other legislation. Some businesses will still have to register and submit forms under other regulations. This will depend on the type of business and the regulations that govern it.

For example:

* food and catering businesses must continue to meet food standards registration and other requirements, which local authorities enforce;

* businesses producing, storing, using, and/or transporting substances defined under major hazard legislation, must continue to meet major hazard requirements, which the HSE enforces.

The general register for factories no longer applies. Also, from 6 April 2009, factory employers will no longer have to complete and keep the series of forms and records that make up the "general register" (i.e. forms F31, F32, F34, F35 and F36).

Further information: www.hse.gov.uk

Company director exposed employees to asbestos

A company director has been ordered to pay £18,695 by Shrewsbury Crown Court after he authorised two employees to remove asbestos from the firm's factory in Telford, Shropshire.

Two surveys carried out on sheet metal makers Secal Laser's premises in 2004 and 2007 had revealed the asbestos and stated that it should be removed by licensed contractors. If the work had been carried out legally, it would have caused disruption to the business and cost about £40,000. But managing director Roger Lavender instructed two workers at the factory to remove the asbestos insulation board, exposing them to asbestos fibres.

"Roger Lavender says that he read the 2004 asbestos survey and therefore should have been aware of the dangers of inhaling asbestos fibres if the material was disturbed," said HSE inspector Guy Dale.

"That asbestos survey made it clear that any removal of the material was dangerous and must be carried out by licensed specialists. However, Mr Lavender allowed his employees to be exposed to the serious risk of inhaling a Class I carcinogen that can cause Mesothelioma and lung cancer."

Roger Lavender was convicted under Section 8(1) of the Control of Asbestos Regulations for failing to make sure the asbestos was removed by a licensed company. He was also found guilty under Sections 33(1)(c) and 37(1) of the Health and Safety at Work Act, for failing to ensure his worker's safety. He was fined £6666 and ordered to pay £11,039 costs.

Shopping centre guilty of "fire safety breaches."

The managing agents of the Frenchgate shopping centre in Doncaster are having to pay fines and costs that total over £25,000, after being found guilty of breaches of fire safety legislation.

The prosecution was brought by South Yorkshire Fire & Rescue against the agents BTW Shiells of Belfast, who pleaded guilty to five counts of failing to comply with their duties under the Regulatory Reform (Fire Safety) Order 2005. On a visit to the centre last June, fire officers determined that the fire safety management team on site was sufficiently depleted to undermine its ability to carry out appropriate fire precautions. Further investigations raised what South Yorkshire Fire and Rescue Service (SYFR) described as "significant concerns" about the adequacy of the remaining staff's fire safety training and the suitability of the fire risk assessment for the premises. This led to SYFR serving an enforcement notice and the subsequent prosecution. The enforcement notice has since been withdrawn as all issues it refers to have now been resolved.

BTW Shiells was found guilty of failing to:

- * take adequate general fire precautions
- * make a suitable and sufficient assessment of the risks to relevant persons
- * give effect to appropriate preventative and protective measures
- * appoint adequate competent persons to undertake preventative and protective measures
- * provide adequate safety training for staff.

"This case clearly demonstrates how our inspection team will not shy away from our duty to apply fire safety law in all relevant buildings to help ensure the safety of our community," said station manager Chris Mellors. "South Yorkshire Fire and Rescue is committed to working closely with businesses to help them with their compliance duties under fire safety law but where their responsibilities are not taken seriously, the service will, where necessary, take enforcement action – particularly in cases such as this where large numbers of the public may be affected by a company's shortfalls."

In response, BTW Shiells said:

"Whilst we accept the findings of South Yorkshire Fire & Rescue Authority, these issues were addressed almost a year ago during a period of change between the previous owners and the current owners. Once these matters were identified by the fire authority, immediate action was taken to resolve the issues and the Notice was subsequently withdrawn. All issues identified have been resolved." "We continue to work closely with South Yorkshire Fire & Rescue Authority in partnership to ensure a safe environment for our customers. At no time during this period were lives at risk."

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HSE unveils new poster

The HSE is replacing its approved health and safety poster with a "more visually appealing, simpler and more accessible" version.

The new poster, along with an updated version of the approved health and safety leaflet, will be available from 6 April under changes brought in by the Health and Safety Information (Amendment) Regulations.

There is a five-year transitional period, so employers can continue to display the old version of the poster until 5 April 2014. But employers who opt to retain the old poster after 6 April this year must make



sure the information is readable and the contact information up to date. The approved poster and pocket card set out what employers and workers must do to comply with health and safety legislation. By law, employers must display the poster in a prominent position or provide each worker with a copy of the equivalent leaflet.

Easy-read and large-print versions of the new poster and pocket card will be available, and there will also be an MP3 version on the HSE website.

The basic paper poster costs £6.38 and is available to order from HSE Books.

There is also a semi-rigid PVC version priced £10.22 plus VAT.

A pack of 25 pocket cards costs £5.

Myth of the month

Myth: People don't have to take any responsibility for their own health and safety

The reality

- * Employers have a duty to protect workers and the public from dangers caused by their work - and HSE is committed to making sure they do that. But health and safety isn't entirely someone else's responsibility.
- * We all have a duty to keep ourselves safe, by co-operating with safety measures and not putting ourselves or others in danger.
- * This is just common sense - something we all use every day. It's important that we aren't put at risk by other people's actions, but if we ignore our own responsibilities, real risks can get missed. Playing the blame game doesn't keep people safe - better to rely on common sense and co-operation.

