



Health and safety update

September 2019

In the news

Natasha's Law laid down in Parliament

The Food Information (Amendment) (England) Regulations 2019, also known as Natasha's law, were laid in Parliament on 5 September 2019. The Regulations increase the obligations on businesses to list food ingredients. Natasha Ednan-Laperouse was a 15 year old girl who died after a severe allergic reaction. [more>](#)

Fines and sentences

£1m fine for Govia Thameslink Railway Ltd (GTR) after a passenger dies on train

On a GTR train travelling to Brighton, Simon Brown, aged 24, died after hitting his head on a trackside gantry. The train he was travelling on was going at around 60mph. [more>](#)

Avon and Wiltshire Mental Health Partnership NHS Trust sentenced after patient fall

Wiltshire Mental Health Partnership NHS Trust was prosecuted by the Care Quality Commission (CQC) after a patient fell from the roof of his ward at an incident in 2016. [more>](#)

Court rejects appeal against sentence and increases fine

Bowland Foods Limited, a meat producer, was charged with failing to remove parts of animals that were deemed a 'specified risk material' before they entered the food chain. This obligation is imposed by the Transmissible Spongiform Encephalopathies (England) Regulations 2010 and is intended to reduce the risk of brain disease to animals and humans. [more>](#)

£1m fine after explosion causes two workers' burns

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Events company fined after worker knocked unconscious

Employees of the event management company Sovereign Exhibitions & Events (SSE) had been working at one of the event locations. One of the tasks involved getting a park home chassis, measuring 14-foot-wide, through a smaller 13-foot-wide gap. In order to do this, employees had to pull up and angle the chassis through the opening while it was on the two forklift trucks. During this process the chassis slipped off and hit one of the employee's shoulders. The force of the impact left the employee unconscious and caused him to break his collar-bone. [more>](#)

Any comments or queries?

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Director imprisoned for breaching the REACH and Plant Protection Products (PPP) Regulations

A complaint made against Abel (UK) Limited, a small cleaning company, to the HSE revealed that the company was selling a plant protection product containing sodium chlorate, which is a prohibited substance. The company also sold a paint stripper containing dichloromethane, which is restricted under Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) and must only be sold to certified professionals. [more>](#)

Company and director sentenced after workers diagnosed with hand arm vibration syndrome (HAVS)

Celtic Rock Services Limited is a company which offers services in rock drilling, cliff stabilisation and rock anchors. The work is usually carried out by abseiling down a cliff and then using rock drills and jack hammers to stabilise the cliff. [more>](#)

Council fined £100k after seven employees developed HAVS through excessive use of power tools

The HSE launched an investigation after the Dacorum Borough Council reported seven cases of HAVS to the HSE from employees of its grounds and maintenance and street care team. The investigation prompted the issue of an Improvement Notice for failing to carry out proper risk assessments and failing to provide employees who could be exposed to vibration at or above the exposure action value with sufficient information, instruction and training. [more>](#)

Inadequate guarding and protection leads to a fine of £466,666

A worker at Cheshire Mouldings and Woodturnings Limited's factory site suffered severe injuries as a result of her hair being caught in a machine. [more>](#)

Employer fined after worker loses four fingers

A welder, working at a concrete plant operated by Hanson Quarry Products Europe Limited, lost four of his fingers after a heavy metal gate fell on his hand. [more>](#)

Double sentencing for two West Midlands Companies after workers exposed to risk of falling from height

Kingswinford Engineering Co Limited and James Durrans & Sons Limited have both been fined after workers were exposed to a significant risk of falling from height. [more>](#)

Environmental

BP Exploration fined £274,000 in emissions trading penalty and £400,000 for separate oil pipeline leak

The Offshore Petroleum Regulator for Environment and Decommissioning issued a civil penalty of £274,000 on BP Exploration for failing to account for all of its CO2 emissions in a North Sea operation. [more>](#)

Thames Water fined £607,000

Thames Water discharged 30 million litres of sewage from the Maidenhead sewage works. This polluted the Maidenhead Ditch and the River Cut, causing hundreds of fish to die. The discharge also risked the contamination of drinking water supplies. [more>](#)

Bradford Directors convicted following sham waste operation

This prosecution of two individuals followed the illegal dumping of over 275 tonnes of waste at a site in Duncombe Road, in Bradford between January-March 2017. [more>](#)

Round-up

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HSE has produced guidance on the Health and Safety (Display Screen Equipment) Regulations, and what employers must do to protect their workers. [more>](#)

Local healthy workplace accreditation guidance has been released

The Government has released guidance providing practical tips to local authorities and their partners planning or setting up Local Workplace Health Accreditation Schemes. [more>](#)

HSE release annual workplace fatality figures

HSE annual figures for workplace fatality for 2018/19 were released in July. They show that 147 workers were fatally injured between April 2018 and March 2019. This is an increase of six fatalities from 2017/18. [more>](#)

In the news

Natasha's Law laid down in Parliament

The Food Information (Amendment) (England) Regulations 2019, also known as Natasha's law, were laid in Parliament on 5 September 2019. The Regulations increase the obligations on businesses to list food ingredients. Natasha Ednan-Laperouse was a 15 year old girl who died after a severe allergic reaction.

The legislation does not come into force until October 2021, which gives businesses 2 years to carry out trials and implement the changes.

Previously, only food that was pre-packed, but not sold directly to the consumer, had to have a full list of ingredients and allergens on the packaging. If pre-packed food was sold directly, then the business could choose to communicate the ingredients in a variety of ways, including orally when asked.

The new law creates an obligation to also list all ingredients and allergens on "pre-packed food for direct sale" (PPDS foods). This will inevitably impact in terms of cost and resource on the estimated 7,785 businesses in the UK that primarily sell PPDS foods.

The changes will particularly affect small and micro businesses as their supply chains are more prone to disruption, they are less likely to have long-term supply contracts in place, and have less resource.

The Food Standards Agency will publish information on 1 October to give businesses advice on how to prepare for and adjust to the changes.

[Back to contents](#)>

Fines and sentences

£1m fine for Govia Thameslink Railway Ltd (GTR) after a passenger dies on train

On a GTR train travelling to Brighton, Simon Brown, aged 24, died after hitting his head on a trackside gantry. The train he was travelling on was going at around 60mph.

Whilst on the train, he had managed to fit his head out of a droplight window. There were different signs on the window, the largest reading “press and pull down to open”. There was a warning sign, but it was small and not obvious. The window existed for use of the guard and was in the guard’s section of the train, but it was accessible to the public.

In response to the incident, GTR placed metal bars on the window in order to prevent such an incident reoccurring.

On assessment, the Office of Rail and Road found that GTR had failed to put adequate control measures in place. If GTR had undertaken an adequate risk assessment of the window, preventive steps would have been taken. The warning sign was not sufficient as it was small and jumbled up with other notices. There was also nothing stopping the public from accessing the guards section of the train, and no means to monitor the use of the window.

GTR pleaded guilty to a charge under the Health & Safety at Work etc Act 1974, and at Southwark Crown Court received a fine of £1million plus prosecution costs of £52,267.

[Back to contents>](#)

Avon and Wiltshire Mental Health Partnership NHS Trust sentenced after patient fall

Wiltshire Mental Health Partnership NHS Trust was prosecuted by the Care Quality Commission (CQC) after a patient fell from the roof of his ward at an incident in 2016.

Despite warnings, the patient had climbed onto the roof and jumped despite attempts over 11 hours to talk him down. As a result of the fall, the patient suffered a broken leg and fractured skull and jaw.

The CQC found that the Trust had been aware of the danger for many years, but had failed to respond and make the necessary safety changes. The roof was low, and had been accessed several times previously.

The Trust was charged under regulation 12 Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 with failing to provide safe care and treatment to a patient resulting in avoidable harm to a patient and putting others at risk.

The Trust entered a guilty plea at Taunton Magistrates Court, and was fined £80,000 plus £12,033 costs.

[Back to contents>](#)

Court rejects appeal against sentence and increases fine

Bowland Foods Limited, a meat producer, was charged with failing to remove parts of animals that were deemed a 'specified risk material' before they entered the food chain. This obligation is imposed by the Transmissible Spongiform Encephalopathies (England) Regulations 2010 and is intended to reduce the risk of brain disease to animals and humans.

The company initially pleaded not guilty to the offences and contended that the Food Standards Agency's prosecution was an abuse of process. Later a guilty plea was substituted, as it was accepted that the company had not followed directions that removal of the specified parts was required. At Preston Magistrates Court, the guilty plea was accepted, and upon conviction the company was ordered to pay a fine of £33,440, costs of £9,384 and a victim surcharge of £170.

Bowland Foods appealed the level of fine as manifestly excessive. However, at a hearing at Preston Crown Court, not only did the judge reject the appeal, but in fact went on to increase the level of fine by a further £25,000, commenting that the level of seriousness of harm had been set too low at the original sentencing hearing.

In reaching this decision, the judge also commented that Bowland Food's argument that the prosecution was an abuse of process amounted to "an unbridled attack on every aspect of the FSA investigation and preparation of the case for trial". In calculating the increase in fine, the judge reduced the credit given for the guilty plea to reflect the abuse of process arguments raised at the outset.

[Back to contents>](#)

£1m fine after explosion causes two workers' burns

Two employees of Delphi Diesel Systems Limited were involved in the cleaning of a distillation tank at the company's factory. In order to clean the tank, the workers had to spray an inflammable degreasing product into the tank and then scrub the inside of the tank with a wired brush.

An inflammable atmosphere built up inside the tank as there was no forced ventilation system. The tank then ignited causing an explosion. This caused both workers serious burns on their arms, face and neck.

The HSE investigated and found that the company had failed to carry out a risk assessment for this non-routine maintenance task. Delphi Diesel did cooperate fully with HSE's investigation and produced detailed instructions for the cleaning of the tank, as well as banning the use of the inflammable degreasing products which do not have a risk assessment in place.

The company was charged with breaching section 2(1) of the Health & Safety at Work etc Act 1974, to which it pleaded guilty. The court found culpability to be high and the likelihood of harm also to be high. Consequently, as a large company in terms of turnover, it was fined £1m and ordered to pay costs of £9,374.

[Back to contents>](#)

Events company fined after worker knocked unconscious

Employees of the event management company Sovereign Exhibitions & Events (SSE) had been working at one of the event locations. One of the tasks involved getting a park home chassis, measuring 14-foot-wide, through a smaller 13-foot-wide gap. In order to do this, employees had to pull up and angle the chassis through the opening while it was on the two forklift trucks. During this process the chassis slipped off and hit one of the employee's shoulders. The force of the impact left the employee unconscious and caused him to break his collar-bone.

The HSE charged SSE with breaching section 2(1) of the Health and Safety at Work etc Act 1974 because the lift had not been planned properly and was not supervised. SSE had failed to assess the risk of the lifting exercise and, if it had, simple measures could have been introduced to make it safe.

The company pleaded guilty to the charge and was fined £161,000 and ordered to pay costs of £1,345.

[Back to contents>](#)

Director imprisoned for breaching the REACH and Plant Protection Products (PPP) Regulations

A complaint made against Abel (UK) Limited, a small cleaning company, to the HSE revealed that the company was selling a plant protection product containing sodium chlorate, which is a prohibited substance. The company also sold a paint stripper containing dichloromethane, which is restricted under Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) and must only be sold to certified professionals.

Consequently, the company was served with a PPP enforcement notice and a REACH prohibition notice.

As the company was then dissolved, a prosecution was brought against its sole director, Nicholas Corbett. At Warwick Crown Court he pleaded guilty to breaches of regulations 9 and 18 of the PPP Regulations 2011, and regulation 11(2) of the REACH Enforcement Regulations 2008. Mr Corbett was sentenced to 10 months in jail.

It is rare for the HSE to prosecute under these regulations, and its decision to do so in this case, and the severity of the sentence, reflects the extreme risk to safety that the HSE had identified.

[Back to contents>](#)

Company and director sentenced after workers diagnosed with hand arm vibration syndrome (HAVS)

Celtic Rock Services Limited is a company which offers services in rock drilling, cliff stabilisation and rock anchors. The work is usually carried out by abseiling down a cliff and then using rock drills and jack hammers to stabilise the cliff.

It transpired that as a result of the work many of Celtic Rock's employees are now suffering from HAVS. The employees had reported to the company that they were experiencing symptoms of HAVS, such as pins and needles and aching hands, but Celtic Rock did not take preventive action.

The HSE brought charges against the company after an investigation revealed that the risk assessments used old vibration data, so did not accurately identify the potential exposure to the vibrations. It was also found that employees were not warned, or even made aware, of HAVS.

Celtic Rock pleaded guilty to breaching section 2(1) of the Health & Safety at Work etc Act 1974, was fined £36,667 and ordered to pay costs of £3,560.

The company's director, Alwyn Griffith Hughes Thomas, also pleaded guilty to an individual charge of breaching section 37 of the Health & Safety at Work etc Act 1974, his conduct having led to the corporate offence. He was given a 12 week custodial sentence, which was suspended for 1 year, a 12 week curfew and ordered to pay costs of £3,560.

[Back to contents>](#)

Council fined £100k after seven employees developed HAVS through excessive use of power tools

The HSE launched an investigation after the Dacorum Borough Council reported seven cases of HAVS to the HSE from employees of its grounds and maintenance and street care team. The investigation prompted the issue of an Improvement Notice for failing to carry out proper risk assessments and failing to provide employees who could be exposed to vibration at or above the exposure action value with sufficient information, instruction and training.

Whilst the Council complied with the Improvement Notice, they were subsequently charged with breaching Regulation 5 of the Control of Vibration at Work Regulations 2005 and pleaded guilty to that offence, resulting in a fine of £100,000 plus prosecution costs of £28,672.62.

Fine for construction company and custodial sentence for employee after a worker dies in crush injuries

Clancy Docwra Limited, a construction company, and one of its employees, were found guilty of breaching the Health & Safety at Work etc Act 1974.

Kevin Campbell died while working on one of Clancy's sites. He had been disconnecting lifting apparatus from a metal mass which had been excavated from the ground. He was hit by an excavator mounted vibrator, the force of which caused him to be crushed into concrete wall.

The HSE carried out an extensive investigation and found that there were failures at a corporate level by Clancy, and individually by one of its employees, Daniel Walsh.

Mr Walsh was the driver of the excavator, and the site supervisor. HSE found that he had breached section 7(a) of the Act having failed to take reasonable care for the other people working on the site. He pleaded not guilty, but was convicted, and then given a six month custodial sentence, suspended for 12 months, and ordered to pay costs of £15,000.

HSE charged Clancy under sections 2(1) and 3(1) of the Act. The company also pleaded not guilty, but were convicted. The court imposed a fine of £1million and costs of £108,502.30

[Back to contents>](#)

Inadequate guarding and protection leads to a fine of £466,666

A worker at Cheshire Mouldings and Woodturnings Limited's factory site suffered severe injuries as a result of her hair being caught in a machine.

The worker was involved in the production of parts for staircases. One of the machines used for this purpose was a rotating drive shaft. The worker's hair was caught, pulling her head towards the moving parts, resulting in the loss of her scalp, thumb and ear. The injuries have had a lasting impact for the worker, who has not been able to return to work and has had to undergo extensive reconstructive surgery.

The HSE charged the company under sections 2(1) and 3(1) of the Health and Safety at Work etc Act 1974. The machine in question (as well as others) was not well guarded and workers were exposed to dangerous parts of the machine.

The company had also failed to remedy the issues following the accident, so the HSE issued an Improvement and Prohibition Notice. The company was given a fine of £466,666 by the court, and ordered to pay costs of £7,475.90 plus a victim surcharge of £170.

A director of the company, Paul Carney, was found to be in breach of section 37 of the Health and Safety at Work etc Act 1974, and was fined £10,800, ordered to pay costs of £43,241, and a victim surcharge of £170.

[Back to contents>](#)

Employer fined after worker loses four fingers

A welder, working at a concrete plant operated by Hanson Quarry Products Europe Limited, lost four of his fingers after a heavy metal gate fell on his hand.

The gate was being lifted by a forklift truck. The gate was secured using an O-ring and chain. However, as the gate was being turned, the O-ring slipped off causing the gate to fall to the ground.

The HSE conducted investigations and concluded that Hanson Quarry had failed to supervise the lifting operation and, consequently, it was not carried out in a safe manner. An experienced and trained manager should have planned a safe lifting operation. The company was charged with breaching Regulation 8(1) of the Lifting Operations and Lifting Equipment Regulations 1998.

Hanson Quarry pleaded guilty to the offence and was fined £400,000 plus costs of £11,376.25.

[Back to contents>](#)

Double sentencing for two West Midlands Companies after workers exposed to risk of falling from height

Kingswinford Engineering Co Limited and James Durrans & Sons Limited have both been fined after workers were exposed to a significant risk of falling from height.

Kingswinford Engineering's workers were repairing pipework on the roof of a building owned by James Durrans & Sons. The conditions on the roof were poor. Workers had to access the roof from a man cage, but there was a gap between the man cage and the roof, which they were forced to climb across.

There were no barriers on the roof to protect the workers from falling. Furthermore, the risk from falling was higher due to the roof being slippery and wet.

The HSE found that neither company had an adequate safe system of work or had prepared a risk assessment of the operation. The access to the roof was poorly managed and there were no satisfactory plans in place. This highlights the risk of reliance on another company's health and safety practices.

Kingswinford Engineering was found in breach of section 2(1) of the Health and Safety at Work etc Act 1974 and was fined £18,000 and also ordered to pay costs of £9,000.

James Durrans & Sons was found in breach of section 3(1) of the Health and Safety at Work etc Act 1974 and was fined £100,000 and ordered to pay costs of £20,000.

[Back to contents>](#)

Environmental

BP Exploration fined £274,000 in emissions trading penalty and £400,000 for separate oil pipeline leak

The Offshore Petroleum Regulator for Environment and Decommissioning issued a civil penalty of £274,000 on BP Exploration for failing to account for all of its CO₂ emissions in a North Sea operation.

The ship in question, which is owned by BP Exploration, but operated by Golar Nor (UK) Ltd, served the deepwater Foinaven oil field.

The penalty was issued under regulation 41 of The Greenhouse Gas Emissions Trading Scheme Regulations 2012 (ETS), after it was revealed that 25,537 tonnes of CO₂ emissions were not documented over 2015 and 2016. This is the third biggest ETS penalty since 2016

It was found that the incorrect figures were not a deliberate act, but rather the result of errors by BP Exploration in calculating fuel gas composition. BP otherwise had a strong compliance record, and indeed had quickly drawn the regulator's attention to the error when it was discovered. Nevertheless, the penalty imposed was high due to the seriousness of the error.

BP Exploration has now implemented procedural changes to ensure the error does not occur again.

A second prosecution of BP Exploration was brought following an incident on 13 December 2012 at the Sullom Voe Oil Terminal in the Shetland Islands when a valve was incorrectly left open allowing the leak of unstabilised crude oil under high pressure across the Ninian pipeline. It took around 30-40 minutes for the worker to realise there was a loss of containment along the 175km pipeline, by which time around four tonnes of oil had spilled onto the ground. Whilst the frozen conditions at the time assisted in the clean-up operation, the leak exposed the worker to risks of toxic and highly inflammable oil and gas in what was a remote and poorly lit part of the terminal.

BP Exploration pleaded guilty to breaching Regulation 4 of the Control of Major Accident Hazards Regulations 1999 (general duty of operators to take all measures necessary to prevent major accidents and limit their consequences to persons and the environment). At Lerwick Sheriff Court, when imposing the fine, the sentencing judge had regard to the English and Welsh sentencing guidelines for environmental offences.

[Back to contents](#)>

Thames Water fined £607,000

Thames Water discharged 30 million litres of sewage from the Maidenhead sewage works. This polluted the Maidenhead Ditch and the River Cut, causing hundreds of fish to die. The discharge also risked the contamination of drinking water supplies.

Discharge of sewage is permitted in exceptional circumstances, such as during heavy rainfall or snow melt, but none of these exceptions applied in this case. Thames Water did not meet the conditions of their permits at the time of the incident.

The Environment Agency found that the water contained high levels of bacteria and high biochemical oxygen demand. Thames Water should have observed and acted upon the warnings and alerts which led up to the avoidable pollution. The EA's investigation also found that untreated sewage had been discharged in the past on several occasions.

Thames Water was charged with breaching regulation 38(2) of the Environmental Permitting (England & Wales) Regulations 2010 in relation to its environmental permit breaches. The company entered a guilty plea, and was ordered to pay a fine of £607,000 and costs of £100,000.

[Back to contents>](#)

Bradford Directors convicted following sham waste operation

This prosecution of two individuals followed the illegal dumping of over 275 tonnes of waste at a site in Duncombe Road, in Bradford between January-March 2017.

Tejpal Sagoo, director of Robin Hood Group Ltd, was sentenced to six months imprisonment, suspended for two years, and instructed to carry out 250 hours of community service. He was also ordered to pay £2,400 in Prosecution costs and served with a Regulation 44 Notice under the Environmental Permitting Regulations 2016 which requires him to remove the offending waste within 6 months or face a contempt of court hearing. Meanwhile, his uncle, Jarnail Bassan, director of now dissolved LHC Asset Management Ltd, was fined £2,400 for his role in the operation.

The directors maintained that they intended to ship the waste abroad to burn as fuel, but it had remained on site over two years later. The Environment Agency confirmed that "LHC Asset Management Ltd had helped to source the waste and leased the site, but Robin Hood Group Ltd had been in control of the operation."

Sagoo was considered to be the main force behind the sham waste operation, with Judge Batty concurring with the Prosecution's description of him as a "waste cowboy".

Paul Glasby, the Environment Agency's investigating officer said: "This was a clear case of a rogue operator trying to circumnavigate environmental law for their own financial gain."

[Back to contents>](#)

Round-up

HSE has released guidance for “working safely with display screen equipment”

HSE has produced guidance on the Health and Safety (Display Screen Equipment) Regulations, and what employers must do to protect their workers.

“Display Screen Equipment” includes laptops, tablets and smartphones.

Some of the obligations imposed on employers include free eye tests, provision of training and information, conducting a workstation assessment, and ensuring workers have regular breaks.

The guidance can be found [here](#).

[Back to contents>](#)

Local healthy workplace accreditation guidance has been released

The Government has released guidance providing practical tips to local authorities and their partners planning or setting up Local Workplace Health Accreditation Schemes.

The purpose of such Schemes is to promote and improve occupational health, Human Resources, health and safety, and workforce wellbeing within an integrated workplace programme.

Stages of the scheme include the implementation of plans to improve health within the workplace, and an assessment of those plans.

The guidance can be found [here](#).

[Back to contents>](#)

HSE release annual workplace fatality figures

HSE annual figures for workplace fatality for 2018/19 were released in July. They show that 147 workers were fatally injured between April 2018 and March 2019. This is an increase of six fatalities from 2017/18.

The three most common causes of fatal injuries were workers falling from height (40), being struck by a moving vehicle (30), and being struck by a moving object (16). These accounted for almost 60% of the overall figure.

The sectors accounting for the largest share of worker fatalities are agriculture, forestry and fishing and construction.

The figures can be found [here](#).

[Back to contents>](#)

About RPC

RPC is a modern, progressive and commercially focused City law firm. We have 79 partners and over 600 employees based in London, Hong Kong, Singapore and Bristol. We put our clients and our people at the heart of what we do.

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- Shortlisted – Insurance Team of the Year – Legal Business Awards 2018
- Winner – Best Employer – Bristol Pride Gala Awards 2018
- Winner – Client Service Innovation Award – The Lawyer Awards 2017
- Shortlisted – Corporate Team of the Year – The Lawyer Awards 2017
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