



August 2011

Employee Prohibition Notice

The Health and Safety Executive recently visited a company which resulted in a company employee being issued with a Prohibition Notice.

What are the Health and Safety Rules for Employees?

The Prohibition Notice was issued to the employee and was not issued against the company as it was deemed the employee was in breach of The Health and Safety at Work Act 1974 Section 7.

Section 7 imposes two duties on all employees:

- To take reasonable care for the health and safety of him/herself and of others who may be affected by his/her acts or omissions at work;
- As regards any duty or requirement imposed on his/her employer or other person by or under any relevant statutory provisions, to co-operate with him/her insofar as is necessary to enable that duty or requirement to be conformed or complied with.

The employee was using a cut-off saw to remove some tarmac, allowing kerbs to be laid. He was not wearing any breathing protection or using the water bottle to suppress any dust.

The HSE Inspector asked to see the employee's training records and the dust masks that his company had supplied. The employee had a CSCS card and the relevant NVQ qualifications, and therefore, was

deemed suitably competent and should have known which PPE was required when carrying out the task.

What is a competent person?

When an individual is deemed competent, this is a mix of training, experience and any necessary qualifications, the HSE believe that they should know what PPE is required for a task, if the PPE is not available then they should not carry out the task but if it is available they should use it correctly. Failure to do so will be seen as a breach of health and safety legislation by the individual and not the employer and therefore it is the individual who will face prosecution.

What are the consequences of non compliance?

You should be aware that an enforcement officer from the Health and Safety Executive may visit your workplace, with or without notice, to determine if you are complying with the regulations and has the power to issue improvement or prohibition notices.

It is usual for officers to take enforcement action where they find serious risks to people's health and safety.

Prohibition

Where an activity involves, or will involve, a risk of serious personal injury, the inspector may serve a Prohibition Notice to stop that activity until action is taken to prevent people being harmed. The Notice can take immediate effect or may, in certain circumstances require the activity to stop within a number of days. Where possible, this will be discussed with the business operator. The notice will explain why the action is necessary and details about how to appeal to an industrial tribunal will be given.

Details of all Prohibition Notices are shown on the HSE Public Register of Enforcement Notices which can be openly seen via the HSE Website.

Failure to comply with an Improvement or Prohibition Notice or a Court Order, taken in a Magistrates' Court, can result in a fine of up to £20,000, or six months imprisonment, or both. Cases taken to the Crown Court can lead to unlimited fines and in some cases imprisonment.

A Prohibition Notice lasts for 5 years and as the name implies prohibits an action, if the same individual is seen by the HSE carrying out a task that requires breathing apparatus but is not wearing any then they will be deemed to be in breach of the Prohibition Notice and they may be prosecuted in court.

All risk assessments and the control measures identified must be followed. Activities should not be started until the control measures and PPE identified are in place and being worn, and all engineers are reminded that if specific PPE is identified, it must be provided.

For further advice and assistance...

If you would like a quote on health and safety awareness training for your employees, contact us today on 028 9042 3222 or email enquiries@quadraconsulting.com.

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