

Environmental update : What's new ?

APIL SIG Meeting 16/3/2009 : Buckerell Lodge Hotel Exeter

1.) The Environmental Damage (Prevention and Remediation) Regulations 2009

The Environment Agency became England's enforcement agency for the purposes of the regulations in March 2010. It is worth considering whether, had the regs been in place Corby could have been prevented. [see s.29 request below]:-

Requests for action by interested parties

29.—(1) Any person—

- (a) who is affected or likely to be affected by environmental damage, or
- (b) who otherwise has a sufficient interest,

may notify the appropriate enforcing authority of any environmental damage which is being, or has been caused or of which there is an imminent threat.

(2) A notification must be accompanied by—

- (a) a statement explaining the way the notifier will be affected by the damage, or the reason that the notifier has a sufficient interest; and
- (b) sufficient information to enable the enforcing authority to identify the location and nature of the incident.

(3) The enforcing authority must consider the notification and inform the notifier as to the action, if any, that it intends to take

2.)Karewicz v Sienkiewicz v Greif UK Ltd 2009

Cl. Was office worker exposed to asbestos dust in the Defendants factory premises. Exposure only 18% higher than environmental risk in the Claimants environmental exposure .

Held : It didn't matter. Claimant under Compensation Act s.3 only had to show that torious exposure materially increased risk of mesothelioma and therefore succeeded .

3.)HSE Guidance on Asbestos "The Survey Guide" Feb 2010

Introduces new terminology , guidelines , role of surver , and handy appendix with guide as to what asbestos containing materials can look like and where to find them .

4.)Government propose Insurer database for Employers liability

Consultation document suggests two main proposals:

- a.)Setting up an Employer's Liability Tracing Office (ELTO) to manage an electronic database of Employers Liability Insurance policies and operate it .
- b.) Set up the Employer's Liability Insurance Bureau – a fund of last resort if no insurer can be found. The devil will be in the detail though as the consultation document asks people to submit their comments on what types of diseases should be covered, what the time limits for bringing a claim should be and what the levels of compensation should be.

Consultation finishes on 5/5/2010

5.) Gas Safe Register

Since April 2009 this has been the new name and the official mark for gas safety in Great Britain, this is replacing the current CORGI gas registration scheme. From the 31 March 2009 CORGI are no longer recognised as a valid gas fitters competent persons scheme. It is illegal for any person to carry out works to gas services and appliances other than a person registered on the Gas Safe Register.

6.)Pride and Partners (a firm) v Institute for Animal Health[2009] EWHC 685

This judgment, upholding the defendants' applications for summary judgment and/or strike-out of claims arising from the outbreak of foot and mouth disease in 2007, clarifies the limits on liability for consequential loss and damage caused by government measures taken in response to an environmental disaster, whether claims are brought in negligence, nuisance or under the rule in Rylands v. Fletcher.