

Work Equipment Regulations

Your right to safe and properly maintained plant and machinery

Overview

It has been a long-standing legal responsibility for employers to ensure that the plant and machinery you must use as part of your work is fit for its purpose at all times. This fact is underlined in law through the 1992 and updated 1998 Provision and Use of Work Equipment Regulations (PUWER).

Legally speaking, what is 'work equipment?'

Regulation 2 defines work equipment as “any machinery, appliance, apparatus, tool or installation for use at work”.

“Use” of work equipment is defined as “any activity involving work equipment”. It includes “starting, stopping, programming, setting, transporting, repairing, modifying, maintaining, servicing and cleaning”.

This means, for example, both a ship and a piece of soap are defined as ‘work equipment’.



However, the case of *Couzens v McGee & Co Ltd* makes it clear that, where an employer does not know about the use of a particular piece of equipment, or could not reasonably have known, a claim in respect of that use will fail. In this case, a piece of angle iron, used as a scraper of dirt and debris by lorry drivers and kept in the pocket of the drivers door, caused injury when it became lodged in the driver's trouser leg, causing his foot to remain on the accelerator pedal. The Court of Appeal confirmed that the angle iron did not form ‘work equipment’ because the employer had not permitted its use, and would have prevented such use had there been awareness of it, because of its potential danger.

Therefore, providing an employer gives express, implied or deemed permission for the use of work equipment, the claimant's case should succeed on that point, where it failed in *Couzens*.

Responsibilities of employers

The employer's primary responsibility is to ensure that work equipment is suitable. This means it should suit both the operations it has to perform and the conditions they take place in. The Courts take a firm view of suitability. An important example of this is the case of *Skinner v Scottish Ambulance Service*, where the claimant was injured at work by a needle stick puncturing his skin.



Employers are under a strict duty to maintain equipment in an efficient state, in efficient working order and in good repair



The maintenance of work equipment

Employers are under a strict duty to maintain equipment “in an efficient state, in efficient working order and in good repair”. In the case of *Stark v The Post Office*, the Court of Appeal sided with the claimant, who was a postman provided with a bicycle to perform his duties by the Post Office. The bicycle's front wheel had suddenly locked, causing the postman a significant injury. The problem was found to be a part of the front brake mechanism, which had broken. This may have been caused by a manufacturing fault or metal fatigue and not discoverable during a routine inspection. But nonetheless, the Courts decided that the Post Office was liable for failing to maintain equipment in “an efficient state”.

This judgement is noteworthy, as it indicates that just because a piece of machinery can still be used, does not mean that it is maintained in an efficient state. Taking several other cases into consideration, the general position is as follows:

- Under Regulation 5(1) PUWER, employers have a strict responsibility for inefficient machinery
- The word “efficient” refers to health and safety rather than productivity
- Any defect in a machine that may cause injury makes the machine inefficient, and
- Foreseeability of injury is irrelevant.

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Training is key

The Courts have stressed the importance of the need to train employees in the safe use of work equipment. Regulation 8(1) states “every employer shall ensure that all persons who use work equipment have available to them adequate health and safety information and, where appropriate, written instructions pertaining to the use of the work equipment. This information is to be directed to people using the work equipment”.

This means that the employer has to make a proper assessment of the employee and the work equipment. It is not good enough for the employer to take the word of the employee at face value as to his/her experience. The duty to train is also ongoing. So if there are changes in the risks arising from changes in work, technology or equipment, there must be further training for employees.

If you think you have a claim under PUWER

As with most legal claims for compensation, step one is to seek legal advice. Make sure that you talk to a lawyer with specialist experience and expertise in these kinds of cases.



Please feel free to discuss your own position and concerns.
Contact your nearest office on:

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