

Claiming for Injuries Caused by Manual Handling Accidents

Overview

In some work sectors, almost half of all accidents involve manual handling tasks. Many of these accidents could be avoided if employers fulfilled their legal obligations and had the right precautions in place. This factsheet details the issues involved in making a claim for manual handling injuries.

What is a “manual handling operation”?

Since 1 January 1993, the Manual Handling Operations Regulations 1992 have given workers greater protection. They define a manual handling operation (MHO) as; “any transporting, supporting of a load (including the lifting, putting down, pushing, pulling, carrying or moving thereof) by hand or by bodily force”. Recent cases on which many judgments have been given, include a worker tripping on a piece of wood on the back of a lorry whilst moving fencing, a midwife suffering injury through lifting a patient and a refuse collector slipping whilst in the process of moving a wheelie bin.

The regulations do not specify any weight limits, unlike the old rules which said it was reasonable to expect an adult man to be able to move 145lbs (approximately 66kgs).

Employers duties

Employers have a primary responsibility to avoid MHO's where there is a risk of injury. So firstly we have to assess whether it is necessary to carry out the MHO at all. If it is impractical to avoid the MHO, they should carry out a risk assessment of the task and movement of the load.

Risk assessment

If the manual movement of the load cannot be avoided, the employer is legally obliged to carry out a “suitable and sufficient risk assessment”. This involves looking at a whole variety of factors including:

- The weight, size, shape and so on of the load
- The employees size, age, health and fitness
- The posture that should be used to move the load
- Where the load has to be moved from and to
- The environmental factors such as lighting, heating, etc.

The employer has to consider all of the circumstances surrounding the task and do a thorough and competent risk assessment. For example, one of the obligations on the employer is to ensure that the employee knows the weight of the item he/she has to move.

Unfortunately, just because there is not a risk assessment does not mean the employer is automatically liable. The Courts have given inconsistent guidance on the importance of the risk assessment. However, since 2003, if an employer does not carry out a risk assessment, it may help to prove their negligence.



The Health and Safety Regulations 2002

These Regulations amended the MHO Regulations 1992. They give the employers an additional duty to consider all the factors affecting an MHO when working out how it should be performed.

These include:

- The employees size, physical build and so on
- The clothes and footwear they are wearing to do the task
- Their knowledge and training in manual handling
- Whether they have been identified as being especially at risk
- Health surveillance information.

Once they have considered all this, the employer needs to work out the best way to carry out the task. This might mean getting other workers to assist or ensuring items are stored so that employees don't have to bend down or stretch up to reach them. Even just giving employees simple information, like the weight of the load, can help prevent accidents.

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Important cases

The Court of Appeal has given guidance in a number of recent decisions. These are a few examples:

Hawkes v London Borough of Southwark.

The Court found that the employer should have provided more than one man to move a door up a set of stairs in a block of council flats.

Swain v Denso Marston.

The Court found in favour of a foreman who had his finger crushed when a roller trapped his finger while it was being taken apart. He should have been provided with information about the roller and how it was constructed so that he could avoid getting his finger trapped.

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Koonjul v Thames Link Health Care NHS Trust.

A care worker in a children's home injured her back while pulling out a bed to make it. There was no risk assessment but the Court held that “there had to be an element of realism in relation to the need for a risk assessment. This was an everyday routine task, namely making a bed and a risk assessment was not necessary”.

Alsop v Sheffield City Council.

A refuse collector slipped while pulling a wheelie bin up a concrete ramp to the pavement. A risk assessment was again held to be “unnecessary because if a risk assessment had taken place it would have done no more than to inform the operatives to use their common sense when moving wheelie bins from one place to another”.

Wells v West Hertfordshire County Council.

A delivery suite nurse who had a pre-existing back problem was not risk assessed. The Court decided this was wrong, because if her employers had risk assessed her, they would have realised that she had a susceptible back.

Consequently, they would have known not to make her work in the delivery suite, where the work exacerbated her condition.

Recent successes

Russell Jones & Walker has acted in a number of successful manual handling cases, for example:

1. An ambulance worker who complained there was no hydraulic lift in her ambulance when they had been fitted to other ambulances in the country
2. A care worker who obtained compensation when a colleague failed to help her transfer patients to a nursing home
3. A steel worker who developed a hernia from lifting an excessive weight
4. A social worker who succeeded in establishing the principle that a County Council had a duty to provide proper training and instruction on lifting.

Talk to us about making a claim

Injuries caused by the negligent movement of a load can be at best an inconvenience. More seriously, they can lead to long-term serious problems affecting every aspect of daily life. In either event you should get expert advice on whether you might be entitled to compensation.

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

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E: enquiries@slatergordon.co.uk
W: www.slatergordon.co.uk

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