

Silicosis, The Forgotten Killer?

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RELEVANCE

MP's from the All Party Parliamentary Group for respiratory health have recently called for more measures to protect workers at risk from developing silicosis. The Group first launched the enquiry in 2019 to help ministers gain a better understanding of silicosis. It is estimated that 60,000 construction workers are at risk of developing silicosis from breathing in dust from cut stone. As well as construction workers, kitchen fitters installing granite worktops could also be at risk as a high silica content can be found in granite.

The government has been urged to prevent 'the next asbestos' from taking lives in the UK.

WHAT IS SILICOSIS?

Silica is a natural substance found in most rocks, sand and clay and in products such as bricks and concrete. Silica is also used as filler in some plastics.

In the workplace these materials create dust when they are cut, sanded and carved. Some of this dust may be fine enough to breathe deeply into the lungs and can cause damage.

Silicosis is a long term disease caused by inhaling large amounts of respirable crystalline silica dust ("RCS"), usually over many years.

Once inside the lungs, the dust particles are attacked by the immune system causing swelling and gradually leading to areas of hardened and scarred lung tissue, which does not function properly.

THE LAW

Employers have a duty under the Control of Substances Hazardous to Health Regulations 2002 to assess the risks to employees health, consider where practicable substituting a material with a lower respirable crystalline silica content, prevent or control exposures to respirable crystalline silica by following good occupational hygiene practice to achieve adequate control of exposure, provide PPE where necessary and instruct and train employees how to use equipment properly and inform employees about health risks.

As with any other work place hazard, if employers fail to take appropriate action to protect their employees against exposure to silica then the HSE could investigate and take the appropriate action. Should an employee go on to develop silicosis, then this may lead to a claim for damages being brought against the employer. Awards for damages can vary, but are often substantial owing to the risk of lung cancer and further respiratory complications that employees can develop.

SYMPTOMS

Long term exposure to silica resulting in a diagnosis of silicosis can lead to symptoms such as shortness of breath, coughing and weakness. There is no cure for silicosis.

ASBESTOS

We are all aware of the dangers posed by asbestos.

MP's are considering halving the current legal workplace exposure limit and if this is accepted by parliament, employers will need to carry out a complete review of current risk assessments and perhaps working practices. It is likely that interest in this subject will develop further traction whilst the class actions in Australia gain further momentum.

The report encourages dialogue between government, the health and construction sector in particular. It is important that an appropriate risk assessment is carried out for any tasks and roles involving the use of silica materials. For those working with silica, health surveillance should be carried out and those employees must be trained in the risk of working with silica and provided with PPE where appropriate.

Those who are familiar with historic asbestos regulations will be aware that exposure limits were steadily reduced until a complete ban on the use of asbestos was introduced in 1999. Only time will tell whether the use of silica containing materials

will follow the same pattern.

Figures on the HSE website suggest that 8 people died from silicosis in 2018, although this figure is considered to be underestimated with estimates of annual lung cancer cases due to past exposures to silica at nearly 800 deaths a year.

We have an outstanding breadth and depth of experience acting for a range of organisations in the construction sector, including the defence of silicosis claims and criminal charges brought by the HSE.

Our experienced industrial disease lawyers spend much of their working days handling these types of claims. We ensure that “lessons learned” and remedial measures are effectively shared via our Core Knowledge Group, providing a seamless solution to prevent recurrence of risk situations. Our approach to managing future risk recurrence not only minimises claims and indemnity spend but also limits staff time in dealing with the fallout from such issues impacting on productivity and profitability.

Our specialist safety, health and environmental lawyers are renowned for their ability to provide immediate reactive advice in the aftermath of a major construction site incident as well as pro-active and strategic advice to help organisations avoid any future incidents, we also offer market-leading training to the construction sector on mock trials and strategic days discussing the impact of breaching regulations and employees being exposed to hazardous substances.

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