

Use of green cones and other non-prescribed devices at road works.

SafetyAlert

Februray 2015

Work activity description:

I hope you are all aware of the HA Health and Safety toolkit entries relating to use of coloured cones for identification of overhead obstructions, works accesses and no stopping zones within road works sites. The advice in these toolkit entries was developed from industry-generated good practice of using cones of different colours (green, yellow and blue) as an economical and effective method to warn of specific hazards within a work site.

The H&S toolkit entries were intended to address inconsistency in application of coloured cones by standardising colours and so promoting consistent practice. The legality of this was challenged through DfT because the Traffic Signs Regulations and General Directions (TSRGD), which prescribe how traffic signs should appear, clearly show that traffic cones can only be red and so use of cones of other colours was argued to be unlawful. However as the H&S toolkit was clear that these cones could only be used inside the road works site, our Supply Chain did not consider this to be the case.

As a result, the HA needed to establish whether suggesting their use in this way was lawful or whether the use of these cones or other non-prescribed signs within road work sites was unlawful. Discussions with DfT traffic signs specialists led to us seeking legal advice from the DfT's lawyers over the status of road works and the need for all signs within a road works site to be prescribed in TSRGD or specifically authorised.

Investigation/findings:

The legal advice we have been given by DfT's lawyers is that a road works site is a construction site (as defined under the CDM Regulations) and that provided the road works are being carried out lawfully, either on behalf of the highway authority or under a TRO, the requirement for all signs to be prescribed or authorised does not apply to signs placed for safety purposes within the road works site.

Signs placed for safety purposes within the road works site are governed by the Safety Signs Regulations. These regulations say that when warning of a risk associated with moving vehicles on a work site, if there is an appropriate TSRGD sign that can be used to warn of the risk, this sign must be used. However, if there is no suitable sign, DfT's legal advice is that use of non-prescribed devices such as green, blue or yellow cones is lawful, provided they are used in accordance with the Safety Signs Regulations.

Further Information:

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Actions:

- What this means in practice is that if there is an appropriate TSRGD sign that can be used to warn of a risk relating to the presence or movement of traffic (including pedestrians) within a work site, then that appropriate TSRGD sign must be used. If there is no suitable sign, or indeed if a residual risk remains after use of the suitable sign, then a non-prescribed device such as a green cone may be used to reduce that risk.
- Irrespective of whether the safety sign is an appropriate TSRGD sign or a non-prescribed device, it must be placed completely inside the road works site. It should never be put in a place where it could confuse road users or contradict a TSRGD sign placed to convey a message to traffic on the carriageway.
- In practice this means safety signs must always be placed completely inside the work site (i.e. inside the line of cones/barriers that define the outer boundary of the work site), should be kept separate from signs placed to convey messages to traffic on the carriageway and ideally should not be legible from the closest lane on the carriageway.
- The DfT legal advice, safety signing principles and suggested safety signing arrangements for works accesses, overhead structures and no stopping zones have been summarised in an updated H&S Toolkit entry number 0371. This replaces the previous Toolkit documents related to use of coloured cones, which have been withdrawn.
- I would therefore request that you read and where appropriate adopt the principles given in toolkit example 0371 regarding suggested safety signing arrangements, in order that we can all ensure consistency in approach across road works sites and so promote road worker and road user safety.

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