

## **Tougher sentences for breaches of health and safety law**

In January 2009, new legislation will come into force which will permit courts to impose tougher sentences on those convicted of breaching health and safety legislation. The new Health and Safety (Offences) Act 2008 received Royal Assent on 16 October 2008.

In 1999, the Court of Appeal stated, "Disquiet has been expressed in some quarters that the level of fine for health and safety offences is too low." It went on to say, "The objective of prosecutions in health and safety offences in the work place is to achieve a safe environment for those who work there and for other members of the public who may be affected. A fine needs to be large enough to bring that message home."

Whilst fines imposed in the Crown Court are subject to no limit, as things stand, the maximum fines which may be imposed in the Magistrates' Court are £20,000 for a few types of breach of the Health and Safety at Work etc Act 1974, but otherwise usually £5,000.

From January, however, the Magistrates will be able to impose fines of up to £20,000 in the case of most health and safety offences. Additionally, the courts will have far greater powers to impose prison sentences on particularly blameworthy offenders, which are currently only available in limited circumstances. Finally, the new Act will make some offences, which can currently only be dealt with in the Magistrates' Court, capable of being transferred to the Crown Court for trial or for sentences to be given.

How will the new legislation affect employers? For those who operate safely, it will have no impact at all. However, the price of getting it wrong, whether by omitting to put safe systems of work into place where they are needed, or for failing to ensure that safe working procedures are adhered to by those on the ground doing the work, is likely to get higher.

The new Act is unlikely in itself to result in an increased number of prosecutions being brought by either the Health & Safety Executive or by local authorities. However, given that insurers will not pay fines imposed for breaches of our health and safety laws, a prudent employer will perhaps take this opportunity to review its systems to ensure that the risks to which it exposes its workers and others are minimised or eliminated.

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