

Health and Safety Offences Act 2008

Briefing from the Institute of Occupational safety and Health (iosh)

Headlines

- New law means bigger fines for health and safety crimes
- Prison an option for more health and safety offenders
- Health and safety penalties now comparable to environment and food law

What is it?

The Health and Safety Offences Act increases penalties and gives the courts greater sentencing powers for organisations that break health and safety law. Its aim is to provide more of a deterrent to rogue organisations gambling with the health and safety of their employees and others.

The Act was introduced as a Private Member's Bill. It was progressed through the House of Commons by Keith Hill MP, and the House of Lords by Lord Bruce Grocott.

When is it law?

The Act will come into force on 16 January 2009. It covers Great Britain and Northern Ireland.

Why has it been introduced?

For a number of years, courts have expressed their frustration over not being able to hand down tougher sentences for health and safety offences. At the same time, a broad consensus has developed among stakeholders, including IOSH, that more serious sentences are needed.

The higher penalties under the new Act were first recommended following a 1999 review by the Home Office, Department of the Environment, Transport and the Regions, and Health and Safety Executive. In 2000, in its Revitalising Health and Safety strategy, the government pledged to seek an early parliamentary opportunity to give courts greater sentencing powers for health and safety crimes. In the consultation leading up to the publication of the strategy, the

question of penalties generated the most responses – the overwhelming message was that penalties were inadequate.

In 2005/06, the average penalty per conviction was just under £10,000. If untypical large fines (more than £100,000) are taken out, the average fine was just under £5,000. Provisional figures for 2006/2007 are around £15,000 for the average penalty per conviction and just under £9,000 if fines of over £100,000 are excluded.

What difference will it make?

The Act amends section 33 of the Health and Safety at Work Act 1974, and raises the maximum penalties available to the courts for certain health and safety offences.

The Act:

- increases the maximum fine for the lower courts from £5,000 to £20,000 for most health and safety offences
- introduces unlimited fines for higher courts
- makes imprisonment an option for more offences in the lower and higher courts
- makes certain offences that can currently be tried only in the lower courts triable in either the lower or higher courts. This opens up the potential for larger penalties

The new Act brings the fines under health and safety law closer into line with those under comparable legislation – for example, environmental and food safety laws.