

To all consultees



30 June 2000

## **THE HEALTH AND SAFETY COMMISSION'S REVISED ENFORCEMENT POLICY STATEMENT - PUBLIC CONSULTATION**

The Health and Safety at Work etc Act 1974 requires employers and others to safeguard the health and safety of people who may be affected by work activity. The price of failing to comply with health and safety law may be serious injury or chronic ill-health; for 258 employees and self-employed people and 366 members of the public in 1998/99, the price was death. Enforcement has an essential part to play in bringing home to all concerned that this toll of pain and suffering, and the economic waste it involves, is completely unacceptable.

The Health and Safety Commission published its current Enforcement Policy Statement in 1995. All health and safety enforcing authorities are required to take decisions on enforcement action in particular cases in accordance with this Policy Statement. Five years on the Commission has reviewed and revised its Statement. The Commission plans to publish a new Statement in the autumn. The Commission first wishes to invite comments on its draft Statement from anyone with an interest in the conduct of health and safety enforcement. Following this public consultation the Commission intends to consult Ministers. If you or your organisation would like to comment on the attached draft revised Statement, please respond to the address given at the end of this letter, by 6 October 2000.

The current Statement, published in 1995, sets out key principles which the Commission believes should underpin the decisions of the health and safety enforcing authorities, in particular the need for enforcement action to be proportionate to and targeted on risk, and the need for consistency and transparency. The Statement also set out in broad terms when the health and safety enforcing authorities are expected to consider prosecution.

The Commission was the first central government body concerned with enforcement to sign up to the Government's Enforcement Concordat. The Commission's Policy Statement is in line with the Concordat, as are the enforcement procedures which the Commission has published and expects enforcing authorities to follow.

In its revised Statement the Commission aims to reflect the experience of the enforcing authorities in working under the current policy, and the Commission's concerns that health and safety enforcement should be firm and fair, and effective in helping to prevent accidents and ill-health. It is especially important that everyone who has duties under health and safety legislation knows how the enforcing authorities will respond if anyone is tempted to disregard their duties under health and safety legislation.

The revised document sets out:

- w the purpose of enforcement in more detail (Policy statement, paragraph 1);
- w the relationship between decisions on investigation and enforcement and the Commission's Strategic Plans (Introduction, paragraph 3; and Policy statement paragraphs 3, 21, and 22);
- w the full range of enforcement options available to the enforcing authorities, including the use of written warnings and formal cautions (Policy statement, paragraph 2);
- w how the enforcing authorities are ultimately accountable to government, citizens and Parliament (Policy statement, paragraphs 19 and 20);
- w the way in which the enforcement principles set out in the Statement apply to enforcers' decisions on when to investigate (Policy statement, paragraphs 21 to 24). Work is in hand to refine the factors taken into account in deciding when to investigate. Possible criteria emerging from this work for investigating reports under RIDDOR are appended to this letter. Views from this consultation will be considered as part of the ongoing work;
- w circumstances in which, following investigation or other regulatory contact, enforcing authorities will normally prosecute and those in which prosecution will be considered (Policy Statement, paragraphs 28 and 29);

The Commission invites comments on its revised Statement in general, and in particular comments on the specific aspects mentioned above.

Please send any comments to:

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A copy of the Commission's current Enforcement Policy Statement may be obtained free from HSE Books, or from the HSE home page on the World Wide Web, details of which are given at the end of the attached draft leaflet.

The Commission tries to make its consultation procedure as open as possible. Responses to this letter will be lodged in the Health and Safety Executive's Information Centres after the close of the consultation period where they can be inspected by members of the public or be copied to them on payment of the appropriate fee to cover costs. Responses to this letter are invited on the basis that anyone submitting them agrees to their being dealt with in this way. Responses, or parts of them, will be withheld from the Information Centres only at the express request of the person making them. In such cases, a note will be put in the index to responses identifying those who have commented and have asked that their views, or part of them, be treated as confidential.

If you have any questions about this letter, or the draft revised Enforcement Policy Statement, please address them in the first instance to Peter Johnson at the above address.

**Rosemary Banner**

**Commission Secretary**

## **POSSIBLE CRITERIA FOR INVESTIGATING RIDDOR REPORTS**

All reports that meet the following criteria should be selected for investigation, subject to the qualifications in Part C<sup>1</sup>.

### **A      DEFINED CIRCUMSTANCES :**

1. All fatalities arising out of work activities<sup>2</sup>, except those relating to most road traffic incidents<sup>3</sup>.
2. The following major injuries to persons at work, as defined in the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR), irrespective of cause: all amputations of digit(s) past the first joint, amputation of hand/arm or foot/leg, serious multiple fractures, crush injuries leading to major organ damage (eg. ruptured spleen), serious head injuries involving loss of consciousness, full thickness burns and scalds, permanent blinding of one or both eyes, scalping.
3. All incidents which result in a RIDDOR-defined major injury in the following categories: workplace transport incidents, electrical incidents, falls from a height of greater than 2m, confined space incidents.
4. All RIDDOR-defined asphyxiations.
5. All reported cases of disease that meet the criteria for reportability under RIDDOR, except those arising from circumstances/situations which have already been investigated.

### **B      CIRCUMSTANCES REQUIRING JUDGEMENT AS TO SERIOUSNESS :**

6. All incidents likely to give rise to serious public concern<sup>4</sup>, where this is related to the seriousness of the outcome, potential outcome, or breach of health and safety law.

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<sup>1</sup> This procedure does not apply to reports of dangerous gas fittings or to reports of incidents of carbon monoxide poisonings, which are investigated under a separate procedure.

<sup>2</sup> In particular, suicides and deaths from natural causes are excluded.

<sup>3</sup> HSE involvement in work-related road traffic incidents will be restricted to certain specific situations. For example where work vehicles are engaged in specific work activities, other than travelling, on the public highway. This would include activities such as hedge-cutting, refuse collection and vehicle unloading. The role of health and safety enforcing authorities in work-related road safety is currently being reviewed by the Government's Work-related Road Safety Task Group.

<sup>4</sup> That is concern to the public in general, rather than to those individuals immediately involved. Unless there is clear evidence to the contrary, the presumption is that incidents which involve children, vulnerable adults, multiple casualties, **and** where also the outcome, potential outcome, or breach is serious, will be included.

7. Irrespective of the potential for serious public concern, all incidents resulting in RIDDOR-defined major injuries, where it appears from the report that there is likely to have been a serious breach<sup>5</sup> of health and safety law.

8. Dangerous occurrences where it appears from the report that the outcome, potential outcome, or apparent breach of law is serious.

**C The following circumstances may qualify the criteria in Parts A or B:**

1. Inadequate resources due to other priorities (these must now be referred to the Band 1 Head of Operations).

2. Impracticability of investigation eg. unavailability of witnesses or evidence or disproportionate effort would be required.

3. No reasonably practicable precautions available for risk reduction.

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<sup>5</sup> A serious breach of the law is one where it is expected that, in accordance with the Enforcement Management Model (currently undergoing trials), the “national enforcement expectation” would determine an enforcement notice or a prosecution.

# **PROPOSED REVISED LEAFLET**

## **THE HEALTH AND SAFETY COMMISSION**

### **INTRODUCTION**

1 This Enforcement Policy Statement sets out the general principles and approach which the Commission expects the health and safety enforcing authorities (the Health and Safety Executive and local authorities) to follow. This statement has been issued to local authorities as guidance which must be followed. All HSE inspectors work in accordance with it.

2 The Health and Safety Commission's aims are to protect the health, safety and welfare of people at work, and to safeguard others, principally members of the public, who may be exposed to risks from the way that work is carried out. The appropriate use of enforcement powers, including prosecution, is an important means of securing compliance with the law.

3 The Commission's statutory functions include proposing new or updated laws and standards, conducting research, and providing information and advice. The Commission is advised and assisted by the Health and Safety Executive (HSE) which has statutory responsibilities of its own, notably for making adequate arrangements for the enforcement of health and safety law. Local authorities enforce health and safety law in some kinds of workplace - these are mainly distribution, retail, office, leisure and catering premises.

4 In deciding what resources to devote from annual budgets to enforcement, including prosecution, enforcing authorities should have regard to the principles set out below and the objectives published in the Commission's, and the HSE/Local Authority Enforcement Liaison Committee's (HELA), strategic plans.

**THE HEALTH AND SAFETY COMMISSION'S POLICY  
STATEMENT ON ENFORCEMENT**

**The following is the full text of the statement:**

**THE PURPOSE AND METHOD OF ENFORCEMENT**

1 The purpose of enforcement is to:

w prevent accidents and ill health;

w deal immediately with serious risks;

w promote and achieve sustained compliance with the law;

w put flagrant breaches and serious or repeat offenders before the courts; and

w enable the Courts to uphold the law by punishing offenders and deterring others.

Enforcement is distinct from civil claims for compensation and is not undertaken in all circumstances where civil claims may be appropriate, nor to assist such claims.

2 The term “enforcement” has a wide meaning and applies to all dealings between enforcing authorities and those on whom the law places duties (employers, the self employed, employees and others). The enforcing authorities have a range of tools at their disposal in seeking to secure compliance with the law. Many of their dealings are informal - inspectors may offer dutyholders information, advice and support, both face to face and in writing. But where appropriate they may also issue written warnings, serve improvement and prohibition notices, withdraw approvals, vary licence conditions or exemptions, issue formal cautions (England and Wales only), and prosecute

3 Investigation of the circumstances encountered during inspections or following incidents or complaints is essential before any enforcement action can be taken. In deciding what resources to devote to these investigations enforcing authorities should have regard to the principles of enforcement set out below and the objectives published in the Commission and HELA strategic plans.

4 Much of modern health and safety law is goal setting - setting out what must be achieved, but not how it must be done. Advice on how to achieve the goals is often set out in Approved Codes of Practice. These give practical advice on compliance and have a special legal status. If someone is prosecuted for a breach of health and safety law and did not follow the relevant provisions of a Code then the onus is on them to show that they complied with the law in some other way. Advice is also contained in other guidance material describing good practice. Following this guidance is not compulsory but doing so is normally enough to comply with the law. Neither Codes nor guidance material are in terms which necessarily fit every case. In considering whether good practice has been adopted, Inspectors will need to take relevant Codes and guidance into account, using sensible judgement about the extent of the risks and the effort that has been applied to counter them. More is said about these matters below.

5 Sometimes the law is prescriptive - spelling out in detail what must be done. For example, all mines must have more than one exit. Prescriptive law limits the discretion of the duty holder and the enforcer.

## **THE PRINCIPLES OF ENFORCEMENT**

6 **The Commission believes in firm but fair enforcement of health and safety law. This should be informed by the principles of *proportionality* in applying the law and securing compliance; *consistency* of approach, *targeting* of enforcement action, *transparency* about how the regulator operates and what those regulated may expect, and *accountability* for the regulator's actions.**

### *Proportionality*

7 **Proportionality means relating enforcement action to the risks. Those whom the law protects and those on whom it places duties (duty holders) expect that action taken by enforcing authorities to achieve compliance should be proportionate to any risks to health and safety or to the seriousness of any breach.**

8 Some health and safety duties are specific and absolute. Others require action so far as reasonably practicable. Deciding what is reasonably practicable to control risks involves the exercise of judgement. In the final analysis, it is the courts who determine what is reasonably practicable in particular cases.

9 Where duty holders must control risks so far as is reasonably practicable, enforcing authorities considering protective measures taken by duty holders must take account of the degree of risk on the one hand, and on the other the cost, whether in money, time or trouble, involved in the measures necessary to avert the risk. Unless it can be shown that there is gross disproportion between these factors and that the risk is insignificant in relation to the cost, the duty holder must take measures and incur costs to reduce the risk.

10. The authorities will expect relevant good practice to be followed. Where relevant good practice in particular cases is not clearly established, health and safety law effectively requires duty holders to assess the significance of the risks (both their extent and likelihood) to determine what action needs to be taken. Some irreducible risks may be so serious that they cannot be permitted irrespective of the economic consequences. At the other extreme, some risks may be so tiny that spending more to reduce them would not be expected. In general, risk-reducing measures should be weighed against the associated costs and against other risks and the benefits of pursuing the activity giving rise to the risk.

### *Targeting*

11 **Targeting means making sure that contacts are targeted primarily on those whose activities give rise to the most serious risks or where the hazards are least well**

**controlled; and that action is focused on the duty holders who are responsible for the risk and who are best placed to control it - whether employers, manufacturers, suppliers, or others.**

12 The Commission expects enforcing authorities to have systems for prioritising contacts according to the risks posed by a duty holder's operations, and to take account of the hazards and the nature and extent of risks that arise. The duty holder's management competence is important, because a relatively low hazard site poorly managed can entail greater risk to workers or the public than a higher hazard site where proper and adequate risk-control measures are in place. Certain very high hazard sites will receive regular inspections so that enforcing authorities can give public assurance that such potentially serious risks continue to be effectively managed.

13 Persons breaking the law will be held to account. Enforcement action will be directed against duty holders who may be the owner of the premises, or the supplier of the equipment, or the designer or client of the project, rather than the employer of the workers exposed to the risk. Where several duty holders have responsibilities, enforcing authorities should take action against those who can be regarded as primarily in breach.

### *Consistency*

14 **Consistency of approach does not mean uniformity. It means taking a similar approach in similar circumstances to achieve similar ends.**

15 Duty holders managing similar risks expect a consistent approach from enforcing authorities in the advice tendered; the use of enforcement notices, approvals etc.; decisions on whether to prosecute; and in the response to accidents.

16 The Commission recognises that in practice consistency is not a simple matter. HSE Inspectors and local authority enforcing officers are faced with many variables: the severity of hazard, the attitude and competence of management, the duty holder's accident history. Decisions on enforcement action are discretionary, involving judgement by the enforcer. All

enforcing authorities should have arrangements in place to promote consistency in the exercise of discretion, including effective arrangements for liaison with other enforcing authorities.

### *Transparency*

**17 Transparency means helping duty holders to understand what is expected of them and what they should expect from the enforcing authorities. It also means making clear to duty holders not only what they have to do but, where this is relevant, what they don't. That means distinguishing between statutory requirements and advice or guidance about what is desirable but not compulsory.**

18 This statement sets out the general policy framework within which enforcing authorities should operate. Duty holders need to know what to expect when an inspector calls. and what rights of complaint are open to them. HSE's approach is set out in three publications, *What to expect when a health and safety inspector calls*, *HSE Working with Employers*, and *HSE and You*, produced in response to the Citizen's Charter, and reflecting the principles of the Government's Enforcement *Concordat*. All enforcing authority inspectors are required to issue *What to expect when a health and safety inspector calls* whenever they visit. These publications explain what employers and employees and their representatives can expect when a health and safety inspector calls at a workplace. In particular:

- w in the case of informal enforcement action, inspectors will tell the duty holder what to do to comply with the law, explain why, and, if asked, distinguish legal requirements from best practice advice. Inspectors will, if asked, confirm any advice in writing;
  
- w in the case of improvement notices the inspector will discuss the notice and, if possible, resolve points of difference before serving it. The notice will say what needs to be done, why, and by when;
  
- w in the case of a prohibition notice the notice will explain why the prohibition is necessary.

Local authorities have their own complaints procedures details of which are available from individual authorities.

### *Accountability*

**19 Regulators are accountable to government, citizens and Parliament for their actions. This means that enforcing authorities must have policies and standards (such as the four enforcement principles above) against which they can be judged, and an effective and easily accessible mechanism for dealing with comments and handling complaints.**

20 The health and safety enforcing authorities' procedures for dealing with comments and handling complaints are set out in the publications referred to in paragraph 18 above. In particular, they:

- w describe a complaints procedure in the case of administrative decisions or if procedures have not been followed; and
- explain about the right of appeal to an Employment Tribunal in the case of statutory notices.

### **INVESTIGATION**

21 As with prosecution, the Commission expects enforcing authorities to use discretion in deciding whether incidents, complaints or cases of ill health should be investigated. Indicative targets related to levels of investigation by the Health and Safety Executive are normally specified in the Commission's Strategic Plan, which is approved by the Government.

22 Investigations are undertaken in order to learn lessons and influence the law and guidance, to prevent them happening again, and to put gross breaches before the courts. In accordance with maintaining a proportionate response, most resources available for investigation of incidents will be devoted to the more serious events. The Commission's

Strategic Plan recognises that it is neither possible nor necessary for the purposes of the Act to investigate all issues of non-compliance with the law which are uncovered in the course of planned inspection, or reported events.

23 The enforcing authorities should carry out a site investigation of a reportable work-related death, unless there are specific reasons for not doing so, for example because the police consider the cause to have been suicide.

24 The enforcing authorities should ensure that in the selection of which reports of injury or occupational ill-health to investigate and in deciding the level of resources to be used, inspectors and others take account of the following factors:

- w the severity and scale of actual or potential harm, or the high potential for harm arising from an event;

- w the seriousness of any potential breach of the law;

- w the track record of the duty-holder;

- w the enforcement priorities;

- w the practicality of achieving results;

- w the wider relevance of the event including serious public concern.

## **PROSECUTION**

25 In England and Wales the decision to proceed with a court case rests with the enforcing authorities. In Scotland the Procurator Fiscal decides. This may be on the basis of a recommendation by an enforcing authority; although the Procurator Fiscal may investigate the circumstances and institute proceedings independently of an enforcing authority. [The Crown Office and Procurator Fiscal Service endorse this Statement by the Commission, and

acknowledge that action on reports of offences submitted to them by the enforcing authorities should reflect the approach set out here.]<sup>1</sup>

26 Enforcing authorities must use discretion in deciding whether to initiate a prosecution. The primary purpose of the enforcing authorities is to help prevent harm, and while prosecution can draw attention to the need for compliance with the law, other approaches to enforcement can often promote health and safety more effectively. Enforcing authorities should take account of this in allocating the resources available so as to strike the correct balance between prosecutions and mainly preventative activity. However, prosecution is an essential part of enforcement. Where the circumstances warrant it and the evidence to support a case is available, enforcing authorities will prosecute without prior warning or recourse to alternative sanctions.

27 The decision to prosecute should have regard to the evidential and public interest tests set down in England and Wales by the Director of Public Prosecutions in the Code for Crown Prosecutors. No prosecution may go ahead unless the prosecutor finds there is sufficient evidence to provide a realistic prospect of conviction, and decides that prosecution would be in the public interest. In Scotland, before prosecutions can be instituted the Procurator Fiscal will require to be satisfied that there is sufficient evidence; and it is in the public interest.

28 Subject to these two tests, the Commission expects that enforcing authorities will normally prosecute, or recommend prosecution, where, following an investigation or other regulatory contact, the following circumstances apply. Where:

- w death was a result of a breach of the legislation;
  
- w the gravity of an alleged offence, taken together with the seriousness of any actual or potential harm, or the general record and approach of the offender warrants it;
  
- w there has been reckless disregard of health and safety requirements;

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<sup>1</sup> This statement appeared in the original statement. It is the Commission's intention to seek the endorsement of the Crown Office and Procurator Fiscal Service on the revised statement when finalised in the light of consultation.

- w there have been repeated breaches or persistent poor compliance;
- w work has been carried out without or in serious breach of an appropriate licence;
- w there has been a failure to comply with a written warning or an improvement or prohibition notice;
- w inspectors have been intentionally obstructed in the lawful course of their duties. Where inspectors are assaulted enforcing authorities will seek prosecution of offenders.

29 The Commission also expects that enforcing authorities will consider prosecution, or consider recommending prosecution, where following an investigation or other regulatory contact, the following circumstances apply. These are listed in the order in which they will be given priority where resources are limited:

- w false information has been wilfully supplied, or there has been an intent to deceive;
- w there have been serious failures in the management of health and safety;
- w it is appropriate in the circumstances as a way to draw general attention to the need for compliance with the law and the maintenance of standards required by law, and conviction may deter others from similar failures to comply with the law.

### **Prosecution of individuals**

30 Subject to the above, enforcing authorities should identify and prosecute or recommend prosecution of individuals if they consider that a conviction is warranted and can be secured. Additionally, they will actively consider the management chain and the role played by individual directors and managers and will take action against them where it can be shown that the offence was committed with their consent or connivance or to have been attributable to neglect on their part. Where appropriate, enforcing authorities should seek disqualification of directors under the Company Directors Disqualification Act 1986.

## **Publicity**

31 A supplement to the Commission's Annual Report will name all the companies and individuals who have been convicted in the previous 12 months of breaking health and safety law following prosecutions by HSE. HSE will also name those same companies and individuals on its Website. Other authorities enforcing in England and Wales should take similar action. Enforcing authorities in England and Wales should also consider in all cases drawing media attention to any impending prosecution; and publicising any conviction which could serve to draw attention to the need to comply with health and safety requirements, or deter anyone tempted to disregard their duties under health and safety law. In Scotland, decisions in relation to publicity of prosecutions are a matter for the Procurator Fiscal<sup>2</sup>.

## **Encouraging action by the courts**

32 Health and safety law gives the courts considerable scope to punish offenders and to deter others, including imprisonment for some offences. Unlimited fines may be imposed by higher courts. The Commission will continue to raise the courts' awareness of the gravity of health and safety offences and encourage them to make full use of their powers, while recognising that it is for the Courts to decide whether or not someone is guilty and what penalty if any to impose on conviction. A list of the sanctions presently available to the courts is attached to this statement.

33. As Crown prosecutors in England and Wales, the enforcing authorities should when appropriate draw to the courts attention the Court of Appeal's guidance on the factors which should inform sentencing in health and safety cases (R v F. Howe and Son (Engineers) Ltd [1999] 2 All ER. The Commission notes that the Lord Chancellor has said that someone injured by a breach of health and safety legislation is no less a victim than someone who is assaulted.

34 In Scotland it would fall to the Procurator Fiscal to draw the court's attention to the seriousness of any offence and the need for appropriate penalties.

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<sup>2</sup> During consultation, HSE will be considering with the Crown Office how these matters are best approached in Scotland.

35 In cases of sufficient seriousness, the enforcing authorities in England and Wales should consider indicating to the magistrates that the offence is so serious that they may refer it to be heard or sentenced in the higher court where higher penalties can be imposed. In *R v Howe*, the Court of Appeal said ‘In our judgment magistrates should always think carefully before accepting jurisdiction in health and safety at work cases, where it is arguable that the fine may exceed the limit of their jurisdiction or where death or serious injury has resulted from the offence’.

## **DEATH AT WORK**

36 Where there has been a breach of the law leading to a work-related death, enforcing authorities need to consider whether the circumstances of the case might justify a charge of manslaughter (culpable homicide in Scotland). Enforcing authorities in England and Wales should liaise with the Police, Coroners and the Crown Prosecution Service and if they find evidence suggesting manslaughter, pass it on to the Police or where appropriate the CPS. If the Police or the CPS decide not to pursue a manslaughter case, the enforcing authorities will bring a health and safety prosecution if that is appropriate. To ensure decisions on investigation and prosecution are co-ordinated the HSE, the Association of Chief Police Officers and the CPS have jointly agreed and published “*Work Related Deaths: A Protocol for Liaison*”. The Local Government Association has agreed that local authorities should take account of the Protocol when responding to work-related deaths.

37 In Scotland responsibility for investigating sudden or suspicious deaths rests with the Procurator Fiscal who will require to hold a Fatal Accident Inquiry for a death in the course of work unless a prosecution takes place in the same circumstances.

## **OVERLAPPING LEGISLATION**

38 As a general principle the Commission wishes to avoid duplicating the work which is the responsibility of other authorities. The health and safety enforcing authorities will not generally investigate or enforce under health and safety law where health and safety is adequately guaranteed by enforcement of more specific legislation by another authority.

## **PENALTIES FOR HEALTH AND SAFETY OFFENCES<sup>3</sup>**

**The Health and Safety at Work etc Act 1974 (HSWA), section 33** (as amended) sets out all of the offences and maximum penalties under health and safety legislation.

***Failing to comply with an improvement or prohibition notice, or a court remedy order*** (issued under HSWA sections 21, 22 and 42 respectively):

***Lower court maximum***                      £20,000 and/or 6 months imprisonment

***Higher court maximum***                      Unlimited fine and/or 2 years imprisonment

***Breach of sections 2 - 6 of the HSWA***, which set out the general duties of employers, self-employed persons, manufacturers and suppliers to safeguard the health and safety of workers and members of the public who may be affected by work activities:

***Lower court maximum***                      £20,000

***Higher court maximum***                      Unlimited fine

***Other breaches of the HSWA, and breaches of ‘relevant statutory provisions’ under the Act***, which include all health and safety regulations. These impose both general and more specific requirements, such as requirements to carry out a suitable and sufficient risk assessment or to provide suitable personal protective equipment:

***Lower court maximum***                      £5,000

***Higher court maximum***                      Unlimited fine

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<sup>3</sup> As at [June 2000].  
These penalties can change from time to time.

*Contravening licence requirements or provisions relating to explosives.* Licensing requirements apply to nuclear installations, asbestos removal, and storage and manufacture of explosives. All entail serious hazards which must be rigorously controlled.

*Lower court maximum*                      £5,000

*Higher court maximum*                      Unlimited fine and/or 2 years imprisonment

*On conviction of directors for indictable offences in connection with the management of a company* (all of the above, by virtue of HSWA sections 36 and 37), the Courts may also make a disqualification order (Company Directors Disqualification Act 1986, sections 1 & 2). The Courts have exercised this power following health and safety convictions. Health and safety inspectors draw this power to the Court's attention whenever appropriate.

*Lower court maximum*                      5 years disqualification

*Higher court maximum*                      15 years disqualification

## **Further Information**

HSE has prepared an Enforcement Statement which explains how it responds to the Commission's Enforcement Policy, and the Government's Enforcement Concordat on good enforcement practice. The HSE Statement forms part of HSE's quality management arrangements which set out how it aims to meet each of its continuing aims. A copy of the Statement is available from HSE.

More information about the way health and safety legislation is enforced and about health and safety legislation generally can be found in these free leaflets:

*Health and Safety Regulation - a short guide*

*Successful Health and Safety Management*

*The Health and Safety Executive working with employers*

*The Health and Safety Executive and you*

*What to expect when a health and safety inspector calls*

*Work-Related Deaths: A Protocol for Liaison*

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