



Health & Safety

# MATTERS

Health & Safety Information for GMB Safety Reps

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## The Health and Safety (Offences) Bill 2008

### Introduction

One of the criticisms of the recently introduced Corporate Manslaughter and Homicide Act which came into force in April 2008 was that the penalties imposed by the courts for health and safety offences were much too lenient in many cases. The introduction of the Health and Safety (Offences) Bill, introduced by backbencher, Keith Hill as a private members Bill, supported by the government, will hopefully go some way towards addressing these areas of concern.

### What does the Bill do?

The Bill would amend Section 33 of the Health and Safety at Work Act (1974) to raise the maximum penalties available to the courts in respect of certain health & safety offences. The Bill would:

- Raise the maximum fine which may be imposed by the lower courts to £20,000 for *most* offences.
- Make a prison sentence an option for *most* health and safety offences in both lower and higher courts.
- Make certain offences that can currently only go to trial in either lower or higher courts, trial-able in either court.

### Why do we need an increase in penalties?

Basically there are three main reasons for an increase in penalties;

- Tougher, more appropriate punishment - the consensus is that fines under health and safety legislation are too low (this is the view of both the government and HSE).
- More effective deterrence - to deter irresponsible behaviour and encouraging compliance with the law, penalties need to be high enough to eliminate any gain from breaking the law.
- Greater efficiency in the dispensation of justice - by extending the maximum fine to the lower court system, and making imprisonment an option the effect of the bill will be that more cases will be dealt with in the lower courts and make justice faster, less costly and more efficient.

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## GMB SAFETY REPS

Regional Health, Safety & Welfare Officer: Tristan Chard  
Regional Secretary: Tim Roache

Making Your Workplace Safer

GMB - Grove Hall  
WAKEFIELD  
WF1 3RN  
Telephone: 01924 882255

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### Impact upon other legislation?

There were fears that the bill might be challenged under the European Convention on Human Rights but this has not been substantiated as it has been assessed by government advisors for legal compatibility. In addition, all new and existing legislation is subject to scrutiny for its regulatory effect on business. This bill, by reducing the possible time spent within the legal system, and thus the cost to all concerned, fell within the provisions of both the Hampton and Macrory reports, which have examined the impacts of legislation and the burdens on business.

In addition, the raising of the maximum fine in the lower courts to £20,000 brings health and safety breaches into line with other legislation covering the environment and food.

### Other issues associated with the Bill

Currently the Sentencing Advisory Panel has been consulting on the sentencing for the offence of corporate manslaughter and deaths from breaches of health and safety law with the draft guidelines due out soon. There will be a need to consider how the changes brought about by this bill can be advised to magistrates when they decide on any proportionate punishment.

### Conclusion

Anything which improves health and safety in the workplace is welcomed by GMB. The proposals under this Bill are due to take effect in early 2009 and until the law is enacted and sentencing guidelines introduced it is difficult to tell what the overall effect will be. However, there is no doubt that these proposals are long overdue, though whether they will result in an increase in imprisonment remains to be seen. The main concern from GMB is not that employers get sent to prison, as we would much prefer that workers do not get injured or die at work and it is the threat of going to prison which is known to have the greatest deterrent effect on employers.

As with all changes in the law, it may take some time to work through the system before there are noticeable improvements but this is a welcome development in the legislation. For further information on this or the Corporate Manslaughter legislation contact [tristan.chard@gmb.org.uk](mailto:tristan.chard@gmb.org.uk)

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General Secretary  
**Paul Kenny**  
GMB  
22-24 Worple Road  
London SW19 4DD