

# HEALTH AND SAFETY (OFFENCES) ACT 2008

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## EXPLANATORY NOTES

### SUMMARY AND BACKGROUND

3. The purpose of the Act is to raise the maximum penalties available to the courts in respect of certain health and safety offences by altering the penalty framework set out in section 33 of the Health and Safety at Work etc. Act 1974 (“the 1974 Act”). The Act also makes similar changes to the Health and Safety at Work (Northern Ireland) Order 1978 (“the 1978 Order”). In what follows, references to provisions of the 1974 Act should (where necessary) be read as including references to the corresponding provisions of the 1978 Order.
4. The changes made by the Act were first proposed following a joint review of the current maximum penalties for health and safety offences, which was carried out between February and September 1999 by the Home Office, the then Department of the Environment, Transport and the Regions, and the Health and Safety Executive.
5. The objective behind the changes is that sentences for health and safety offences be sufficient to deter those tempted to break the law, and sufficient to deal appropriately with those who do commit offences, in accordance with the Hampton<sup>1</sup> and Macrory<sup>2</sup> Reports.
6. The effect of the Act is to:
  - (a) raise the maximum fine which may be imposed in the lower courts to £20,000 for most health and safety offences;
  - (b) make imprisonment an option for more health and safety offences in both the lower and higher courts;
  - (c) make certain offences, which are currently triable only in the lower courts, triable in either the lower or higher courts.
7. The power to impose a fine of up to £20,000 is already available in respect of some offences under the 1974 Act, such as breaches of the general duties arising under sections 2 to 6. The Act extends this power to other offences that are considered to be comparable (for example, a breach of regulations made under the 1974 Act).
8. At present, imprisonment is an option only in certain cases. The Act will make imprisonment available for most health and safety offences.
9. Under the 1974 Act, it is an offence under section 33(1)(e) to contravene any requirement imposed by an inspector under section 20 (for example, a requirement to give information relevant to an investigation or to leave premises undisturbed after an incident). It is also an offence to prevent another person from appearing before an inspector or from answering an inspector’s questions (section 33(1)(f)). Both offences

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<sup>1</sup> *Reducing administrative burdens: effective inspection and enforcement* by Philip Hampton. HM Treasury, March 2005. ISBN 1 84532 088 3

<sup>2</sup> *Regulating Justice: Making Sanctions Effective*, Final Report by Prof Richard B Macrory. November 2006.

*These notes refer to the Health and Safety (Offences) Act 2008  
(c.20) which received Royal Assent on 16 October 2008*

are currently triable only in the lower courts. The Act makes them triable in the lower or higher courts.

10. For further details, see the Annexes to these notes.