

# New Act raises stakes

The Health and Safety (Offences) Act 2008 has wide-reaching consequences for both employers and employees. Here we explain the implications for those in the industry and examines how they can reduce the risk for themselves at a time when many are searching for ways to trim budgets.

New legislation came into force on 16 January 2009 that has increased the penalties and provided courts with greater sentencing powers for individuals and duty holders (that is, employees and employers) who breach health and safety laws. More specifically in the case of electrical legislation, this includes non-compliance with 'The Electricity at Work Regulations 1989'. The Act amends Section 33 of the Health and Safety at Work Act 1974, and raises the maximum penalties available to the courts in respect of certain health and safety offences.

The maximum Magistrates' court fine for most safety breaches has risen from £5,000 to £20,000. It is now also possible to jail offenders for up to 12 months for more offences than ever before.

## Why has it been introduced?

It is generally accepted that the level of punishment for some health and safety offences does not fit the crime. These changes will ensure that sentences can now be more easily set at a level to deter businesses that do not take their health and safety management responsibilities seriously and further encourage employers and employees to comply with the law. HSE enforcement policy is to 'target those who cut corners, gain commercial advantage over competitors by failing to comply with health and safety law and who put workers and the public at risk'.

Around 1,000 electrical accidents are reported to the HSE every year. The Act aims to free-up the legal system by giving Magistrates the power to appropriately handle the more serious health and safety breaches. Previously it would have been costly to take these cases to the Crown Court and in many instances the plaintiff would settle with the minimal Magistrates fines.

The reduction in costs for plaintiffs

in a Magistrates Court may mean that we witness a rise in the number of prosecutions so firms should be extra vigilant when it comes to their health and safety policies.

## Will it affect me as an individual?

If, even as an employee, you are responsible for electrical safety and breach the law by not providing a safe working electrical environment, then in the eyes of the law you are most certainly culpable and therefore exposed to the penalties listed below.

## How easy will it be to implement?

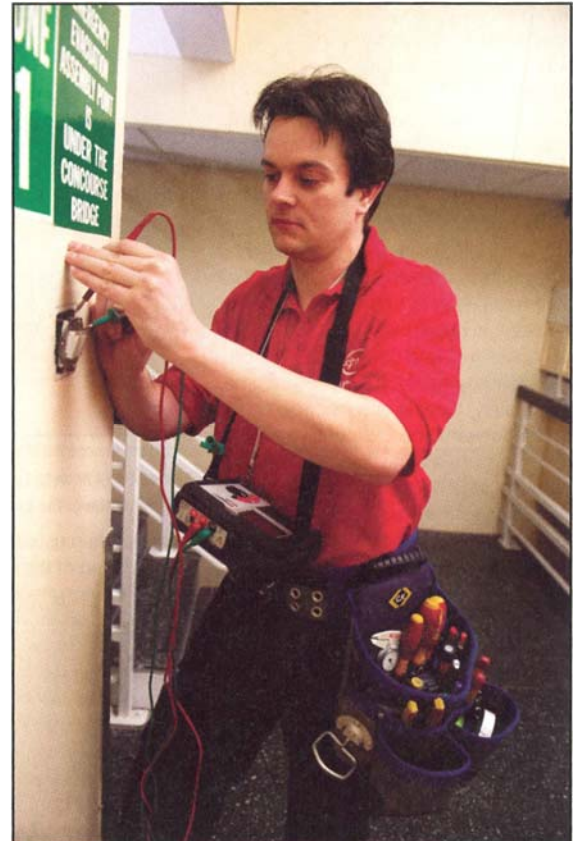
More cases will be resolved in the lower courts and justice will be faster, less costly and more efficient. Jail sentences for particularly blameworthy health and safety offences committed by individuals, can now be imposed reflecting the severity of such crimes, whereas there were more limited options in the past.

## What are the penalties?

- The maximum fine which may be imposed in the lower courts is £20,000 for most health and safety offences. There are unlimited fines in the higher courts.
- Imprisonment is an option for individuals prosecuted for health and safety offences in both the lower and higher courts - up to 12 months in a Magistrates Court and 2 years in a Crown Court.
- Certain offences, which are currently triable only in the lower courts, will be triable in either the lower or higher courts.

## What action can I take in order to defend myself?

Compliance with Health & Safety Laws, i.e. The Electricity at Work Regulations 1989, will go a long way to ensure you do not commit an offence under the



Above: Employers need to take Health & Safety Regulations more seriously

"Around 1,000 electrical accidents are reported to the HSE every year"

new Act. More specifically companies will need:

- Documented evidence of a well maintained electrical systems - i.e. inspection and testing records and electrical drawings.
- A competent workforce. That is, appropriately experienced and trained personnel kept abreast of current electrical standards (17th Edition).
- Safe working procedures which are both current and clearly documented.

## Remember

Good employers, good managers and responsible employees with documented evidence of electrical compliance have nothing to fear.