

## More personal liability for directors in the proposed new Bill

Back bench labour MP Frank Doran has introduced the Health & Safety at Work (Company Directors Liability) Bill under the 10 minute rule. The first reading before Parliament took place on 19 January. Private Members Bills introduced under the 10 minute rule do not generally go on to become law, but in this case we may see a different outcome. Frank Doran MP wants company directors to be held personally accountable for health and safety failures in their organisations. What's new about that? At the moment, directors can only be held personally liable in very limited circumstances and specifically when they were aware of the criminal acts of the corporate entity. If Frank Doran's Bill becomes law, directors will have a much greater personal obligation to protect the health and safety of employees in the corporate entities, and with greater responsibility comes greater accountability. Under the new Bill, directors will be liable to personal prosecution for the same health and safety offences as the entities themselves without the prosecution having to demonstrate specific knowledge of the corporate offence. This is likely to get most office holders sitting up to take notice.

Why is this Bill different to any other under the 10 minute rule? The simple fact that it already has much support makes it unique. The support for legislation of this type has been growing for some time, and the government has asked the HSE to specifically consider the question of director liability. The HSE's response is due imminently. Frank Doran's Bill could just be a well timed prod to the

HSE about the need to take action. The prod is being picked up in other quarters in any event – for example the well known publication "HSW" Health & Safety at Work had an online petition with over 600 signatories in favour of the Bill within a few days of its first airing in parliament. IOSH have also in the past supported more stringent legislation for directors liability and accountability and are likely to come out in favour of a Bill such as this.

What is clear is that we are reaching a stage where there are sufficient voices quietly singing the same tune, to signify that legislation such as Frank Doran's Bill is becoming somewhat inevitable in spite of the CBI lobbying to the contrary. However, no one has yet seen the full text of the Bill itself. The second reading before parliament is due on 23 April and we can expect the full text of the Bill to be published shortly before then, so watch this space and we will review the implications of the Bill in detail.

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## The environment: new enforcement powers

New civil powers have now been given to both the Environmental Agency and Natural England in an attempt to give regulators more flexibility when it comes to enforcing environmental legislation.

The new civil powers called RES sanctions were given under the Regulatory and Sanctions Act 2008 and will



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give regulators more options, and most importantly an alternative to criminal prosecutions. These RES sanctions include fixed and variable monetary penalties as well as compliance notices and can be used without formal court proceedings.

With these new powers, for the first time the Environment Agency and Natural England can accept voluntary undertakings from businesses to put right any environmental non-compliance.

It is hoped these powers will help the many businesses who try to comply, thereby easing an existing system that was dependant on criminal prosecutions which often proved costly and very time consuming.

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