



Health and safety offences and penalties

a report by the Health and Safety Executive

including a list of all health and safety offenders convicted between 1 April 2000 and 31 March 2001, following investigations by HSE

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FOREWORD

The Government and the Health and Safety Commission's strategy on *Revitalising Health and Safety* requires HSE to consider how its activities can contribute most effectively to achieving targets for reducing the toll of work-related injury, ill-health and death. There is evidence that the long term fall in largely preventable harm has reached a plateau which is still far too high.

HSE is working with the Commission and those in high risk industries such as construction and agriculture, to find ways to make a real difference. Every aspect of HSE's work strives to help promote compliance with health and safety law, whether it is helping the Commission to develop proposals for effective legislation, producing guidance on how to comply with the law or through preventive inspections, investigations or enforcement; including prosecution.

This is HSE's second 'offences and penalties' report. In this report we name all organisations and individuals convicted of health and safety offences during 2000/2001. Our report is designed to help everyone with an interest in an organisation's performance, in particular, would-be customers, investors, employees or insurers, to find out about convictions and to create pressure for health and safety improvements.

This report is one part of a wider initiative to make information on health and safety failures publicly accessible. You can find additional information on convictions since 1 April 1999 on HSE's website in our public register of convictions, including brief details of the circumstances relating to the conviction. We have recently added to the website a new register of improvement and prohibition notices issued by HSE. For the first time, information on health and safety convictions secured by local authorities is also being published at the same time as this report.

Sound health and safety management demands the same professionalism as needed to manage finance or production, sales or marketing. All members of the Board of a company should see health and safety as a core aspect of their business. The Health and Safety Commission's recently published guidance on directors' responsibilities is designed to raise the profile of health and safety at board level; responsible organisations keep health and safety high on their agenda.

The worst cases in 2000/01, some of which are referred to in the body of the report, make chilling reading. Our inspectors encountered circumstances where duty holders' failures to comply with the law left people to endure dreadful conditions.

Organisations, public and private, rightly will not wish to find themselves named in the list of health and safety offenders. In many sectors, more and more businesses, large and small, find themselves subject to increasingly strict quality management disciplines, arrangements such as just-in-time delivery and other demanding agreements between customer and supplier. Cutting corners on complying with health and safety law can harm both employees and members of the public. But there are commercial penalties too; direct costs to business may include hours or days of work lost, reputations damaged and customers going elsewhere.

We were very encouraged by the level of interest shown in the first report and in the new convictions register. Visits to the database were running at about 30,000 per month during April, May and June 2001. I hope that more of those who buy products or services will consult this report, and the additional information on our website, and take it into account in

deciding who to do business with. This will help give a competitive edge to organisations who strive to safeguard people's health and safety by complying with the law.

All the health and safety failures which come before the courts are serious ones. It seems reasonable to hope that the penalties imposed by the courts should also be proportionate, subject to important considerations like mitigating factors and ability to pay.

I cannot comment on the sentences imposed in particular cases, but it is now two full years since the Court of Appeal said that the fines being imposed were too low and we have not seen any marked progress so far toward a more realistic general level of fines. However, there is reason to believe that this may change in future years, given the most recent guidance from the Magistrates' Association to the courts on sentencing for health and safety cases.

Organisations need to set ambitious targets for improving health and safety to meet the ambitious targets set out in *Revitalising Health and Safety*. The awards schemes of the Royal Society for the Prevention of Accidents, the British Safety Council, and others for achievements in the field of health and safety at work help to acknowledge the efforts of those who are already striving to make a difference.

I hope that this report; HSE's public registers of convictions and improvement and prohibition notices; and also the separate report which the HSE/Local Authority Liaison Committee (HELA) will be issuing on convictions in sectors where local authorities enforce, will all help to keep in full view the need for improvement to meet the targets set out in *Revitalising Health and Safety*.

Timothy Walker

1. INTRODUCTION

This report

1.1 There are several reasons why people may wish to know about a duty holder's health and safety record, in particular where the duty holder is guilty of an offence. For example, main contractors who are properly concerned to comply with the law and to provide a quality service overall will want to know about the health and safety management record of businesses who submit tenders. Insurers should be able to consider the health and safety record of a business before setting premiums for compulsory employers' liability insurance. Investors may want to consider all aspects of a businesses management competence before putting money into it. In particular, investors who take account of ethical criteria may want to know about a business's compliance with health and safety law. People seeking work may also want to be aware of a possible employer's health and safety convictions.

1.2 That is why we think it particularly important to publish in this report a list of convicted duty holders. The list includes individual duty holders.

1.3 HSE is committed to giving easy access to publicly available information about enforcement, in particular the issuing of improvement and prohibition notices, and convictions. We make information available publicly in line with the Code of Practice on Access to Government Information, the Environmental Information Regulations 1992, and within the restrictions on disclosure and for the purposes set out in the Health and Safety at Work etc. Act 1974, and the Data Protection Act 1998.

1.4 The list of convictions in this report gives information about health and safety convictions which is taken from the HSE's public register of convictions. This may be consulted on HSE's website (www.hse.gsi.gov.uk). The register gives information on convictions from 1 April 1999 onwards. HELA is publishing a supplementary report to their annual report naming duty holders convicted following prosecutions brought by local authorities from 1 April 2000 onwards. HELA's report will be released simultaneously with the HSE report on 24 October. Subsequently the local authorities' convictions database will be posted on the HSE website.

1.5 This report should be considered in the light of the public register of convictions which contains more information about each conviction than we could issue in printed form. For example, the public register includes brief details of the circumstances of each case. Enquirers will be able to search the data on proceedings against particular defendants, and the individual charges against them in a variety of ways. For example, the database may be searched by geographical area, industry, the piece of legislation breached, and level of fine. Those who use the database will be able to produce lists of convictions which answer their particular questions.

1.6 HSE recently published a new register on its website giving information on improvement and prohibition notices issued by HSE since 1 April 2001. As with the register of convictions the new database allows enquirers to ask a range of questions about the circumstances resulting in the notice, the location, recipient details, the legislation which the inspector considers to have been breached, and in the case of improvement notices whether the notice was complied with or not. The register of notices also provides a way of viewing any convictions against a particular recipient which are held on the convictions register.

Sentencing

1.7 As the Lord Chancellor has said, sentencing has six traditionally recognised objectives: punishment and retribution; reparation; protection of the public; deterrence; response to proper public concern; and rehabilitation. At the end of the chain of regulation, guidance, advice and enforcement, the sentences imposed by the courts send important messages to people in this country. Sentences show what should not and cannot be tolerated in society.

1.8 It is the job of the prosecutor to lay before the court fairly and impartially the whole of the facts which comprise the case for the prosecution, and to assist the court on all matters of law applicable to the case. The prosecutor must not attempt by advocacy to influence the court with regard to sentencing, but must be prepared to assist the court as to the penalties available and by reference to sentencing guidelines. However, the ultimate decision about any penalties imposed is, within the limits prescribed by law, entirely at the discretion of the court.

1.9 Only the courts may give guidance on matters of sentencing. In November 1998, the Court of Appeal gave guidance for the first time on health and safety sentencing in England and Wales (*R v F. Howe and Son (Engineers) Ltd.*) which was an important step. The Court said straightforwardly that health and safety fines being imposed by the courts were too low. We consider below what progress has been made during 2000/20001 towards a general level of fines which in our view would reflect the seriousness of health and safety offences.

1.10 The Court of Appeal guidance in *R v F Howe & Son (Engineers) Ltd.* has been further elaborated in some later judgments. In *R v Friskies Petcare Ltd.* (2000) Cr.App. R (S) 401, the Court of Appeal made recommendations as to how the prosecution and defence should assist the Courts by setting out in advance what they see as the aggravating and mitigating factors in the case.

1.11 In England and Wales, some of the offenders listed have been tried or sentenced in the Crown Court. HSE inspectors, or lawyers acting for HSE, make representations to magistrates in cases where the circumstances point to an alleged offence serious enough to warrant a Crown Court trial or, following a guilty plea heard in the Magistrates' Court, Crown Court sentencing. In Scotland it would fall to the Procurator Fiscal to draw the court's attention to the seriousness of any offence.

1.12 This report lists all individual charges laid against duty holders which led to a conviction, and shows the fines imposed (**Table 8**). The level of a fine will reflect a

number of factors, including the seriousness of the offence, any aggravating or mitigating factors, and the offender's ability to pay, which the courts must take into account. We therefore offer a straightforward alphabetical listing.

2. ENFORCEMENT ACTIVITY 2000/2001

2.1 HSE's decisions on enforcement are to be taken in accordance with the Health and Safety Commission's (HSC) published Enforcement Policy Statement. The Commission's statement in turn reflects the Cabinet Office Enforcement Concordat.

2.2 The HSC policy stresses that action by enforcing authorities to achieve compliance should be:

- proportionate to any risks to health and safety and to the seriousness of any breach;
- targeted primarily on those whose activities give rise to the most serious risks or where hazards are least well controlled;
- consistent; and
- transparent.

2.3 Inspectors may use a range of means to secure necessary changes to make sure duty holders comply with the law. They may give information and advice, or tell the duty holder that, in the opinion of the inspector, they are breaking the law and need to take remedial action. They may issue improvement and prohibition notices - and they may prosecute.

2.4 The HSC Enforcement Policy Statement requires enforcement action to be proportionate. All cases which come before the courts therefore involve serious failures to safeguard health and safety, or failures which are aggravated by other factors. In some cases, organisations which are convicted will have compounded their offence by failure to take notice of earlier advice and warnings. The Lord Chancellor has said that someone injured by a breach of the Health and Safety at Work etc.. Act 1974 is no less a victim than someone who is assaulted. HSE has that firmly in mind.

2.5 As part of HSE's developing quality assurance policy and arrangements, HSE has set out how it manages enforcement in line with the Enforcement Policy Statement and how it meets its continuing aim to secure compliance with the law. As a further step in this process, an Enforcement Management Model (EMM) has been developed. The EMM establishes a framework to assist inspectors in exercising their professional judgment when considering enforcement action, and which promotes demonstrably consistent application of the principles of the Enforcement Policy Statement. This includes making informed enforcement decisions proportionate to the risks and the seriousness of any breach. The EMM has been extensively trialled to ensure that it is fit for purpose and will be made publicly available.

2.6 Inspectors find that giving information, advice and guidance is often enough to ensure compliance with health and safety law. However, formal enforcement action designed to ensure compliance has an important place in making sure priority is given to putting right serious problems. HSE inspectors issued 6,673 improvement notices and 4385 prohibition notices during 2000/2001 (provisional figures, **Table 1**), not greatly different from the numbers issued the previous year.

2.7 When inspectors find serious failures, as well as taking action to secure compliance and ensure that immediate risks are dealt with, they may prosecute the duty holder, where this is the proportionate response. This gives the courts the opportunity to consider whether serious health and safety offences have been committed and if so what punishment may be appropriate. In England and Wales, HSE decides whether to prosecute in accordance with the Enforcement Policy Statement, having 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.

2.8 In Scotland the Procurator Fiscal decides whether to bring a prosecution. 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 overall figures for prosecutions for Great Britain (GB) given in this report include proceedings by the Procurator Fiscal.

Prosecutions and convictions

2.9 The provisional figures for the number of duty holders prosecuted during 2000/2001, and for the number of individual offences prosecuted during the period, are broadly similar to 1999/2000 (**Table 1**).

2.10 **Tables 3, 4 and 5** show the number and outcome of prosecutions separately for England, Wales, and Scotland.

2.11 All the cases which HSE brings to court involve serious breaches of the law. The decision about what penalty, if any, to impose on conviction is of course a matter for the courts to decide, but the following examples may help to illustrate the kind of the offences we are talking about and the level of fines the courts have considered appropriate.

A fairground operator was prosecuted under the Health and Safety at Work etc. Act 1974 following a serious injury to an eight year old child, who fell through a gap in guard rails on an amusement ride. The operator had failed to follow written advice from a health and safety inspector on the standard of guard rails necessary for such a ride. A magistrates' court fined the operator £4,000.

A city council was prosecuted following the death of a man under the full-time care of the council's social services department. The victim, who had severe learning and physical disabilities, drowned as a result of being left unattended in a bath. The defendant had also failed to notify HSE of the death by the quickest practicable means. Magistrates referred the case to the Crown Court for sentencing. The Council was fined a total of £115,000.

A borough council failed to manage properly the refurbishment of the gas heating system of a 22 storey tower block. Inadequate installation and commissioning of new gas burners and gas pressure booster

pumps resulted in a major gas explosion. Flying debris caused considerable property damage. Fortunately there were only minor injuries to people. The council pleaded guilty and magistrates referred the case to the Crown Court for sentencing. The council was fined a total of £75,000, and ordered to pay costs of £50,000. Two other defendants were also prosecuted as a result of this incident.

An employee of a family owned construction company was seriously injured when he fell from a ladder whilst dismantling a large building. The injury could easily have been prevented if the company had followed industry and HSE standards. The company also failed to report the incident to HSE. The company pleaded guilty in the magistrates court, who imposed total of £7,500 in fines, plus costs.

17 tonnes of extremely flammable liquid were released at a chemical plant when a computer operated valve opened during maintenance work. The procedures for preventing the operation of the valve were inadequate. Several workers were in the vicinity, and three were sprayed with the chemicals, though there was no fire. The Crown Court imposed total fines of £30,000 plus costs of more than £40,000.

2.12 In 2000/01, the provisional figures indicate that almost 72% of individual offences prosecuted resulted in conviction. This is similar to the success rate given in our 1999/2000 report, though the final figures for 1999/2000 now show 76% of individual charges resulting in conviction. When we remove from the 2000/01 figures charges adjourned for hearing or sentence after the end of the period, or adjourned without a date being set (*sine die*), the proportion of individual offences prosecuted which result in conviction is again about 76%. If charges withdrawn are also taken out, the conviction rate rises to about 95%, again similar to last year.

2.13 In fact the great majority of charges prompt guilty pleas on the part of the accused. Where the accused pleads not guilty, in defended cases, HSE is concerned to ensure that the prosecution case is fully and effectively presented. HSE has been looking at how complex and defended cases should be handled. Following completion of a prosecution review, HSE is piloting new systems for conducting its prosecutions in the London and South East Area, including the use of a dedicated in-house prosecution team, staffed mainly by lawyers.

Penalties

2.14 Looking at the outcome of prosecutions in 2000/2001 gives us a further opportunity to consider how far we have come towards a general level of criminal fines for health and safety offences since the Court of Appeal said (R v Howe, November 1998) that the health and safety fines being imposed by the courts were too low. For the first time, the courts have had authoritative guidance on sentencing in health and safety cases, on the seriousness of these offences, on aggravating and mitigating factors which would affect the sentence imposed, and on when it would be appropriate to refer cases to the higher courts for trial or for sentencing.

2.15 The level of fine in particular cases is often a crude indicator of the seriousness of the offence. This is because the courts must take account of ability to pay in deciding penalties, and it must be said that most businesses in Great Britain, and thus most of those prosecuted for health and safety offences, are smaller businesses, often of limited means. Nevertheless, average fines allow us to comment on trends.

2.16 In 2000/2001, where prosecutions for individual offences led to conviction, the overall average fine was, provisionally, about 10% lower than in 1999/2000. However, when fines of £100,000 or over are taken out, the average fine per individual offence has increased somewhat, from £4651 to £4,896.

2.17 The Court of Appeal said in November 1998 that magistrates should always think carefully before accepting jurisdiction in health and safety at work cases, where it is arguable that the appropriate fine may be greater than they have the power to impose, or where death or serious injury has resulted from the offence. Convictions in the higher courts in Great Britain as a whole more than doubled in 1999/2000, and remain at a similar level.

2.18 It is HSE policy to investigate all work-related deaths which are reported to us. In 1999/00, the resulting average fine per individual charge in prosecutions following such deaths was £16,281 in the lower courts and £21,716 in the higher courts. It is too early to offer any emerging figure for 2000/01: in many cases the thorough investigation which is needed is still under way, and decisions on whether to prosecute in those cases have still to be made.

2.19 The decision whether and how much to punish a convicted offender rests with the courts, and we would not wish to comment on particular cases or judgments. Last year, we expressed a sense of disappointment that the general level of health and safety fines imposed by the courts did not yet seem to reflect the Court of Appeal's view that they were too low. Although the average fine for individual health and safety offences has, when fines of £100,000 or over are taken out, increased since last year, it is too soon to identify any trend towards significantly higher fines.

2.20 The Magistrates' Association's sentencing guidelines now include information on health and safety sentencing which draws attention to the Court of Appeal guidance in R v Howe. We also welcome the issuing by the Association earlier this year of additional guidance to magistrates on sentencing companies. Sentencing companies raises issues which would not normally arise in relation to general

criminal cases. These include questions about the extent of failures in health and safety management which may have contributed to an offence and which are relevant to judgments about seriousness, and questions about how to establish a company's means to pay a fine so as to ensure that it would have a similar impact on large and small firms. The Magistrates' Association's additional guidance assists on these matters.

2.21 As well as fines, the courts also have the power to imprison individuals convicted of certain health and safety offences, in particular failure to comply with improvement and prohibition notices, and in the higher courts failure to comply with licensing requirements or explosives provisions. To date the courts have sent five people to prison for health and safety offences, all since January 1996. In October 1999, the most recent such case, a magistrates court sent a self-employed builder to prison for four months for failure to comply with an improvement notice requiring a construction site to be fenced. The Crown Court earlier this year sentenced a taxi driver to eight months imprisonment suspended for two years after a plea of guilty to unlawful storage of petroleum.

2.22 Most HSE prosecutions are against companies or other organisations. In an organisation, inspectors may not find sufficient evidence of culpability for there to be a realistic prospect of an individual being prosecuted. However, HSE prosecutes individuals where this is justified. In 2000/2001, HSE prosecuted individuals on 55 separate charges, of which 45 led to conviction. This included 36 charges against directors and managers, of which 31 led to conviction. The overall average fine for separate offences by individuals was £834.

2.23 Under the Company Director's Disqualification Act 1986, the courts may also disqualify directors who have been found guilty of health and safety offences. A total of eight directors have been disqualified for health and safety offences, though none in 2000/2001.

Offenders from other EU Member States

2.24 The courts have no way at present to enforce criminal fines imposed for health and safety offences committed in Great Britain against an offender located in another EU Member State. In our 1999/2000 report we drew attention to the importance of securing such a mechanism, as illustrated by the failure of two Swedish companies to pay the fines imposed on them in the Port Ramsgate case.

2.25 We welcome the initiative launched by the Home Office and being taken forward by the EU to secure mutual recognition by EU Member States of each others' judicial decisions. Although this is a long term project we hope that in due course this will provide for mutual enforcement of criminal fines, including those imposed in this country for health and safety offences.

Manslaughter

2.26 As well as enforcing health and safety law, HSE also plays an important part in England and Wales in supporting police investigations into possible work-related manslaughter offences. The police are responsible for manslaughter investigations. HSE contributes its expertise in questions of health and safety management. HSE inspectors also pass to the police any evidence which they may find in the course of their health and safety investigation which may point to a possible manslaughter offence.

2.27 Arrangements for liaison between the police, the Crown Prosecution Service (CPS) and HSE are set out in a joint protocol on responding to work-related deaths. The Protocol was published in April 1998 by the CPS, HSE and the Association of Chief Police Officers (ACPO). The three authorities have set up a joint National Liaison Committee to monitor the working of the Protocol.

2.28 During 2000/2001, the police referred 26 cases of work-related death, in sectors where HSE is the health and safety enforcing authority, to the CPS to consider possible manslaughter charges. The CPS have so far started prosecutions for manslaughter in 6 of these cases. Since April 1992, a total of 162 possible manslaughter cases have been referred to the CPS. CPS have brought prosecutions for manslaughter in 45 cases, 10 of which have resulted in convictions.

2.29 The Protocol will need to be reviewed in the light of experience. In particular the review will need to take account of Government decisions which are expected to follow the Home Office consultation on proposed changes to the law on involuntary manslaughter, especially the proposed new offence of corporate killing. The joint National Liaison Committee is considering the timing and form of the review and how to involve others in the process, including organisations concerned with supporting victims' families

2.30 The Local Government Association and British Transport Police plan to become signatories to the Protocol following the review.

2.31 HSC responded to the Home Office consultation paper on reforming the law on involuntary manslaughter (published in May 2000). HSC gave full support to introducing a new offence of corporate killing and hoped the Government would legislate as soon as possible. The main benefit of the new offence would be as a powerful deterrent, to help prevent needless injuries and deaths while at the same time punishing the grossly negligent. HSC also said that a corporate killing offence should apply to both private and public sectors and be the same in Scotland as well as in England and Wales, to which the consultation paper related.

Enforcement activity by industry

2.32 **Tables 6 and 7** set out the numbers of improvement and prohibition notices issued and prosecutions taken in the various industries (standard industrial classification) in which HSE enforces. These do not include sectors enforced by local authorities (including retail and wholesale distribution, petrol filling stations, residential care homes and the leisure industry) .

2.33 In the following pages, we illustrate briefly how inspectors have been working to achieve immediate and sustained compliance with health and safety requirements in the sectors for which they are responsible. For each sector we have focused on key aims and initiatives targeted at issues of specific relevance to that industry. We have not attempted to give a comprehensive account of all enforcement activity.

Agriculture, forestry, and associated industries

In 2000-2001 the agricultural industry (including forestry) had one of the highest fatal accident incidence rates of any industry sectors, particularly in relation to the self-employed (13 per 100,000, provisional).

Two major causes of these fatal accidents are associated with the use of mobile farm vehicles and working at heights.

Mobile farm vehicles

- Employees and the self-employed are run over or crushed by vehicles often as a result of poor maintenance of vehicles e.g. brakes or drivers being inadequately trained.
- Last year 13 prosecutions were taken and 147 enforcement notices issued on the safe use of farm vehicles.

Working at heights

- 812 visits by inspectors were made where falls from heights were specifically targeted. These included investigations of a number of reported high fall accidents from ladders or roofs.
- 13 enforcement notices were issued and 4 prosecutions taken, one resulting in a fine of £19,500.
- To support the campaign of visits, HSE worked with the Rural Design and Building Association (RDBA) in organising a number of seminars for those carrying out roofing and building work in agriculture. These seminars included the opportunity to see a new HSE video on safe roofwork in agriculture, talks on how to carry out roofwork safely and the distribution of RDBA and HSE guidance.

In addition, a campaign on child safety in agriculture resulted in 96 enforcement notices and 3 prosecutions. A further campaign on sheep dipping resulted in 265 enforcement notices. These were issued mainly on lack of engineering control, inadequate personal protective equipment and poor access to the dip bath.

Agriculture is an industry chosen as a target under *Revitalising health and safety*. High risk activities such as falls from heights and the use of farm vehicles are receiving particular attention by both HSE and the industry in the coming year.

Biological agents

Exposure to harmful biological agents may arise across a wide range of work activities but some of the higher risks exist where biological agents are deliberately worked with and manipulated. Several high profile prosecutions and other enforcement have been taken in the research, higher education and health care sectors, where failure of overarching management systems have been the underlying cause of inadequate or inappropriate standards of protection. In one such case, a specialist safety advisory consultancy was also prosecuted.

Of those situations where there is incidental exposure to biological agents, Legionella continues to give the greatest cause for concern, and in the case of fatalities there is increasing pressure for enforcement to take the route of manslaughter charges.

Construction

The construction industry has the highest accident rate of any industry sector, and contributes significantly to industrial ill-health, particularly in respect of musculo-skeletal disorders with an estimated 100,000 cases each year.

Construction inspectors issue half of all prohibition notices issued by HSE (around 2000 every year) and take over a third of the prosecutions, resulting in more than 500 convictions each year.

The priority areas for inspection and enforcement are:

- falls;
- manual handling;
- transport; and
- noise and vibration

The clearest evidence of there being high risks in the industry comes from fatal injuries. These have reduced substantially over the past 25 years, but began to plateau at around 80 per year about 5 years ago. However, last year saw an alarming rise in fatal accidents, with a provisional figure of 92 in the first 9 months. This highlighted the need for the industry to take the initiative and make a commitment towards a step change in its culture and performance. The industry's lead bodies rose to the challenge and publicly committed to '*Revitalising*' targets and to wide ranging plans of action. These were announced at the Construction Summit held on 27 February 2001, at which the Deputy Prime Minister, John Prescott made the keynote speech. The challenge for the industry is to engage all industry stakeholders in the change process and to deliver the challenging targets that have been set.

HSE will continue to target high risk activities in the industry through the various means at its disposal, such as inspection (both on site and through audits), and will work through intermediaries, especially to target small firms.

Diving

There has been an increase in incidents this year, despite feedback from recreational divers who indicate that the industry is increasingly aware of HSE's responsibility in this sector. A successful meeting was held with the major recreational training agencies where HSE was able to raise particular concern over risk assessments, dive team size and equipment configurations. This sector of the industry is a major area of concern and is being targeted for inspections and special initiatives, including increased enforcement action where appropriate. In spite of the increased incident figures, preliminary reports show that the standard of diving equipment is good and rarely a primary cause.

Offshore, there continues to be a significant number of diving related lifting incidents; HSE are working closely with industry to provide guidance for these operations in an attempt to reduce the figures. There is concern that there may be a shortage of good diving support vessels available for work in the UK sector. HSE's Offshore Division has had concerns in the past over the standard maintenance of vessels coming to the UK from other parts of the world. Operations involving vessels returning to UK waters are being targeted.

The inshore commercial dive sector is considered to be improving slowly. The understanding by major clients of diving services has improved with recent information initiatives but there are still clients and contractors who are prepared to go for the absolute minimum. The particular areas of concern are: risk assessments, team sizes and emergency plans. Last year, there was one fatality in this sector.

Engineering and utilities

There are 2 particular key issues within the engineering sector; exposure to isocyanates in motor vehicle repair (MVR) and horizontal boring machines.

Exposure to Isocyanates in Motor Vehicle Repair (MVR)

- Sensitisation from isocyanates continues to be the single most frequently reported cause of occupational asthma. This problem is especially significant in MVR, where the spray painting of vehicles is carried out. Reducing the exposure to isocyanates in MVR remains a priority objective for the sector. In 2000/2001 there was a specific enforcement initiative to ensure that precautions were in place to prevent or control exposure to isocyanates from two-pack spray paints in MVR bodyshops and other premises where vehicles were prepared for sale. In two thirds of the 234 premises visited, exposure was adequately controlled by the use of suitable spray booths or enclosures with effective local exhaust ventilation and provision of correct respiratory protective equipment (RPE). However, in the other third, conditions were unsatisfactory; for example, inadequate RPE provided or spray-booths used incorrectly. In 40% of premises health surveillance was absent or inadequate. As a result, 30 improvement notices and 9 prohibition notices were issued. The majority of the improvement notices issued required the provision of suitable health surveillance. 6 prohibition notices and 7 improvement notices were issued to deal with inadequate RPE.

Horizontal Boring Machines

- Part of the sector's strategy is to reduce accidents by progressively targeting machines which cause serious accidents. In 2000/2001 inspectors were asked to check horizontal borers whenever they were found during routine visits to engineering premises. They did this to ensure that the appropriate

standards of guarding were in place and that safeguarding and systems of work were based upon adequate risk assessment.

- A total of 58 premises were visited and Inspectors issued 46 improvement notices and 4 prohibition notices. In the majority of cases, the enforcement action required a risk assessment to be undertaken. One company is to be prosecuted following an accident.

Food and entertainment

Food and Entertainment includes a variety of industries, ranging from production of food and drink to safety at fairgrounds.

In the food and drink industry, we focused on prevention and control of risks from manual handling, slips and falls and workplace transport. This work continued the work of the “Recipe for Safety” strategy agreed with trade associations and trade unions, which embodies the priorities for action to tackle health and safety problems in these industries. Since this campaign was introduced, fatal injuries in the industry have almost halved and the total reported injury numbers have dropped by 24%. In relation to manual handling and slips injuries, over the last 4 year period reported injury incidence rates have decreased by 8% and 4 % respectively.

Other priority inspection work in the field ensured the industry had effective equipment purchasing policies in place and involved targeting sites and employers with the worst accident records. There were also co-ordinated interventions to some of the major employers in the industry. Inspectors issued 387 enforcement notices and completed 16 prosecutions with a further 17 pending.

In relation to fairgrounds, this was the fifth and final year of a compliance programme involving all dutyholders in the industry. Inspectors made over 2,000 contacts and served 34 enforcement notices. 7 prosecution cases were completed and 2 adjourned.

During 2000/2001 four fatal accidents occurred at fairgrounds leading to the deaths of 5 people (including 3 children). These occurred following a single fatal accident in the inspection year 1999/2000, bringing the total to 6 deaths in an 11 month period. HSE subsequently commissioned a review of fairground safety. The report is expected around the time this report goes to printing.

Gas (domestic)

HSE pursues all reported gas incidents and unsafe gas installations, and complaints which suggest that gas consumers' lives may be, or have been, put at risk. Enforcement activity has continued to be largely directed at installers displaying lack of competence, and at landlords, who have explicit duties under the gas safety legislation.

During 2000/2001, early data, yet to be validated, indicate that 136 reports of gas incidents and 1275 reports of suggested unsafe installations were investigated. These investigations led to inspectors serving 173 improvement notices and 48 prohibition notices. In total 352 separate charges were laid in court against landlords and installers.

Of the improvement notices served, 10% involved installers, and 89% landlords. Of the prohibition notices served, 96% involved installers. Of the informations laid, just under a quarter involved installers, and slightly more than a half landlords, with the courts imposing fines of up to £19,000.

Inspectors have continued to co-operate closely with the police and the Crown Prosecution Service when members of the public have suffered fatal carbon monoxide poisoning from the actions or inactions of others such as landlords. One landlord has already received a 15 month custodial sentence. Other manslaughter cases are still in train.

Metals and minerals

This sector employs some 350,000 people in a wide variety of industries, including iron and steel, foundries, glass, concrete, ceramics, waste disposal, quarries and stone masonry. The industries are mature, their technologies are well established, and radical changes to their production processes are rare. Statistics show a consistent picture across the industries: fatal and major injuries are mostly caused by transport, high falls and machinery, whilst over-3-day injuries are mainly due to slips, trips, low falls and manual handling. Ill health often arises from the physical nature of the traditional work processes and includes musculo-skeletal disorders (from manual handling), hand arm vibration syndrome (from use of vibrating power tools), noise induced hearing loss and respiratory diseases.

As part of the '*Revitalising*' agenda, HSE has worked with a number of the industries to develop a strategy to improve health and safety performance. For example, in quarrying, a range of major projects are being taken forward and should lead to a halving of accidents in the industry within five years. Similar initiatives are proceeding in ceramics, concrete, foundries and glass. Preliminary results from these collaborative ventures are encouraging.

Inspectors continue to take a robust enforcement line in these industries. They investigate a relatively high proportion of the major injury accidents, dangerous occurrences and cases of ill health that occur in the sector and this often leads to enforcement action.

In 2000/01 priority was given to inspecting processes which have increased risks from hand arm vibration, manual handling and transport. These programmes were associated with publicity campaigns, the publication of guidance and focused enforcement action. Over the year a total of 77 prosecutions were initiated and 331 improvement notices and 107 prohibition notices served.

Mining (underground)

Despite the decline of recent years, coal mining still accounts for over 80% of employment in the deep mine sector. Other minerals extracted in significant quantities from underground mines include potash, rock salt, gypsum and barytes. Employment in the sector reduced marginally, but there were no closures of large mines.

During the year HM Inspectorate of Mines (HMIM - part of the Hazardous Installations Directorate) continued its policy of targeted inspection, with regulatory activity again concentrated at high hazard underground coal mines. While HMIM aims to promote health and safety improvement by working closely with all parties within the sector, Mines Inspectors nevertheless found it necessary to serve a number of immediate prohibition notices and improvement notices. All of these were served on either mine owners or managers or both. Among the work activities stopped were: the use of ill-maintained conveyors giving rise to risk of fire, the use of inappropriate work equipment, and coal production in improperly supported working places

HMIM carried out a number of inspections targeted at health issues, including the control of inhalable dust, hand-arm vibration, work in hot and humid conditions, and work on manual handling aimed at reducing the prevalence of musculo-skeletal disorders. Teams of inspectors also carried out an increased number of detailed audit inspections into the management of specific hazards and risks at mines.

In 2001/2 HMIM will build on the work targeting health-related areas, and in particular will investigate all statutory notifications of excessive respirable dust, selected back-pain absence reports, and will continue to work towards reducing worker exposure to vibrating tools and equipment. The Inspectorate will also undertake a programme of investigations into the effectiveness of control measures relating to explosive dusts and gases in coal mines.

Nuclear

The nuclear industry has been subject to structural changes through rationalisation and privatisation over the past decade. There are now 15 licensees and 40 licensed sites which include decommissioning, submarine and weapon defence sites. Nuclear Safety Division (NSD) regulates the nuclear licensing regime under which inspectors prepare and issue legal approvals, consents and (occasionally) directions. Much of NSD inspectors' work is in giving advice and information to licensees, especially the new licensees and their staff. A high priority has been given to the results of organisational changes, the retention of competence in management, the increased use of contractors, and the need for licensees to act as intelligent customers.

Major tasks of high priority for NSD included the progress with the Dounreay audit findings, and with the audits of British Energy and BNFL. These have examined the control and supervision of operations, and the capability of the management to discharge its responsibilities.

During the past twelve months, NSD inspectors have issued 11 improvement Notices and 2 prohibition notices. 3 prosecutions were completed and resulted convictions and in total fines of £153,000. Notices and charges included some made under non-nuclear regulations.

A high priority for the future will be the need to monitor and, where necessary, seek improvements in the control by licensees of organisational changes. Further changes are possible in the structure of the industry, with an energy review by the Government and increasing commercial pressures, with more installations due to be decommissioned and with legacy radioactive wastes to be recovered and treated. A review of licence conditions has commenced in NSD, in part with the view to ensuring that they remain applicable to the restructured industry with its smaller licensees and its increasing work on the decommissioning of installations.

Offshore - oil and gas production

Safety case assessment remains a continuing priority for Hazardous Installations Directorate, Offshore Division (OSD). During the last 12 months OSD assessed 158 safety cases. Each assessment provides an opportunity to influence safety and secure improvements important for the health and safety of the workforce. In late Autumn 2000 a serious well incident occurred on a recently commissioned platform; the nature of the incident and the continuing high risk potential necessitated installation down manning and a total production shutdown. A revised safety case to undertake well kill operations utilising an attendant vessel to pump kill fluid was submitted and accepted. Then, a revised safety case was submitted describing modifications proposed to bring the installation back into production. The company was advised in writing of serious reservations with their proposals and that if these concerns could not be adequately addressed, the safety case could not be accepted. The company withdrew that case and later submitted combined operations' safety cases to enable well intervention work to secure the well, thus permitting failure investigations to be undertaken and preparations for abandonment and side-tracking the well. With the well secure, HSE had no objection to the resumption of production from other wells. Installation production remained shutdown for a considerable length of time.

The duty holder for another installation failed to resubmit his safety case within the 3-year statutory period. The duty holder ceased production on the installation on being informed that OSD would gather evidence with a view to commencement of legal proceedings against the company if the installation was operated without an accepted safety case. Production restarted when the safety case was accepted; the assessment was progressed as a high priority.

Priority health and safety initiatives commenced during the current year include, the management of process plant integrity, reducing manual handling injuries and musculo-skeletal disease, and reducing occupational ill health. As part of the

process plant integrity programme, all offshore hydrocarbon releases were investigated. Preliminary assessment showed a reduction in major and significant releases, however there was a significant increase in minor releases. The latter increase is probably due to increased awareness, greater vigilance on leaks, and improved reporting.

In terms of prosecutions over the last year, an offshore sub-sea engineering company was prosecuted under HSWA Section 2, for failing to provide a safe system of work for their employees. During underwater cutting operations an accumulation of gases from the cutting process exploded, resulting in fatal injuries to one of the divers involved. The company had failed to follow both their own procedures and established HSE and industry guidelines, by not ensuring that the area adjacent to the site of cutting operations was adequately vented to prevent the accumulation of such gases. The company was fined £60,000 after pleading guilty at the Sheriff Court.

An offshore installation operator was prosecuted in the Crown Court for non-compliance with a prohibition notice. The notice prohibited maintenance work on the pressure relief valves of one production train, while it was still linked to other on-line production trains, and not isolated from them, until a safe system of work had been provided. The installation operator subsequent undertook work in contravention of the prohibition notice. The company were fined £50,000 with £38,000 costs.

Ship collision with an offshore installation is an ever-present risk. Installations have 500m safety zones around them; these are marked on navigational charts. It is an offence under the Petroleum Act 1987 Section 23 for a vessel to enter a safety zone. A number of safety zone infringements occurred during the year; prosecutions were taken in the most serious cases. These include, a fishing vessel skipper fined £2,000 in the Sheriff Court, another fined £1,200 and the vessel owner fined £2,000 in the magistrates' court. A third skipper was given a 6-week prison sentence by the Crown Court for a similar offence. In all these cases skippers were failing to maintain a proper look-out from the vessel bridge at all times.

Onshore chemicals

Hazardous Industries Directorate Land Division has maintained a consistent rate of enforcement activity, issuing improvement and prohibition notices to ensure that good standards of health and safety are achieved and maintained. Enforcement action has included initiatives in safety in chemical warehouses, the transport of goods by road, and the assessment and control of occupational health risks. A significant effort has been made to reduce the accidents caused by manual handling through the introduction of guidance on benchmarking and risk management. The Division has taken a firm line in prosecuting duty holders when the investigation of incidents has identified serious health and safety offences.

The Division's main regulatory work has centred around the introduction of the Control of Major Accident Hazards Regulations 1999. These aim to achieve risk reduction by the structured identification of hazards and the compilation of safety reports showing how the activities are carried on in a safe way. Achieving

compliance has required a major effort to provide advice and guidance to industry supported by enforcement to improve the delivery and quality of operators' safety reports.

Within the major hazards sector, good progress has been maintained in a 5-year compliance programme to ensure the safe location of control rooms and other occupied buildings at chemical plants. The aim is to reduce the risks to personnel from explosion, fire or toxic hazards, whilst enabling them to maintain control in the event of an incident.

Polymers and fibres

This sector covers a range of industries in textiles, paper, printing, plastics, rubber and related processes. Most of the sector's industries use processes which can present serious health or accident risks, for which health and safety precautions are largely well-established and publicly available. A continuing enforcement priority is to secure compliance with these established standards of health and safety.

Specific priorities in 2000/2001 included the final year of a 3-year targeted initiative to reduce accidents in the paper making industry, and the second year of a similar initiative in the rubber industry. Both of these industries have accident incidence rates which are significantly higher than the average for all manufacturing industries.

By the end of the paper industry initiative there were encouraging signs of an improvement in the overall rates for major and over-3-day accidents, with some companies achieving more than the 50% improvement target. Future work will continue the momentum, concentrating on those companies with the poorest accident records. During the year, 13 enforcement notices were served on paper mills and 8 prosecutions were taken.

Specific health and safety issues targeted by inspectors during the year included:

- noise in the textiles industry, in which some 80 textile factories were visited and some 19 improvement notices served;
- manual handling in rubber factories (3 notices served), and in the newspaper industry, where an agreement to limit the weights of newspaper bundles was promoted (1 notice served);
- safety of guillotines in the printing industry (approx. 10 notices served); dust control in the wool textiles industry (1 notice served);
- control of reactive dyes in textile finishing (2 notices served);
- safety in wool carding machines (2 notices served); and
- machinery safety in the plastics industry (13 notices served, 1 prosecution under consideration).

Railways

The year has been dominated by the major train incidents at Ladbroke Grove and Hatfield and the subsequent investigations.

Without doubt, actions following Ladbroke Grove have been unparalleled. Enforcement action taken immediately after the crash had a major impact on the work of HSE's Railway Inspectorate with a massive effort by both HSE and the industry to reduce the number of signals passed at danger (SPADs). This action continues unabated. HSE's final report of its own investigation into the Ladbroke Grove crash was published on 18 December 2000. The first report from Lord Cullen's Ladbroke Grove Rail Inquiry was published on 19 June 2001, with the second report expected around the time this report goes to printing.

The Hatfield derailment led to more severe disruption of the rail network than any previous incident, because of the long term speed restrictions imposed at several hundred sites affected by the same type of rail defect as that which led to the derailment at Hatfield. HSE's second interim report into the Hatfield derailment was published on 23 January 2001, but investigation continues in conjunction with British Transport Police.

In addition, on 28 February 2001 there was the train collision at Selby in which 10 people died, which was caused by a Landrover partially obstructing the East Coast Main Line. HSE are also involved in this investigation. The interim report into this investigation was published on 6 March 2001.

Services

Defence, fire and police

Key issues for the police service are assaults, stress and musculo-skeletal disorders (MSD). The uniformed part of the service became subject to health and safety legislation in 1998, and it is already clear that these three issues are major contributors both to accidents and ill-health retirements. The accident incidence rate for the fire service remains high, with the emphasis on manual handling injuries.

The Ministry of Defence (MOD) are exempt from reporting accidents to service personnel on duty.

There were specific objectives for health and safety management inspections of the police and fire services in the Sector Strategic Plan for 2000/01 and again for 2001/02. Other action is being taken by the Sector itself to pursue *Revitalising Health and Safety* objectives, including target setting for accident/ill health reduction with the main sector employer organisations. As part of this initiative, HSE continues to liaise with the key employers' organisations and employee representative bodies.

During the year, 5 improvement notices were issued against police forces, 2 improvement notices against fire authorities and 3 Crown improvement notices against the MOD.

A single prosecution was taken against a fire authority, but no prosecutions were taken against police forces. In addition, 2 Crown censures were taken against Crown employers during the year. For the future, the removal of Crown immunity is an Action Point in the '*Revitalising*' Strategy Statement.

Local Government and Education

Enforcement activity took place across the whole range of Local Government services including schools education. Much of the enforcement activity related to public/client safety issues. There were at least 130 improvement notices and 40 prohibition notices issued. These included 14 on construction matters, 8 on asbestos matters, 19 on hot water, 8 on violence to staff and 7 on gas safety. In addition there have been 22 prosecutions of Local Authorities, again on a wide range of subjects. The significant cases were:

- A Metropolitan Borough Council was fined £400,000 for the death of an electrical contractor. This is the biggest fine ever for a local authority;
- A City Council was fined £115,000 following the drowning of a mute quadriplegic client in a bath;
- A Metropolitan Borough Council was fined £17,000 following the fatal scalding of a client with learning difficulties in a community home;

There were also 2 prosecutions in higher education and research, the notable one being £25,000 against a Research Council following a fatal asphyxiation due to liquid nitrogen.

Health Services

A key objective this year required at least 40 visits nationally to NHS Trusts or significant private hospitals. A proportion of these were follow-up visits to NHS Trusts which had already been the subject of a management inspection. The remainder were full health and safety management inspections, with 2 of these inspections per Division being to ambulance Trusts. The following serious issues were used as key performance indicators for these inspections:

- management of manual handling;
- management of COSHH; e.g. control of infection, control of exposure to glutaraldehyde and latex;
- managing the risks from workplace violence;
- hot water management - the control of risks from scalding and Legionella.

A total of 43 improvement notices were issued. These included 12 on general health and safety management, 11 on COSHH, 4 on manual handling, 4 on violence to staff and 4 on hot water management.

Over 200 preventative inspections of nursing homes were carried out. Over 200 improvement notices were served with hot water/hot surfaces, manual handling, and falls from windows continuing to be the major areas of non-compliance.

A total of 21 prosecutions were taken, of these over half related to inadequate control of hot water/hot surfaces. 3 cases were taken against a NHS Trust for breaches of the Ionising Radiations Regulations 1985 (IRRegs). The Trust was given a conditional discharge. This was one of three public bodies prosecuted for breaches of the IRRegs, which were given a conditional discharge. In the case of the Trust the court was of the opinion that fining it would reduce the amount of money available for patient care. In all cases there were no proven cases of ill health resulting from exposure.

Docks industry

Despite the massive changes in the docks industry over the last 30 years, it continues to be one of the most dangerous in GB with all reported injury rates remaining at around 3,000 per 100,000 workers and major and fatal rates at around 500 per 100,000 workers over the past few years.

Inspectors have continued to concentrate on the key underlying factor, the lack of control exercised by many dock operators over users involved in cargo handling and the latter's lack of control over their subcontractors. One of the Key National Objectives (KNO) for the Docks industry was the control and management of selected high risk activities including workplace transport, container handling and timber handling and how adequacy of training was ensured, and supported the introduction of the industry's own 'safety passport' scheme. The industry has been the subject of over 1,000 regulatory contacts, 39 notices and 5 prosecutions during the year.

The high accident rate has attracted ministerial concern and following a major recent conference for directors and senior managers, the industry is now working on the detail of how it will respond to the challenges of '*Revitalising*'. Inspectors will continue to target the industry particularly in relation to '*Revitalising*' priority programmes areas of workplace transport, falls from heights and musculo-skeletal disorders, all of which are major issues in docks.

Airports

This ever-expanding industry is a dangerous one, particularly for those working on the airport apron or handling baggage, and accident rates are well above the all industry average.

Inspectors are continuing to concentrate on the key underlying factor, the lack of control exercised by the aircraft operators and airports. These organisations are in a position to set and control standards for the many contractors on an airport apron engaged in discharging and loading an aircraft and preparing it for its next flight.

Last year's programme was particularly targeted at the role of the airline as the client both as a creator of risk, e.g. noise, and in selecting and monitoring the contractors it

hires. The industry has been the subject of over 600 regulatory contacts, 18 notices and 4 prosecutions during the year.

Inspectors will continue to target the industry particularly in relation to '*Revitalising*' priority programme areas of workplace transport, falls from heights and musculo-skeletal disorders, all of which are major issues on the apron.

TABLE 1

**ENFORCEMENT ACTION FOLLOWING HSE INVESTIGATIONS - PROSECUTIONS
AND NOTICES, GREAT BRITAIN, 1990/91-2000/01p**

Prosecutions

	Duty-holders prosecuted (a)	Total offences prosecuted (b)(c)	Of which, offences leading to conviction	Average penalty per conviction (d)
1990/91	1397	2312	1991	903 (e)
1991/92	1425	2424	2126	1181 (f)
1992/93	1324	2157	1865	1390
1993/94	1156	1793	1507	3103 (g)
1994/95	1111	1803	1499	2873 (h)
1995/96	1087	1767	1451	2572
1996/97	861	1490	1195	5274 (i)
1997/98	935	1627	1284	4694 (j)
1998/99	1038	1759	1512	4861 (k)
1999/00	1096	2115	1616	6820 (l)
2000/01p	1030	2077	1493	6250 (m)

Notices issued by type

	Improvement	Deferred prohibition	Immediate prohibition	Total notices
1990/91	8489	227	4022	12738
1991/92	8395	222	3802	12419
1992/93	7462	201	4251	11914
1993/94	6484	144	3961	10589
1994/95	6512	124	4172	10808
1995/96	5219	82	3385	8686
1996/97	3770	165	3509	7444
1997/98	4411	181	4319	8911
1998/99	6353	199	4348	10900
1999/00	6972	196	4172	11340
2000/01 p	6673	148	4237	11058

p - provisional

Note on conviction rate: In 2000/01, the provisional figures indicate that almost 72% of individual offences prosecuted resulted in conviction. This is similar to the success rate given in our 1999/2000 report, though the final figures for 1999/2000 now show 76% of individual charges resulting in conviction. When we remove from the 2000/01 figures charges adjourned for hearing or sentence after the end of the period, or adjourned without a date being set (*sine die*), the proportion of individual offences prosecuted which result in conviction is again about 76%. If charges withdrawn are also taken out, the conviction rate rises to about 95%, again similar to last year.

The types of enforcement action referred to in the tables are defined as follows:

Improvement notices require employers to take remedial action on specific breaches of the law within a specified time limit;

Prohibition notices are issued in cases where the inspector believes that a work activity involves or will involve a risk of serious personal injury. Prohibition notices can take two forms:

- **immediate prohibition notices** which stop a work activity immediately until a risk is dealt with; and
- **deferred prohibition notices** which stop a work activity within a specified time limit, for example, because the risk of injury does not require immediate action to control it, or where it would be unwise to interrupt a process in mid-cycle.

Other notes:

- (a) *This figure may include certain employers or other duty-holders who have been prosecuted on more than one occasion. Each prosecution may concern more than one offence.*
- (b) *Each offence prosecuted represents one information laid or, in Scotland, charge preferred.*
- (c) *Includes, for Scotland, charges preferred.*
- (d) *Figures for average penalty are actuals.*
- (e) *Includes two separate fines of £250,000 and £100,000 (reduced from £250,000 on appeal in November 1990). If these convictions are excluded the average fine for 1990/91 was £728.*
- (f) *Includes three separate fines of £250,000 and £100,000 against individual corporations. If these convictions are excluded the average fine for 1991/92 was £970.*
- (g) *Includes three individual fines of £250,000 and single fines of £150,000 and £100,000. The average fine for 1993/94 without these convictions was £2447.*
- (h) *Includes two individual fines of £200,000 and £100,000. If these convictions are excluded the average fine for 1994/95 was £2677.*
- (i) *Includes four separate fines of £750,000, £500,000, £250,000 and £125,000, fines totalling £400,000 against one company and six individual fines of £100,000. If these convictions are excluded the average fine for 1996/97 was £3113.*
- (j) *Includes four separate fines of £150,000, one for £175,000 and four of £100,000. If these convictions are excluded the average fine for 1997/98 was £3805*
- (k) *Includes one fine of £1,200,000, two for £500,000 and two of £100,000. If these convictions are excluded the average fine for 1998/99 was £3349.*
- (l) *Includes one fine of £1,500,000, two fines of £300,000, one fine of £250,000, two fines of £200,000, one fine of £175,000, two fines of £110,000, two fines of £100,000. If these convictions are excluded the average fine for 1999/00 was £4651.*
- (m) *This includes one fine of £400,000, two fines of £300,000, four fines of £200,000, one fine of £175,000, one fine of £150,000, two fines of £125,000 and two fines of £100,000. If these convictions are excluded the average fine for 2000/01 p was £4896.27*

TABLE 2

**ENFORCEMENT ACTION AGAINST CROWN BODIES:
NOTICES AND CENSURES, 1998/99 - 2000/01**

	Crown censures	Improvement notices	Deferred prohibition notices	Immediate prohibition notices	Total notices
1998/99	4	13	-	1	14
1999/00	3	21	-	5	26
2000/01	2	11	-	0	11

Crown bodies are bound by the requirements of health and safety legislation, but are not subject to statutory enforcement notices or prosecution. Non-statutory procedures are in place for the issue of Crown improvement and prohibition notices, and for the censure of Crown bodies in circumstances in which a prosecution would otherwise have been brought.

Crown improvement notices and **Crown prohibition notices [Notices that work should be stopped (risk of serious injury) for Crown employers]** require the same action from Crown employers as do improvement and prohibition notices from other employers.

A Crown censure is the formal recording of a decision by HSE that, but for Crown immunity, the evidence of a Crown body's failure to comply with health and safety law would have been sufficient to provide a realistic prospect of conviction in the courts (in line with the Code of Crown Prosecutors).

CROWN BODIES CENSURED DURING 2000/01

- 1 Crown employer: MoD (Army), Main Building, Whitehall, London
Date of incident: 29/7/98
Location of incident: Longmoor Training Camp, Liss, Hampshire
Date of censure: 6/7/00
Alleged breaches: Section 3(1) HSW Act 1974; Regulations 3(1)(b) and 3(4)(a) Management of Health and Safety at Work Regs 1992

- 2 Crown employer: MoD (Royal Navy), Victory Building, HM Naval Base, Portsmouth
Date of incident: 5/5/00
Location of incident: HMS Raleigh, Torpoint, Cornwall
Date of censure: 28/11/00
Alleged breaches: (i) Regulation 5(1) Provision and Use of Work Equipment Regulations 1998 (ii) Regulation 6(2) Provision and Use of Work Equipment Regulations 1998

TABLE 3**PROSECUTIONS BROUGHT BY HSE, ENGLAND, 1996/7-2000/01p**

	Duty-holders prosecuted	Total offences prosecuted	Of which, offences leading to conviction	Average penalty per conviction (£)
1996/97	-	1,230	997	5,211
1997/98	-	1,319	1,044	4,362
1998/99	844	1,440	1,256	5,158
1999/00	873	1,683	1,267	5,380
2000/01 p	849	1,728	1,240	6,628

(a) Figures for duty-holders prosecuted for years 1996/7 and 1997/8 are not available.

(b) Offshore prosecutions are included in the GB table. They also appear in the separate Scottish and English tables, depending on where the prosecution was conducted. If the offence occurs in Scottish waters (as defined), the case goes to a Scottish court, and if in English waters, to an English court.

p Provisional

TABLE 4**PROSECUTIONS BROUGHT BY HSE, WALES, 1996/7-2000/01p**

	Duty-holders prosecuted	Total offences prosecuted	Of which, offences leading to conviction	Average penalty per conviction (£)
1996/97	-	86	76	8,011
1997/98	-	149	134	4,591
1998/99	97	170	153	3,559
1999/00	134	215	195	7,747
2000/01 p	96	159	139	4,143

(a) Figures for duty-holders prosecuted for years 1996/7 and 1997/8 are not available.

p Provisional

TABLE 5**PROSECUTIONS BROUGHT BY THE CROWN OFFICE AND PROCURATOR
FISCAL SERVICE FOLLOWING INVESTIGATION BY HSE, SCOTLAND,
1996/7-2000/01p**

	Duty-holders prosecuted	Total offences prosecuted	Of which, offences leading to conviction	Average penalty per conviction (£)
1996/97	-	174	122	4,083
1997/98	-	159	106	8,096
1998/99	105	149	103	3,183
1999/00	118	217	154	4,262
2000/01p	111	190	114	5,624

(a) Figures for duty-holders prosecuted for years 1996/7 and 1997/8 are not available.

(b) Offshore prosecutions are included in the GB table. They also appear in the separate Scottish and English tables, depending on where the prosecution was conducted. If the offence occurs in Scottish waters (as defined), the case goes to a Scottish court, and if in English waters, to an English court.

p Provisional

Table 6

Prosecutions instituted by HSE by result and by industrial sector 1996/97 - 2000/01p

Standard Industrial Classification	Year	Agriculture, hunting, forestry & fishing	Extractive & utility supply industries	Manufacturing industries	Construction	Service industries	Unclassified	All industries
Informations laid	96/97	103	48	563	508	268	0	1490
	97/98	80	32	518	719	278	0	1627
	98/99	117	49	601	681	311	0	1759
	99/00	141	97	714	782(a)	381	0	2115
	00/01p	221	34	731	700	391	0	2077
Convictions	96/97	87	37	477	385	209	0	1195
	97/98	69	26	438	544	207	0	1284
	98/99	102	34	551	565	260	0	1512
	99/00	107	65	606	542	296	0	1616
	00/01p	71	25	574	523	300	0	1493
Average penalty per conviction (£)	96/97	1101	1780	7372(b)	3934(c)	5305(d)	0	5274(e)
	97/98	1316	19192(f)	5760(g)	3123	5872(h)	0	4694(i)
	98/99	1391	8916	4077(j)	5516(k)	5932(l)	0	4861(m)
	99/00	3751	10644(n)	7373(o)	4296(p)	10579(q)	0	6820(r)
	00/01p	2090	13374	6225(s)	4774(t)	9261(u)	0	6250(v)

Notes:

- (a) Includes 77 informations adjourned sine die during prosecutions following a single incident involving multiple breaches of asbestos regulations.
- (b) Includes fine of £500,000 against Lloyds Register of Shipping; fine of £750,000 against Fartygsentreprenader AB (part of the Mattson Group); fine of £250,00 against Fartygskonstruktioner (part of the Mattson Group); four fines of £100,000 against Pembroke Cracking Co Ltd & the £100,000 fines against Firth Vickers Centrispinning Ltd. The average fine without these convictions would be £3234.
- (c) Includes the fine of £100,000 against Cheetham Hill Construction Ltd and the fine of £125,000 against TE Scudder Ltd. The average fine without these convictions would be £3367.
- (d) Includes the two fines of £100,000 against Port Ramsgate Ltd and the two fines of £100,000 against the British Railways Board. The average fine without these convictions would be £3457.
- (e) Includes fine of £500,000 against Lloyds Register of Shipping; fine of £750,000 against Fartygsentreprenader AB (part of the Mattson Group); fine of £250,00 against Fartygskonstruktioner (part of the Mattson Group); four fines of £100,000 against Pembroke Cracking Co Ltd & the £100,000 fines against Firth Vickers Centrispinning Ltd; fine of £100,000 against Cheetham Hill Construction Ltd; fine of £200,000 against Port Ramsgate Ltd; fine of £125,000 against TE Scudder Ltd and 2 fines of £100,000.
- (f) Includes two fines of £100,000 against Coflexit Stena Offshore and fine of £175,000 against Mobil North Sea Ltd. The average fine without these convictions would be £5391.
- (g) Includes two fines of £150,000 against BJ Process and Pipeline Services Ltd and fine of £100,000 against BL Pegson. The average fine without these convictions would be £4880.
- (h) Includes fines of £150,000 against Neath and Port Talbot County Borough Council and Trentham Leisure Ltd, and fine of £100,000 against Associated British Ports Ltd. The average fine without these convictions would be £3610.
- (i) Includes two fines of £100,000 against Coflexit Stena Offshore, the fine of £170,000 against Mobil North Sea Ltd, two fines of £150,000 against BJ Process and Pipeline Services Ltd, fine of £100,000 against BL Pegson, the fine of £150,000 against Neath and Port Talbot County Borough Council and Trentham Leisure Ltd, and the fine of £100,000 against Associated British Ports Ltd. The average fine without these convictions would be £3805.
- (j) Includes the fine of £100,000 against Dunlop Tyres UK Limited. The average fine without this conviction would be £3903.

- (k) Includes the £1,200,000 fine against Balfour Beatty Civil Eng. Ltd, the fines of £500,000 against Rivenhall and Geoconsult ZT GES MBH. The average fine without these convictions would be £2516.
- (l) Includes the fines of £500,000 against Rivenhall and Geoconsult ZT GES MBH. The average fine without these convictions would be £4024.
- (m) Includes the £1,200,000 fine against Balfour Beatty Civil Eng. Ltd, the fines of £500,000 against Rivenhall and Geoconsult ZT GES MBH and the fines of £100,000 against Dunlop Tyres UK Limited. The average fine without these convictions would be £3349.
- (n) Includes two fines of £140,000 against B G International. The average fine without these convictions would be £6537.
- (o) Includes the fine of £300,000 against BOC Gases Ltd, the fine of £249,999 against Friskies Petcare (UK) Ltd, the fines of £200,000 and £175,000 against British Steel plc, the fine of £110,000 against Nippon Electric Glass (UK) Ltd and the fine of £100,000 against Brintons Ltd. The average fine without these convictions would be £5555.
- (p) Includes the fine of £200,000 against Keltbray Ltd, the fine of £110,000 against Tarmac Construction Ltd and the fine of £100,000 against Tarmac Quarry Products Ltd. The average fine without these convictions would be £3556.
- (q) Includes the fine of £1,500,000 against Great Western Trains and the fine of £250,000 against London Underground. The average fine without these convictions would be £4698.
- (r) Includes the fine of £1,500,000 against Great Western Trains and the fine of £250,000 against London Underground. Includes the two fines of £140,000 against B G International, fine of £300,000 against BOC Gases Limited, and the fine of £249,999 against Friskies Pet Care(UK) Ltd. One of £200,000 against Keltbray Ltd, two fines against British Steel of £200,000 and £175,000. Two fines for £110,000 against Nippon Electric Glass (UK) Ltd and Tarmac Construction Ltd. Two fines for £100,000 against Brintons Ltd and Tarmac Quarry Products Ltd. The average fine without these convictions would be £4651.
- (s) This includes two fines of £200,000 and £150,000 against Colthrop Board Mill Ltd, the two fines of £125,000 against South East Galvanizing and Cammell Laird (Tyneside) Ltd. The total fine without these convictions would be £5216.
- (t) This includes the fine of £100,000 against John Mowlem and Company PLC. The average fine without these convictions would be £4592.
- (u) Includes the fine of £400,000 against Doncaster Metropolitan Borough Council, two fines of £300,000 and £200,000 against Jarvis Fastline, the fine of £200,000 against Railtrack PLC, the fine of £175,000 against Railcare Ltd, and the fine of £100,000 against City of Salford. The average fine without these convictions would be £4773.
- (v) This includes the two fines of £200,000 and £150,000 against Colthrop Board Mill Ltd, the two fines of £125,000 against South East Galvanizing and Cammell Laird (Tyneside) Ltd. The fine of £100,000 against John Mowlem and Company Plc, the fine of £400,000 against Doncaster Metropolitan Borough Council, the two fines of £300,000 and £200,000 against Jarvis Fastline, the fine of £200,000 against Railtrack Plc, the fine of £175,000 against Railcare Ltd, and the fine of £100,000 against City of Salford. The average fine without these convictions would be £4896.
- p Provisional

Table 7

Enforcement notices issued by HSE by industrial sector and type of notice 1996/97 - 2000/01p

STANDARD INDUSTRIAL CLASSIFICATION (SIC92)		Agriculture, hunting, forestry & fishing	Extractive & utility supply industries	Manufacturing industries	Construction	Service industries	Unclassified	All industries
TYPE OF NOTICE	Year							
Improvement	96/97 (a)	600	41	2111	179	839	0	3770
	97/98 (b)	810	49	2435	153	964	0	4411
	98/99	933	156	3087	582	1595	0	6353
	99/00	976	148	3493	681	1674	0	6972
	00/01p	691	200	3875	533	1374	0	6673
Deferred prohibition	96/97	19	3	55	50	38	0	165
	97/98	35	0	61	47	38	0	181
	98/99	33	0	67	55	44	0	199
	99/00	21	5	30	112	28	0	196
	00/01p	21	1	48	55	23	0	148
Immediate prohibition	96/97	419	139	861	1747	343	0	3509
	97/98	974	120	1030	1828	367	0	4319
	98/99	799	117	1055	2017	360	0	4348
	99/00	644	85	1090	1975	378	0	4172
	00/01p	589	63	1211	2025	349	0	4237
Total notices	96/97 (a)	1038	183	3027	1976	1220	0	7444
	97/98 (b)	1819	169	3526	2028	1369	0	8911
	98/99	1765	273	4209	2654	1999	0	10900
	99/00	1641	238	4613	2768	2080	0	11340
	00/01p	1301	264	5134	2613	1746	0	11058

(a) In 1996/97, approximately 540 Notices of Intent led to work being completed within two weeks. Therefore, Improvement Notices were not issued. In the absence of the Notice of Intent procedure 1996/97 enforcement notices numbers would have been about 540 higher.

(b) In 1997/98, approximately 630 Notices of Intent led to work being completed within two weeks. Therefore, Improvement Notices were not issued. In the absence of the Notice of Intent procedure, 1997/98 enforcement notice numbers would have been about 630 higher. The Notice of Intent procedure was withdrawn at the end of 1997/98.

p Provisional