

# Bureaucrats get the power to bypass courts and hand out fines

By IAN DRURY -Daily Mail 31st March 2008



Fines: Motorists will be affected by new rules

Unelected bureaucrats will be handed draconian new powers to hit people with fines of thousands of pounds without ever needing to find them guilty.

Under controversial plans sneaked out by the Government, tens of thousands of civil servants will be sanctioned to bypass the courts and impose fixed penalty notes.

Millions of homeowners, motorists, shopkeepers, childminders and traders could be caught out unwittingly by the "unjust and oppressive" measures, which are buried in the small print of new legislation.

People involved in transport, fishing, medicine, housing and construction, and animal welfare could also be affected.

Critics say it is an alarming extension of the use of on-the-spot fines which has been introduced under Labour.

Council officials can already impose fines of up to £80 for putting your bins out on the wrong day or smoking.

At the same time, the police have been granted the power to hand out fixed penalties for anti-social behaviour and being drunk-and-disorderly.

But now officials who work for 27 regulators including the Health and Safety Executive, Food Standards Agency, Charity Commission, Environment Agency, Housing Corporation and Financial Services Authority will be handed unprecedented powers to hand out unlimited penalties.

For instance, if someone was accused of fly-tipping they would, under the new regulations, be fined by the Environment Agency.

Normally a case would be dealt with by the courts and the person or business would have the

opportunity to plead their innocence.

But if they are accused of falling foul of the law by one of the 27 unelected and unaccountable organisations, the only recourse to justice will be before a special tribunal.

Experts believe it would cost £1.6million to deal with the predicted 5,000 cases arising from this legislation each year.

In a withering attack on the proposals, Lord Lyell, the respected former Conservative Attorney General who has highlighted the issue in the House of Lords, said: "Giving public officials the right to punish citizens is unjust and oppressive."

Alan Duncan, the Conservative's Business, Enterprise and Regulatory Reform spokesman, said: "Last summer, Gordon Brown told us that he was preparing a major handover of executive powers.

"But what we didn't know was that he was planning to hand them over to unaccountable and unelected officials.

"These extraordinary proposals throw the whole concept of due process out of the window, which could cause untold misery for thousands of businesses, let alone one-man operations.

"It means regulators will be not only investigators and prosecutors, but judge, jury and sentencers."

He added: "Once again, the Government appears to be incapable of understanding how to tackle the growing weight of regulation."

The Government claims that the Regulatory Enforcement and Sanctions Bill, currently going through the House of Lords, is designed to lift the burden of red tape on business.

It claims it intends to take "further important steps towards modern and effective regulatory enforcement".

But the Bill's small print proposes a system of fines which could be imposed by bureaucrats on individuals and businesses without the need to go to court.

Fines would be up to £3,500 but the legislation allows for the handing out of "variable penalties" of unlimited amounts.

The Bill says officials must be satisfied the offender is guilty to the "criminal standard of proof". The code for prosecutors states a case should only go to court if there is a "realistic prospect of conviction".

But in the last three years, for instance, the Health and Safety Executive (HSE) has carried out 1,267 prosecutions of which 268 - one in five - have been acquitted.

Critics fear that thousands of innocent individuals and businesses will be wrongly fined because bureaucrats are so often wide of the mark when bringing cases to court.

Senior Peers from all parties sitting on the Lords Select Committees on Delegated Powers and on the Constitution have described the proposals as "unprecedented".

Shami Chakrabarti, the director of Liberty, said: "Summary justice seems instantly attractive when someone else is on the receiving end, but one of the hallmarks of a free society is that judges disperse fines and other punishments, not politicians or their bureaucrats."

A report by the Crime and Society Foundation three years ago warned that thousands of people were being consigned to a new class of "semi-criminals" by Labour's policy of on-the-spot fines for minor offenders.