

Health and Safety Enforcement Law and Practice

Richard Matthews QC and James Ageros

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Book review by Sally Ramage, Editor of *The Criminal Lawyer*, Bloomsbury Professional, United Kingdom

'A risk is a present potential danger the existence of which may or may not be appreciated.'

These are words uttered by Lord Hope in the decision in *Chargot* [2009] 2 All ER 65, relating to employers duties and directors duty as per the Health and Safety at Work Act 1974 ('HSWA'). Richard Matthews QC represented the Health and Safety Executive in this case, *Chargot*, the leading authority on what the prosecution must prove in order to establish a *prima facie* case in a prosecution under sections 2, 3, 4, 7 and 37 of SWA 1974.

Health and Safety Enforcement Law and Practice is a rich, superb and much needed legal practitioners' book on health and safety enforcement. It can safely be said to be the only book that fully addresses the law and practice of enforcement. Of the few other books on health and safety law published recently, only Tottel's is a contender for first place because it includes a whole chapter on health and safety law in Scotland. It is true that the internet is packed with websites (including the UK government's) on the subject of health and safety but that does not assist one through the thicket of legislation, especially from the legal practitioner's perspective. The authors' hard work has resulted in a sound book of 13 chapters and some 646 pages and the chapters take one from the enforcement framework; the reporting of H & S incidents; interviews under caution; notices and their appeals; legal personality and secondary liability; H & S offences; the English criminal procedure; the two legal issues of 'abuse of process' and 'judicial review'; and sentencing. There is a chapter dedicated to work-related deaths and also one on some of the H & S regulations. This book is priceless in its description of all the stages of interview under caution, a most important chapter, moving away from the classic 1972 case of *Tesco v Natrass* to the 2009 *Chargot* trial, when in summing up, Lord Hope said that risk is part of daily life and that it is not the purpose of the law to impose unreasonable burdens on the employer. At para 659, giving no definition of the word 'fair', Lord Hope said that the test of how much detail must be given to the defendant during discovery '*is that of fair notice*'. (See page 139).

New 'guidance' was thereafter issued by the Health and Safety Commission and the Institute of Directors jointly, namely leading *Health and Safety at Work: Leadership actions for Directors and Board Members*, known as ING417. This book is full of constructive and intricate details that only eminent practitioners can deliver. Well worth reading.