

## Unlimited fines in magistrates' courts

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**CATEGORY:**

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Magistrates have acquired new powers to fine those convicted of offences in England and Wales which can only be tried in magistrates' courts at whatever level they consider most appropriate. Since 12 March 2015, the level of fine appropriate for each offence is determined by reference to the type and seriousness of the offence and the ability of the offender to pay, but previously maximum fines in magistrates' courts were capped at £5,000 or more. The change removes the cap on maximum fines, giving magistrates the discretion to impose higher fines in proportion to financial means in order to punish companies by hitting their shareholders' pockets.

The main points to note are:

- All maximum fines in magistrates' courts formerly capped at £5,000 or more are now unlimited
- The changes affect only England and Wales
- The new sentencing powers apply only to offences committed on or after 12 March 2015
- Fines formerly set at a level below £5,000 will continue to be capped, so companies cannot be given unlimited fines for low-level offences
- In certain limited instances where fines were previously capped at a level above £5,000, they will also continue to be capped

What this means for you

Companies convicted of summary offences under a wide range of legislation including health and safety law now risk receiving significantly higher fines than previously. This is particularly likely if, as expected, the recent Sentencing Council consultation on sentencing regulatory offences results in fines being linked to turnover rather than profit. One of the triggers for setting the level of any fine would be company turnover at the date of sentencing, not the date of the offence.

Companies and their directors may therefore need to reconsider their approach to certain regulatory offences which until now they may have made a commercial decision not to contest because they only attracted low fines. Companies with a high turnover will no longer be shielded by low maximum fines, and as a result they stand to incur real financial as well as reputational damage upon conviction.