

Law

Getting a handle on safety

Employers have yet to feel the full force of the Machinery & Occupational Safety Act which three years ago



Looch (left) and Klass: there's more than one reason to jack up safety

superseded the Factories Act. So warn two former occupational safety court prosecutors Michael Klass and Raynard Looch. They have set up a consultancy to advise employers on complying with the Act's requirements.

Last year convictions in Johannesburg's occupational safety court led to fines of more than R90 000, with a conviction rate at 90% of cases heard. They reckon this is small beer. Though the court can impose fines of up to R4 000 or 24 months in jail or both, maximum fine on admission of guilt is R300 for each contravention. Looch points out the fines are not the only consequence of not complying with the Act: "Employers can be fined repeatedly for contraventions of the Act, and this could eventually result in closure of the workplace and extensive prosecution for non-compliance." Klass adds that if the inspector identifies a "dangerous activity" in the workplace, and this activity is the main business being conducted there, the workplace can be closed down.

But there has been some reluctance to come down hard on offenders. Looch says the court has been hesitant about using the full powers available to it. "This will eventually change," he is convinced.

And policing has been poor. For instance, only the Transvaal has a special court. "Policing is starting to improve, partly because of union pressure," avows Klass. An inspectorate under the control of the Department of Manpower has been established to police the Act.

It is wider than the Factories Act since it covers workplaces other than factories. But it has not necessarily been welcomed by the unions. A criticism of

worker representatives appointed by management. "Worker representatives should be elected," Klass agrees. While he is at pains to state that the Act is adequate, he stresses the consultancy does not merely offer avoidance of prosecution: "Fulfilling requirements of the Act will help prevent accidents."

It's in employers' interests to jack up safety, not only for legal reasons but as an aid to better productivity and industrial relations. Unions have increasingly become aware of occupational safety as a labour issue. "There is a perception among them that SA businessmen are not as concerned with safety as with profits," Klass feels. "Management must show its commitment to safety."