

# \$6,000 fine to stand over Castle Peak blast

Billy Adams

A magistrate has refused to increase the \$6,000 fine imposed on China Light and Power (CLP) for an explosion at the Castle Peak power station that killed two workers and injured 18.

The fine was the only criminal prosecution to arise from the incident.

Magistrate Ernest Lim, who drew criticism after setting the penalty in June, said at yesterday's review of the fine in Tuen Mun that no "special circumstances" existed to change his mind.

The new Director of Public Prosecutions, Peter Nguyen, told the magistrate that the fine was "inadequate".

The Labour Department said last night that it would consider asking the Attorney-General, Jeremy Mathews, to appeal.

And the legislator Emily Lau immediately called for a review of the law to ensure heavier penalties.

"I am very unhappy that a case like this, where lives have been lost as a result, ends with such a small fine," Lau said.

"It is the kind of money CLP executives spend on one meal."

Lim said an allowance for higher penalties was a job for the lawmakers, adding: "We should really look seriously at increasing the level of penalties."

"The starting point for this particular case... should have been around \$7,000," he said.

"But in view of the fact that this is a review I accept that it is unusual to vary the sentence unless there are special circumstances."

"I must say it is a very educating review."

The maximum fine Lim could have imposed was \$30,000, although recent legislation has pushed this to \$200,000.

Lim was criticised for imposing the \$6,000 fine after CLP admitted that it failed to provide and maintain a safe hydrogen generation plant.

Yesterday Nguyen argued that Lim failed to fully take into account the gravity of the offence in an "exceptional" case where there were no mitigating factors.

Wong Kwong-yu and Yip Kapi, both engineers, died when

two high-pressure hydrogen receivers blew up in August 1992, scattering debris over a wide area outside the plant.

Nguyen said a similar case in which one worker died had resulted in a \$10,000 fine. As well, another judge's ruling had deemed that the starting point in such cases should be \$12,000.

Lim said that was only the judge's opinion.

Nigel Kat, for CLP, said the firm had an excellent safety record but had been unable to prevent the explosion.

He said "ill-informed" newspaper comment after the first hearing in June put pressure on the Legal Department to apply for the review.

"It is in the interests of justice and the public interest that the court should not be subject to, or seen to react to, such pressures," Kat said.

"The amount of money is not important here. The fine is a fine for the offence."

Nihal Jayawickrama, the chairman of the legal rights group, Justice, said he hoped the Government would appeal.

"The Attorney-General obviously thought the fine was wholly inadequate and many people seem to share that view," he said.

"There must be a purpose to a penalty but that is not the case here."

Chan Kam-hong, a spokesman for the Association for the Rights of Industrial Accident Victims, said stiffer sentences would make employers tighten safety measures.

The explosion has been steeped in controversy since a barrister, Michael Ford, revealed the existence of two company reports that were not shown to an inquest last year, which returned an accidental death verdict.

After the revelation the inquest was reopened and returned a verdict of death by lack of care.

The first verdict was reinstated this year at a judicial review sought by CLP and the plant owner, Castle Peak Power Company.

The Legal Department plans to challenge that ruling at the Court of Appeal this month.