

Bulletin: 120

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CORPORATE MANSLAUGHTER AND CORPORATE HOMICIDE ACT 2007

This Act comes into force on the 6th April 2008 across the UK. Under the new Act an organisation will be guilty of a new offence of corporate manslaughter (corporate homicide in Scotland) if the way in which its activities are **managed or organised** causes a death and amounts to a **gross breach** of a **duty of care** to the deceased.

Juries will consider how the fatal activity was managed, including any systems and processes for managing safety and how these were operated in practice. A substantial part of the failure within the organisation must have been at a **senior level** which includes directors and those in operational management.

Juries will have to take into account any health and safety breaches and how serious and dangerous those failures were. A duty of care exists for example in respect of the systems of work and equipment used by employees. This Act does not create new duties – they are already owed in the civil law of negligence.

The new offence does not apply to certain public and government functions e.g. strategic decisions about the spending of public money or military operations. Other functions, such as policing, the response of the emergency services, child protection and statutory inspection are also exempt other than where organisations owe responsibilities to employees or for the premises they occupy.

An organisation guilty of the offence will be liable to an unlimited fine. Courts will also be able to order the organisation to publicise details of its conviction and fine and to make a remedial order requiring the organisation to take steps to address the failures behind the death.

The offence is aimed at management failures across an organisation and it is the organisation itself that will face prosecution. Therefore directors, senior managers or other individuals will not be directly prosecuted for the offence but such individuals can already be prosecuted for gross negligence, manslaughter/culpable homicide and for health and safety offences under existing law. Therefore the Act does not change this and prosecutions against individuals will continue to be taken where there is sufficient evidence and it is in the public interest to do so.

Practical Tip

All employers must already comply with health and safety legislation and the Act does not affect those requirements. However the Act is an opportunity for employers to undertake a detailed safety audit to satisfy themselves that systems and processes for managing health and safety are adequate and that their organisation is complying with current health and safety laws.

If you require any specific advice in connection with the material contained in this bulletin, or on any other Employment Law issues, please contact a member of the Employment Team on 0151 600 3000. If you no longer wish to receive the bulletin please let us know by return email.

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