



Frequently asked questions

1. When does the Corporate Manslaughter and Corporate Homicide Act 2007 come into force?

The new Act, which received Royal Assent on 26th July 2007, comes into force on 6th April 2008.

2. What offence will be created by the new Act?

The Manslaughter and Corporate Homicide Act 2007 will create a new statutory offence in England, Wales and Northern Ireland, of 'corporate manslaughter' and in Scotland of 'corporate homicide' by which a corporation or limited company can be prosecuted for involuntary manslaughter, committed in the course of its operations.

3. How is the Act different from current legislation?

At present, a company's guilt is linked to the gross negligence of a person said to be the embodiment of the company, making it very difficult to prosecute large companies. In small companies, where the director and the company are one and the same, prosecutions have been successful.

The new Act focuses on the way in which a company's activities are organised and managed; it does not rely on one person being found guilty of gross negligence. Courts will be able to consider the wider view, looking collectively at the failings of a company's senior management.

4. Who is classed as 'senior management'?

The Act defines senior management as those persons who play a significant role in the decision-making processes of their company's management and organisation.

A company will be guilty of the new offence if a person has been killed as a result of the gross failure of a company's senior managers such as the failure to ensure safe working practices.

5. What will be classed as a gross management failure?

The prosecution must prove that the management failure amounted to a gross breach of the duty of care owed to the deceased to secure a conviction.

6. Will individuals be affected by the Act?

Individuals may already be held liable through existing health and safety legislation. The new Act is concerned with corporate responsibility and liability.

7. What penalties will be incurred?

Penalties include:

- An unlimited fine
- Remedial orders which require an organisation to remedy the management failure that led to a death
- Publicity orders which can be imposed by the court to publicise the conviction of the company, giving details of any fine and the terms of any remedial orders made

8. What should I do to prepare for the new legislation?

- Assess your company structure to find which members of staff could be regarded as a 'senior manager'
- Make sure that senior managers are competent and have received health and safety and other relevant training
- Review job titles and job descriptions of senior managers to make sure they reflect the seniority of the position
- Provide updated training for senior managers on their health and safety responsibilities
- Review all health and safety policies to ensure that statements made and standards set are achievable and do not exceed legal obligations
- Check that your insurance cover includes legal protection in the event of criminal charges being brought for corporate manslaughter
- Review the health and safety environment for employees and, where relevant, for members of the public
- Review your disaster management plan – establish a protocol for handling issues with the authorities and working with legal advisers when a fatality occurs
- Consider insurance and indemnity policies for those employees who may need legal support during any investigations. These should be sufficient to cover expenses where the employee is not personally found guilty of an offence

9. Where can I find further help and guidance?

Further help and guidance on the new Manslaughter and Corporate Homicide Act 2007 is available from the FMB Health and Safety Helpline and the FMB Legal Helpline. Contact the FMB Information Department on 0870 162 0947 or your Regional Office for advice on how to access the Helplines.

This Information Sheet has been produced for general guidance. It does not constitute specific legal advice, which should be sought if any of the above issues arise. Except as required by law, we accept no liability for your reliance on the information provided here.