

Corporate Manslaughter Act

When did the new Act come into force?

The Corporate Manslaughter and Corporate Homicide Act was given Royal assent on 26 July 2007. The offence came into force on 6 April 2008 and is called corporate manslaughter in England, Wales and Northern Ireland, and corporate homicide in Scotland.

Provisions in the Act which relate to *publicity orders* (see [section 10 of the Act](#) ) will commence when sentencing guidelines are published. It is anticipated that this will be by Summer 2009.

Provisions in the Act which relate to the *management of custody* (see [sections 2\(1\)\(d\) and 2\(2\) of the Act](#) ) will also come into force at a later stage. It is expected that the implementation period will be between 3-5 years.

Are there any new duties or obligations under the Act?

There are no new duties or obligations under the Act, nor is the new offence part of health and safety law. It is, however, specifically linked to existing health and safety requirements.

What do companies and organisations need to do to comply?

Companies and organisations that take their obligations under health and safety law seriously are not likely to be in breach of the new provisions. Nonetheless, companies and organisations should keep their health and safety management systems under review, in particular, the way in which their activities are managed or organised by senior management.

Where does health and safety legislation come in?

Under the Act, health and safety legislation means "any statutory provision dealing with health and safety matters" so it will include transport (road, rail, river, sea, air) food safety and workplace safety as enforced by HSE and local authorities.

Juries will be required to consider breaches of health and safety legislation in determining liability of companies and other corporate bodies for corporate manslaughter/homicide. Juries may also consider whether a company or organisation has taken account of any appropriate health and safety guidance and the extent to which the

evidence shows that there were attitudes, policies, systems or accepted practices within the organisation that were likely to have encouraged any such serious management failure or have produced tolerance of it.

Who will investigate and prosecute under the new offence?

The police will investigate suspected cases of corporate manslaughter/homicide. Prosecution decisions will be made by the Crown Prosecution Service (England and Wales), the Crown Office and Procurator Fiscal Service (Scotland) and the Director of Public Prosecutions (Northern Ireland).

What is the role of health and safety regulators like HSE, local authorities etc?

As now, there will be a joint approach to work-related deaths between all the relevant regulatory authorities in line with the principles of the Work Related Deaths Protocol.

Will directors, board members or other individuals be prosecuted?

The offence is concerned with corporate liability and does not apply to directors or other individuals who have a senior role in the company or organisation. However, existing health and safety offences and gross negligence manslaughter will continue to apply to individuals. Prosecutions against individuals will continue to be taken where there is sufficient evidence and it is in the public interest to do so.

Is there any advice or guidance for directors or board members on what they should be doing and what their responsibilities are under health and safety legislation?

In conjunction with the Institute of Directors, HSE has published guidance for directors on their responsibilities for health and safety - '[Leading health and safety at work: leadership actions for directors and board members](#)' ([INDG417](#)) [450KB] . The guidance sets out good practice for directors, addressing them in language and style they will find authoritative and convincing, informing Boards and their members in the public, private and third sectors, as to how to provide leadership in health and safety so as to help their organisation meet its legal obligations as an employer under the Health and Safety at Work etc. Act 1974 and gain the business benefits arising from effective, sensible health and safety management.

It should be borne in mind that HSE is only one of the health and safety regulators that might produce relevant health and safety guidance. Organisations and companies can also seek guidance from any regulators in their own industry or sector.

What penalties will a company or organisation face?

Penalties will include unlimited fines, remedial orders and publicity orders. A remedial order will require a company or organisation to take steps to remedy any management failure that led to a death. The court can also impose an order requiring the company or organisation to publicise that it has been convicted of the offence, giving the details, the amount of any fine imposed and the terms of any remedial order made. The publicity order provisions will not come into force until the Sentencing Guidelines Council has completed its work on the relevant guidance.

Will the Act be retrospective?

No, the Act came into force on 6 April 2008 and will only apply to deaths that occur from that date. Deaths that occur before 6 April 2008 will continue to be covered by the previous law on corporate manslaughter.