

Brief on Corporate Manslaughter and Corporate Homicide Act 2007

The Corporate Manslaughter and Corporate Homicide Act introduces a new offence, across the UK, for prosecuting companies and other organisations where there has been a gross failing, throughout the organisation, in the management of health and safety with fatal consequences. The failures of a number of senior managers can now be added together.

It comes into effect on 6th April 2008.

Duty of care (law of negligence)

- Organization to employees and others
- Occupiers to visitors
- In connection with business activities such as construction, maintenance, supply of goods or services and any other activity carried out for commercial purposes

Offence by whom

Organisations that can commit an offence are:

- Corporations
- Partnerships
- Trade unions
- Employer bodies
- Police forces
- Government bodies

Gross breach

The Act is concerned with breach of duty falling far below what can be reasonably expected of the organisation in the circumstances. Juries will take into account “attitudes, policies, systems or accepted practices” (safety culture) and relevant health and safety guidance.

Position of individuals

Individuals can still be prosecuted (as now)

Statutory

Corporate Manslaughter and Corporate Homicide Act 2007

http://www.opsi.gov.uk/acts/acts2007/ukpga_20070019_en_1

Guidance

Understanding the Corporate Manslaughter and Corporate Homicide Act 2007

<http://www.justice.gov.uk/docs/manslaughterhomicideact07.pdf>

Potential failures for organizations

- Training of employees particularly those in safety critical roles
- Procedures not followed by employees and junior management (maybe supervision)
- Management at operational level
- False belief that risks can be contracted out to another organization
- Contractor management
- Communication with employees and others
- Deficiencies in management, audit, review and KPI adherence
- Attention to near misses
- Middle managers telling those at higher levels what they want to hear
- Senior management making decisions based on incorrect/incomplete information and particularly budget spending decisions that affect health and safety

What should organizations now do?

- Review health and safety management systems
- Review current investigation systems