

## Corporate manslaughter

The Corporate Manslaughter and Corporate Homicide Act has now been passed so when it comes into force next year, companies who cause death may be prosecuted for manslaughter. Companies, organisations (including partnerships) and, in some cases, Government bodies will face an unlimited fine if their gross corporate health and safety failures cause death.

The existence of this new Act will mean that employees and other individuals will be offered greater protection. The Act is intended to focus the minds of senior management in companies on health and safety obligations and to ensure that they take these seriously. The Act will make it easier to prosecute companies who fail to take the necessary steps to protect staff and the public.

Companies can be liable for manslaughter where gross failures in the management of health and safety cause death, and will in future face the risk of this rather than just health and safety violations. Previously, when prosecution was being considered, it was necessary to identify a "directing mind" which was often difficult, making corporate manslaughter charges rare. The number of such prosecutions is now likely to increase with the removal of this restriction.

The Act is intended to complement the current law including gross negligence, manslaughter and health and

safety offences. It builds on existing health and safety legislation and may be said to give this even more impact on the basis that the existence of the new offence is intended to increase the robustness of health and safety management. Some commentators have said that they do not expect prosecution floodgates to open, however, time will tell.

The legislation could also cover deaths resulting from workplace diseases, although proving causation in such cases is often difficult, particularly if an individual has had a disease (possibly undiagnosed) for some time.

The Crown will have no immunity to prosecution. Crown bodies-such as Government departments- will be liable to prosecution. Prison officers and operations dealing with terrorism, civil unrest or serious disorder in which employees of a public authority come under attack or face the threat of attack or violent resistance, are excluded. Other exclusions include emergency fire services, and the NHS, in relation to emergencies.

**The Act will come into force on 6 April 2008** and the Ministry of Justice will issue further guidance for organisations affected by the Act in the autumn. The Act will also not immediately apply to deaths in custody, but at a later date. The Government has said that it will keep implementation under review.

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