



## **Corporate Manslaughter and Corporate Homicide Act 2007**

The Corporate Manslaughter and Corporate Homicide Act, which came into force in April 2008, introduces a new offence across the UK for prosecuting companies and other organisations where there has been a gross breach of duty of care, throughout the organisation, in the management of health and safety with fatal consequences.

Juries will be asked to consider how the fatal activity was managed or organised throughout the organisation, 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 - the people who make significant decisions about the organisation or substantial parts of it.

### **Duty of care**

A duty of care exists for example in respect of the systems of work and equipment used by employees, the condition of worksites and other premises occupied by an organisation and in relation to products or services supplied to customers. The Act does not create new duties – they are already owed in the civil law of negligence and the new offence is based on these.

### **Penalties**

An organisation guilty of the offence will be liable to an unlimited fine. The Act also provides for courts to impose a publicity order, requiring the organisation to publicise details of its conviction and fine. Courts may also require an organisation to take steps to address the failures behind the death.

### **What do organisations need to do to comply with the law?**

All employers must already comply with health and safety legislation and the Act does not affect those requirements. However, the introduction of the new offence is an opportunity for employers to satisfy themselves that systems and processes for managing health and safety are adequate.

### **Can directors, senior managers or other individuals be prosecuted for the offence?**

No. The offence is aimed at cases where management failures lie across an organisation and it is the organisation itself that will face prosecution. However, individuals can already be prosecuted for gross negligence manslaughter/ culpable homicide and for health and safety offences. 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.

### **Can the offence be avoided by senior managers delegating responsibility for health and safety?**

No. Failures by senior managers to manage health and safety adequately, including through inappropriate delegation of health and safety matters, will leave organisations vulnerable to corporate manslaughter/homicide charges.

The Government expects that cases of corporate manslaughter/homicide following a death at work will be rare as the new offence is intended to cover only the worst instances of failure across an organisation to manage health and safety properly. However, you need to be complying fully with all aspects of Health and Safety legislation.

Stonebridge Corporate recommend Peninsula UK to assist with all your Health and Safety needs. Should you require further information, please contact your usual adviser or call us on **01372 724747** or email us at **enquiries@stonebridgecorporate.com**