

## Are you prepared for the new Corporate Manslaughter and Corporate Homicide Act (2007)?

The new act comes into force across the UK on 6th April 2008. It is imperative that the Act is understood so that companies can make sure they conduct themselves in a manner which mitigates the likelihood of a claim being brought against the company or individual.

### The new Act in more detail:

- The Act sets out a new offence for convicting an organisation where a gross failure in the way activities were managed or organised results in a person's death, and it will apply to a wide range of organisations across the public and private sectors. In England, Wales and Northern Ireland, the new offence will be called corporate manslaughter, whereas it will be known as corporate homicide in Scotland.
- An organisation will be guilty of the new offence if the way its activities are managed or organised causes a death and amounts to a gross breach in a duty of care to the deceased.
- Juries will 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 must have been at a senior level, meaning the people that make significant decisions about the organisation or substantial parts of it. This includes both those in centralised head office functions and those in operational management roles.
- The organisations conduct must have fallen far below what could have been reasonably expected. Juries will have to take into account any health and safety breaches alleged to have been made by the organisation, as well as how serious and dangerous those failures were.

### Penalties

- Organisations guilty of the offence will be liable to unlimited fines. The Act also provides for courts to impose publicity orders requiring the organisation to publicise details of its conviction and fine. This will commence at a later date when sentencing guidelines are available, though it is expected in autumn 2008. Courts may also require organisations to take steps known as a remedial order to address the failures behind the death.

### Exemptions

- The offence does not apply to certain public and government functions where the management is already subject to other forms of accountability. For example, it does not apply to strategic decisions about the spending of public money or military operations. Other functions such as policing, the response of the emergency services, child protection and statutory inspection are also exempt, other than where organisations owe responsibilities to employees or for the premises they occupy.
- The new offence will apply to the management of people in custody, but this will come into force some three years down the line.

If you need to know more about the new Act there is a detailed publication produced by The Ministry of Justice (MoJ) – UK Government which can be found by visiting:

[www.justice.gov.uk/guidance/manslaughteractguidance.htm](http://www.justice.gov.uk/guidance/manslaughteractguidance.htm)

Or, alternatively you can ring us at Square Mile Broking for further Risk Management advice, and help with arranging appropriate insurance cover.

For risk management advice including Health and Safety please contact one of our experts at Square Mile Broking on 0844 561 6075 or email us at [info@squaremilebroking.com](mailto:info@squaremilebroking.com)