



CORPORATE MANSLAUGHTER AND CORPORATE HOMICIDE ACT 2007

*Client Information Sheet including the Act translated
into layman's English.*

PERSES



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The information in this document is intended to provide a general overview of the key provisions of the statute. It is not a comprehensive guide to the full scope of the legislation, its operation, or likely application to a particular scenario in a court of law. Legal advice should be sought if detailed guidance about the statute or its implications are required.

CORPORATE MANSLAUGHTER AND CORPORATE HOMICIDE ACT 2007

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Corporate Manslaughter basics

Background

In 2000 Jack Straw promised that anyone with a management responsibility for safety will bear the risk of personal criminal liability in a way they didn't at the time.

This was not quite the case as there is no individual liability as it was noted that targeting individual directors would just create scapegoats and that would not be in the interests of justice

Justice Minister Maria Eagle said of the Act

“...for the first time companies and organisations can be found guilty of corporate manslaughter on the basis of gross corporate failures in health and safety.

The Corporate Manslaughter and Corporate Homicide Act will make it easier to prosecute companies who fail to protect people”.




Corporate Manslaughter and Corporate Homicide Act 2007

The key provisions of the Act are set out below, with a brief explanation of what they mean.

To summarise, the Act sets out what the offence of corporate manslaughter/corporate homicide is (in England and Wales, the offence is the former; in Scotland, it's the latter).

It also lists what type of bodies can be found guilty of the offence, as well as establishing a framework for determining whether the offence has occurred.

	
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Corporate Manslaughter Act 2017 - Translated

The Offence

Legalese:

(1) An organisation to which this section applies is guilty of an offence if the way in which its activities are managed or organised –

- a) causes a person's death, and
- b) amounts to a gross breach of a relevant duty of care owed by the organisation to the deceased.

English:

An organisation will be guilty of a crime if it causes someone to die because of how its activities are run, and if the way the activities were run meant that the company was really disregarding its responsibility to keep safe the person who died.

To whom Act applies

Legalese:

1(2) The organisations to which this section applies are –

- a) a corporation;
- b) a department or other body listed in Schedule 1;
- c) a police force;
- d) a partnership, trade union or employer's association (if an employer).

English:

This crime can be committed by companies, the police, partnerships, trade unions, employers' associations and other types of organisations listed in Schedule 1 to the Act.

Role of Senior Management

Legalese:

1(3) An organisation is guilty of an offence under this section only if the way in which its activities are managed or organised by its senior management is a substantial element in the breach referred to in subsection (1).

English:

Section 1 sets out what the crime of corporate manslaughter is. However, in order to qualify as corporate manslaughter and not another type of crime, the test is that, the way senior management ran the company's activities has to have been a really big part of how the company disregarded its responsibility to keep its employee safe. This means that if someone died because a single person made a mistake, it's not corporate manslaughter. However, if someone died in a fall because senior management decided that it didn't need to invest in guard rails even though they all knew that the rails were needed, that might be corporate manslaughter.

Breach of duty of care

Legalese:

1(4) For the purposes of this Act -

(b) a breach of a duty of care by an organisation is a “gross” breach if the conduct alleged to amount to a breach of that duty falls far below what can reasonably be expected of the organisation in the circumstances;

English:

This is where the Act sets out another test for the crime. There are accepted standards that must be met in order for a company to be taking responsibility for keeping its employees safe, and these standards vary depending on the particular situation. The Act says that if what the company did fell far below the standards that would usually apply, then what it did could mean that the company has committed an offence.

Senior Management

Legalese:

1(4)(c) senior management, in relation to an organisation, means the persons who play significant roles in

- (i.) the making of decisions about how the whole or a substantial part of its activities are to be managed or organised, or
- (ii.) the actual managing or organising of the whole or a substantial part of those activities.

English:

In this Act, senior management doesn't mean the people in charge of the company. Rather, it means that people who made decisions about how the company activities, or some company activities, should be run. It can also mean the people who were in charge (wholly or in part) of the activities. This might be the people in charge of the company, but it might also mean middle-level managers who happened to organise a particular project.

Relevant duty of care

Legalese:

2 Meaning of “relevant duty of care”

2(1) a “relevant duty of care”, in relation to an organisation, means any of the following duties owed by it under the law of negligence –

2(1)(a) a duty owed to its employees or to other persons working for the organisation or performing services for it;

2(1)(b) a duty owed as occupier of premises;

2(1)(c) a duty owed in connection with –

- (i.) the supply by the organisation of goods or services (whether for consideration or not),
- (ii.) the carrying on by the organisation of any construction or maintenance operations,
- (iii.) the carrying on by the organisation of any other activity on a commercial basis, or
- (iv.) the use or keeping by the organisation of any plant, vehicle or other things;

2(1)(d) a duty owed to a person who, by reason of being a person within subsection (2), is someone for whose safety the organisation is responsible e.g. detained persons

English:

The Act sets out a list of areas in which a company has responsibility for its employees. This includes the duty to provide a safe place to work, whether in a building or on land, for transport providers to provide a safe way for people, for companies to provide people with products and services that are safe, and for construction and building companies to provide for safe use of plant and equipment when building or maintaining things, for other commercial services to be safe

Exemptions from offence – no duty of care

Legalese:

Public policy decisions, exclusively public functions and statutory inspections; Military activities; Policing and law enforcement; Emergencies; Child-protection and probation functions.

English:

The Act sets out a number of situations where an organisation can't be held to have a responsibility to keep someone safe.

This includes the military and the police.

Construction and demolition companies are very unlikely to be exempt.

Gross Breach – Factors for jury

Legalese:

8(2) The jury must consider whether the evidence shows that the organisation failed to comply with any health and safety legislation that relates to the alleged breach, and if so –

how serious that failure was;

how much of a risk of death it posed?

8(3) The jury may also –

(a) consider 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 failure as is mentioned in subsection (2), or to have produced tolerance of it;

(b) have regard to any health and safety guidance that relates to the alleged breach.

8(4) This section does not prevent the jury having regard to any other matters they consider relevant.

English:

The Acts says that, if a charge of corporate homicide is being tried in court, the jury has to consider if the evidence shown to them demonstrates certain things. This includes if the company didn't comply with health and safety legislation, and how serious that lack of compliance was. The jury would also have to consider if that failure to comply put lives at risk. The jury might also consider if there was an institutional disregard for compliance with health and safety legislation within the organisation in question, but the jury can also consider anything else they think is relevant.

Gross Negligence Manslaughter

Legalese:

The common law offence of manslaughter by gross negligence is abolished in its application to corporations, and in any application, it has to other organisations to which section 1 applies.

English:

The Act places the crimes of corporate manslaughter/corporate homicide on a statutory basis, individuals can still be tried for the non-statutory crime of gross negligence manslaughter. However, companies can no longer be tried for this crime.

Sentencing

Legalese:

Sentencing may include:

- a) Limitless fines in Crown Court
- b) Remedial Orders (S.9)
- c) Publicity Orders (S.10)

English:

If an organisation is found guilty of corporate homicide, it can be sentenced in a number of ways: it can be fined (and there is no limit to the maximum fine that can be levied or the court might order the organisation to take a particular action to correct something that contributed to someone's death or to remedy a problem with health and safety. The court might also order the organisation to publicise the fact that it has been found guilty of the offence. Such an order might require the company to include details of the crime and any fine.

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