

NEWS BRIEF

Presented by **Crendon Insurance Brokers Ltd**

Corporate Manslaughter Fines May Increase

The Corporate Manslaughter and Corporate Homicide Act 2007 (the Act) is a landmark law which provided a means of increased legal accountability for organisation-wide management failings. For the first time, courts did not have to identify a senior employee who was personally liable in order to convict the organisation as a whole. Instead, organisations as a collective entity could be guilty of corporate manslaughter.

But since the Act came into force, the amounts of fines and the number of prosecutions have been relatively low—sentencing guidelines set the minimum fine at £500,000, yet only one organisation's fine has reached that. As a result, the Sentencing Council is pushing for more stringent penalties, and earlier this year proposed penalties that would range from £450,000 to £20 million, depending on the organisation's turnover. The guidelines advocate for closer scrutiny of organisations' accounts to ensure that the fines are appropriate. Experts expect the new guidelines to come into effect in late 2015 or early 2016.

This renewed vigour for ensuring the Act's effectiveness underscores the need for more extensive health and safety management at organisations of all sizes and across all industries, and is emblematic of the wider trend of holding organisations more accountable.

How Does the Act Affect Organisations?

The Act governs corporate manslaughter (called 'corporate homicide' in Scotland) across the United Kingdom. It outlines that an organisation could be guilty of corporate manslaughter if the way in which its activities were managed led to an individual's death, there was a gross breach of a relevant duty of care owed to the deceased, and the way in which its activities were managed by senior management were a substantial component in the breach of a relevant duty of care.

If found guilty, an organisation could receive several penalties, including a hefty fine, a publicity order which obligates it to publicise its conviction and offence, and a remedial order which requires it to address the cause of the fatal injury.

What Should Organisations Do to Avoid Liability?

To avoid prosecutions, organisations should institute a robust health and safety management scheme, which may include the following:

- **Routine inspection of machinery or plant:** This could include something as innocuous as an air conditioner. Failing to ensure that regular, required plant maintenance is conducted and documented could make you and your organisation liable for any deaths caused by that plant. It relates to your duty owed to employees in connection with your organisation using or keeping any plant, vehicle or other thing. Several of the largest corporate manslaughter fines stem from overdue inspections of plant. Ensuring your organisation is up-to-date on all inspections is vital to avoid corporate manslaughter fines.
- **A review of current health and safety practices to identify all risks:** Have these discussions with employees to help identify any overlooked risks.
- **Regular health and safety training for employees:** This could cover proper machine use and general wellness advice.

Although the new guidelines are not yet in effect, start scrutinising your organisation's health and safety management now in order to lessen your corporate manslaughter liability. Contact **Crendon Insurance Brokers Ltd** for more information on shielding your organisation from liability, and click [here](#) for more information on the proposed sentencing guidelines.

