



New Legislation strengthens ties between Corporate Liability and Senior Manager Responsibility

The Corporate Manslaughter and Corporate Homicide Bill has recently received Royal Assent and becomes legislation in April 2008. It, indirectly, places far greater responsibility on Senior Managers of Companies and is expected to add a new impetus to health and safety standards through corporate liabilities.

The Act will also make it easier for individual Directors in larger organisations to be prosecuted where control and responsibility is more complex and often spread over several layers of Management. By making provision for a new offence of corporate manslaughter it builds on the current common law in this area but does not require the identification of a “directing mind”.

The aim of the Act is to make it easier to prosecute organisations should their gross negligence lead to death. The new law will focus on corporate liability and not directly at individual directors though prosecutions against individuals will continue to be possible for existing offences, such as manslaughter, culpable homicide and, most importantly, health and safety offences where they, themselves, are personally at fault.

The offence of corporate manslaughter provides a more effective means of holding companies to account when gross negligence by senior management has had fatal consequences. This will improve the effectiveness of the law by enabling a wider range of senior management conduct to be taken into account when prosecuting an organisation for manslaughter.

Whilst the Act, in itself, does not introduce new standards for health and safety, it is expected to have a positive effect on the behaviour of Senior Managers as the HSE have made it clear that they will consider prosecuting Directors for breaches in health and safety.

The Government has stressed that the offence will be used only for the very worst cases, involving fatalities or serious injuries and that businesses with proper documented systems and procedures have nothing to fear. It will apply to industry but also certain Government Departments (the Military and the Police) and other Crown bodies that are deemed to be engaged in similar activities.

As a consequence of this new legislation it becomes even more important that Companies clearly identify their Senior Managers roles and responsibilities, that they, in turn, understand their personal responsibilities under health and safety Law and ensure that their employees follow laid down procedures.

Oval Risk Services are fully qualified to assess the health and safety standards within your business and ensure that Directors fully understand their responsibilities and know what they must do to satisfy them.

For more information on this or any other Risk Services available from Oval, please contact us on 01924 371 991 or email at riskservicesinfo@oval1.theovalgroup.com