



Corporate Manslaughter Bill – the deadly debate continues....

This Bill has completed its Commons stages and nearly all of its Lords stages. A number of significant improvements have been made, including the introduction of remedial orders that go beyond simple fines, the possibility of corporate probation and “naming and shaming” orders where offending organisations have to publicise the offences they have committed. The Bill is also highly significant in removing Crown Immunity from many activities.

The journey of this Bill through the House of Lords has not been smooth. In February 2007, the Lords amended the Bill to include deaths in custody. This amendment started off a ‘ping-pong’ debate between the House of Lords and the Commons:

- 5th February** – Lords (Report Stage) amended the Bill to include deaths in custody.
- 16th May** – Commons rejects Lords amendments on deaths in custody.
- 22nd May** – Lords reinstates amendments on deaths in custody.
- 5th June** – Commons rejects Lords amendments once again.
- 25th June** – The Government were again defeated in the House of Lords as peers insisted deaths in custody be covered by the bill (The vote was 183 to 145)

Ministers will now have to decide whether to ask MP’s to overturn this defeat for a third time. The deadline for enactment of this Bill is **19th July 2007**.

What are the implications of the Corporate Manslaughter Bill on your business?

Any future work related deaths will inevitably be investigated as corporate manslaughter cases, with prosecutors eager to establish the boundaries of the new offence. The Bill aims to reinforce the importance of compliance with existing health and safety laws and guidance. Businesses need to ensure any statements made with regards to their health and safety intentions can be met.

Businesses will also have to consider the delegation of health and safety responsibilities down the management chain. Businesses will need to ensure that any person given health and safety responsibilities, is competent and has sufficient authority to ensure that health and safety risks are managed. Directors should not take on board these responsibilities if they are not competent to do so. Some critics of this Bill believe that Senior Managers may try to do away with their responsibilities by delegating these to junior members of staff without sufficient competence. This will not be the case. If Senior Management attempts to do this, then this will ultimately be their failing, and the blame will lay back at their feet, rather than that of the unskilled junior.

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What can you do to prepare?

There are a number of steps that can be taken to ensure you are prepared as a business for this new Bill.

- Determine who could be considered as "Senior Manager" and assess their competency.
- Review job titles and job descriptions to ensure they accurately reflect the responsibilities of the role.
- Review health and safety training for senior management. Our **IOSH Directing Safely** course is ideal for people with strategic responsibility for determining and implementing health and safety and our **IOSH Managing Safely** course will assist employees in reviewing departmental safety systems and implementing appropriate changes to ensure a safer working environment.
- Increase board scrutiny of health and safety compliance and consider health and safety being on the agenda of every board meeting.
- Consider steps to promote a health and safety culture.
- Put in place an accident management protocol for dealing with the authorities.

(Source Construction News and Amicus)

