

**A new law is  
coming in.**

**It will probably  
affect you.**

**Will you be  
ready for it?**

# The new law

On 6th April 2008 the **Corporate Manslaughter and Corporate Homicide Act** comes into force.

## Why is this happening?

Currently to convict an organisation of manslaughter following a work-related death, it must be proved that someone senior in the organisation, often referred to as the **directing mind**, is also guilty of manslaughter. This makes prosecuting large organisations difficult.



## What changes are being made?

The Act creates a new offence which does away with the requirement for proving the guilt of a directing mind. In the future an organisation will be guilty of corporate manslaughter if death is caused by a gross breach of its duty of care that is substantially due to **senior management failure**. The failures of a number of senior managers can therefore be combined to prove a case.

## Who it will affect

Many people believe the new law means there will be no prosecutions of directors or senior managers.

However senior individuals can still be prosecuted under the existing law for manslaughter (which is not altered by the Act) and section 37 of the Health & Safety at Work Act.

**An individual convicted of work-related manslaughter is likely to receive a custodial sentence of around two to three years.**

The forthcoming Corporate Manslaughter and Corporate Homicide Act, clause 1(4)(c) states: '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.

## Why 'senior' can mean 'junior'

What places a manager in the category of 'senior management' is whether his functions are as described by Clause 1(4)(c) (see panel, left). The person who has these functions may have a modest position in the organisation's hierarchy, and may not be 'senior' in any other sense.

**So a relatively junior manager who fits the definition may find himself bearing the burden for widespread systemic bad practice.**

## How to be ready for it

If you are responsible for the health and safety of employees in any capacity – **and that includes at-work driving** – you need to ensure that you have risk-assessed their duties and the environment in which these are performed.

You will need to manage that risk so that it is constantly minimised. You will also need to demonstrate that you have proper systems in place to manage risk and safeguard employees as well as other persons affected by your company's business activities.

Fleet Support Group's **RiskMaster** programme continually assesses risk and applies to anyone driving either a company-owned vehicle for any purpose or any vehicle on company business. It monitors driving performance, encouraging employees to drive carefully, reducing their own road risk whilst positively affecting the safety of other road users.

By providing a robust audit trail in the event of a serious incident **RiskMaster** protects management from prosecution under the new Act.

For further information phone 0870 950 2460, email [riskmaster@fsguk.com](mailto:riskmaster@fsguk.com) or visit [www.fsguk.com](http://www.fsguk.com)



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