

Imprisonment for Health and Safety failings

From 2009, falls from height have the potential to result in a corporate manslaughter conviction, a large fine, negative publicity, and potentially even directors facing imprisonment

The New Health and Safety (Offences) Act

The New Health and Safety (Offences) Act which received the Royal Assent on 16th October 2008 means that anyone who is convicted of a safety offence can now be imprisoned and not just fined, as before. This Act comes into force on 16th January 2009, and will apply to offences committed after this date. With the addition of the offence of corporate manslaughter and higher sentencing guidelines, the implications of falls from height due to a preventable accident or use of unsuitable equipment will be very different in 2009.

So what does this mean for you, as an employer?

The new Act means that an employer who runs their business in a way which does not appropriately look after the health and safety of their employees or other contractors could now potentially face a prison sentence for committing a health and safety offence. If an offence is committed with the consent, connivance or neglect of a director or other senior figure, that person will also be guilty of the offence and liable to up to two years imprisonment under the new Act.

The Corporate manslaughter and corporate Homicide Act is related to this new Act, what does this mean?

The Corporate Manslaughter and Corporate Homicide Act 2007 came into force on the 6th April 2008. The legislation applies to companies, and other corporate bodies. In order for a company to be convicted of corporate manslaughter the following must be proved:- The way in which organisations activities are managed by senior managers, causes of death, and amounts to a gross breach of a duty of care to the deceased. The penalty for corporate manslaughter is an unlimited fine. The court may also impose a publicity order requiring the company to advertise its own conviction and misdemeanours or a remedial order to put right any outstanding safety issues which the company might not recognise as being safety relevant.

Conclusion

Although the New Health and Safety (Offences) Act does not create any new offences of legal duties, these are major changes to the penalties for health and safety offences. Expect to see high profile cases following fatal accidents in years to come, especially if profit has been put before safety, resulting more often in terms of imprisonment.

If you have any working at height issues that may fall foul of the New Health and Safety (Offences) Act 2009, please contact us.

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