



PERRY SCOTT NASH
associates limited

SIMPLY SAFE – March 2008

Corporate Manslaughter and Corporate Homicide Act 2007

Globally, more people are killed each year at work than are killed in wars. How the law responds is important, and the UK's new Corporate Manslaughter and Corporate Homicide Act 2007 is said to be a significant improvement on earlier legislation. For the first time, companies and organisations can be found guilty of corporate manslaughter as a result of serious management failures resulting in a gross breach of a duty of care. As of 6 April 2008, company directors are legally responsible for the safety of their employees and for the consequences of accidents that involve the wider public where serious failures in the management of health and safety result in a fatality.

Although the new offence is not part of health and safety law, it will introduce an important new element in the corporate management of health and safety. Under this new law it is the company that will be prosecuted, not individuals. However the liability of directors, board members or other individuals under health and safety law or general criminal law, will be unaffected, meaning that the company itself and individuals can still be prosecuted for separate health and safety offences.

To protect yourself and your company, it is vital to ensure that appropriate systems are in place not only to record those accidents and incidents but to prevent them from happening in the first place. The offence will be clearly linked to existing health and safety requirements and those in positions of senior management who already take their obligations under health and safety law seriously should have nothing to fear. If they act reasonably and responsibly then, even if some terrible disaster occurred, neither they nor their company will be prosecutable for manslaughter. The Act makes it plain that there is no liability where the management of an activity includes reasonable safeguards and a death nonetheless occurs.

ASK THE EXPERT

Why do I have to calibrate my probe thermometer?

A probe thermometer is used in kitchens, sometimes to check temperatures of equipment but more importantly, to check the temperature of cooked food. When you calibrate your thermometer, you are testing it to ensure that the temperature readings are accurate. If the reading is inaccurate, your records will be too. This is important because records such as temperature logs form part of the company's due diligence defence. Therefore, by regularly calibrating your probe thermometer, you can be confident that the food temperatures you record are accurate. Details on how to calibrate your probe thermometer can be found in company food safety manuals or by contacting Perry Scott Nash.

Perry Scott Nash Associates Ltd, Perry Scott Nash House, 2 Arlington Court, Whittle Way, Stevenage SG1 2FS
Tel: 01438 745771 Fax: 01438 745772 Email: info@perryscottnash.co.uk www.perryscottnash.co.uk



RECENT PROSECUTIONS

Theatre Company fined £9,695 for breaching height regulations.

A theatre company has been fined for three offences under The Working at Height Regulations 2005 because an employee was found working on a 4m tower scaffold with no fully boarded working area or suitable edge protection. Although the company had carried out risk assessments, provided training and prepared a safe method of work, it had failed to ensure that employee carried out their duties safely. The company was fined £3,000 for each offence and ordered to pay £695 costs. As employers, you have a duty to ensure that any work carried out at heights is carried out in a safe manner, whether it's done by your own employees or by contractors. In 2007, there were 45 deaths and more than 3,000 major injuries caused by working at heights therefore this is a high risk area that always needs to be controlled.

Restaurant owner fined £6,250 after teenager falls into hot oil.

A restaurant owner who admitted five breaches of the Health and Safety at Work legislation, was been fined £6,250 after a teenager suffered burns to the feet, ankles, legs, bottom and lower back after falling into two pans of hot oil left on the kitchen floor. The pans had been placed on the floor to drain oil which would have reached temperatures of 350°C from the fryers. This incident occurred as a result of a long established practice of draining oil from the fryer while it was still extremely hot. All businesses must ensure that employees have adequate training, specific instructions for cleaning equipment and safe working practices in place for the safety and well being of employees to prevent accidents like this from happening.

Although the owner was made aware of the accident, he made no attempt to report it to the relevant authorities. This in itself is a breach of The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) 1995.

WHAT IS RIDDOR?

The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR), place a legal duty on employers, self-employed people and people in control of premises to report work-related deaths, major injuries or over-three-day injuries, work related diseases, and dangerous occurrences (near miss accidents). Reporting accidents and ill health at work is a legal requirement, and the information enables the Health and Safety Executive (HSE) and local authorities, to identify where and how risks arise, and to investigate serious accidents.

For most businesses, a reportable accident, dangerous occurrence, or case of disease is a comparatively rare event. However, if it does happen, you must take appropriate action. Sometimes, premises debate about whether or not they should report an accident or incident, however, we advise that you always complete an A&I form and send it to us at Perry Scott Nash, where our experts will determine which accidents are RIDDOR's and report them on your behalf. All accidents and incidents will be logged onto our database, and analysis conducted to identify trends to assist with looking at ways in which further accidents can be prevented in the future.

**For further information and/or advice on accident reporting
please call Perry Scott Nash on 01438 745771**

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