

**GUIDANCE FROM THE HEALTH & SAFETY COMMITTEE**

Issue No. 1.1

**First charge under the Corporate Manslaughter Act 2007 & Corporate Homicide Act 2007**

On 6 April 2008 the long awaited Corporate Manslaughter and Corporate Homicide Act 2007 came into force. This created a specific corporate offence to prosecute in situations where a fatality has occurred due to the organisation being at fault.

The first charge under this Act has taken place.

On 5<sup>th</sup> September 2008 a junior geologist employed by Cotswold Geotechnical Holdings Ltd, was taking soil samples from inside a pit which had been excavated as part of a site survey. The sides of the pit collapsed, crushing killing him. The company has now become the first organisation to be prosecuted under the new law and the Company Director has also been charged with gross negligence manslaughter, which carries a potential maximum sentence of life imprisonment on conviction. Other charges against the company include being charged with failing to protect the health, safety and welfare of the employee.

The prosecution will have to prove that the death was caused by a gross breach of the relevant duty of care by senior management. The company faces a maximum sentence which would be an unlimited fine, with either a remedial or a publicity order.

This case is significant because it is the first time the Corporate Manslaughter Act has been used however the company involved is very small in size, whereas the Act was brought into force to deal with large and medium sized companies. It is however a timely reminder that organisations that fail to provide a duty of care to keep their employees safe face prosecution and it is expected that this will be the first of many such investigations under the Act.

In light of this case, it has never been more important to ensure that organisations are aware of the scope of their health and safety obligations and what they must do to comply with them. Organisations must ensure they are properly managing health and safety at all levels and that all legislation and guidance is adhered to.

For more information about the Corporate Manslaughter Act please look at our Focus of the Month which can be found at:

[http://www.nass.org.uk/downloads/guidance/50S6Z\\_Corporate%20Manslaughter%20Act%202007%20-%20Number%201.pdf](http://www.nass.org.uk/downloads/guidance/50S6Z_Corporate%20Manslaughter%20Act%202007%20-%20Number%201.pdf)

**DISCLAIMER: This is the opinion of the NASS H&S Committee but only the courts can interpret the law. All employers should refer to the legislation.**