

Corporate Manslaughter Act could hit freight transport firms and those with company cars, warns FPB

The Forum of Private Business (FPB) is warning that freight transport firms, and businesses which provide their employees with company cars, are most at risk from prosecution under the Corporate Manslaughter Act, which comes into force on 6 April 2008.

The Act will place greater responsibility on firms to ensure that they put in place stringent health and safety procedures. Failure to do so could lead to a business being publicly named and shamed, and fined up to 10% of its annual turnover should a death occur as a result of 'gross management failure'. This is where a company's conduct falls considerably short of the duty of care it owed to the deceased.

"Because of the relatively high instances of road fatalities, business owners in the transport industry ." and those who provide company cars ." should make sure their employees are fully aware of health and safety best practice," said the FPB's Policy Representative, Matt Goodman. "The Corporate Manslaughter Act means that they must establish clear health and safety procedures, and monitor them, or face heavy fines and public censure."

Lionel Stanton, the Chief Operating Officer of Planned Logistics Ltd, a distribution and logistics consultant based in Knutsford, Cheshire, regularly manages the movement of freight vehicles.

"There are already regulations in place in the transport industry relating to working hours, such as the Working Time Directive (WTD). In addition, there are ever more vehicle tracking devices so you can monitor where your trucks are," said Mr Stanton. "You just can't be responsible for every driver who breaks the rules by the way they are driving. As long as the vehicles are well-maintained and roadworthy, the director of a small business shouldn't be held responsible."

He added: "The Act also means that firms must ensure their employees are given the correct training, and that the proper health and safety procedures are in place ." perhaps this could be linked to contracts of employment. I'm not sure that many smaller businesses in the transport industry, and elsewhere, are doing this."

A spokesman for the Health & Safety Executive (HSE) confirmed that business owners should be aware that they will be more responsible for preventing accidents in company vehicles.

"If a company were regularly requiring long hours of driving, not maintaining cars, or if it required people to use their mobile phone whilst driving, and any of this type of behaviour caused the fatality, the company would be in the frame," she said. "Since there are 3,000 road fatalities per year, as opposed to around 300 workplace fatalities, then this is where the focus should lie."

The FPB believes that many charges of corporate gross negligence could arise from work-related vehicle accidents, and that business owners should take precautions to minimise their liability. Firms can take advantage of the FPB's Health & Safety Guide in order to better protect themselves, their employees and also customers by putting in place stringent health and

safety procedures.

The guide covers general as well as sector-specific information, and includes health and safety policies and risk assessments. It comes with a CD-ROM of templates of documents for use with each subscriber's business, helping to ease the burden of health and safety regulations. In 2007, the FPB's Cost of Compliance survey revealed that members are forced to wade through an average of 14 hours of health and safety red tape every month.

FPB member John McGuinness is the Managing Director of Shires Safety Consultants Ltd, Market Drayton, Shropshire. He subscribes to the annually-updated Health & Safety Guide. Mr McGuinness agrees that small businesses operating in the transport industry, and those with company cars, should be more wary of the implications of the Corporate Manslaughter Act.

"It is not selective legislation and can impact on anyone who has a business. However, I think that the transport industry will be the first to feel the effects, and also those companies which provide company cars," he said. "Firms should be proactive, re-visit their existing health and safety procedures, and implement new ones, as necessary."

He added: "Many small businesses are totally and utterly unaware of the potential issues they face. They know about the Act itself, but are oblivious as to how it could impact on them.

"They will have to defend themselves in the event of a prosecution and it could take three or four years before the case is actually heard, during which time they are likely to have gone out of business. The stress will be unbearable and, even if they win, what recompense is there at the end of it?"

To purchase the FPB's Health & Safety Guide, which has been fully updated for 2008 to take account of changes to regulations, log on to www.fpb.org/guides <<http://www.fpb.org/guides>> . Alternatively email guides@fpb.org or call 0845 130 1722. The guide costs £95 for members of the FPB, and £195 for non-members (based on subscriptions by Direct Debit).