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CORPORATE KILLING

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Create a new offence of corporate killing that will apply to all companies and unincorporated bodies.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:-

1 Corporate Killing

(1) A corporation is guilty of corporate killing if:
(a) a management failure by the corporation is the cause or one of the causes of a person's death; and
(b) that failure constitutes conduct falling far below what can reasonably be expected of the corporation in the circumstances.

(2) For the purposes of sub-section (1) above:
(a) there is a management failure by a corporation if the way in which its activities are managed or organised fails to ensure the health and safety of persons employed in or affected by those activities; and
(b) such a failure may be regarded as a cause of a person's death notwithstanding that the immediate cause is the act or omission of an individual.

(3) A corporation guilty of an offence under this section is liable on conviction on indictment to a fine.

(4) In fixing the amount of a fine a court shall take into account the need for the fine to have a deterrent effect.

(5) This section does not preclude a corporation being guilty of manslaughter.

2 Meaning of Corporation

(1) For the purpose of this Act "a corporation" includes –
(a) any body corporate wherever constituted but does not include a corporate sole; and
(b) any other undertaking.

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(2) In subsection (1)(a) above a body corporate includes a crown body.

(3) In subsection (1)(b) above, an undertaking means any unincorporated body which undertakes any trade, business or profession or any other activity providing employment and includes a crown body.

(4) A crown body means a body which is a servant or agent of the crown and includes a government department.

3 Proceedings against unincorporated bodies

(1) Proceedings for an offence under section 1 above, alleged to have been committed by any unincorporated body, shall be brought in the name of that body (and not in that of any of any individual member or other person) and for the purposes of such proceedings any rules of court relating to the service of documents apply as if that body were a corporation.

(2) A fine imposed on an unincorporated body on its conviction of such an offence shall be paid out of the funds of that body.

(3) In a case in which an unincorporated body is charged in England and Wales with such an offence, section 33 of the Criminal Justice Act 1925 and Schedule 3 to the Magistrates Court Act 1980 (procedure on charge of an offence against a corporation) have effect in like manner as in the case of a corporation so charged.

4 Alternative Offences

(1) On an indictment for corporate killing, a corporation found not guilty of that offence may be found guilty of an offence under section 2 or 3 of the Health and Safety at Work Act 1974.

(2) Subsection (1) above is without prejudice to section 6(3) of the Criminal Law Act 1967.

5 Application of Schedule

(1) The enactments mentioned in the Schedule to this Act are amended in accordance with that Schedule.

6 Commencement and saving

(1) This Act comes into force at the end of the period of two months beginning with the day on which it is passed.

(2) This Act does not apply in relation to any death that takes place before it comes into force.

SCHEDULE

Consequential Amendments

The Offences against the Person Act 1861 (c.100)

1 (1) The Offences against the Person Act 1861 should be amended as follows.
(2) in section 9 after 'manslaughter' in the first two places where it occurs insert "corporate killing".
(3) in section 9 after "every offence committed by any subject of Her Majesty" add ", or any company registered in England or Wales".
(4) in section 10 after manslaughter insert ", corporate killing".

The Coroners Act 1988 (c.13)

2 (1) the Coroners Act 1988 is amended as follows.
(2) in section 11(6) after "manslaughter " in both places where it occurs, insert ", corporate killing".
(3) in section 16(1)(a)(i) after 'manslaughter' insert 'corporate killing'.
(4) in section 17(1)(a) and (2)(a) after manslaughter insert ", corporate killing".

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