Company Directors (Health and Safety) Bill [Bill 82 2002-03]

Standard Note: SNSC-02136
Last updated: 4 April 2003
Author: Brenda Brevitt
Science and Environment Section

To inform discussion on the role of company directors with regard to their responsibilities for health and safety, including the introduction of a charge of corporate manslaughter.

Contents

A. Company Directors (Health and Safety) Bill [Bill 82 2002-03]

Ross Cranston MP introduced a Bill on under the Ten Minute Rule on 25 March 2003 to place on a statutory footing, duties that directors already have in broad terms under the *Health and Safety at Work etc Act* 1974 and the *Companies Act 1989*, and under an agreed code of practice published by the Health and Safety Executive in 2001.

> That leave be given to bring in a Bill to require companies to appoint a director as the health and safety director; and to impose duties on this director and on other directors of companies in relation to health and safety; and for connected purposes. [1]

Although many good companies take health and safety matters seriously, and place their safety policy at the heart of company practice, anecdotal evidence and research suggests that a good many still do not place the well being of employees and those affected by their activities above profits.

The results of a poll of the executives of some top FTSE 500 companies, conducted by the British Safety Council[2] in 2002, revealed that many company bosses believed that profits are more important than the safety if their workers, despite the prospect of strengthened legislation for corporate killing.[3] Shareholder profits and customer satisfaction were ranked above worker safety, although some companies had made a commitment to health and safety. The Director of the Council, David Ballard reported that new laws would need to be backed up by unlimited fines and imprisonment for avoidable deaths at work.

Introducing his Bill, Ross Cranston states:

> Directors are responsible for how companies operate. It is directors who set a company's policy on health and safety, and it is they who decide how high health and safety is on the agenda in comparison with other matters. It is they who determine the resources, including management resources, which a company allocates to health and safety. It is they who decide how health and safety is monitored in the company, whether accidents are properly investigated and what preventive action is taken for the future. The British Standards Institution summarises the position thus:
>
> "Ultimately responsibility for occupational health and safety rests with top management."

Building on the Health and Safety Commission's *Revitalising Health and Safety Strategy*, launched in 1999,[4] new guidance was issued by the Health and Safety Executive to company

---

1 HC Deb 25 March 2003 c157-60

2 British Safety Council http://www.britishsafetycouncil.co.uk/

3 Company chiefs say safety not a priority, *Times* 25 February 2002.

4 http://www.hse.gov.uk/revitalising/guidance/
See Library Note SNSC-1701 *Revitalising Health and Safety* for background on the strategy

directors in July 2001,[5] setting out best practice in five action points. (See below). The guidance is voluntary and does not place any legal obligation on companies, and is aimed at commercial enterprises, as well as public bodies and voluntary organisations.

Although the popular view was that the guidance should be voluntary, the HSC made it clear that it would advise ministers on how the law would need to be changed to make these responsibilities statutory so that directors are clear about what is expected of them in the management of health and safety.

Action Point 11 of the Revitalising Strategy Document states that:

> "It is the intention of Ministers, when Parliamentary time allows, to introduce legislation on these responsibilities."

Such a Bill has yet to materialise.

Ross Cranston reports:

> My right hon. Friend the Minister for Work told me on 13 February[6] about research into the effectiveness of the guidance in promoting greater responsibility for health and safety. Preliminary findings were encouraging, and he will report in the summer on the success of the voluntary approach and the need for legislation.

The outline of the Bill is as follows. It contains a general duty for directors to act in the interests of the health and safety of a company's employees and others affected by the company's activities. The Bill only applies to company directors but if successful, could be extended to senior managers in the public sector, government departments and agencies, and voluntary organisations.

It imposes on directors' duties to take effective steps to ensure that the company acts in accordance with the obligations imposed on it by, for example, the *Health and Safety at Work, etc. Act* 1974. Effective steps will have been taken under the Bill if, for example, the directors have reasonably informed themselves of what the company's health and safety duties mean for it, and if they have taken into account what the health and safety director has said.

The second part of the Bill places an obligation on public companies to appoint a health and safety director amongst its directors, which is already a requirement under the HSC guidance. This need not be the Chief Executive, but requires that the chosen director be clearly identified in the company's annual report. There is no obligation to publish safety information in the annual report, although the HSE guidance suggests the minimum information that should appear in a report. Such action may also fulfil the duties to review the

---

5 *Directors' responsibilities for health and safety*, INDG 343, HSE 2001. http://www.hse.gov.uk/pubns/indg343.pdf

6 HC Deb 13 February 2003 c962-3W

social and environmental impact of a company's business, as recommended in the company law review, *Modernising Company Law* (Cm 553). Willingness to publish information on the company's safety record tends to demonstrate a commitment to the issue.

Under the Bill the chosen director would have obligations to monitor the health and safety position and report on it to the board. They may seek relevant training for themselves and for other board members. The director should not be scapegoated for failures of the board as a whole, a concern amongst many directors who have been reluctant to take on to the role of health and safety director for this reason. The proposed introduction of a penalty for corporate manslaughter would, to some extent, address such concerns, although achieving a conviction for corporate manslaughter, other than in small businesses, has been very difficult (See below). Such a penalty has not yet reached the statute book.
No penalties are set out in this Bill, but the matter of increased penalties for health and safety offences was addressed in another Ten Minute Rule Bill, The Health and Safety (Offences) Bill,[7] which has yet to complete its second reading.

The bill received its first reading and was ordered to be read a second time on 13 June 2003.

B. Company directors and boards

As noted by taking forward one of its Revitalising Strategy Action Points, the HSC published on 17 January 2001 a public consultation on a draft code on the responsibilities of company directors and Board members.[8] The consultation closed on 9 March 2001 and the HSE received 462 responses. The proposals were supported by 85% of respondents, and HSC approved the draft code on 8 May.

Although HASW gives employers a clear duty to safeguard the health and safety of employees and those using their services, the law does not impose any statutory duty upon individual directors. As such, the guidance only encourages companies to nominate a director who will champion health and safety matters in the organisation, and to ensure that individual members of the board recognise their personal liabilities and responsibilities under the law. The organisation must also have a clear health and safety policy, and ensure that all board decisions reflect the organisations health and safety policy.

The draft code was issued as a guidance document, and not the more important status of Approved Code of Practice (ACoP) under s.16 of HASW. This means the guidance is not mandatory; although it is not compulsory for duty-holders to follow the guidance, adherence will normally be enough to comply with the law. In the case of an ACoP, a prosecutor can take to a court a failure to comply with a provision of the ACoP as proof that the defendant has contravened the regulation to which the offence relates.

---

7 Bill 38 2002-03, See Library Standard Note SNSC-02065 on the Bill.

8 HSE press notice C005:01, *Company directors must be more accountable says HSC*, 17 January 2001

The guidance was published by the HSE on 25 July 2001. This makes clear that each Board needs to:

- accept its collective role in providing health and safety leadership in their organisation;
- ensure that each member accepts individual responsibility and makes sure that their actions and decisions at work reinforce the messages in the board's health and safety;
- make sure all decisions reflect the intentions in the organisation's health and safety policy;
- encourage workers at all levels to become actively involved in health and safety;
- keep up to date with relevant health and safety risk management issues and review its health and safety performance regularly, at least annually.

HSC chairman Bill Callaghan said: (…)

"Health and safety is a boardroom issue. Good health and safety reflects strong leadership from the top and that is what we want to see. The company whose chairperson or chief executive is the champion of health and safety sends the kind of message which delivers good performance on the ground.

"Those who are at the top have a key role to play which is why boards are being asked to nominate one of their number to be a 'health and safety' director. But appointing a health and safety director or department does not absolve the Board from its collective responsibility to lead and oversee health and safety management.

By following this good practice guidance directors will normally be doing enough to comply with the law.[9]

1. Centre for Corporate Accountability Campaign

A campaign by the Centre for Corporate Accountability (CCA)[10] hopes that by imposing safety duties upon directors it will both make companies safer as well as assisting in ensuring that directors can be held personally to account when they have acted negligently or recklessly. Company directors convicted of a breach of HASW Section 37 may also be disqualified, for up to 2 years, from being the director of a company, under s2 (1) of the *Company Directors Disqualification Act 1986*.

---

9 HSE press notice C029:01, *New guidance says company directors must ensure risks to health and safety are properly managed*, 25 July 2001.

10 See Library Note SNSC-02135 explains the CCA campaign in more detail.

Courts do not currently have the power to sentence individual company directors and senior managers to imprisonment, however serious the offences may be. This is in contrast to food safety and environmental law which does allow courts to impose custodial sentences.

The placing of mandatory statutory duties on directors has been discussed in connection with the introduction of the proposed offence of corporate killing, and possible imprisonment for those convicted. Principal among the concerns of industry is that any director with responsibility for health and safety might be made a scapegoat for the failings of the company. A barrister suggests that a possible defence might be that if they could prove that the issue was brought before the rest of the board and the board refused to do anything, it would be the board, not the safety director who could be prosecuted, convicted fined or imprisoned.[11] These issues are discussed below.

C. Corporate manslaughter

Many unions and other safety campaigners want to reform the law on manslaughter to allow large companies, as well as small companies, to be prosecuted for corporate liability. A PQ on 7 January 2003 pledged that the government would honour its manifesto commitment to introduce health and safety legislation to deal with corporate killing as soon as parliamentary time allows.[12]

The government has been considering separate legislation under the auspices of the Home Office to reform the law on involuntary manslaughter, particularly with respect to corporate liability. This would have implications for company directors and boards with responsibility for health and safety in their organisations following the death at work of an employee.

Currently English law has two general homicide offences: murder and manslaughter. Murder requires proof of intention to kill or inflict serious harm. Mitigating circumstances, such as provocation, enable the offence to be reduced to manslaughter. If someone does not intend to kill, but a death or serious injury results for which they are blameworthy, then the offence is involuntary manslaughter. At present the law on involuntary manslaughter is wide in scope and has led to problems for judges when sentencing.

The only organisations that can be convicted for manslaughter are companies. Schools, police forces and other unincorporated organisations can not be prosecuted however negligent or reckless their conduct.

At present, a company can only be convicted of manslaughter if the prosecution can show that an individual, or a group of individuals, who embody the 'directing or controlling mind' of the company are guilty of the charge. The test for ascertaining whether directors,

---

[11] Corporate crimes conference report, *RoSPA Occ S & H Journal* October 2002 p12

[12] HC Deb 7 January 2003 c58W

managers or other similar persons are liable under regulatory legislation is Section 37(1) of HASW, which is about whether the offence has been committed with the consent or connivance of, or is attributable to neglect on the part of, such a person.

This requirement, which is sometimes known as the identification doctrine, means that it is difficult to secure a conviction even when a company has been found guilty under the *Health and Safety at Work etc. Act 1974.* Consequently, there have been few successful prosecutions because liability is so difficult to prove, especially in large organisations where it can be impossible to pin-point the 'directing mind'. Those that have been successful were in small companies with basic management structures where an individual could be identified as the 'directing mind'.[13]

The existing law was confirmed by the judge at the Court of Appeal in February 1999[1] following the railway accident at Southall in September 1997, in which seven passengers died, who ruled out the charges on manslaughter.

1. Successful convictions of directors for corporate manslaughter

Only twelve prosecutions for corporate manslaughter have been brought since the death in 1965 of Glanville Evans. He was killed when the bridge he was working on collapsed and he fell into the River Wye. Only four prosecutions in England have resulted in a conviction where an individual director has been imprisoned for manslaughter arising from a health and safety breach: *R v. OLL Limited*, *R v. Jackson Transport (OSIT) Limited*, *R v Hormer* and *R. v Brain Deane.*

a. R v. OLL Ltd

OLL Ltd arranged various outdoor activity holidays for groups of school children at Lyme Regis. It was a very small company, having only four employees, with only one director, Mr Peter Kite. In 1993 a group of school children got into difficulties during a canoeing trip which resulted in the deaths of four of them. It was clear that OLL had given very little consideration to health and safety generally, and no procedures were in place to assess risks to young children. The weather conditions had also not been considered in any detail.

Both the company, OLL, and the managing director, Mr Kite, were indicted for manslaughter. The grounds were that they had not considered health and safety issues adequately. It was found that there was a wilful disregard of safety and OLL was fined £60,000. Mr Kite was sentenced to three years imprisonment which was reduced to two years on appeal.

R v. OLL Limited, R v. Jackson Transport (OSIT) Limited and R. v Brain Deane. In the latter case the appeal court quashed to conviticition in October 2002.

The simplicity of the management structure made the establishment of liability straightforward because Mr Kite was the only managing director and he could be identified as the 'directing mind' with personal knowledge of the inadequate safety systems and the consequent risks.

b. R v. Jackson Transport (OSIT) Ltd

Although Jackson Transport (OSIT) Ltd was a larger company than OLL Ltd with a workforce of about sixty people, the managing director, Mr Alan Jackson, was involved in all the company's decisions.

In 1996 a 21-year-old employee was cleaning residue from a road tanker when he was sprayed in the face with a toxic chemical that led to his death. The supervision and training had been grossly inadequate, and for such a hazardous task the supply of protective equipment was almost non-existent.

The company was convicted of manslaughter and a range of offences under the *Health and Safety at Work etc Act 1974.* It was fined £22,000 including £15,000 in respect of the manslaughter charge. Mr Jackson was fined £1,500 and imprisoned for a year.

As in the OLL case it was comparatively easy to identify the 'directing mind' as Mr Jackson, the managing director, was responsible for health and safety.

After the cases against OLL and Jacksons it became obvious that it was much easier to gain a successful prosecution against a small company that was likely to have a simple management structure in which it was possible to easily identify the 'directing mind'. Indeed, both companies had only one director who was convicted. This is in direct contrast to the Herald of Free Enterprise case and several others following disasters on the railways in which the prosecution for manslaughter failed because it was not possible to identify the 'directing mind'.

The third case, brought in 2002, is a case in point.

c. R. v Brian Dean

Brian Dean was the former owner of a Staffordshire demolition firm. Michael Redgate and his son, Carl, were sent to demolish a kiln without proper instruction. The two workers were killed when the kiln collapsed and buried them. Mr Dean was found responsible for the deaths and was jailed for 18 months. Trade unions leaders welcomed the sentence, and said that it should act as a 'wake-up' call to industry.

In October 2002 the Court of Appeal quashed the two manslaughter convictions, replacing them with a conviction under the *Health and Safety at Work Act*. Mr Dean was released without further financial penalty after serving five months in prison. According to the *Health and Safety Bulletin* report in the case, the Court of Appeal found that the trial judge's

directions on causation and gross negligence were sufficiently inadequate to make the verdict unsafe.[14] The case has implications about the extent to which an employer needs to make an explicit warning of risks, in addition to explaining a system of work, to workers.

d. R v Horner

John Horner, the director of a small family firm, Teglgaard Hardwood UK Ltd, received a fifteen months prison sentence, suspended for two years, at Hull Crown Court after he pleaded guilty to the manslaughter of an employee. The company, which also pleaded guilty to manslaughter, was fined £25,000 after the death of nineteen year old Christopher Longrigg in April 2000. He had been employed as a labourer and was crushed to death after stacks of timber toppled over on to him in the company's yard. On investigation, the HSE and police found that other stacks were unsafe, and there was anecdotal evidence of previous collapses. There was no evidence of a health and safety policy (required in all forms employing five or more people), risk assessment or any training.[15]

e. Simon Jones

A recent, high-profile, case in which the prosecution for manslaughter was unsuccessful is that of Simon Jones. The following report appeared in the *Guardian*, highlighting shortcomings in the enforcement of statutory health and safety as well as the law on manslaughter:

> The death of Simon Jones, 24, on his first day at work at Shoreham Docks in April 1998, and last week's court acquittal of his employer Euromin and its general manager, James Martell, for his manslaughter, has made clear the failure of the law in relation to workplace safety.
>
> Simon Jones died when the jaws of a crane grab closed around his head as he was unloading bags from a ship's hold. His death was the result of a dangerous working system: the banksman did not speak English, there was an open grab immediately above the heads of workers, and the grab had not been replaced with a safe hook provided to the company.
>
> Simon's death could have been prevented if the Health and Safety Executive – the body responsible for enforcing safety law in Britain – had found out how the company unloaded cargo and compelled it to operate safely. The executive is a calamitously under-resourced body. The government provides it, nationally, with barely half the cash that it gives to, say, West Midlands police force, just one of 43 forces.

---

[14] Court of Appeal quashes kiln killing convictions, *Health and Safety Bulletin* 315 January/ February 2003 p23

[15] Director faces jail as campaigners press government on corporate killing offence, *Health and Safety Bulletin*, April 2003 317 p3

At the time of Simon's death there was only one HSE inspector responsible for enforcing safety law to cover all the docks in the south of England. That inspector was also responsible for hospitals and local authority, police and ministry of defence establishments.

It is hardly surprising, therefore, that before Simon's death, Euromin had only one visit from inspector in December 1994, three and a half years earlier. This visit had been made when nothing was being unloaded, and was only made because there had been a complaint. While responsibility for the death lies with the company (though acquitted of manslaughter, the firm was convicted of two health and safety offences), the government must also take its share of the blame.

And not only for Simon's death. Non one can tell how many of 374 work-related deaths in 1998 could have been avoided had there been more HSE inspectors visiting premises and demanding changes to unsafe working practices. If the state failed to do what it could to prevent Simon's death, you would at least expect that it would ensure that the death was adequately investigated and the evidence properly considered by the prosecution bodies. That did not happen. The police investigation did not begin for over six weeks – even though procedures exist that require the CID to start immediate inquiries into work-related deaths. Not until three years had passed did the police finally undertake a full search of Euromin's office and papers, in May 2001.

As in the case of most workplace deaths, where families are routinely told that there is "insufficient evidence", the crown prosecution service refused to prosecute for manslaughter over Simon's death.

However, while most families are forced to accept the CPS decision, Simon's family and friends were willing to use every legal avenue to challenge it. But only after a successful judicial review, and the personal intervention of the director of public prosecutions, did James Martell and Euromin face charges for manslaughter.

Martell was acquitted of manslaughter – the jury must have felt on the balance of the evidence that he had not acted with gross negligence. Under current law, a company can be convicted of manslaughter only if a senior manager or director – a "controlling mind" of the company – is found guilty as an individual, so Euromin was not convicted.[16]

f. Transco – Scotland

On 5 February 2003 the gas supply company, Transco, was charged with culpable homicide following the death of a family of four in Lanarkshire in 2000. This is the first time in Scotland that a company has been accused of culpable homicide. The company will contest the case, but if found guilty could face an unlimited fine.[17]

---

[16] David Bergman, "Holding directors to account", *Guardian*, 4 December 2001, p18

[17] Transco charged over blast deaths, *Financial Times* 6 February 2003 p2

2. Corporate manslaughter reform

In 1996 the Law Commission produced a report which set out proposals for reform of the law on involuntary manslaughter.[18] Following this the government set up an interdepartmental group to consider recommendations and make proposals for a change of law in England and Wales. In February 2002 the Environment Transport and Regional Affairs Select Committee reported on the work of the Health and Safety Executive, and recommended the creation of a new offence of corporate killing and an increase in the fines for health and safety offences.[19]

On 23 May 2000 the Home secretary, Jack Straw, announced the publication of a Home Office consultation paper based on the Law Commission proposals about reform of the law on involuntary manslaughter.[20] The consultation proposed the following new offences to replace involuntary manslaughter:

- Corporate killing: a specific offence which is intended to make companies accountable in the criminal law where they fall far below what can be expected in the circumstances.

This would allow a company to be prosecuted when there is evidence that serious management failures on the part of the company was a cause of the death; it would not be necessary to convict a company director for the offence.

- Reckless killing; for example where the person is aware of a risk that their conduct will cause death or serious injury and it is unreasonable to take that risk.
- Killing by gross carelessness; for example where there is a risk that the conduct would cause death or serious injury which would have been apparent to a reasonable person; the person concerned is capable of appreciating the risk ; and either

    - their conduct falls far below what could be expected or
    - they intend their action to cause some injury or they unreasonably take the risk that it might.
    - killing when the intention was to cause only minor injury but death was caused by an unforeseeable event[21]

Sally Broadbridge in the Home Affairs Section of the Library has written a note on the background to introducing an offence of Corporate Killing. A copy of her note can be accessed from the PDVN at http://hcl1.hclibrary.parliament.uk/notes/has/snha-01638.pdf

---

[18] *Legislating the Criminal Code: Involuntary Manslaughter*, Law Commission Report no 237, 1996

[19] Environment Transport and Regional Affairs Select Committee fourth report, Work of the Health and Safety Executive, HC 31 1999-2000 February 2000.

[20] Home Office press notice 140/2000, *Tightening the law on voluntary manslaughter: proposals for reforms*, 23 May 2000

[21] ibid

The consultation focused on those aspects of the proposals where government and the Law Commission had reached different conclusions. These have implications for the responsibilities of directors and board members for fatalities at work. A new role for the HSE in the investigation of such deaths is proposed.

Issues in the consultation include:

- Applying the offence of corporate killing to any trade or business 'undertakings' not just incorporated organisations as the Law Commission proposed.
- Allowing other organisations such as the Health and Safety Executive and Civil Aviation Authority to investigate and prosecute the new offences; and
- Inviting comments as to what extent individual officers of companies and other undertakings should be liable if they contribute to the corporate offence and, if so, what penalty would be appropriate.[22]

The following maximum penalties are proposed:

- Corporate killing: An unlimited fine and a remedial order to correct the original cause of any accident. Directors might also be liable to disqualification.
- Reckless killing: A maximum penalty of life.
- Killing by gross carelessness: A maximum penalty of 10 years imprisonment
- Killing when the intention was to cause only minor injury: A maximum penalty of between 5 and 10 years.[23]

The proposals were welcomed by the Head of Policy at the Institute of Directors, the General Secretary of the TUC and the Law Commissioner for Criminal Law at the Law Commission.[24] The chairman of HSC also gave strong support to them. [25]

The newly elected Labour Government committed itself to enacting an offence of corporate killing in May 1997, and it became a Labour manifesto pledge in 2001. On 16th April 2002 a conference, *Corporate Killing – Implications for the Public Sector*, was held in London at which, results from a survey conducted by the British Safety Council to ascertain the public sector's main concerns about the proposed new corporate killing legislation, were presented.

The press release reports that:

> All those who took part in the survey expressed concern that they would not be exempt from the new corporate killing laws in the course of their duties – and that they could face criminal charges if inadequate safety management causes death or

---

22 ibid
23 ibid
24 ibid
25 HSE press notice C047:00, *Callaghan announces HSC support for new corporate killing charge*, 13 September 2000

> injury to staff or members of the public. Penalties include unlimited fines and up to life imprisonment for those who fail to take proper care.
>
> But the Home Office has already made it clear that they will not be exempt and that the public sector will be treated no differently from the private sector. [26]

The British Safety Council document *Corporate Killing*, published in 2001, sets out some of the arguments surrounding these issues.

Following the proposals in the consultation exercise, the Home Office Sentencing and Offences Unit asked companies with high accident rates to help them complete a Regulatory Impact Assessment as a precursor to drafting legislation on the new offence of corporate manslaughter. This work is continuing.

In October 2002 it was reported that the government had decided that plans to make company directors individually liable for major disaster were unworkable. Companies and the Confederation of British Industry (CBI) felt that the requirement to make directors liable 'when their conduct fell below what could reasonably be expected' would make companies defenceless. As such, individual directors would not be jailed or face disqualification; any punishment would fall solely on the companies.[27]

By November 2002, it was reported that the government would not be including the necessary legal reforms in the Criminal Justice Bill, announced in the Queen's Speech,[28] but the government have pledged to introduce legislation as parliamentary time allows. [29]

a. Hazards / Centre for Corporate Accountability Campaigns

The Hazards Campaign[30] and the Centre for Corporate Accountability have produced two postcards, urging the Prime Minister and the Home Secretary to enact a new charge of corporate killing, as promised in Labour's election manifesto. A further two cards are addressed to Health and Safety Minister, Nick Brown on the failure to produce a wide ranging safety bill, and to local MPs on both bills. The cards can be viewed at: http://www.hazards.org/postcard/

The postcards are being sent in the run-up to International Workers Memorial Day on 28 April 2003 which has "Employer Accountability for health and safety at work" world wide as its theme.

---

[26] British Safety Council news release, *Prison Authorities in quandary over proposed corporate killing laws*, 16 April 2002

[27] Blunkett backtracks on corporate killing law, *Financial Times*, 11 October 2002 p5

[28] Blunkett drops plans for corporate killing law, *Financial Times*, 9 November 2002

[29] HC Deb 7 January 2003 c58W

[30] http://www.hazardscampaign.org.uk/

A joint report by the TUC, Disaster Action and the Centre for Corporate Accountability on the proposed corporate killing offence has been published.[31] The report sets out, in twenty six questions and answers, why the Centre for Corporate Accountability, Disaster Action and the TUC believe that the present laws governing 'corporate' manslaughter are inadequate and why a new offence of corporate killing should be enacted.

An EDM[32] has been tabled that calls on the government to enact a new offence of corporate manslaughter as soon as possible:

> That this House regrets that since 1997, over 2000 workers and members of the public have died in work-related incidents, as well as the Southall, Paddington, Hatfield and Potters Bar disasters; notes that during the same period only four companies and two directors have been convicted of the offence of manslaughter and that these were all small firms; recalls that the Law Commission recommended a new offence of corporate manslaughter in 1996 to hold large as well as small undertakings to account for causing death through grossly negligent failures of management; believes that such an offence would increase the accountability of directors and their equivalents, and encourage better safety standards in undertakings; and calls on the Government to put before Parliament measures to enact a new offence of corporate manslaughter as soon as possible.

There are currently 115 signatories.

On the 18 March 2003 the Financial Times reported that a forthcoming court case may shape the law on workplace deaths, following a failure to prosecute the case on the recommendation of the Crown Prosecution Service (CPS). A judicial review is expected to test if he CPS is applying the test of manslaughter correctly, following the case of Malcolm Rolwey of Salford who died in the bath in a care home.

---

[31] Why we need a new corporate killing law: the answers to work-related deaths, Disaster Action/Trades Union Congress/CCA, 2003 http://www.tuc.org.uk/h_and_s/tuc-6363-f0.pdf

[32] EDM 793 2002/03