



Corporate Manslaughter and Corporate Homicide Act 2007

2007 CHAPTER 19

Relevant duty of care

2 Meaning of “relevant duty of care”

- (1) A “relevant duty of care”, in relation to an organisation, means any of the following duties owed by it under the law of negligence—
- (a) a duty owed to its employees or to other persons working for the organisation or performing services for it;
 - (b) a duty owed as occupier of premises;
 - (c) a duty owed in connection with—
 - (i) the supply by the organisation of goods or services (whether for consideration or not),
 - (ii) the carrying on by the organisation of any construction or maintenance operations,
 - (iii) the carrying on by the organisation of any other activity on a commercial basis, or
 - (iv) the use or keeping by the organisation of any plant, vehicle or other thing;
 - (d) a duty owed to a person who, by reason of being a person within subsection (2), is someone for whose safety the organisation is responsible.
- (2) A person is within this subsection if—
- (a) he is detained at a custodial institution or in a custody area at a court^[F1], a police station or customs premises];
 - ^[F2](aa) he is detained in service custody premises;]
 - (b) he is detained at a removal centre^[F3], a short-term holding facility or in pre-departure accommodation];
 - (c) he is being transported in a vehicle, or being held in any premises, in pursuance of prison escort arrangements or immigration escort arrangements;

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- (d) he is living in secure accommodation in which he has been placed;
- (e) he is a detained patient.

(3) Subsection (1) is subject to sections 3 to 7.

(4) A reference in subsection (1) to a duty owed under the law of negligence includes a reference to a duty that would be owed under the law of negligence but for any statutory provision under which liability is imposed in place of liability under that law.

(5) For the purposes of this Act, whether a particular organisation owes a duty of care to a particular individual is a question of law.

The judge must make any findings of fact necessary to decide that question.

(6) For the purposes of this Act there is to be disregarded—

- (a) any rule of the common law that has the effect of preventing a duty of care from being owed by one person to another by reason of the fact that they are jointly engaged in unlawful conduct;
- (b) any such rule that has the effect of preventing a duty of care from being owed to a person by reason of his acceptance of a risk of harm.

(7) In this section—

“construction or maintenance operations” means operations of any of the following descriptions—

- (a) construction, installation, alteration, extension, improvement, repair, maintenance, decoration, cleaning, demolition or dismantling of—
 - (i) any building or structure,
 - (ii) anything else that forms, or is to form, part of the land, or
 - (iii) any plant, vehicle or other thing;
- (b) operations that form an integral part of, or are preparatory to, or are for rendering complete, any operations within paragraph (a);

“custodial institution” means a prison, a young offender institution, a secure training centre, [^{F4}a secure college,] a young offenders institution, a young offenders centre, a juvenile justice centre or a remand centre;

[^{F5}“customs premises” means premises wholly or partly occupied by persons designated under section 3 (general customs officials) or 11 (customs revenue officials) of the Borders, Citizenship and Immigration Act 2009;]

“detained patient” means—

- (a) a person who is detained in any premises under—
 - (i) Part 2 or 3 of the Mental Health Act 1983 (c. 20) (“the 1983 Act”), or
 - (ii) Part 2 or 3 of the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4)) (“the 1986 Order”);
- (b) a person who (otherwise than by reason of being detained as mentioned in paragraph (a)) is deemed to be in legal custody by—
 - (i) section 137 of the 1983 Act,
 - (ii) Article 131 of the 1986 Order, or
 - (iii) article 11 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/2078);

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- (c) a person who is detained in any premises, or is otherwise in custody, under the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13) or Part 6 of the Criminal Procedure (Scotland) Act 1995 (c. 46) or who is detained in a hospital under section 200 of that Act of 1995;
- “immigration escort arrangements” means arrangements made under section 156 of the Immigration and Asylum Act 1999 (c. 33);
- “the law of negligence” includes—
- (a) in relation to England and Wales, the Occupiers' Liability Act 1957 (c. 31), the Defective Premises Act 1972 (c. 35) and the Occupiers' Liability Act 1984 (c. 3);
- (b) in relation to Scotland, the Occupiers' Liability (Scotland) Act 1960 (c. 30);
- (c) in relation to Northern Ireland, the Occupiers' Liability Act (Northern Ireland) 1957 (c. 25), the Defective Premises (Northern Ireland) Order 1975 (S.I. 1975/1039 (N.I. 9)), the Occupiers' Liability (Northern Ireland) Order 1987 (S.I. 1987/1280 (N.I. 15)) and the Defective Premises (Landlord's Liability) Act (Northern Ireland) 2001 (c. 10);
- “prison escort arrangements” means arrangements made under section 80 of the Criminal Justice Act 1991 (c. 53) or under section 102 or 118 of the Criminal Justice and Public Order Act 1994 (c. 33);
- “removal centre”^[F6], “short-term holding facility” and “pre-departure accommodation”] have the meaning given by section 147 of the Immigration and Asylum Act 1999;
- “secure accommodation” means accommodation, not consisting of or forming part of a custodial institution, provided for the purpose of restricting the liberty of persons under the age of 18.
- ^[F7]“service custody premises” has the meaning given by section 300(7) of the Armed Forces Act 2006.]

Textual Amendments

- F1** Words in s. 2(2)(a) substituted (1.9.2011) by [The Corporate Manslaughter and Corporate Homicide Act 2007 \(Amendment\) Order 2011 \(S.I. 2011/1868\)](#), arts. 1, **2(2)**
- F2** S. 2(2)(aa) inserted (1.9.2011) by [The Corporate Manslaughter and Corporate Homicide Act 2007 \(Amendment\) Order 2011 \(S.I. 2011/1868\)](#), arts. 1, **2(3)**
- F3** Words in s. 2(2)(b) substituted (28.7.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 15(a)**; S.I. 2014/1820, art. 3(cc)
- F4** Words in s. 2(7) inserted (20.3.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), **Sch. 9 para. 23**; S.I. 2015/778, art. 2(1)(c)
- F5** Words in s. 2(7) inserted (1.9.2011) by [The Corporate Manslaughter and Corporate Homicide Act 2007 \(Amendment\) Order 2011 \(S.I. 2011/1868\)](#), arts. 1, **2(4)(a)**
- F6** Words in s. 2(7) substituted (28.7.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 15(b)**; S.I. 2014/1820, art. 3(cc)
- F7** Words in s. 2(7) inserted (1.9.2011) by [The Corporate Manslaughter and Corporate Homicide Act 2007 \(Amendment\) Order 2011 \(S.I. 2011/1868\)](#), arts. 1, **2(4)(b)**

Commencement Information

- I1** S. 2(1)(a)-(c) (3)-(7) in force at 6.4.2008 by [S.I. 2008/401](#), **art. 2** (with [art. 2\(3\)\(b\)](#))
- I2** S. 2(1)(d) in force at 1.9.2011 for E.W.S. by [S.I. 2011/1867](#), **art. 2**
- I3** S. 2(1)(d) in force at 3.9.2012 for N.I. by [S.R. 2012/286](#), **art. 2**

Changes to legislation:

There are currently no known outstanding effects for the Corporate Manslaughter and Corporate Homicide Act 2007, Section 2.