

EXPLANATORY MEMORANDUM TO
THE CORPORATE MANSLAUGHTER AND CORPORATE HOMICIDE ACT 2007
(AMENDMENT OF SCHEDULE 1) ORDER 2008

2008 No. 396

1. This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This Order updates Schedule 1 to the Corporate Manslaughter and Corporate Homicide Act 2007, which sets out a list of government departments and similar bodies to which the offence of corporate manslaughter (corporate homicide in Scotland) in section 1 of the Act applies.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 The Corporate Manslaughter and Corporate Homicide Act 2007 sets out a new offence for prosecuting certain types of organisation for gross failings in the management of their activities which have resulted in a person's death. The offence applies to corporations (including companies and public bodies incorporated under statute such as NHS bodies and local authorities), as well as to a number of bodies which are not corporations, including police forces and certain partnerships. The Act, and offence, will also apply to Crown bodies.

4.2 A small number of Crown bodies have been incorporated and the offence will apply to these by virtue of its application to corporations. Examples of such organisations include the Postal Services Commission and the Office of the Rail Regulator. However, other Crown bodies, including most government departments, are not corporations. The Act therefore makes provision to apply to a list of government departments and similar bodies. This list is set out in Schedule 1 to the Act. A number of amendments are required to reflect changes in the machinery of government.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 The Parliamentary Under Secretary of State Maria Eagle MP has made the following statement regarding Human Rights:

In my view the provisions of the Corporate Manslaughter and Corporate Homicide Act 2007 (Amendment of Schedule 1) Order 2008 are compatible with the Convention rights.

7. Policy background

7.1 To ensure the application of the offence in section 1 of the Corporate Manslaughter and Corporate Homicide Act 2007 to relevant government departments and similar bodies, Schedule 1 needs to be kept in line with the current structure of government. A number of changes to the machinery of government have taken place since the Schedule was agreed in Parliament during the passage of the Corporate Manslaughter and Corporate Homicide Bill. These are:

- the abolition of the Privy Council Office as a separate non-Ministerial department in January 2007;
- the establishment of the Ministry of Justice and abolition of the Department for Constitutional Affairs in May 2007; and
- machinery of government changes in June 2007 that involved the establishment of the Departments for Business, Enterprise and Regulatory Reform, for Children, Skills and Families and for Innovation, Universities and Skills and the related abolition of the Departments for Education and Skills and of Trade and Industry and of the Office of the Deputy Prime Minister.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

9.1 Robin Edwards at the Ministry of Justice (tel: 020 7035 6962 or e-mail: robin.edwards2@homeoffice.gsi.gov.uk) can answer any queries regarding the instrument.