



---

## **AN BILLE UM DHÚNORGAIN CHORPARÁIDEACH, 2013** **CORPORATE MANSLAUGHTER BILL 2013**

---

### **EXPLANATORY AND FINANCIAL MEMORANDUM**

---

#### *Purpose of the Bill*

1. The purpose of this Bill is—
  - to provide for the offence of corporate manslaughter,
  - to provide for the offence of grossly negligent management causing death,
  - to provide for related matters to these offences.

Provision is also made for orders that may be sought by the court in result of a conviction of the above offences.

The intention of this Bill is to reform the law on corporate manslaughter to ensure that undertakings or persons can be held accountable when deaths of workers are caused by neglect of workplace health and safety whether it is through established bad practice or mismanagement.

The Bill is based on the Law Reform Commission Report on Corporate Killing of October 2005. The Law Reform Commission in its report recognised that current legislation was deficient and recommended that a new offence of corporate manslaughter be created.

The necessity for this is further illustrated by the fact that so many workers continue to be killed and injured in the workplace.

#### *Provisions of the Bill*

*Section 1* is a standard section that provides the definitions.

*Section 2* sets out a definition of corporate manslaughter.

It provides that where an undertaking causes the death of a person by gross negligence that undertaking is guilty of an offence called “corporate manslaughter”.

This section also defines “gross negligence” and the standard of

care criteria that the court shall have regard to in assessing whether the undertaking owed a duty of care to the deceased person.

*Section 3* sets out a definition of grossly negligent management causing death that a high managerial agent of an undertaking may be charged with.

*Section 4* states that prosecutions for the offence of corporate manslaughter or the offence of grossly negligent management causing death shall be on indictment.

*Section 5* outlines the penalties applicable to an undertaking convicted of corporate manslaughter and to a high managerial agent of a convicted undertaking who is convicted of grossly negligent management causing death.

*Section 6* allows the court to order a pre-sentencing report before the sentencing a convicted undertaking which will allow the court to take account of range of issues when sentencing, including previous the financial means of the undertaking as well as its compliance with its' legislative duties.

*Section 7* allows the court of impose a Remedial Order on the convicted undertaking alongside the fine to remedy the circumstances that lead to the occurrence of the corporate manslaughter.

*Section 8* allows the court to impose a Community Service Order on the convicted undertaking alongside a fine in order to allow the convicted undertaking an opportunity to contribute to the community it has wronged in a constructive manner.

*Section 9* allows the court to impose an Adverse Publicity Order on a convicted undertaking in addition to a fine where it deems appropriate.

*Section 10* allows for the disqualification of a high managerial agent who has been convicted of grossly negligent management causing death.

*Section 11* states that nothing in this Act shall prevent the prosecution of any individual for the offence of manslaughter by gross negligence as well as allowing the court to return a verdict of grossly negligent management causing death as an alternative where a managerial agent has been charged with manslaughter by gross negligence arising from an incident related to the undertaking and that prosecution fails.

*Section 12* allows for the principle of separate legal personality to be disregarded by the court where an undertaking has dissolved and re-formed and the court is satisfied that the purpose of that dissolution and re-formation was to avoid criminal liability for corporate manslaughter of grossly negligent management causing death.

*Section 13* is a standard section, providing for the short title of the Bill.

*Senator David Cullinane,*  
*May, 2013.*