
 [worksafe.qld.gov.au/forms-and-resources/newsletter/esafe-newsletters/esafe-editions/esafe/october-2017/new-industrial-manslaughter-laws-to-protect-queenslanders](https://www.worksafe.qld.gov.au/forms-and-resources/newsletter/esafe-newsletters/esafe-editions/esafe/october-2017/new-industrial-manslaughter-laws-to-protect-queenslanders)

The warning is clear - if you cost someone their life, you'll pay. That'll be the case under new laws which create the offence of industrial manslaughter in Queensland. The maximum penalty for the new offence is 20 years imprisonment for an individual, with a maximum fine of \$10 million for a corporate offender.

Industrial Relations Minister Grace Grace said the new offence was needed to deal with failures that caused fatalities, the expectations of the public, and to provide a strong deterrent.

"Importantly, companies won't be able to hide behind elaborate corporate structures to evade their responsibilities," Ms Grace said.

The new offence strengthens existing penalties and offences. As the laws stood, there were three categories of offences for not meeting work health and safety duties. The focus of these offences is the failure to meet the safety duty, rather than the actual occurrence of a fatality or injury.

Category 1 offences were previously the most serious. They involve an element of reckless conduct (i.e. where a person knowingly takes a risk that puts another person in danger). The maximum penalty for a Category 1 offence is five years' imprisonment for individuals and penalties of up to \$3 million for corporations, \$600,000 for officers, and \$300,000 for workers.

Category 2 and 3 offences deal with circumstances where a duty has been breached. Category 2 offences however have an additional element that the breach exposes a person to a risk of death or serious injury or illness. Category 2 and 3 offences do not include jail time, rather monetary penalties depending on whether the offender is a corporation, an officer, or other individual.

A person can also be charged with manslaughter and prosecuted under the Queensland Criminal Code for a workplace fatality. Manslaughter is the unlawful killing of a person without the intention of causing the death or grievous bodily harm of the person.

However, industrial manslaughter adds another dimension to punishing guilty people or entities. The offence is outcome focused and applies where a worker actually dies (or is injured in the course of carrying out the work and later dies of that injury). In these circumstances, the person's conduct must cause the death of the worker and they must be negligent in causing the death of the worker by their conduct.

Due to the severity of the circumstances required to meet the industrial manslaughter offence, this offence carries higher maximum penalties than a Category 1 offence.

Minister Grace said that while affected families will never get their loved ones back, they can take heart that individuals or companies responsible will be held to account under these laws.

"These harsher penalties serve as a deterrent to employers who might be tempted to cut corners when it comes to safety in the workplace," Minister Grace said.

The new offence also sends a clear message to duty holders about the community's expectations on safety in the workplace and that companies, and senior officers working for them, must do all that they can to ensure the safety of workers at their workplaces. This is likely

to have a positive effect of raising safety standards and increase proactive work health and safety management.

Under the offence, sentencing judges can deal with the worst examples of corporate or individual behaviour and will extend corporate criminal responsibility to cases where a corporation's unwritten rules, policies, work practices or conduct fail to create a culture of compliance consistent with its responsibilities and duties of care.

The introduction of an industrial manslaughter offence was one of 58 recommendations in the Best Practice Review of Workplace Health and Safety Queensland. The review followed two tragic workplace incidents at Eagle Farm Racecourse and Dreamworld last year that cost six people their lives.

"The majority of the recommendations in the Best Practice Review are being implemented via the *Work Health and Safety and Other Legislation Amendment Bill*.

"We promised to get industrial manslaughter on the books in Queensland, and to send out a strong message that if you cost someone their life, you will pay."

State parliament passed the legislation on Thursday 12 October 2017.