

CULPABLE HOMICIDE (SCOTLAND) BILL CONSULTATION PAPER

QUESTIONS

To assist persons in preparing a response to this Consultation Paper, here are a few questions which they may wish to consider in addition to any other comments which you may wish to make about the consultation paper as a whole, or contents within. You do not have to answer all the questions, with only the questions you have answered considered in the final analysis:

About You

Q1: Are you responding as:

- an individual – in which case go to Q2A
- on behalf of an organisation? – in which case go to Q2B

Q2A: Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose “Member of the public”.)

- Politician (MSP/MP/peer/MEP/Councillor)
- Professional with experience in a relevant subject
- Academic with expertise in a relevant subject
- Member of the public

Optional: You may wish to explain briefly what expertise or experience you have that is relevant to the subject-matter of the consultation:

Q2B. Please select the category which best describes your organisation:

- Public sector body (Scottish/UK Government or agency, local authority, NDPB)
- Commercial organisation (company, business)
- Representative organisation (trade union, professional association)
- Third sector (charitable, campaigning, social enterprise, voluntary, non-profit)
- Other (e.g. clubs, local groups, groups of individuals, etc.)

Optional: You may wish to explain briefly what the organisation does, its experience and expertise in the subject-matter of the consultation, and how the view expressed in the response was arrived at (e.g. whether it is the view of particular office-holders or has been approved by the membership as a whole).

The Royal Environmental Health Institute of Scotland, often referred to by the acronym REHIS®, is an independent, self-financing registered Scottish charity (Number SC009406) whose main objectives are for the benefit of the community to promote the advancement of Environmental Health by:

1. stimulating general interest in and disseminating knowledge concerning Environmental Health;
2. promoting education and training in matters relating to Environmental Health; and
3. maintaining, by examination or otherwise, high standards of professional practice and conduct on the part of Environmental Health Officers in Scotland.

The Royal Environmental Health Institute of Scotland was incorporated as a Company Limited by Guarantee in 1983 to give effect to the amalgamation of The Royal Sanitary Association of Scotland (founded 1875) and The Scottish Institute of Environmental Health (founded 1891). The Institute was Incorporated by Royal Charter in 2001, following which the Company was wound up.

Response compiled by the Institute's current Senior Vice President & Council Member with Responsibility for Occupational Health & Safety

Q3. Please choose one of the following:

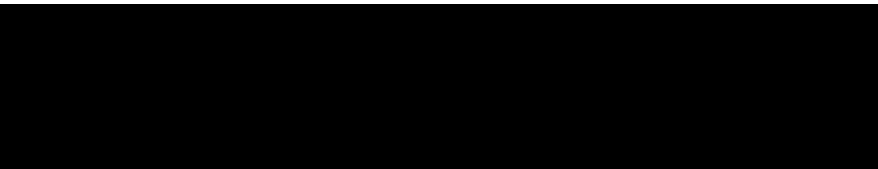
- I am content for this response to be published and attributed to me or my organisation
- I would like this response to be published anonymously
- I would like this response to be considered, but not published ("not for publication")

If you have requested anonymity or asked for your response not to be published, please give a reason. **(Note: your reason will not be published.)**

Q4. Please provide your name or the name of your organisation. **(Note: The name will not be published if you have asked for the response to be anonymous or "not for publication".)**

Name: The Royal Environmental Health Institute of Scotland

Please provide a way in which we can contact you if there are queries regarding your response. Email is preferred but you can also provide a postal address or phone number. **(Note: We will not publish these contact details.)**



Q5. Data protection declaration

- I confirm that I have read and understood the privacy notice attached to this consultation which explains how my personal data will be used.

Aim and approach

Q6. Which of the following best expresses your view of the proposed Bill?

- Fully supportive
- Partially supportive
- Neutral (neither support nor oppose)
- Partially opposed
- Fully opposed
- Unsure

Please explain the reasons for your response.

The goal of deterrence within the proposed bill supports the current regulatory framework for duty holders such as employers to fulfil their duties and responsibilities including those within health and safety legislation.

Q7. What do you think would be the main practical advantages and disadvantages of the proposed Bill?

Advantages include deterrence and the aim to remove discrimination against smaller businesses

Q8. Do you have any further comment to make on the need for legislation of this type as detailed in this consultation?

No comment at this time

Q9. Do you have any comments to make on the proposals outlined which suggest that there be two different statutory kinds of culpable homicide – culpable homicide by causing death recklessly and by gross negligence?

No comment at this time

Q10. Do you have any comments on the range of organisations and office holders who should be defined by the Bill?

No comment at this time

Q11. Do you have any comment to make on the provisions applying the new offences to Ministers, civil servants and Crown bodies in the same way as they apply to natural persons and organisations?

No comment at this time

Culpable homicide by causing death recklessly

Q12. Do you have any comment to make on the way in which causing death recklessly is defined in the proposal.

No adverse comments at this time

Q13. Do you have any comment to make on the proposal that organisations would be responsible for the actions of their employees for this offence?

No adverse comments at this time

Q14. Do you have any comments on the inclusion of aggregation and how it will work in practice?

No adverse comments at this time

Culpable homicide by gross negligence

Q15. Do you have any comment to make on proposals to re-introduce culpable homicide by gross negligence into the law in Scotland?

No adverse comments at this time

Q16. Do you have any comment to make on the proposals to define what is meant by that offence where it is committed by a natural person?

No adverse comments at this time

Q17. Do you have any comment to make on the definitions of “duty of care” and “gross breach”?

No adverse comments at this time

Sanctions

Q18. Do you have any comment to make on the penalties which may be imposed if a conviction is successful under a new law?

Sanctions/penalties - recommend that these are fully considered and a framework agreed by the appropriate Bodies/Agencies/Organisations

Financial implications

Q19. Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have on:

(a) Government and the public sector

- Significant increase in cost
- Some increase in cost
- Broadly cost-neutral
- Some reduction in cost
- Significant reduction in cost
- Unsure

(b) Businesses

- Significant increase in cost
- Some increase in cost
- Broadly cost-neutral
- Some reduction in cost
- Significant reduction in cost
- Unsure

(c) Individuals

- Significant increase in cost
- Some increase in cost
- Broadly cost-neutral
- Some reduction in cost
- Significant reduction in cost
- Unsure

Please explain the reasons for your response.

For a – there may be some cost increase due to the investigation and enforcement of new criminal offences

For b & c – there should be little or no increased cost to businesses/individuals (duty holder) who are compliant with their duties and responsibilities including those under health & safety law

Q20. Are there ways in which the Bill could achieve its aim more cost-effectively (e.g. by reducing costs or increasing savings)?

No comments at this time

Equalities

Q21. What overall impact is the proposed Bill likely to have on equality, taking account of the following protected characteristics (under the Equality Act 2010): age, disability, gender re-assignment, marriage and civil partnership, race, religion and belief, sex, sexual orientation?

- Positive
- Slightly positive
- Neutral (neither positive nor negative)
- Slightly negative
- Negative
- Unsure

Please explain the reasons for your response.

The proposal does not anticipate any impacts on protected characteristics

Q22. In what ways could any negative impact of the Bill on equality be minimised or avoided?

No comment at this time

Sustainability

Q23. Do you consider that the proposed bill can be delivered sustainably, i.e. without having likely future disproportionate economic, social and/or environmental impacts?

- Yes
- No
- Unsure

Please explain the reasons for your response.

The proposed Bill aims to be a deterrent and should help encourage duty holders to fulfil their duties and responsibilities

General

Q24. Do you have any other comments or suggestions on the proposal?

No comment at this time