

ENTERPRISE & REGULATORY REFORM BILL: Civil Liability and Health and Safety at Work Regulations

Main purpose and benefits of legislation:

The legislation will address the potential unfairness that arises where an employer is found liable to pay compensation to an employee despite having taken all reasonable steps to protect them.

The measure will:

- Provide employers with the opportunity to defend themselves on the basis of having done all that was reasonable
- Ease employers' fears of being sued and help to reduce over-compliance and associated costs
- Maintain health and safety standards and the level of protection currently provided under criminal law
- Continue to allow employees to bring claims for compensation where an employer has been shown to be negligent
- Contribute to the wider Government reform of the civil litigation system

The main elements under the bill are:

Amending section 47 of the Health and Safety at Work Act 1974 (HSWA 1974) to remove the right of individuals to bring a claim for breach of a statutory duty contained in health and safety regulations. This means in future, in such cases, it will only be possible for an individual to bring a civil action on the basis that the employer has been negligent.

Wider context:

In March 2011 the Minister for Employment commissioned Professor Löfstedt to conduct an independent review of health and safety regulation. As part of this review, Professor Löfstedt considered the role of health and safety law in the civil justice system and the impact the perception of a 'compensation culture' has in driving over-compliance with health and safety at work regulations.

A particular concern raised was the potential unfairness that arises where health and safety at work regulations impose a strict duty on employers, making them legally responsible to pay compensation regardless of whether they have done all that was reasonable to protect their employees.

In its response to the Löfstedt report, the Government recognised this unfairness and agreed to look at ways to redress the balance. It was confirmed in the Budget Statement that measures would be put in place in 2012.