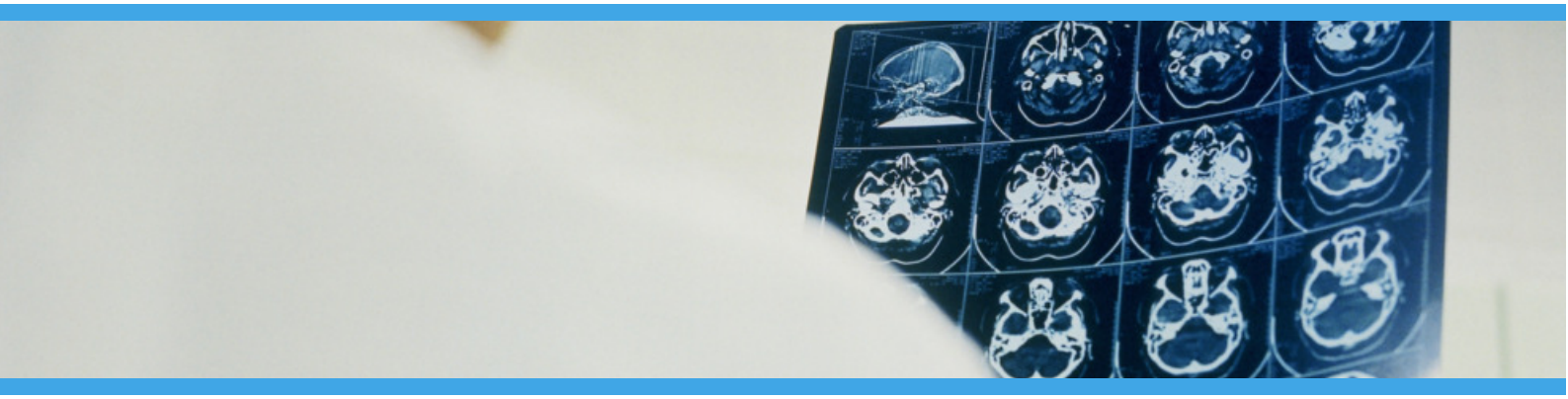
The Downfall of Health and Safety Law



The Enterprise and Regulatory Reform Act 2013 ("the Act") has many purposes, spanning copyright, payments to company directors and employment law, to name but a few. Buried in its small print, however, is a provision that is of great cause for concern to personal injury Claimants.

Section 61 of the Act was inserted at the eleventh hour. It has become section 69, and purports to do away with a long-standing principle of British law, enshrined in section 47 of the Health and Safety at Work Act 1974. This contains a presumption that Regulations made under the Act (in effect all health and safety Regulations) carry civil liability for breach. In other words the presumption that a Claimant can claim compensation for their injuries against a company/employer who breaches one of the Regulations.

Using, as an example, the Provision and Use of Work Equipment Regulations 1998. These Regulations place duties on employers who own, operate or have control over work equipment to provide appropriate and maintained work equipment and to ensure that workers using that equipment are adequately trained to do so. Until the Act came into force on 1 October 2013 if an employee injured themselves as a result of using defective work equipment, then under the Regulations that employee would have the ability to claim compensation for their injuries against their employer. The employer would be automatically liable for injuries caused as a result of the defective work equipment.

Since 1 October 2013 this route to justice is no longer available.

The Act removes claims against employers for breaches of health and safety legislation/regulations. Instead the same employee post 1 October 2013 must argue that their employer was negligent in allowing them to use the work equipment and that this caused their accident. This is a much more difficult argument to succeed with. For example, the employer may successfully defend the case by stating that they had no knowledge that the work equipment was defective and therefore could not reasonably have known to repair it. There is no doubt that many Claimants in these circumstances will go uncompensated. The same applies to all Health and Safety Regulations, not just those relating to work equipment.

The Act waters down an employer's responsibility to look after the safety of its employees in the workplace. Every year hundreds of thousands of workers are killed or injured at work and so the impact of the Act is far reaching. Everyone has the right to return home from work uninjured and should be free to take employers that breach health and safety rules to task. The Act represents a significant step back in Health and Safety legislation, not since 1898 in this country has Health and Safety law put workers at such a disadvantage.

It also puts the UK in conflict with European Law. The full impact of this Act remains to be seen but Morrish Solicitors remain committed to fighting for the rights of individuals injured through no fault of their own, being very experienced in doing so with a proven track record of recovering significant compensation for our clients, to help them on the road to recovery.

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