



Employment Act 1989

1989 CHAPTER 38

Removal of restrictions and other requirements relating to employment

11 Exemption of Sikhs from requirements as to wearing of safety helmets on construction sites

- (1) Any requirement to wear a safety helmet which (apart from this section) would, by virtue of any statutory provision or rule of law, be imposed on a Sikh who is on a construction site shall not apply to him at any time when he is wearing a turban.
- (2) Accordingly, where—
 - (a) a Sikh who is on a construction site is for the time being wearing a turban, and
 - (b) (apart from this section) any associated requirement would, by virtue of any statutory provision or rule of law, be imposed—
 - (i) on the Sikh, or
 - (ii) on any other person,in connection with the wearing by the Sikh of a safety helmet, that requirement shall not apply to the Sikh or (as the case may be) to that other person.
- (3) In subsection (2) “associated requirement” means any requirement (other than one falling within subsection (1)) which is related to or connected with the wearing, provision or maintenance of safety helmets.
- (4) It is hereby declared that, where a person does not comply with any requirement, being a requirement which for the time being does not apply to him by virtue of subsection (1) or (2)—
 - (a) he shall not be liable in tort to any person in respect of any injury, loss or damage caused by his failure to comply with that requirement; and
 - (b) in Scotland no action for reparation shall be brought against him by any person in respect of any such injury, loss or damage.
- (5) If a Sikh who is on a construction site—

Status: This is the original version (as it was originally enacted).

- (a) does not comply with any requirement to wear a safety helmet, being a requirement which for the time being does not apply to him by virtue of subsection (1), and
- (b) in consequence of any act or omission of some other person sustains any injury, loss or damage which is to any extent attributable to the fact that he is not wearing a safety helmet in compliance with the requirement,

that other person shall, if liable to the Sikh in tort (or, in Scotland, in an action for reparation), be so liable only to the extent that injury, loss or damage would have been sustained by the Sikh even if he had been wearing a safety helmet in compliance with the requirement.

(6) Where—

- (a) the act or omission referred to in subsection (5) causes the death of the Sikh, and
- (b) the Sikh would have sustained some injury (other than loss of life) in consequence of the act or omission even if he had been wearing a safety helmet in compliance with the requirement in question,

the amount of any damages which, by virtue of that subsection, are recoverable in tort (or, in Scotland, in an action for reparation) in respect of that injury shall not exceed the amount of any damages which would (apart from that subsection) be so recoverable in respect of the Sikh's death.

(7) In this section—

“building operations” and “works of engineering construction” have the same meaning as in the Factories Act 1961;

“construction site” means any place where any building operations or works of engineering construction are being undertaken;

“injury” includes loss of life, any impairment of a person's physical or mental condition and any disease;

“safety helmet” means any form of protective headgear; and

“statutory provision” means a provision of an Act or of subordinate legislation.

(8) In this section—

- (a) any reference to a Sikh is a reference to a follower of the Sikh religion; and
- (b) any reference to a Sikh being on a construction site is a reference to his being there whether while at work or otherwise.

(9) This section shall have effect in relation to any relevant construction site within the territorial sea adjacent to Great Britain as it has effect in relation to any construction site within Great Britain.

(10) In subsection (9) “relevant construction site” means any construction site where there are being undertaken any building operations or works of engineering construction which are activities falling within Article 7(a) of the Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 1989.