

DEREGULATION ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 7: Requirements to wear safety helmets: exemption for Sikhs: Northern Ireland

39. *Subsection (1)* provides that this section makes amendments to Article 13 of the Employment (Miscellaneous Provisions) (Northern Ireland) Order 1990 (“the 1990 Order”) (exemption of Sikhs from requirements as to wearing of safety helmets on construction sites).
40. *Subsections (2) and (3)* amend Article 13(1) and (2)(a) of the 1990 Order by replacing the words “on a construction site” with “at a workplace”. The purpose of this amendment is to extend the scope of the exemption in Article 13 so that turban-wearing Sikhs will be exempt from legal requirements to wear a safety helmet in all workplaces (defined in subsection (6)), either as workers or visitors, subject to certain exclusions set out in subsection (5) of this section. This amendment does not remove the requirement for an employer to assess the risk to his employees, nor to make available any protective equipment, including head protection, considered to be necessary following the risk assessment. The decision not to wear appropriate head protection in accordance with the exemption in Article 13 of the 1990 Order is to be made by the turban-wearing Sikh individual.
41. Article 13(4) of the 1990 Order limits the liability of employers (and other persons) for any injury, loss or damage caused by failing to comply with a legal requirement relating to the wearing of a safety helmet by a turban-wearing Sikh. Article 13(5) limits the liability of such persons in respect of a Sikh who chooses to benefit from the exemption only to the extent that the 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. *Subsection (4)* of this section amends Article 13(5) of the 1990 Order so that the limited liability provisions associated with the exemption are also extended to all workplaces.
42. *Subsection (5)* inserts new Article 13(6A) and (6B) into the 1990 Order. These provisions exclude turban-wearing Sikhs from relying upon the exemption in Article 13(1) in limited circumstances where the Sikh individual is:
- providing or is training to provide an urgent response to hazardous occupational situations, such as fire or riots, where the wearing of a safety helmet is considered necessary to protect the Sikh from a risk of injury (after all other means of protecting the Sikh have been considered and implemented or rejected as disproportionate, in accordance with existing legislation); or
 - a member of, or a person providing support to, Her Majesty’s Forces and is taking part or is training in how to take part in a military operation where the wearing of a safety helmet is necessary to protect the Sikh from a risk of injury (after all other means of protecting the Sikh have been considered and implemented or rejected as disproportionate in accordance with existing legislation).

*These notes refer to the Deregulation Act 2015 (c.20)
which received Royal Assent on 26 March 2015*

43. *Subsection (6)* removes definitions no longer required in Article 13(7) of the 1990 Order and inserts new definitions for “Her Majesty’s forces” and “workplace”.
44. *Subsection (7)* amends Article 13(8) of the 1990 Order by replacing the words “on a construction site” with “at a workplace”. This amendment ensures that a turban-wearing Sikh may rely upon the exemption in Article 13(1) regardless of whether they are a worker or a visitor at the workplace.
45. *Subsection (8)* amends the heading of Article 13 of the 1990 Order to “exemption of Sikhs from requirements as to wearing of safety helmets at a workplace.” This reflects the extension of the exemption made under this section from a construction site to a workplace.
46. Article 13A of the 1990 Order concerns the protection of Sikhs from racial discrimination in connection with requirements as to the wearing of safety helmets. *Subsections (9) to (11)* of this section amend Article 13A so that any person who attempts to impose a requirement on a turban-wearing Sikh to wear a safety helmet at a workplace (rather than just on a construction site) contrary to Article 13 of the 1990 Order will be discriminating against the Sikh individual under the Race Relations (Northern Ireland) Order 1997. It would not be considered to be a proportionate means of achieving a legitimate aim such to avoid indirectly discriminating against the Sikh individual.
47. This section forms part of the law of Northern Ireland. It comes into force on a day to be appointed by the Secretary of State in a commencement order.