

CD273- Consultation on proposals to exempt self-employed persons from section 3(2) of the Health and Safety at Work Act 1974, except those undertaking activities on a prescribed list



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Thompsons Solicitors has been standing up for the injured and mistreated since the firm was founded by Harry Thompson in 1921. We have fought for millions of people, won countless landmark cases and secured key legal reforms.

We have more experience of winning personal injury and employment claims than any other firm – and we use that experience solely for the injured and mistreated. We do not work for insurance companies or employers, and we have never taken part in the merry-go-round of referrals between the insurance industry, claims companies and some lawyers.

Introduction

Thompsons are categorically opposed to any proposals that exempt any self-employed persons from section (3)2 from the Health and Safety at Work Act 1974.

The proposals rest on a poor evidence base and, if enacted, would create unhelpful confusion over the health and safety of working people. Confusion over responsibility and liability will only lead to the risk of danger and injury for self-employed people themselves as well as others who they are working for, with and alongside.

In our view this consultation is more concerned with altering the perception of health and safety rather than any attempt to ensure the wellbeing of self-employed persons and these proposals are a danger to the perception and practice of health and safety.

Clarity of health and safety regulations essential

We have particular concerns that these proposals will create unhelpful further confusion around health and safety regulations. A new set of regulations that refer to existing regulations is not a simplification of the law, as supposedly intended by Löfstedt in his review.

It is ironic that as we celebrate the 40th anniversary of the Health and Safety at Work Act 1974, which applies simple standards to all areas of work there is a proposal that will take a backwards step to an outdated era of regulation where different areas of activity carried varying regulations.

Today's reality is that many self-employed people are regularly engaged in more than one area of economic activity. If that is a given then these proposals will, if enacted, can only create unnecessary confusion and present opportunities for the central principles of health and safety to be watered down in different ways for different areas of economic activity.

Evidence Base

We do not believe that an Act, which has been vital in ensuring the safety of working people since 1974, should be altered based on what appears to be a highly dubious evidence base. A number of qualitative sources are referenced in the proposal document, but only amount to supportive background data at best. The source which matters most- the opinions of self-employed people themselves- appears to be grossly underrepresented. The opinions of 60 self-employed people interviewed over the telephone should not be allowed to justify altering one of the central tenets of UK employment law.

Lack of effective sanctions

Government persistent under resourcing of the HSE, means that we question the ability of the Executive to effectively carry out prosecutions against self-employed people who breach health and safety regulations, were these proposals enacted. The HSE rarely prosecutes self-employed workers as it is, and, until it is allocated further resources, it will continue to be toothless.

For further information:

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