



Department  
for Business  
Innovation & Skills

**ENTERPRISE AND  
REGULATORY REFORM ACT  
2013:**

A guide

JUNE 2013

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## Enterprise and Regulatory Reform Act 2013: a guide

The Enterprise and Regulatory Reform Act 2013 obtained Royal Assent on 25 April 2013 after completing its passage through Parliament. You will find the Act, Explanatory Notes and the Impact Assessments on the Legislation website <http://www.legislation.gov.uk/ukpga/2013/24/contents/enacted> .

A policy document has been produced to help readers to understand what the Act entails.

Some of the provisions were brought into force on Royal Assent. Others are either coming into force on 25 June 2013 or later through commencement orders. Almost all will be in force by April 2014. The Government's plans for commencement of the Act's provisions (and for exercise of the powers provided under it) are available on the following tables. Tables 1 and 3 are in date order. Tables 2 and 4 are in order of the Act.

### Aims of the Act

The Act aims to cut the costs of doing business in Britain, boosting consumer and business confidence and helping the private sector to create jobs.

### The various parts of the Act will:

- Set the purpose of the UK Green Investment Bank
- Improve the employment tribunal system
- Strengthen and streamline the UK's competition regime and create a new Competition and Markets Authority
- Implement measures from the Red Tape Challenge including changes so that in future civil claims for breach of health and safety duties can only be brought where it can be proved an employer has been negligent
- Give shareholders of UK quoted companies binding votes on directors' pay
- Modernise the UK's copyright framework
- Introduce a power to enable customers to request their transactional data in an electronic format
- Simplify regulation

Small, medium and micro businesses will benefit from this Act in particular from the lower costs involved in settling disputes and from the Red Tape Challenge measures.

## Supporting SMEs

### What does the Act mean for business?

- Limiting civil liability for breaches of health and safety duties
- Changes to employment tribunal processes
- Competition reform
- A power to request transaction data to be supplied in an electronic format
- Regulatory reform, including reducing burdens on business by repealing unnecessary legislation
- Simplifying and strengthening equality legislation

### If you run a small business how will this Act help you?

#### Health and Safety

#### Civil Liability for breaches of health and safety duties

Currently employers can be liable to pay compensation to employees in health and safety cases even if there is nothing they could have done to prevent the injury and all reasonable steps have been taken. The fear of being sued drives businesses to over comply with the law resulting in unnecessary additional costs.

#### The Act will:

- Help business by limiting the right to claim for compensation to where it can be proved an employer has acted negligently.
- This means in future, if a claim is made, the employer will have the opportunity to defend themselves on the basis of having taken reasonable steps to reduce the risk of an accident.
- Providing this reassurance will help businesses have the confidence to focus on managing health and safety risks in a sensible and proportionate way.



## Employment

We want to give businesses the tools to resolve disputes without the need for an employment tribunal. Small, medium and micro businesses will benefit in particular from the lower costs involved in settling disputes.

### Settlement Agreements

- The Act makes it easier for employers and employees to use a settlement agreement to part company on agreed terms.
- We are working closely with Acas on a Statutory Code of Practice to support the use of settlement agreements, and a public consultation on the draft Code closed on 9 April 2013.
- We will also provide practical guidance and a standard model text which employers can use when drafting a settlement agreement.
- By making settlement agreements more accessible, we expect more small businesses to feel confident to use them as a means of resolving disputes, avoiding the cost of a tribunal.

### Early Conciliation

- The Act introduces a requirement that, before an individual can file a claim at an employment tribunal, they must first contact Acas – the government-sponsored organisation devoted to preventing and resolving employment disputes.
- Acas will be able to offer parties the chance to settle the dispute through conciliation, before a claim is made to the Employment Tribunal.
- Settling more disputes in this way will save costs for business as well as individuals.

### Unfair Dismissal

- The Government also intends to introduce a 12 months' pay cap on the compensatory award for unfair dismissal, alongside the overall cap of £74,200.
- In any unfair dismissal claim, the lower figure will apply, giving employers and employees more realistic expectations about the levels of award, as well as more certainty to businesses about their potential liability.

## Competition Reform



Fair competition between businesses and access to market entry helps small businesses to compete and grow.

The current system for ensuring fairness can be slow and complicated. The Act will change this so that it will potentially stop small businesses from being at a disadvantage if they experience anti-competitive behaviour. The Act will create a new single Competition and Markets Authority, bringing together the Competition Commission and the competition work of the Office of Fair Trading. It will also make it easier and quicker to tackle anticompetitive practices and prevent big businesses abusing their position.

### The Act will:

- Provide for faster decision-making and more predictability of competition processes and decisions reducing detriment.
- Reduce barriers to entry by making it easier for the competition authority to tackle anticompetitive mergers; and reforming anti-trust to ramp up deterrence of anti-competitive and abusive behaviour.
- Provide for shorter market studies and market investigations thus tackling issues that may affect small businesses more quickly.
- Make it easier for business to seek interim relief from anti-competitive practices, something which the Government is also addressing in its current consultation on private actions.

We have also consulted on reforming private enforcement of the competition regime, to follow on from the measures in this Act, which will make it faster and easier for businesses, especially small and medium-sized enterprises, to challenge anti-competitive behaviour in court; and will make it easier for consumers and small businesses who have suffered loss due to anti-competitive behaviour to obtain redress.

Ideas for such help include a Competition Appeals Tribunal fast track for small businesses, to allow small businesses to challenge anti-competitive behaviours quickly and cheaply, and a new right for a group of businesses or consumers to bring a case collectively.

## Supply of Customer Data

The new powers in the Act are designed to support the Government's midata programme. This is currently voluntary. The powers in the Act give the Government the option of introducing regulations at a later stage should it decide it is necessary to compel companies in certain sectors to release data electronically to individual and small business customers. Like consumers, small business often struggle to find the best deals for them in the key banking, energy and telecoms markets and having their transaction data available electronically will enable them to access advisory services and apps that can highlight the best options for their circumstances. The Government will use this power if after an appropriate review it considers insufficient progress has been made under the voluntary approach to support the aims of enhancing empowerment, innovation and competitive markets.

## Regulatory Reform



## Extending the Primary Authority Scheme

The existing scheme allows a business which operates in more than one local authority area to get assured advice on how to comply with regulations such as health and safety or food hygiene from a single local authority – the “Primary Authority”.

All local authority areas in which the business operates must follow the advice given by the Primary Authority. This means that the business has consistency in the application of rules and regulations, saving time and money.

### The Act will:

- Enable businesses who share an approach to compliance – perhaps because they belong to a trade association or franchise – to rely on advice given by a single local authority.
- This will allow thousands more small businesses to access the scheme.
- Strengthen Inspection Plans so that more businesses can gain credit and recognition for how well they comply with regulations.

## Amending the Equality Act 2010

Equality legislation is simplified and strengthened through a package of measures focused on relieving the burden on business while preserving key legal protection from discrimination.

- The Act has repealed measures on procedures for gathering information about discriminatory conduct, and specific employer liability for third party harassment to help business get on with the job.
- In addition, the Act has introduced a power so that we can require employment tribunals to order an employer to carry out an equal pay audit when they have been found to have breached the law.

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