

SOCIAL ACTION, RESPONSIBILITY AND HEROISM ACT 2015 (SARAH)

There is evidence to suggest that people are deterred from volunteering, helping others or intervening in an emergency due to the fear of risk and/or liability. “Helping out: a national survey of volunteering and charitable giving” in 2006/2007 found that this was one of the significant reasons cited by 47% of respondents to the survey who did not currently volunteer. This Act is designed to address those concerns. It will provide reassurance that if something goes wrong when people are acting for the benefit of society or intervening to help someone in an emergency, the courts will take into account the context of their actions in the event they are sued.



This will help to support the Government’s broader aims of encouraging and enabling people to volunteer and to play a more active role in civil society. The former ‘Coalition Agreement’ contained a specific commitment to “take a range of measures to encourage volunteering and involvement in social action”. The Act is also intended to reassure people, including employers, that if they demonstrate a generally responsible approach towards the safety of others during a particular activity, the courts will take this into account in the event they are sued for negligence or for certain breaches of statutory duty.

The current law

If somebody causes loss or injury to another person during the course of an activity, it may be open to the injured party to sue them for damages for negligence or, in some circumstances, breach of statutory duty in the civil courts. The law of negligence is part of the Common Law, but there are some statutory duties of care that exist (for example the duty owed by the owner or occupier of land to visitors and trespassers) which work in a similar way to the law of negligence.

For a person to be found negligent or in breach of such a statutory duty the court must be satisfied that he or she owed the injured party a duty of care and that his or her conduct fell short of the applicable standard of care.

The standard of care which applies in a claim for breach of statutory duty depends on the wording of the duty in question. In a claim for negligence, a court considering such a claim will consider whether the defendant acted reasonably in all the circumstances of the case. The court looks at whether the person acted reasonably in all the circumstances against an objective test ('the ordinary and reasonable man') but what is in fact expected will vary from case to case. For example, the standard expected of a workman in a factory subjected to long hours and the slackening of attention which comes from constant repetition of the same operation is not so high as that of a reasonable man in more serene circumstances. In cases where the activity required particular skill case law has established that the actions of the defendant are to be judged against the ordinary and reasonable man with those particular skills.

In determining whether the standard of care was met in a negligence case, the courts look at a range of matters including the size of the risk, the likelihood of the risk happening, the gravity of the consequence and the cost and practicability of avoiding the risk. Where a defendant was acting in an emergency the courts make allowance for the need to act without time for reflection. **The Compensation Act 2006**, confirmed that, in considering what was necessary to meet the standard of care in a particular case, the courts can look at whether a particular requirement might prevent a desirable activity being carried out to any extent or discourage people from undertaking functions in relation to it.

Summary of the Act's provisions SARAH

will not change the overarching legal framework, but it will direct the courts to consider particular factors when considering whether the defendant took reasonable care. In any negligence/breach of statutory claim that is brought where the court is determining the steps a defendant should have taken to meet the applicable standard of care, it will be required to have regard to whether:

(1) the alleged negligence/breach of duty occurred when the defendant was acting for the benefit of society or any of its members (clause 2)

(2) in carrying out the activity in the course of which the negligence/breach of statutory duty occurred, the defendant had demonstrated a generally responsible approach towards protecting the safety or other interests of others (clause 3); and the alleged negligence/ breach of duty occurred when the defendant was acting heroically by intervening in an emergency to assist an individual in danger and without regard to his own safety or other interests (clause 4).

The Government anticipates that **SARAH** will be relevant in a wide range of situations where people have adopted a responsible approach towards the safety of others during an activity, have been acting for the benefit of society or have intervened to help others in an emergency. It is intended to give reassurance to people that a court will take full account of the context of their actions in the event that they are sued.

It does not tell the court what conclusion it should reach and does not prevent a person from being found negligent if the circumstances of the case warrant it. Nor will it have any bearing on criminal liability. It does not absolve anyone from duty of care, nor taking reasonable steps to ensure health and safety matters are addressed, nor any public liability.

Territorial extent

SARAH will apply in England and Wales only. The civil law in Scotland and Northern Ireland is the responsibility of the devolved Governments.

Commencement

SARAH was approved by Parliament, the Government and gained Royal Assent in April 2015 and commencement will be enacted as soon as possible. The Act will apply when the court is considering liability for alleged acts of negligence or for breaches of a relevant statutory duty which occurred after the date of commencement.