

Seafarers' Wages Bill [HL]

COMMONS AMENDMENTS

[The page and line references are to Bill 184, the Bill as first printed for the Commons]

Clause 1

COMMONS AMENDMENT 1

- 1** Page 1, line 8, at end insert –
- “(2A) Regulations may specify matters that must or must not be taken into account in determining whether provision for the carriage of persons or goods between two places by ship on two or more journeys constitutes a single service.”

Clause 3

COMMONS AMENDMENT 2

- 2** Page 2, line 3, leave out subsections (1) to (3) and insert –
- “(1) Subsection (2) applies where a harbour authority has reasonable grounds to believe that ships providing a service to which this Act applies will enter, or have entered, its harbour on at least 120 occasions during a relevant year.
- (2) The harbour authority must, within such period as is determined by regulations, request that the operator of the service provide the authority with a national minimum wage equivalence declaration (in the rest of this Act, an “equivalence declaration”) in respect of the service for the relevant year.
- (3) The duty under subsection (2) is subject to any direction given by the Secretary of State under section 11(2)(a).
- (3A) A harbour authority which fails to comply with subsection (2) is guilty of an offence and liable on summary conviction –
- (a) in England and Wales, to a fine, or
- (b) in Scotland and Northern Ireland, to a fine not exceeding level 5 on the standard scale.”

COMMONS AMENDMENT 3

- 3** Page 2, line 16, at end insert –
- “(za) as to the period within which equivalence declarations are to be provided;”

COMMONS AMENDMENT 4

4 Page 2, line 17, leave out “national minimum wage”

COMMONS AMENDMENT 5

5 Page 2, line 18, leave out “national minimum wage”

COMMONS AMENDMENT 6

6 Page 2, line 19, at end insert—

“(4A) In this Act, “relevant year” means—

- (a) the period of 12 months beginning with a date specified in regulations, and
- (b) each successive period of 12 months.”

COMMONS AMENDMENT 7

7 Page 2, line 20, leave out subsections (5) and (6)

Clause 4

COMMONS AMENDMENT 8

8 Page 2, line 33, leave out subsection (1) and insert—

“(1) An equivalence declaration in respect of a service for a relevant year is a declaration within any of subsections (1A) to (1D).

(1A) A declaration is within this subsection if it is provided before the beginning of the relevant year and it is to the effect that—

- (a) in the relevant year there will be no non-qualifying seafarers working on ships providing the service, or
- (b) in the relevant year non-qualifying seafarers working on ships providing the service will be remunerated in respect of their UK work in relation to the service at a rate that is equal to or exceeds the national minimum wage equivalent.

(1B) A declaration is within this subsection if it is provided during the relevant year and it is to the effect that—

- (a) in what remains of the relevant year there will be no non-qualifying seafarers working on ships providing the service, or
- (b) in what remains of the relevant year non-qualifying seafarers working on ships providing the service will be remunerated in respect of their UK work in relation to the service at a rate that is equal to or exceeds the national minimum wage equivalent.

(1C) A declaration is within this subsection if it is provided during the relevant year and it is to the effect that—

- (a) in so much of the relevant year as has already occurred—
 - (i) there have been no non-qualifying seafarers working on ships providing the service, or
 - (ii) non-qualifying seafarers working on ships providing the service have been remunerated in respect of their UK work in relation to the service at a rate that is equal to or exceeds the national minimum wage equivalent, and

- (b) in what remains of the relevant year—
 - (i) there will be no non-qualifying seafarers working on ships providing the service, or
 - (ii) non-qualifying seafarers working on ships providing the service will be remunerated in respect of their UK work in relation to the service at a rate that is equal to or exceeds the national minimum wage equivalent.
- (1D) A declaration is within this subsection if it is provided after the end of the relevant year and it is to the effect that—
- (a) in the relevant year there were no non-qualifying seafarers working on ships providing the service, or
 - (b) in the relevant year non-qualifying seafarers working on ships providing the service were remunerated in respect of their UK work in relation to the service at a rate that is equal to or exceeds the national minimum wage equivalent.”

After Clause 4

COMMONS AMENDMENT 9

9 Insert the following new Clause—

“Offence of operating service inconsistently with declaration

- (1) The operator of a service to which this Act applies is guilty of an offence if—
 - (a) the operator provides a harbour authority with an equivalence declaration in respect of the service for a relevant year, and
 - (b) subsection (2), (3) or (4) applies.
- (2) This subsection applies if the equivalence declaration is provided before the beginning of the relevant year and—
 - (a) the service is operated inconsistently with the declaration at the beginning of the relevant year, or
 - (b) at any later time during the relevant year the service starts to be operated inconsistently with the declaration and the operator fails to notify the harbour authority within four weeks of—
 - (i) the fact that the service has started to be so operated, and
 - (ii) the time when it started to be so operated.
- (3) This subsection applies if the equivalence declaration is provided during the relevant year and—
 - (a) at the time the declaration is provided the service is being operated inconsistently with the declaration, or
 - (b) at any later time during the relevant year the service starts to be operated inconsistently with the declaration and the operator fails to notify the harbour authority within four weeks of—
 - (i) the fact that the service has started to be so operated, and
 - (ii) the time when it started to be so operated.
- (4) This subsection applies if the equivalence declaration is provided during or after the end of the relevant year and it is false or misleading in so far as it concerns the operation of the service before the declaration was provided.

- (5) A person guilty of an offence under this section is liable on summary conviction—
- (a) in England and Wales, to a fine, or
 - (b) in Scotland and Northern Ireland, to a fine not exceeding level 5 on the standard scale.”

Clause 5

COMMONS AMENDMENT 10

- 10 Page 3, line 22, after “is” insert “or at any time was”

COMMONS AMENDMENT 11

- 11 Page 3, line 22, leave out “a national minimum wage” and insert “an”

COMMONS AMENDMENT 12

- 12 Page 3, line 23, at end insert “, or
- (b) establishing whether an equivalence declaration provided by the operator is false or misleading in so far as it concerns the operation of the service before the declaration was provided.”

COMMONS AMENDMENT 13

- 13 Page 3, line 29, leave out from “breach” to end of line 30 and insert “the data protection legislation or the data protection laws of any country or territory outside the United Kingdom (but in determining whether providing information would cause the operator to breach that legislation or those laws, the requirement imposed by subsection (1) is to be taken into account)”

COMMONS AMENDMENT 14

- 14 Page 3, line 32, after “manner” insert “, and within a period,”

COMMONS AMENDMENT 15

- 15 Page 3, line 35, after “provide” insert “, in the manner and within the period specified under subsection (4),”

COMMONS AMENDMENT 16

- 16 That Clause 5 be transferred to the end of line 36 on page 7

Clause 6

COMMONS AMENDMENT 17

- 17 Page 4, line 7, after “is” insert “or at any time was”

COMMONS AMENDMENT 18

- 18 Page 4, line 8, leave out “a national minimum wage” and insert “an”

COMMONS AMENDMENT 19

- 19 Page 4, line 9, after “declaration,” insert –
“(aa) establishing whether an equivalence declaration is false or misleading in so far as it concerns the operation of a service before the declaration was provided,”

COMMONS AMENDMENT 20

- 20 Page 4, line 9, leave out “or”

COMMONS AMENDMENT 21

- 21 Page 4, line 10, at end insert –
“(c) establishing whether, or to what extent, a harbour authority is complying with its duties under this Act, or
(d) verifying any information provided by a harbour authority under section (*Provision of information by harbour authorities*)”

COMMONS AMENDMENT 22

- 22 Page 4, line 21, leave out “declaration” and insert “statement”

COMMONS AMENDMENT 23

- 23 That Clause 6 be transferred to the end of line 36 on page 7

After Clause 6

COMMONS AMENDMENT 24

- 24 Insert the following new Clause –
“Imposition of surcharges: failure to provide declaration in time
(1) This section applies if –
(a) a harbour authority requests the operator of a service to which this Act applies to provide the authority with an equivalence declaration in respect of the service for a relevant year, and
(b) the operator does not provide an equivalence declaration in the prescribed form and manner before the end of the prescribed period.
(2) If the prescribed period expires before the beginning of the relevant year, the harbour authority must impose a charge on the operator of the service in respect of each occasion when a ship providing the service enters its harbour between –
(a) the beginning of the relevant year, and
(b) whichever is the earlier of –
(i) the end of the relevant year, and
(ii) the time when the operator provides the authority with an equivalence declaration in respect of the service for the relevant year in the prescribed form and manner.

- (3) If the prescribed period expires during the relevant year, the harbour authority must—
- (a) impose a charge on the operator of the service in respect of each occasion when a ship providing the service entered its harbour between—
 - (i) the beginning of the relevant year, and
 - (ii) the end of the prescribed period, and
 - (b) impose a charge on the operator of the service in respect of each occasion when a ship providing the service enters its harbour between the expiry of the prescribed period and whichever is the earlier of—
 - (i) the end of the relevant year, and
 - (ii) the time when the operator provides the authority with an equivalence declaration in respect of the service for the relevant year in the prescribed form and manner.
- (4) If the prescribed period expires after the end of the relevant year, the harbour authority must impose a charge on the operator of the service in respect of each occasion when a ship providing the service entered its harbour during the relevant year.
- (5) But charges imposed by a harbour authority under subsection (3)(a) or (4) must be refunded if—
- (a) at any time after the end of the prescribed period the operator provides the authority with an equivalence declaration in respect of the service for the relevant year in the prescribed form and manner, and
 - (b) the declaration is within section 4(1C) or (1D).
- (6) For the purposes of this section, in relation to an equivalence declaration which an operator of a service is required to provide—
- “prescribed period” means the period within which the operator is required to provide the declaration in accordance with regulations under section 3(4)(za);
- “prescribed form and manner” means the form and manner in which the operator is required to provide the declaration in accordance with regulations under section 3(4)(a) and (b).”

COMMONS AMENDMENT 25

25

Insert the following new Clause—

“Imposition of surcharges: in-year declaration that is prospective only

- (1) This section applies if—
- (a) a harbour authority requests the operator of a service to which this Act applies to provide the authority with an equivalence declaration in respect of the service for a relevant year,
 - (b) the operator provides the declaration during the relevant year in accordance with regulations under section 3(4), and
 - (c) the declaration is within subsection (1B) of section 4 (and not also within subsection (1C) of that section).

- (2) The harbour authority must impose a charge on the operator of the service in respect of each occasion when a ship providing the service entered its harbour between the beginning of the relevant year and the time the declaration was provided.”

COMMONS AMENDMENT 26

26 Insert the following new Clause –

“Imposition of surcharges: operating inconsistently with declaration

- (1) Subsections (2) and (3) apply if –
 - (a) the operator of a service to which this Act applies has provided a harbour authority with an equivalence declaration in respect of the service for a relevant year, and
 - (b) either –
 - (i) the operator notifies the authority that at a specified time after the declaration was provided the service was, or started to be, operated inconsistently with the declaration, or
 - (ii) the authority has reasonable grounds to believe that, at a time after the declaration was provided, the service was, or started to be, operated inconsistently with the declaration.
- (2) The harbour authority must impose a charge on the operator in respect of each occasion when a ship providing the service entered or enters the harbour between –
 - (a) the time mentioned in subsection (1)(b)(i) or (ii), and
 - (b) the end of the relevant year.
- (3) But if after the time mentioned in subsection (1)(b)(i) or (ii) the operator provides the harbour authority with a fresh equivalence declaration in respect of the service for the relevant year, the authority must not impose a charge under subsection (2) in respect of an occasion when a ship providing the service enters the harbour after the fresh declaration is provided (unless that subsection applies again by reference to that or a later declaration).
- (4) Subsections (5) and (6) apply if –
 - (a) the operator of a service to which this Act applies has provided a harbour authority with an equivalence declaration in respect of the service for a relevant year, and
 - (b) the authority has reasonable grounds to believe that the declaration is false or misleading in so far as it concerns the operation of the service before the declaration was provided.
- (5) The harbour authority must impose a charge on the operator in respect of each occasion when a ship providing the service entered or enters the harbour during the relevant year.
- (6) But if the operator provides the harbour authority with a fresh equivalence declaration in respect of the service for the relevant year, the authority must not impose a charge under subsection (5) in respect of an occasion when a ship providing the service enters the harbour after the fresh declaration is provided (unless that subsection applies again by reference to that or a later declaration).”

Clause 7

COMMONS AMENDMENT 27

27 Page 5, line 8, leave out subsections (1) to (4)

COMMONS AMENDMENT 28

28 Page 5, line 32, leave out second “the” and insert “a”

COMMONS AMENDMENT 29

29 Page 5, line 33, leave out “by the harbour authority in accordance with” and insert “in”

COMMONS AMENDMENT 30

30 Page 5, line 33, leave out from “regulations” to end of line 35

COMMONS AMENDMENT 31

31 Page 5, line 36, leave out subsection (6)

COMMONS AMENDMENT 32

32 Page 5, line 37, at end insert—

“(6A) A duty to impose a surcharge is subject to any direction given by the Secretary of State under section 11(2)(a).

(6B) A harbour authority which fails to comply with a duty to impose a surcharge is guilty of an offence and liable on summary conviction—

(a) in England and Wales, to a fine, or

(b) in Scotland and Northern Ireland, to a fine not exceeding level 5 on the standard scale.”

COMMONS AMENDMENT 33

33 Page 5, line 39, leave out paragraph (a)

COMMONS AMENDMENT 34

34 Page 5, line 43, after “notification of” insert “the imposition of”

COMMONS AMENDMENT 35

35 Page 5, line 44, at end insert—

“(7A) Regulations may make provision requiring a harbour authority that has imposed a surcharge to notify the Secretary of State if so much of the period within which the surcharge must be paid as is specified in the regulations has expired without the surcharge having been paid in accordance with regulations under subsection (7)(d).”

COMMONS AMENDMENT 36

36 Page 6, line 3, leave out paragraph (a)

COMMONS AMENDMENT 37

37 Page 6, line 6, at end insert—

“(10) In this Act, “surcharge” means a charge under section (*Imposition of surcharges: failure to provide declaration in time*), (*Imposition of surcharges: in-year declaration that is prospective only*) or (*Imposition of surcharges: operating inconsistently with declaration*).”

Clause 8

COMMONS AMENDMENT 38

38 Page 6, line 8, leave out subsection (1) and insert—

“(1) Where a surcharge is imposed by a harbour authority, an interested party may object to the imposition of the surcharge or its amount.

(1A) An objection under this section to the amount of a surcharge may be made only on the grounds that the amount is not in accordance with the tariff of surcharges specified in regulations under section 7(1).”

COMMONS AMENDMENT 39

39 Page 6, line 14, at end insert—

“(2A) Regulations must provide for a period within which objections under this section must be made.”

COMMONS AMENDMENT 40

40 Page 6, line 17, leave out “matter objected to” and insert “imposition of the surcharge or its amount”

COMMONS AMENDMENT 41

41 Page 6, line 36, leave out subsection (7)

COMMONS AMENDMENT 42

42 Page 6, line 41, leave out paragraphs (a) to (c) and insert—

“(a) to approve the imposition of the surcharge and its amount,

(b) to direct the harbour authority to revoke the imposition of the surcharge, or

(c) to direct the harbour authority to increase or decrease the amount of the surcharge so that it is in accordance with the tariff of surcharges specified in regulations under section 7(1).”

Clause 9

COMMONS AMENDMENT 43

43 Page 7, line 19, leave out “may” and insert “must”

COMMONS AMENDMENT 44

44 Page 7, line 23, leave out “and”

COMMONS AMENDMENT 45

- 45 Page 7, line 24, leave out from “with” to end of line 25 and insert “regulations under section 7(7)(d), and
 (c) the period within which the surcharge must be paid has expired.”

COMMONS AMENDMENT 46

- 46 Page 7, line 27, at end insert –
 “(2A) Subsection (1) does not apply in relation to any surcharge imposed under subsection (3)(a) or (4) of section (*Imposition of surcharge: failure to provide declaration in time*) which would, if paid, be required to be refunded under subsection (5) of that section.”

COMMONS AMENDMENT 47

- 47 Page 7, line 28, leave out “may” and insert “must”

COMMONS AMENDMENT 48

- 48 Page 7, line 32, at end insert –
 “(3A) The duty under subsection (1) is also subject to any direction given by the Secretary of State under section 11(2)(a).”

COMMONS AMENDMENT 49

- 49 Page 7, line 32, at end insert –
 “(3B) A harbour authority which fails to comply with subsection (1) is guilty of an offence and liable on summary conviction –
 (a) in England and Wales, to a fine, or
 (b) in Scotland and Northern Ireland, to a fine not exceeding level 5 on the standard scale.”

After Clause 9

COMMONS AMENDMENT 50

- 50 Insert the following new Clause –
“Provision of information by harbour authorities
 (1) The Secretary of State may by notice require a harbour authority to provide information to the Secretary of State for the purpose of establishing whether, or to what extent, the authority is complying with its duties under this Act.
 (2) The information referred to in subsection (1) may in particular include information about –
 (a) the services provided by ships that use the harbour,
 (b) equivalence declarations requested by, or provided to, the harbour authority,
 (c) surcharges imposed or received by the harbour authority, and
 (d) decisions by the harbour authority to refuse or not refuse access to its harbour pursuant to section 13.

- (3) Subsection (1) does not require a harbour authority to provide information to the extent that doing so would cause the authority to breach the data protection legislation (but in determining whether providing information would cause the authority to breach that legislation, the requirement imposed by subsection (1) is to be taken into account).
- (4) A notice under subsection (1) may require the information to be provided in a manner, and within a period, specified in the notice.
- (5) A harbour authority is guilty of an offence if it—
 - (a) fails to provide, in the manner and within the period specified under subsection (4), information required by the Secretary of State under this section,
 - (b) provides information so required that is false or misleading, or
 - (c) provides information so required that becomes false or misleading and fails to inform the Secretary of State within four weeks that it has become so.
- (6) A harbour authority guilty of an offence under subsection (5) is liable on summary conviction—
 - (a) in England and Wales, to a fine, or
 - (b) in Scotland and Northern Ireland, to a fine not exceeding level 5 on the standard scale.”

Clause 11

COMMONS AMENDMENT 51

51 Page 8, line 2, leave out subsection (1)

COMMONS AMENDMENT 52

52 Page 8, line 6, leave out “exercise, or not to exercise, any of their powers under” and insert “not do anything they would otherwise be under a duty to do by reason of”

COMMONS AMENDMENT 53

53 Page 8, line 7, leave out “exercise any of their powers” and insert “comply with any of their duties”

COMMONS AMENDMENT 54

54 Page 8, line 8, leave out subsection (3)

COMMONS AMENDMENT 55

55 Page 8, line 14, leave out “guidance and”

COMMONS AMENDMENT 56

56 Page 8, line 16, leave out subsection (6)

COMMONS AMENDMENT 57

57 Page 8, line 22, leave out from “conviction” to end of line and insert “—
 (a) in England and Wales, to a fine, or

- (b) in Scotland and Northern Ireland, to a fine not exceeding level 5 on the standard scale.”

Clause 12

COMMONS AMENDMENT 58

- 58 Page 8, line 33, after “Act” insert “, other than regulations under section 1(2A),”

COMMONS AMENDMENT 59

- 59 Page 8, line 34, at end insert—
 “(3A) The Secretary of State may not make a statutory instrument containing regulations under section 1(2A) unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.”

Clause 13

COMMONS AMENDMENT 60

- 60 Page 9, line 6, leave out “direction” and insert “regulations”

COMMONS AMENDMENT 61

- 61 Page 9, line 8, leave out subsection (4)

Clause 14

COMMONS AMENDMENT 62

- 62 Page 9, line 13, at end insert—
 ““the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);
 “equivalence declaration” has the meaning given by section 3(2);”

COMMONS AMENDMENT 63

- 63 Page 9, line 25, at end insert—
 ““relevant year” has the meaning given by section 3(4A);”

Clause 15

COMMONS AMENDMENT 64

- 64 Page 10, line 1, leave out subsection (6)

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