

Strikes (Minimum Service Levels) Bill

AMENDMENTS

TO BE MOVED

IN COMMITTEE OF THE WHOLE HOUSE

[Supplementary to the Marshalled List]

The Schedule

LORD HENDY

Page 3, line 31, at end insert –

- “(5) Regulations may not prohibit or enable the prohibition of participation in, or any activity in connection with, a strike or other industrial action; or create an offence.”

Member’s explanatory statement

This amendment is intended to ensure that the regulations do not breach Article 11 of the European Convention on Human Rights by permitting the penalisation of individuals for exercising their right to strike.

Page 3, line 31, at end insert –

- “(5) Regulations may not make provision which is contrary to the United Kingdom’s international obligations, and in particular –
- (a) the International Labour Organization Convention No 87 (Freedom of Association and Protection of the Right to Organise),
 - (b) article 6(4) of the European Social Charter, and
 - (c) articles 387 and 399 of the EU-UK Trade and Cooperation Agreement.
- (6) In determining the United Kingdom’s international obligations for the purposes of subsection (5)(a), reference must be made to the Observations of the International Labour Organization’s Committee of Experts, and the Decisions of the International Labour Organization’s Committee on Freedom of Association, and for the purposes of subsection (5)(b), reference must be made to the conclusions of the European Committee of Social Rights.”

Member’s explanatory statement

This amendment is intended to ensure that the regulations do not compromise the UK’s obligations under the Trade and Cooperation Agreement.

Page 4, line 40, at end insert –

“234CA Protection of employees

- (1) A person shall not be subject to a work notice if the person in question has not received a copy of the work notice.
- (2) It shall be for the employer to prove that an individual received a work notice.
- (3) Failure to comply with a work notice shall not –
 - (a) be regarded as a breach of the contract of employment of any person identified in the work notice, or
 - (b) constitute grounds for dismissal or any other detriment.
- (4) Having regard to subsection (3), failure to comply with a work notice shall be deemed to be –
 - (a) a trade union activity undertaken at an appropriate time for the purposes of section 146, and
 - (b) participation in industrial action for the purposes of sections 238 and 238A.”

Member’s explanatory statement

The proposed section 234CA is intended to ensure that compliance with a work notice should be voluntary on the part of the employee in question. Provision is also made to protect the individual who decides not to comply from any sanction imposed by the employer.

Page 5, line 17, at end insert –

- “(1A) The following do not constitute a failure to take reasonable steps under subsection (1)(b) –
- (a) disciplining or imposing any detriment for non-compliance or threatened non-compliance, or for inducing or seeking to induce non-compliance by another member with a work notice,
 - (b) threatening to discipline or impose any detriment for non-compliance or threatened non-compliance, or for inducing or seeking to induce non-compliance by another member with a work notice, or
 - (c) instructing a member not to comply with a work notice, or to revoke any instruction or encouragement to take part in the strike.”

Member’s explanatory statement

This amendment is intended to limit the requirement that a union should police its own members.

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17 March 2023
