

Worker Protection (Amendment of Equality Act 2010) Bill

AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

Clause 1

LORD STRATHCARRON

Clause 1, page 1, line 6, leave out “include” and insert “are limited to”

LORD STRATHCARRON

Clause 1, page 1, line 8, leave out “all reasonable steps” and insert “such steps as would have been reasonably practicable”

Member's explanatory statement

This amendment reinstates original wording in the Equality Act 2010 as enacted.

LORD STRATHCARRON

Clause 1, page 1, line 9, at end insert –

“(1AA) Subsection (1A) does not apply unless A knows that B has been harassed in the course of B’s employment on at least two other occasions by a third party; and it does not matter whether the third party is the same or a different person on each occasion.”

Member's explanatory statement

This amendment seeks to ensure employers will only need to act against known risks of third-party harassment.

LORD HANNAN OF KINGSCLERE

Clause 1, page 1, line 12, at end insert –

“(1BA) For the purposes of subsection (1A) –
(a) A does not include a principal as defined at subsection 41(5), and
(b) B does not include a contract worker as defined at subsection 41(7).”

LORD STRATHCARRON

Clause 1, page 1, line 12, at end insert –

- “(1BA) In construing the reference to all reasonable steps, the following factors must be taken into account:
- (a) the size and resources of the employer,
 - (b) the likelihood that employees will encounter third parties in the course of employment, and
 - (c) the paramount importance of freedom of expression.”

LORD STRATHCARRON

Clause 1, page 1, line 12, at end insert –

- “(1BA) A person who is a visiting speaker or a student for the purposes of section A1 of the Higher Education and Research Act 2017 is not a third party.”

LORD STRATHCARRON

Clause 1, page 1, line 18, leave out paragraphs (c), (d) and (e)

Member's explanatory statement

This amendment seeks to protect freedom of speech by ensuring employers will only face liability if they fail to prevent the worst forms of harassment by third parties.

LORD STRATHCARRON

Clause 1, page 2, line 3, at end insert –

- “(1E) For the purposes of paragraph (1C), (d) an opinion is on a political matter if a reasonable person would conclude that it constituted debate on a question of public interest.”

Member's explanatory statement

This amendment imposes the Convention's broad definition of political speech.

LORD STRATHCARRON

Clause 1, page 2, line 3, at end insert –

- “(1E) Subsection (1A) shall not apply where the conduct of the third party –
- (a) constitutes an exercise of academic freedom, or
 - (b) but for this Act, would constitute freedom of speech within the law for the purposes of the Higher Education and Research Act 2017.”

Member's explanatory statement

This amendment disapplies the Clause 1 duty at universities in England.

LORD STRATHCARRON

Clause 1, page 2, line 3, at end insert –

“(1E) A failure to prevent harassment by a third party shall not constitute a contravention of any provision of this Act other than subsection (1A).”

Member's explanatory statement

This amendment prevents claim inflation – e.g. discriminatory failure to prevent harassment.

LORD STRATHCARRON

Clause 1, page 2, line 3, at end insert –

“(1E) In the event that B makes a vexatious, frivolous or malicious complaint of harassment by a third party, A shall not be liable under this Act for –

- (a) any failure to take any step to prevent the harassment complained of, or
- (b) any detriment B is subjected to by A if, and only if, B is subjected to that detriment as a sanction for making the complaint.”

Member's explanatory statement

This amendment protects employers against vexatious complaints of harassment.

LORD STRATHCARRON

Clause 1, page 2, line 12, leave out paragraph (c)

Member's explanatory statement

This amendment seeks to protect freedom of speech by ensuring employers will not face liability if they fail to prevent political, moral, religious or social speech that unintentionally constitutes harassment.

LORD HANNAN OF KINGSCLERE

Lord Hannan of Kingsclere gives notice of his intention to oppose the Question that Clause 1 stand part of the Bill.

Clause 6

LORD HANNAN OF KINGSCLERE

Clause 6, page 4, line 11, leave out subsection (3) and insert –

“(3) Sections 1, 3, 4 and 5 come into force at the end of the period of one year beginning with the day on which this Act is passed.

- (3A) Section 2 comes into force on such day following the end of the period of one year beginning with the day on which this Act is passed as a Minister of the Crown may by regulations appoint.
- (3B) A statutory instrument containing regulations made under subsection (3A) may not be made unless each of the conditions set out in subsection (3C) is met.
- (3C) The conditions are –
- (a) a Minister of the Crown has laid before each House of Parliament a statement setting out the following –
 - (i) the steps taken by the Minister to consult employers, employers' associations and relevant sectors and industries on the impact that section 1 of this Act will or is likely to have on them,
 - (ii) the Minister's response to that consultation,
 - (iii) the advice of the Commission on the likely impact of section 1 of this Act on freedom of expression, and
 - (iv) the Minister's response to that advice;
 - (b) the Minister's statement has been approved by resolution of the House of Commons on a motion moved by a Minister of the Crown,
 - (c) a motion to take note of the Minister's statement has been tabled in the House of Lords by a Minister of the Crown, and the House of Lords has debated the motion, and
 - (d) a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

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