

# Strikes (Minimum Service Levels) Bill

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## MARSHALLED LIST OF MOTIONS TO BE MOVED ON CONSIDERATION OF COMMONS REASONS

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*[The page and line references are to HL Bill 97, the bill as first printed for the Lords]*

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### MOTION A

#### The Schedule

#### LORDS AMENDMENT 2

- 2 Page 3, line 31, at end insert—
- “(5) The powers conferred by this section must not be exercised unless a consultation on the potential impact of their use has been carried out, published, and reviewed by a committee of each House of Parliament whose remit includes either the wider UK workforce and industrial relations, or the sector to which the regulations in question relate.
- (6) Such consultations must—
- (a) be carried out by the Secretary of State and involve representatives of any relevant unions, employers and other interested parties,
  - (b) include an assessment of the potential impact of the minimum service regulations on the rights of workers to strike, the effectiveness of the relevant services, and the impact on the wider public,
  - (c) consider services in all categories listed in subsection (4), and
  - (d) include reference to respective service levels outside of strike action.
- (7) The results of the consultation and the reviews by committees must be published in a report, and the Secretary of State must lay a copy of the report before Parliament.”

#### COMMONS REASON

*The Commons disagree to Lords Amendment 2 for the following Reason —*

**2A** *Because the Bill already contains adequate consultation requirements.*

LORDS NON-INSISTENCE AND AMENDMENT IN LIEU

*The Lords do not insist on their Amendment 2, to which the Commons have disagreed for their Reason 2A, and do propose Amendment 2B in lieu –*

**2B** Page 3, line 31, at end insert –

- “(5) Minimum service regulations may only be made if –
- (a) the Secretary of State has published draft regulations;
  - (b) the Secretary of State has conducted an impact assessment of the effect of the draft regulations on the services to which the draft regulations relate, addressing, in particular, the effect –
    - (i) on the general public,
    - (ii) on the conduct of these services, and
    - (iii) on the conduct and effectiveness of the exercise of the right to strike in those services;
  - (c) the Secretary of State has conducted a consultation with the representatives of trade unions, employers and any other interested party on the draft regulations and on the effect of the draft regulations on the services to which they relate, and in particular on the effect –
    - (i) on the general public,
    - (ii) on the conduct of those services, and
    - (iii) on the conduct and effectiveness of the exercise of the right to strike in those services,
 and has laid before Parliament a report on that consultation;
  - (d) the Secretary of State has placed before a Joint Committee of both Houses of Parliament convened for the purpose of reviewing them the impact assessment under paragraph (b) and the report under paragraph (c) and the Joint Committee’s review has been published in a report to Parliament.”

COMMONS REASON

*The Commons disagree to Lords Amendment 2B for the following Reason –*

**2C** *Because the Bill already contains adequate provision for consultation and parliamentary control of regulations made under it.*

**A** **Lord Callanan to move, That this House do not insist on its Amendment 2B to which the Commons have disagreed for their Reason 2C.**

**A1★** **Lord Collins of Highbury to move, as an amendment to Motion A, at end insert “and do propose Amendment 2D in lieu –**

**2D** Page 3, line 31, at end insert –

- “(5) Minimum service regulations may only be made if –
- (a) the Secretary of State has published draft regulations;
  - (b) the Secretary of State has consulted the International Labour Organisation and given due consideration to such advice as it has proffered;

- (c) the Secretary of State has conducted an impact assessment of the effect of the draft regulations on the services to which the draft regulations relate, addressing, in particular, the effect—
  - (i) on the general public;
  - (ii) on the conduct of these services;
  - (iii) on the conduct and effectiveness of the exercise of the right to strike in those services;
- (d) the Secretary of State has conducted a consultation with the representatives of trade unions, employers and any other interested party on the draft regulations and on the matters to be addressed by the impact assessment and, in particular, on whether the draft regulations should or do sufficiently provide, so far as possible under section 234F(2)(a), for protection of workers who do not receive a work notice or fail to comply with it, and for the identification of the “reasonable steps” which a union must not fail to take under section 234E and those which it is reasonable for it not to take;
- (e) the Secretary of State has laid before Parliament a report on any advice proffered under paragraph (b) and the consultation under paragraph (d);
- (f) the Secretary of State has placed before a Joint Committee of both Houses of Parliament, convened for the purpose of reviewing them, the impact assessment under paragraph (c) and the report under paragraph (e) and the Joint Committee’s review has been published in a report to Parliament.””

## MOTION B

### LORDS AMENDMENT 4

4 Page 4, line 40, at end insert—

#### **“234CA Protection of employees**

- (1) A person is not subject to a work notice if the person in question has not received a copy of the work notice.
- (2) It is for the employer to prove that an individual received a work notice.
- (3) Failure to comply with a work notice is not to—
  - (a) be regarded as a breach of the contract of employment of any person identified in the work notice, or
  - (b) constitute lawful grounds for dismissal or any other detriment.
- (4) Having regard to subsection (3), failure to comply with a work notice is deemed to be—
  - (a) a trade union activity undertaken at an appropriate time for the purposes of sections 146 (detriment on grounds related to union membership or activities) and 152 (dismissal of employee on grounds related to union membership or activities), and
  - (b) participation in industrial action for the purposes of sections 238 (dismissals in connection with other industrial action) and 238A (participation in official industrial action).”

## COMMONS REASON

*The Commons disagree to Lords Amendment 4 for the following Reason –*

- 4A** *Because in order for the legislation to be effective, it is necessary for there to be consequences for an employee who fails to comply with a work notice.*

## LORDS NON-INSISTENCE AND AMENDMENT IN LIEU

*The Lords do not insist on their Amendment 4, to which the Commons have disagreed for their Reason 4A, and do propose Amendment 4B in lieu –*

- 4B** Page 4, line 40, at end insert –

**“234CA Protection of employees**

- (1) A person is not subject to a work notice if they have not received a copy of it in accordance with the time limits specified in section 234C(3).
- (2) It is for the employer to prove that the work notice was received in conformity with subsection (1).
- (3) An employee may not be dismissed or subjected to any detriment for failing to comply with a work notice and any such dismissal shall be treated as a dismissal to which section 152 applies and any such detriment shall be treated as a detriment to which section 146 applies.
- (4) A work notice does not place a contractual obligation on an employee to comply with it.”

## COMMONS REASON

*The Commons disagree to Lords Amendment 4B for the following Reason –*

- 4C** *Because in order for the legislation to be effective, it is necessary for there to be consequences for an employee who fails to comply with a work notice.*

- B** **Lord Callanan to move, That this House do not insist on its Amendment 4B to which the Commons have disagreed for their Reason 4C.**

## MOTION C

## LORDS AMENDMENTS 5, 6 AND 7

- 5** Page 5, leave out lines 9 to 22

## COMMONS REASON

*The Commons disagree to Lords Amendment 5 for the following Reason –*

- 5A** *Because the amendment would remove the requirement for a union to take reasonable steps to ensure that members comply with a work notice in order for strike action to be protected, and this would reduce the impact of the legislation.*

## LORDS NON-INSISTENCE, AMENDMENT IN LIEU AND CONSEQUENTIAL

## AMENDMENTS

*The Lords do not insist on their Amendments 5, 6 and 7, to which the Commons have disagreed for their Reasons 5A, 6A and 7A, and do propose Amendment 5B as an amendment in lieu and Amendments 5C and 5D as consequential amendments –*

- 5B** Page 5, line 11, leave out from “strike,” to end of line 22 and insert “it is a matter for the union to determine what advice, if any, it gives to members of the union who are identified in the work notice, and any actions or inactions of the union in this regard shall not result in any tortious liability or the loss of any protection to which the union would otherwise be entitled pursuant to section 219.”
- 5C** Page 6, leave out lines 19 and 20
- 5D** Page 7, line 28, leave out “, 234A and 234E” and insert “and 234A”

## COMMONS REASON

*The Commons disagree to Lords Amendments 5B, 5C and 5D for the following Reason –*

- 5E** *Because amendment 5B would remove the requirement for a union to take reasonable steps to ensure that members comply with a work notice in order for strike action to be protected, and this would reduce the impact of the legislation, and amendments 5C and 5D are consequential on amendment 5B.*
- C** **Lord Callanan to move, That this House do not insist on its Amendments 5B, 5C and 5D to which the Commons have disagreed for their Reason 5E.**

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*3rd July 2023*

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