

# Employment Rights Bill

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## RUNNING LIST OF ALL AMENDMENTS ON REPORT

*Tabled up to and including  
8 July 2025*

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*The amendments are listed in accordance with the following Instruction –*

Clauses 1 to 4	Clauses 58 to 87
Schedule 1	Schedule 7
Clauses 5 and 6	Clauses 88 to 128
Schedule 2	Schedule 8
Clauses 7 to 23	Clauses 129 to 132
Schedule 3	Schedule 9
Clauses 24 to 35	Clauses 133 to 146
Schedule 4	Schedules 10 and 11
Clauses 36 to 53	Clauses 147 to 149
Schedule 5	Schedule 12
Clauses 54 to 57	Clauses 150 to 157
Schedule 6	Title

*[Amendments marked ★ are new or have been altered]*

### Clause 1

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Clause 1, page 2, line 8, leave out “be offered” and insert “request”

#### ***Member's explanatory statement***

*This amendment changes the provisions in the Bill from a requirement for an employer to offer guaranteed hours to a right to request guaranteed hours by an employee.*

LORD GODDARD OF STOCKPORT

Clause 1, page 2, line 9, at beginning insert “If requested by an employee,”

***Member's explanatory statement***

*This amendment changes the provisions in the Bill from a requirement for an employer to offer guaranteed hours to a right to request guaranteed hours by an employee.*

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Clause 1, page 2, line 10, leave out from “27BB” to end of line 14 and insert “if the worker requests it”

***Member's explanatory statement***

*This amendment changes the provisions in the Bill from a requirement for an employer to offer guaranteed hours to a right to request guaranteed hours by an employee.*

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL  
LORD WOLFSON OF ASPLEY GUISE

Clause 1, page 2, line 30, leave out from “for” to end of line 32 and insert “eight hours or fewer per week (“the minimum number of hours”),”

***Member's explanatory statement***

*This amendment defines the minimum number of hours for the purposes of section 27BA.*

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Clause 1, page 3, leave out lines 8 to 24 and insert—

- “(4) For the purposes of this section, the “reference period” means the period of 26 weeks beginning with the first day of the worker’s employment.”

***Member's explanatory statement***

*This amendment would set the reference period for the right to guaranteed hours to 26 weeks.*

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Clause 1, page 3, line 21, leave out “with the specified day” and insert “26 weeks after the day on which the period began”

***Member's explanatory statement***

*This amendment would set the initial reference period for the right to guaranteed hours to 26 weeks.*

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Clause 1, page 3, line 23, leave out “beginning and ending with the specified days” and insert “of 26 weeks”

***Member's explanatory statement***

*This amendment would set the initial reference period for the right to guaranteed hours to 26 weeks.*

BARONESS JONES OF WHITCHURCH

Clause 1, page 3, line 24, at end insert —

- “(6A) See paragraph 5(3A) of Schedule A1 for provision about when the initial reference period is not a reference period in relation to a worker who is a former agency worker and that worker’s employer.”

***Member's explanatory statement***

*This amendment is consequential on my amendment to Schedule 1 at page 160, line 33.*

BARONESS JONES OF WHITCHURCH

Clause 1, page 9, line 34, after “apply” insert “in relation to a reference period”

***Member's explanatory statement***

*This amendment clarifies that, where the power in new section 27BD(6) of the Employment Rights Act 1996 is exercised so as to make provision for the duty in new section 27BA(1) not to apply, the exception will operate in relation to a reference period.*

BARONESS JONES OF WHITCHURCH

Clause 1, page 9, line 36, at end insert —

- “(6A) In exercising the power under subsection (6) the Secretary of State must, in particular, have regard to —
- (a) the benefit to workers of receiving a guaranteed hours offer under this Chapter, and
  - (b) the desirability of preventing this Chapter from having a significant adverse effect on employers who are dealing with exceptional circumstances.”

***Member's explanatory statement***

*This amendment sets out a non-exhaustive list of matters that the Secretary of State must have regard to in exercising the power in new section 27BD(6) of the Employment Rights Act 1996.*

## BARONESS NOAKES

*As an amendment to the above amendment in the name of Baroness Jones of Whitchurch to Clause 1, page 9, line 36*

- ★ In paragraph (b), leave out “who are dealing with exceptional circumstances”

## Clause 3

## LORD GODDARD OF STOCKPORT

Clause 3, page 23, line 44, at end insert –

- “(5A) Where notice of cancellation has been given in advance of the short notice period as defined by subsection (6), the employer is not required to make payment under subsection (1).”

***Member's explanatory statement***

*This amendment and another in the name of Lord Goddard defines “short notice” as at least 48 hours before a shift is due to start, and clarifies that if this notice is given, the employer will not be required to make a payment under section 27BP.*

## LORD GODDARD OF STOCKPORT

Clause 3, page 24, line 3, leave out “a specified amount of time” and insert “48 hours”

***Member's explanatory statement***

*This amendment and another in the name of Lord Goddard defines “short notice” as at least 48 hours before a shift is due to start, and clarifies that if this notice is given, the employer will not be required to make a payment under section 27BP.*

## Schedule 1

## BARONESS JONES OF WHITCHURCH

Schedule 1, page 156, leave out lines 27 to 35 and insert –

- “(b) must propose terms and conditions of employment relating to pay that comply with paragraph 2A, and
- (c) must propose terms and conditions of employment relating to additional matters –
  - (i) that, taken as a whole, are no less favourable than the terms and conditions relating to additional matters that the qualifying agency worker had when working for and under the supervision and direction of the hirer during the relevant reference period,”

***Member's explanatory statement***

*This amendment is consequential on my amendment to Schedule 1 that inserts a new paragraph 2A into new Schedule A1 to the Employment Rights Act 1996.*

## BARONESS JONES OF WHITCHURCH

Schedule 1, page 157, line 11, at end insert –

- “(7A) For the purposes of sub-paragraphs (6)(b) and (7B), terms and conditions of employment relate to “pay” if they relate to any sums payable to a worker in connection with the worker’s employment, including any fee, bonus, commission, holiday pay or other emolument referable to the employment, whether payable under contract or otherwise.
- (7B) For the purposes of sub-paragraph (6)(c), terms and conditions of employment relate to “additional matters” if –
- (a) they are not terms and conditions that are required by or under sub-paragraphs (1) and (2) or sub-paragraphs (1) and (4);
  - (b) they do not relate to length of employment;
  - (c) they do not relate to pay.”

***Member's explanatory statement***

*This amendment is consequential on my amendment to Schedule 1 that inserts a new paragraph 2A into new Schedule A1 to the Employment Rights Act 1996.*

## BARONESS JONES OF WHITCHURCH

Schedule 1, page 157, line 20, at end insert –

*“Requirements relating to a guaranteed hours offer: terms and conditions relating to pay*

- 2A (1) Terms and conditions of employment relating to pay that are proposed by a guaranteed hours offer made by a hirer to a qualifying agency worker in respect of a relevant reference period comply with this paragraph if any of conditions A to D is met in relation to those terms and conditions.
- (2) Condition A is that the terms and conditions of employment relating to pay are no less favourable than the most favourable terms and conditions relating to pay that the qualifying agency worker had when working for and under the supervision and direction of the hirer during the relevant reference period.
- (3) Condition B is that –
- (a) the terms and conditions of employment relating to pay do not meet condition A but are no less favourable than the least favourable terms and conditions relating to pay that the qualifying agency worker had when working for and under the supervision and direction of the hirer during the relevant reference period, and
  - (b) the proposal of those terms by the hirer constitutes a proportionate means of achieving a legitimate aim.
- (4) Condition C is that the terms and conditions of employment relating to pay are no less favourable than –
- (a) where there was only one comparable worker in relation to the qualifying agency worker at the end of the relevant reference period,

- the terms and conditions of employment relating to pay that the comparable worker had at the end of that period, or
- (b) where there was more than one such comparable worker, the most favourable terms and conditions of employment relating to pay that a comparable worker had at the end of the relevant reference period.
- (5) Condition D is that, where there was more than one comparable worker in relation to the qualifying agency worker at the end of the relevant reference period—
- (a) the terms and conditions of employment relating to pay do not meet condition C but are no less favourable than the terms and conditions of employment relating to pay that at least one comparable worker had at the end of the relevant reference period, and
  - (b) the proposal of those terms by the hirer constitutes a proportionate means of achieving a legitimate aim.
- (6) If a hirer relies on any of sub-paragraphs (3) to (5) when making a guaranteed hours offer to a qualifying agency worker, the hirer must give a notice to the qualifying agency worker that—
- (a) states that the hirer has done so, and
  - (b) where sub-paragraph (3)(b) or (5)(b) applies, explains how the proposed terms and conditions constitute a proportionate means of achieving a legitimate aim.
- (7) A notice under sub-paragraph (6) must be given by no later than the same day, and in the same form and manner, as the guaranteed hours offer (see paragraph 2(8)).
- (8) For the purposes of this paragraph a worker is a “comparable worker”, in relation to an agency worker who works for and under the supervision and direction of a hirer, if—
- (a) the worker is employed by the hirer to do the same or broadly similar work as the agency worker, having regard, where relevant, to whether the worker and the agency worker have a similar level of qualification and skills, and
  - (b) the worker is employed by the hirer to work at the same place as the agency worker or, where there is no worker employed by the hirer at that place who does the same or broadly similar work as the agency worker, at any other place.
- (9) Paragraph 2(7A) (when terms and conditions of employment relate to pay) applies for the purposes of this paragraph as it applies for the purposes of paragraph 2(6)(b) and (7B).
- (10) References in this paragraph to terms and conditions relating to pay that an agency worker had when working for and under the supervision and direction of a hirer are references to any sums payable to the agency worker in connection with that work, including any fee, bonus, commission, holiday pay or other emolument referable to the work, whether payable under contract or otherwise.”

***Member's explanatory statement***

*This amendment inserts a new paragraph into new Schedule A1 to the Employment Rights Act 1996. It sets out requirements for the terms and conditions of employment relating to pay that are proposed by a guaranteed hours offer made by a hirer to a qualifying agency worker.*

BARONESS JONES OF WHITCHURCH

Schedule 1, page 157, line 23, leave out from “to” to end of line 24 and insert “additional matters that the qualifying agency worker had when working”

***Member's explanatory statement***

*This amendment is consequential on my amendment to Schedule 1 that inserts a new paragraph 2A into new Schedule A1 to the Employment Rights Act 1996.*

BARONESS JONES OF WHITCHURCH

Schedule 1, page 157, line 28, leave out from “employment” to “that” in line 29 and insert “relating to additional matters”

***Member's explanatory statement***

*This amendment is consequential on my amendment to Schedule 1 that inserts a new paragraph 2A into new Schedule A1 to the Employment Rights Act 1996.*

BARONESS JONES OF WHITCHURCH

Schedule 1, page 157, line 31, leave out from “to” to end of line and insert “additional matters”

***Member's explanatory statement***

*This amendment is consequential on my amendment to Schedule 1 that inserts a new paragraph 2A into new Schedule A1 to the Employment Rights Act 1996.*

BARONESS JONES OF WHITCHURCH

Schedule 1, page 157, line 37, leave out from “to” to “that” and insert “additional matters”

***Member's explanatory statement***

*This amendment is consequential on my amendment to Schedule 1 that inserts a new paragraph 2A into new Schedule A1 to the Employment Rights Act 1996.*

BARONESS JONES OF WHITCHURCH

Schedule 1, page 158, line 9, at end insert—

- “(5) Paragraph 2(7B) (when terms and conditions of employment relate to additional matters) applies for the purposes of this paragraph as it applies for the purposes of paragraph 2(6)(c).”

***Member's explanatory statement***

*This amendment is consequential on my amendment to Schedule 1 that inserts a new paragraph 2A into new Schedule A1 to the Employment Rights Act 1996.*

BARONESS JONES OF WHITCHURCH

Schedule 1, page 159, line 13, after “apply” insert “in relation to a reference period”

***Member's explanatory statement***

*This amendment clarifies that, where the power in paragraph 4(6) of new Schedule A1 to the Employment Rights Act 1996 is exercised so as to make provision for the duty in paragraph 1(1) not to apply, the exception will operate in relation to a reference period. It is equivalent to my amendment to clause 1, page 9, line 34.*

BARONESS JONES OF WHITCHURCH

Schedule 1, page 159, line 15, at end insert—

- “(6A) In exercising the power under sub-paragraph (6) the Secretary of State must, in particular, have regard to—
- (a) the benefit to agency workers of receiving a guaranteed hours offer under this Part of this Schedule, and
  - (b) the desirability of preventing this Part of this Schedule from having a significant adverse effect on hirers who are dealing with exceptional circumstances.”

***Member's explanatory statement***

*This amendment sets out a non-exhaustive list of matters that the Secretary of State must have regard to in exercising the power in paragraph 4(6) of new Schedule A1 to the Employment Rights Act 1996. It is equivalent to my amendment to clause 1, page 9, line 36.*

BARONESS NOAKES

*As an amendment to the above amendment in the name of Baroness Jones of Whitchurch to Schedule 1, page 159, line 15*

- ★ In paragraph (b), leave out “who are dealing with exceptional circumstances”

BARONESS JONES OF WHITCHURCH

Schedule 1, page 160, line 33, at end insert—

- “(3A) Where, by virtue of sub-paragraphs (2) and (3), a qualifying agency worker and a hirer are treated as entering into a worker’s contract on a day, and accordingly from that day the qualifying agency worker becomes a worker and the hirer becomes that worker’s employer, Chapter 2 of Part 2A applies in relation to that worker and that employer as if in section 27BA (employer’s duty to make a guaranteed hours offer) subsections (4)(a) and (5) (which provide



for the initial reference period to be a reference period and define the initial reference period) were omitted.”

***Member's explanatory statement***

*This amendment produces the effect that where a qualifying agency worker accepts a guaranteed hours offer from a hirer under Part 1 of new Schedule A1 to the Employment Rights Act 1996, so that (respectively) they become a worker and an employer for the purposes of new Chapter 2 of Part 2A of that Act, there will not be a new initial reference period in relation to the former agency worker.*

**Clause 5**

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Clause 5, page 31, line 36, at end insert –

- “(3A) For the purposes of this Chapter, references to a “relevant collective agreement” shall be treated as including an agreement in writing between an employer and an employee representative body or staff association that –
- (a) has been formally established for the purposes of consultation or negotiation with the employer,
  - (b) represents either a defined group of the employer’s workers or the workforce generally, and
  - (c) operates independently of the employer in its decision-making.”

***Member's explanatory statement***

*This amendment ensures that, for the purposes of this Chapter, agreements made with independent employee representative bodies or staff associations – where formally constituted and independent – may be treated as equivalent to collective agreements.*

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Clause 5, page 31, line 36, at end insert –

- “(3A) A relevant collective agreement shall not be treated as valid for the purposes of this Chapter if –
- (a) it makes the application of its terms to a worker conditional on their being a member of a trade union,
  - (b) it imposes any detriment or disadvantage on a worker who is not a member of a trade union, or
  - (c) it results in any term being incorporated into a worker’s contract solely by reason of union membership status.”

***Member's explanatory statement***

*This amendment prohibits any form of closed shop by ensuring that collective agreements cannot require union membership or discriminate against non-members.*

## BARONESS JONES OF WHITCHURCH

Clause 5, page 33, line 40, leave out from beginning to end of line 5 on page 34 and insert —

- “(b) in relation to a worker and the worker’s employer —
  - (i) section 27BA(5)(a) has effect as if for sub-paragraphs (i) and (ii) there were substituted —
    - “(i) where the worker is employed by the employer on the day (“the effective day”) after the day on which terms cease to be incorporated as mentioned in section 27BY(7)(b), the effective day, or
    - (ii) where the worker is not so employed, the first day after the effective day on which the worker is employed by the employer, and”, and
  - (ii) section 27BF(3) has effect as if for paragraphs (a) and (b) there were substituted —
    - “(a) where the worker is employed by the employer on the day (“the effective day”) after the day on which terms cease to be incorporated as mentioned in section 27BY(7)(b), the effective day, or
    - (b) where the worker is not so employed, the first day after the effective day on which the worker is employed by the employer.”,
- (c) in relation to an agency worker and a hirer for and under the supervision and direction of whom the agency worker works, paragraph 1(5)(a) of Schedule A1 has effect as if for sub-paragraphs (i) and (ii) there were substituted —
  - “(i) where the agency worker is working for and under the supervision and direction of the hirer on the day (“the effective day”) after the day on which terms cease to be incorporated as mentioned in section 27BY(7)(b), the effective day, or
  - (ii) where the agency worker is not so working, the first day after the effective day on which the agency worker is working for and under the supervision and direction of the hirer, and”, and

- (d) in relation to an agency worker and the work-finding agency with which the agency worker has a worker's contract or an arrangement by virtue of which the agency worker is (or is to be) supplied to work for and under the supervision and direction of a hirer, paragraph 6(3) of Schedule A1 has effect as if for paragraphs (a) and (b) there were substituted –
  - “(a) where the worker's contract or arrangement is in force on the day (“the effective day”) after the day on which terms cease to be incorporated as mentioned in section 27BY(7)(b), the effective day, or
  - (b) where it is not in force on the effective day, the first day after the effective day on which it is in force.”

***Member's explanatory statement***

*This amendment ensures that the gloss in new section 27BY(8) of the Employment Rights Act 1996 operates effectively.*

**Schedule 2**

BARONESS JONES OF WHITCHURCH

Schedule 2, page 191, line 31, at end insert –

- “18A In section 192 (armed forces), in subsection (2)(e), after “103” insert “, 104BA, 104BB”.
- 18B(1) Section 194 (House of Lords staff) is amended as follows.
  - (2) After subsection (2)(a) insert –
    - “(aza) Part 2A, apart from Chapter 1 of that Part,”.
  - (3) In subsection (2)(c), for “and 47E” substitute “, 47E and 47H”.
- 18C(1) Section 195 (House of Commons staff) is amended as follows.
  - (2) After subsection (2)(a) insert –
    - “(aza) Part 2A, apart from Chapter 1 of that Part,”.
  - (3) In subsection (2)(c), for “and 47E” substitute “, 47E and 47H”.
- 18D(1) Section 199 (mariners) is amended as follows.
  - (2) In subsection (8), for paragraph (b) substitute –
    - “(b) Part 2,
    - (bza) Part 2A, apart from Chapter 1 of that Part,
    - (bzb) Parts 2B, 3 and 5,”.
  - (3) After subsection (8) insert –
    - “(9) In the application of subsection (7) to the provisions mentioned in subsection (8)(bza), the reference in subsection (7)(b) to a contract of employment is to be read as a reference to a worker's contract.”

- 18E In section 200 (police officers), in subsection (1) –
- (a) after “8 to 10,” insert “Chapters 2 to 4 of Part 2A,”;
  - (b) after “47C,” insert “47H.”

***Member's explanatory statement***

*The paragraphs inserted into Schedule 2 by this amendment make amendments of Chapter 1 of Part 13 of the Employment Rights Act 1996 (particular types of employment) that are consequential on clauses 1 to 5.*

**Clause 10**

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Clause 10, page 38, line 12, leave out paragraph (b) and insert –

“(b) in subsection (2), for “four” substitute “two”.”

***Member's explanatory statement***

*This amendment preserves a minimum one-day waiting period for statutory sick pay, by reducing the qualifying threshold from four days to two, rather than introducing a day-one entitlement.*

**Clause 11**

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Clause 11, page 38, line 30, at end insert –

- “(4) This section does not apply to an employer who maintains a contractual sick pay scheme that pays at a rate equal to or greater than 80% of the employee’s normal weekly earnings.”

***Member's explanatory statement***

*This amendment exempts employers from the statutory sick pay requirement if they already provide a contractual scheme that pays at least 80% of normal weekly earnings.*

**After Clause 11**

LORD GODDARD OF STOCKPORT

After Clause 11, insert the following new Clause –

**“Statutory sick pay rebate scheme: SMEs**

- (1) The Secretary of State must by regulations made by statutory instrument establish a scheme for the reimbursement of statutory sick pay costs incurred by companies which employ fewer than 250 staff.

- (2) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (3) The first regulations under this section must be laid within 60 days of the day on which this Act is passed.”

***Member's explanatory statement***

*This amendment requires the Secretary of State to establish a rebate scheme for small and medium sized enterprises for the costs incurred by statutory sick pay.*

**After Clause 17**

LORD PALMER OF CHILDS HILL

After Clause 17, insert the following new Clause –

**“Kinship care leave**

- (1) The Employment Rights Act 1996 is amended as follows.
- (2) After section 80EI insert –

**“CHAPTER 5A**

KINSHIP CARE LEAVE

**80EJ Kinship care leave**

- (1) The Secretary of State must make regulations entitling an employee to be absent from work on leave under this section if the employee satisfies conditions specified in the regulations as to an eligible kinship care arrangement with a child.
- (2) The regulations must include provision for determining –
  - (a) the extent of an employee’s entitlement to leave under this section in respect of a child;
  - (b) when leave under this section may be taken.
- (3) Provision under subsection (2)(a) must secure that –
  - (a) where only one employee is entitled to leave under this section in respect of a given child, the employee is entitled to at least 52 weeks’ leave;
  - (b) where more than one employee is entitled to leave under this section in respect of the same child, those employees are entitled to share at least 52 weeks’ leave between them.
- (4) An employee is entitled to leave under this section only if the eligible kinship care arrangement is intended to last –
  - (a) at least one year, and
  - (b) until the child being cared for attains the age of 18.

- (5) For the purposes of this Chapter, “eligible kinship care arrangement” means —
  - (a) special guardianship,
  - (b) a kinship child arrangement,
  - (c) a private fostering arrangement, or
  - (d) a private family arrangement,
 within the meaning given by section (*Meaning of “kinship care”*) of the Employment Rights Act 2025.
- (6) The regulations may make provision about how leave under this section is to be taken.
- (7) In this section —
  - (a) “special guardianship”, “kinship child arrangement”, “private fostering arrangement” and “private family arrangement” have the same meanings as in section (*Meaning of “kinship care”*) of the Employment Rights Act 2025.
  - (b) “week” means any period of seven days.

#### **80EK Rights during and after kinship care leave**

- (1) Regulations under section 80EJ must provide —
  - (a) that an employee who is absent on leave under that section is entitled, for such purposes and to such extent as the regulations may prescribe, to the benefit of the terms and conditions of employment which would have applied but for the absence,
  - (b) that an employee who is absent on leave under that section is bound, for such purposes and to such extent as the regulations may prescribe, by obligations arising under those terms and conditions (except in so far as they are inconsistent with subsection (1) of that section), and
  - (c) that an employee who is absent on leave under that section is entitled to return from leave to a job of a kind prescribed by regulations, subject to section 80EL.
- (2) The reference in subsection (1)(c) to absence on leave under section 80EJ includes, where appropriate, a reference to a continuous period of absence attributable partly to leave under that section and partly to any one or more of the following —
  - (a) maternity leave;
  - (b) paternity leave;
  - (c) adoption leave;
  - (d) shared parental leave;
  - (e) parental leave;
  - (f) parental bereavement leave.
- (3) In subsection (1)(a), “terms and conditions of employment” —

- (a) includes matters connected with an employee's employment whether or not they arise under the contract of employment, but
  - (b) does not include terms and conditions about remuneration.
- (4) Regulations under section 80EJ may specify matters which are, or are not, to be treated as remuneration for the purposes of this section.
- (5) Regulations under section 80EJ may make provision, in relation to the right to return mentioned in subsection (1)(c), about –
  - (a) seniority, pension rights and similar rights;
  - (b) terms and conditions of employment on return.

#### **80EL Special cases**

- (1) Regulations under section 80EJ may make provision about –
  - (a) redundancy during or after a period of leave under that section, or
  - (b) dismissal (other than by reason of redundancy) during a period of leave under that section.
- (2) Provision by virtue of subsection (1) may include –
  - (a) provision requiring an employer to offer alternative employment;
  - (b) provision for the consequences of failure to comply with the regulations (which may include provision for a dismissal to be treated as unfair for the purposes of Part 10).

#### **80EM Chapter 5A: supplemental**

- (1) Regulations under section 80EJ may –
  - (a) make provision about notices to be given, evidence to be produced and other procedures to be followed by employees and employers;
  - (b) make provision requiring employers or employees to keep records;
  - (c) make provision for the consequences of failure to give notices, to produce evidence, to keep records or to comply with other procedural requirements;
  - (d) make provision for the consequences of failure to act in accordance with a notice given by virtue of paragraph (a);
  - (e) make special provision for cases where an employee has a right which corresponds to a right under section 80EJ and which arises under the person's contract of employment or otherwise;
  - (f) make provision modifying the effect of Chapter 2 of Part 14 (calculation of a week's pay) in relation to an employee who is or has been absent from work on leave under section 80EJ;
  - (g) make provision applying, modifying or excluding an enactment, in such circumstances as may be specified and subject to any conditions which may be specified, in relation to a person entitled to take leave under section 80EJ;
  - (h) make different provision for different cases or circumstances;

- (i) make consequential provision.
- (2) The cases or circumstances mentioned in subsection (1)(h) include—
  - (a) more than one child being subject to the same eligible kinship care arrangement, and
  - (b) a child being subject to an eligible kinship care arrangement on two or more separate occasions,
 and regulations may, in particular, make special provision regarding the applicability and extent of the entitlement to leave in such circumstances.
- (3) The Secretary of State may by regulations make provision for some or all of a period of kinship care leave to be paid.””

***Member's explanatory statement***

*This amendment inserts provision which sets out an entitlement to kinship care leave.*

LORD PALMER OF CHILDS HILL

After Clause 17, insert the following new Clause—

**“Meaning of kinship care**

- (1) This section defines “kinship care” for the purposes of sections 80EF to 80EI of the Employment Rights Act 1996 (inserted by section (Kinship care leave) of this Act).
- (2) Kinship care describes an arrangement where a child is raised by a friend, relative or extended family member other than a parent.
- (3) Subsections (3) to (8) set out the arrangements that are recognised as being types of kinship care.
- (4) An arrangement where a child is adopted (within the meaning of Chapter 4 of the Adoption and Children Act 2002) by a friend, relative or extended family member (“kinship adoption”).
- (5) An arrangement where—
  - (a) a child is looked after by a local authority (within the meaning of section 22 of the Children Act 1989), and
  - (b) a friend, relative or extended family member of that child is approved by the local authority to be a foster carer for that child (“kinship foster care”).
- (6) An arrangement created by a special guardianship order pursuant to section 14A of the Children Act 1989 (“special guardianship”).
- (7) An arrangement created by a child arrangements order pursuant to section 8 of the Children Act 1989 where the court orders that a child is to live predominantly with a friend, relative or extended family member of that child (“kinship child arrangement”).



- (8) An arrangement where a child is fostered privately (within the meaning of section 66 of the Children Act 1989) by a friend or extended family member (“private fostering arrangement”).
- (9) Any other arrangement where a child is cared for, and provided with accommodation in their own home –
  - (a) by a relative of the child, other than –
    - (i) a parent of the child, or
    - (ii) a person who is not a parent of the child but who has parental responsibility for the child, and
  - (b) where the arrangement has lasted, or is intended to last, for at least 28 days (“private family arrangement”).

***Member's explanatory statement***

*This new clause is linked to the new clause about kinship care leave.*

**Clause 18**

BARONESS JONES OF WHITCHURCH

Clause 18, page 41, line 24, leave out “conditions specified in the regulations” and insert “specified conditions”

***Member's explanatory statement***

*This amendment is consequential on my amendment of clause 18 at page 41, line 39.*

BARONESS JONES OF WHITCHURCH

Clause 18, page 41, line 27, at end insert –

“(ca) after subsection (3) insert –

- “(3A) For the purposes of subsection (1) an employee is also a “bereaved person” if –
  - (a) the employee has suffered a pregnancy loss of a specified kind, or
  - (b) the employee satisfies specified conditions as to relationship with –
    - (i) a person who has suffered a pregnancy loss of a specified kind, or
    - (ii) a child who had been expected to be born had a pregnancy loss of a specified kind not occurred.”;

***Member's explanatory statement***

*This amendment and my other amendments of clause 18 would enable the entitlement to bereavement leave conferred by section 80EA of the Employment Rights Act 1996 to be extended to cases involving pregnancy loss.*

## BARONESS JONES OF WHITCHURCH

Clause 18, page 41, line 28, leave out “for “child” substitute “person”,” and insert “omit “in respect of a child”,”

***Member's explanatory statement***

*See the explanatory statement for my amendment of clause 18 at page 41, line 27.*

## BARONESS JONES OF WHITCHURCH

Clause 18, page 41, line 28, at end insert –

“(da) in subsection (5), before “a child” insert “the death of”,”

***Member's explanatory statement***

*See the explanatory statement for my amendment of clause 18 at page 41, line 27.*

## BARONESS JONES OF WHITCHURCH

Clause 18, page 41, line 31, leave out from “section” to “the” in line 32 and insert “otherwise than in respect of the death of a child,”

***Member's explanatory statement***

*See the explanatory statement for my amendment of clause 18 at page 41, line 27.*

## BARONESS JONES OF WHITCHURCH

Clause 18, page 41, line 34, leave out “for “child’s” substitute “person’s”,” and insert “for “the date of the child’s death” substitute “the specified day”,”

***Member's explanatory statement***

*See the explanatory statement for my amendment of clause 18 at page 41, line 27.*

## BARONESS JONES OF WHITCHURCH

Clause 18, page 41, line 39, at end insert –

“(ga) in subsection (9) –

- (i) in the definition of “child”, after “stillbirths” insert “after twenty-four weeks of pregnancy”;
- (ii) after the definition of “child” insert –

““live birth” means the birth of a child born alive;

“pregnancy loss” means –

- (a) the ending of a pregnancy after less than twenty-four weeks of pregnancy in any way other than by a live birth, or

- (b) the failure of an embryo to become implanted following a transfer carried out in the course of providing treatment services within the meaning of the Human Fertilisation and Embryology Act 1990;

“specified” means specified in the regulations;”

***Member's explanatory statement***

*See the explanatory statement for my amendment of clause 18 at page 41, line 27.*

**After Clause 18**

LORD HOGAN-HOWE

After Clause 18, insert the following new Clause –

**“Special constables: right to time off for public duties**

- (1) The Employment Rights Act 1996 is amended as follows.
- (2) In section 50 (Right to time off for public duties), after subsection (1) insert –
  - “(1A) An employer shall permit an employee who is a special constable, appointed in accordance with section 27 of the Police Act 1996, section 9 of the Police and Fire Reform (Scotland) Act 2012 or section 25 of the Railways and Transport Safety Act 2003, to take time off during the employee’s working hours for the purpose of performing their duties.
  - (1B) In section (1A), “duties” means any activity under the direction of a chief officer of police.”

***Member's explanatory statement***

*This new clause gives employees who are special constables the right to time off to carry out their police duties.*

**After Clause 22**

BARONESS JONES OF WHITCHURCH

After Clause 22, insert the following new Clause –

**“22A Contractual duties of confidentiality relating to harassment and discrimination**

- (1) The Employment Rights Act 1996 is amended as follows.

- (2) After section 202 insert —

*“Harassment and discrimination: contractual duties of confidentiality*

**202A Contractual duties of confidentiality relating to harassment and discrimination**

- (1) Any provision in an agreement between an employer and a worker of the employer (whether a worker’s contract or not) is void in so far as it purports to preclude the worker from making —
  - (a) an allegation of, or a disclosure of information relating to, relevant harassment or discrimination, or
  - (b) an allegation, or a disclosure of information, relating to the response of an employer of the worker to —
    - (i) relevant harassment or discrimination, or
    - (ii) the making of an allegation or disclosure within paragraph (a).
- (2) Harassment or discrimination is “relevant” for the purposes of subsection (1) if —
  - (a) the harassment or discrimination consists of, or is alleged to consist of, conduct engaged in by —
    - (i) an employer of the worker, or
    - (ii) another worker of such an employer, or
  - (b) the person who is, or is alleged to be, the victim of the harassment or discrimination is —
    - (i) the worker, or
    - (ii) another worker of an employer of the worker.
- (3) Subsection (1) does not apply to provision in an agreement (an “excepted agreement”) that satisfies such conditions as the Secretary of State may specify by regulations.
- (4) But the Secretary of State may by regulations provide that any provision in an excepted agreement is void in so far as it purports to preclude the worker from making an allegation or disclosure within subsection (1)(a) or (b) —
  - (a) to a specified description of person;
  - (b) for a specified purpose;
  - (c) in specified circumstances.
- (5) The Secretary of State may by regulations —
  - (a) provide for this section to have effect as if references to a worker included a specified description of individual who is not a worker as defined by section 230(3) but who —
    - (i) works or worked, or is or was provided with work experience or training, in specified circumstances, or
    - (ii) has entered into, or works or worked under, a relevant contract of a specified description;

- (b) make provision as to who is to be regarded as an employer of such an individual for the purposes of this section.
- (6) In subsection (5), “relevant contract” means any contract, other than a contract of employment, whether express or implied and (if express) whether oral or in writing, by which an individual undertakes to do or perform (whether personally or otherwise) any work or services for another party to the contract whose status is by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual.
- (7) Regulations under this section may –
  - (a) make different provision for different purposes;
  - (b) make consequential provision.
- (8) For the purposes of this section, the holding, otherwise than under a contract of employment, of the office of constable or an appointment as a police cadet is to be treated as employment by the relevant officer under a contract of employment.

“The relevant officer” has the meaning given by section 43KA(2).
- (9) Nothing in this section affects the operation of any other enactment or rule of law by virtue of which provision in an agreement may be void.
- (10) In this section –
  - “discrimination” means discrimination within section 13, or any of sections 15 to 19A, of the Equality Act 2010;
  - “harassment” means harassment of the kind described in subsection (1), (2) or (3) of section 26 of that Act;
  - “specified” means specified in the regulations.”
- (3) In section 192(2) (provisions of Act which have effect in relation to armed forces) –
  - (a) omit the “and” at the end of paragraph (e);
  - (b) for paragraph (f) substitute –
    - “(f) this Part, apart from section 202A, and
    - (g) Parts 14 and 15.”
- (4) In section 193 (provisions of Act which do not apply in relation to the security services), for “section 47B” substitute “sections 47B and 202A”.
- (5) In section 194(2) (provisions of Act which have effect in relation to House of Lords staff) –
  - (a) omit the “and” at the end of paragraph (g);
  - (b) for paragraph (h) substitute –
    - “(h) this Part, apart from section 202A, and
    - (i) Parts 14 and 15.”
- (6) In section 195(2) (provisions of Act which have effect in relation to House of Commons staff) –
  - (a) omit the “and” at the end of paragraph (g);

(b) for paragraph (h) substitute –

“(h) this Part, apart from section 202A, and

(i) Parts 14 and 15.”

(7) In section 236(3) (regulations subject to affirmative procedure), after “125(7)” insert “, 202A”.”

***Member's explanatory statement***

*This new clause provides that provision in an agreement between an employer and a worker is void in so far as it purports to prevent the worker making an allegation or disclosure of information relating to certain work-related harassment and discrimination.*

**Clause 23**

LORD SHARPE OF EPSOM

LORD HUNT OF WIRRAL

Leave out Clause 23 and insert the following new Clause –

**“Right not to be unfairly dismissed: reduction of qualifying period and introduction of initial period of employment**

Schedule 3 contains provision –

- (a) reducing the qualifying period of employment for unfair dismissal and introducing provisions in respect of an initial period of employment, and
- (b) making further consequential amendments.”

***Member's explanatory statement***

*This amendment provides that the qualifying period for unfair dismissal is reduced as set out in further amendments to Schedule 3. It also provides for an initial period of employment after the qualifying period during which a modified process and different compensation limit would apply, as set out in further regulations.*

LORD VAUX OF HARROWDEN

Leave out Clause 23 and insert the following new Clause –

**“Right not to be unfairly dismissed: reduction of qualifying period etc**

Schedule 3 contains provision –

- (a) amending section 108 of the Employment Rights Act 1996 (unfair dismissal: qualifying period of employment), and
- (b) making further consequential amendment.”

***Member's explanatory statement***

*This amendment, along with an amendment to Schedule 3 tabled by Lord Vaux of Harrowden, would reduce the length of the qualifying period during which an employee may not claim unfair dismissal other than for certain specific reasons from two years to six months.*

### Schedule 3

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL  
BARONESS NEVILLE-ROLFE

Schedule 3, page 194, line 24, leave out paragraphs 1 and 2 and insert –

- “1 Section 108 of the Employment Rights Act 1996 (qualifying period of employment) is amended as follows –
- (a) in subsection (1) omit “two years” and insert “six months”;
  - (b) after subsection (5), insert –
    - “(6) Subsection (1) does not apply if section 4(3)(b) of the Rehabilitation of Offenders Act 1974 (read with any order made under section 4(4) of that Act) applies.”.

***Member's explanatory statement***

*This amendment reduces the qualifying period for unfair dismissal from two years to six months, leaving in place the existing exceptions to that qualifying period in section 108(3) of the Employment Rights Act and adding a new exception in relation to spent convictions.*

BARONESS JONES OF WHITCHURCH

Schedule 3, page 195, line 16, for “(3)” substitute “(5)”

***Member's explanatory statement***

*This amendment corrects a cross-reference.*

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Schedule 3, page 196, line 29, after “employment” insert “beginning with the day after the employee has been continuously employed for the period set out in section 108(1) of the Employment Rights Act 1996”

***Member's explanatory statement***

*This amendment provides that the initial period of employment begins after the qualifying period for unfair dismissal.*

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Schedule 3, page 196, line 33, leave out “on or before the last day of” and insert “during”

***Member's explanatory statement***

*This amendment is consequential on another in the name of Lord Sharpe of Epsom which provides that the initial period of employment begins after the qualifying period for unfair dismissal.*

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Schedule 3, page 197, line 31, leave out from beginning to end of line 2 on page 198

***Member's explanatory statement***

*This amendment provides that the initial period of employment begins after the qualifying period for unfair dismissal.*

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Schedule 3, page 198, line 10, leave out paragraphs (b) and (c)

***Member's explanatory statement***

*This amendment provides that the initial period of employment begins after the qualifying period for unfair dismissal.*

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Schedule 3, page 198, line 20, after “occurs” insert “before the employee has been continuously employed for the period set out in section 108(1) or”

***Member's explanatory statement***

*This amendment provides that an employee is not entitled to a written statement of reasons for dismissal if the employee is dismissed during either the qualifying period for unfair dismissal or the initial period of employment.*

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Schedule 3, page 198, line 27, after “substitute” insert “she has been continuously employed for any period or”

***Member's explanatory statement***

*This amendment is consequential on other amendments to Schedule 3 by Lord Sharpe of Epsom and provides that an employee is entitled to a written statement of reasons for dismissal if dismissed when pregnant or on maternity leave, regardless of length of service.*

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Schedule 3, page 198, line 30, after “substitute” insert “he has been continuously employed for any period or”



***Member's explanatory statement***

*This amendment is consequential on other amendments to Schedule 3 tabled by Lord Sharpe of Epsom and provides that an employee is entitled to a written statement of reasons for dismissal if dismissed when on adoption leave, regardless of length of service.*

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Schedule 3, page 198, line 32, leave out sub-paragraphs (3) and (4)

***Member's explanatory statement***

*These amendments are consequential on others to Schedule 3 in the name of Lord Sharpe of Epsom.*

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Schedule 3, page 198, line 39, leave out sub-paragraphs (6) to (10)

***Member's explanatory statement***

*These amendments are consequential on others to Schedule 3 in the name of Lord Sharpe of Epsom.*

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Schedule 3, page 199, line 12, leave out paragraph 7

***Member's explanatory statement***

*These amendments are consequential on other amendments to Schedule 3 in the name of Lord Sharpe of Epsom.*

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Schedule 3, page 199, line 22, leave out sub-paragraph (2)

***Member's explanatory statement***

*These amendments are consequential on other amendments to Schedule 3 in the name of Lord Sharpe of Epsom.*

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Schedule 3, page 199, line 38, leave out paragraphs (b) to (d)

***Member's explanatory statement***

*These amendments are consequential on other amendments to Schedule 3 in the name of Lord Sharpe of Epsom.*

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Schedule 3, page 200, line 1, leave out paragraph 11

***Member's explanatory statement***

*These amendments are consequential other amendments to for Schedule 3 in the name of Lord Sharpe of Epsom.*

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Schedule 3, page 200, leave out lines 11 to 22

***Member's explanatory statement***

*These amendments are consequential on other amendments to Schedule 3 in the name of Lord Sharpe of Epsom.*

LORD VAUX OF HARROWDEN

Leave out Schedule 3 and insert the following new Schedule –

“SCHEDULE 3

Section 23

RIGHT NOT TO BE UNFAIRLY DISMISSED: REDUCTION OF QUALIFYING PERIOD, ETC

- 1 In section 92(3) of the Employment Rights Act 1996 (right to written statement of reasons for dismissal) omit “two years” and insert “six months”.
- 2 Section 108 of the Employment Rights Act 1996 (qualifying period of employment) is amended as follows –
  - (a) In subsection (1) omit “two years” and insert “six months”;
  - (b) In subsection (2) omit “two years” and insert “six months”.

***Member's explanatory statement***

*This amendment, along with an amendment to Clause 23 tabled by Lord Vaux of Harrowden would reduce the length of the qualifying period during which an employee may not claim unfair dismissal other than for certain specific reasons for two years to six months.*

**Clause 26**

BARONESS JONES OF WHITCHURCH

Clause 26, page 46, line 14, leave out “and” and insert “to”

***Member's explanatory statement***

*This amendment is consequential on my other amendments of clause 26.*

BARONESS JONES OF WHITCHURCH

Clause 26, page 46, line 25, after “employment” insert “to make a restricted variation (see subsection (3B))”

***Member's explanatory statement***

*This amendment and other amendments of clause 26 would limit new section 104I(1) of the Employment Rights Act 1996 to cases where the variation of the contract of employment was of a particular kind. This includes reductions in an employee's pay or time off and changes to the number of hours an employee is required to work.*

BARONESS JONES OF WHITCHURCH

Clause 26, page 46, line 26, leave out from “employee” to end of line and insert “—

- (i) did not agree to the restricted variation, or
- (ii) where the employer sought to make more than one variation, did not agree to a number of variations that included the restricted variation.”

***Member's explanatory statement***

*See the explanatory statement for my amendment at page 46, line 25.*

BARONESS JONES OF WHITCHURCH

Clause 26, page 46, line 30, at end insert —

- “(3A) For the purposes of subsection (3), a contract of employment is a “varied” contract of employment if —
- (a) the terms of the contract are not the same as the terms of the contract of employment under which the employee worked before being dismissed, and
  - (b) one or more of the differences between the two sets of terms constitutes a restricted variation (see subsection (3B));
- and, in a case where subsection (3) applies, any reference in this section to the restricted variation is to be read accordingly.”

***Member's explanatory statement***

*See the explanatory statement for my amendment at page 46, line 25.*

## BARONESS JONES OF WHITCHURCH

Clause 26, page 46, line 30, at end insert—

“(3B) In this section “restricted variation” means any of the following—

- (a) a reduction of, or removal of an entitlement to, any sum payable to an employee in connection with the employment (but see subsection (3C));
- (b) where the amount of any sum payable to an employee in connection with the employment is determined by reference to a measure of the amount of work done by the employee (including a measure referable to results achieved by the employee), a variation of that measure;
- (c) a variation of any term or condition relating to pensions or pension schemes;
- (d) a variation of the number of hours which an employee is required to work;
- (e) a variation of the timing or duration of a shift which meets such conditions as may be specified in regulations made by the Secretary of State;
- (f) a reduction in the amount of time off which an employee is entitled to take;
- (g) a variation of a description specified in regulations made by the Secretary of State;
- (h) the inclusion in a contract of employment of a term enabling the employer to make any variation within any of the preceding paragraphs without the employee’s agreement.

(3C) The Secretary of State may by regulations provide that a reference in subsection (3B) to a sum payable to an employee in connection with the employment does not include a reference to—

- (a) a sum payable in respect of—
  - (i) any expenses incurred by an employee;
  - (ii) any expenses of a specified description incurred by an employee;
  - (iii) any expenses incurred by an employee other than expenses of a specified description;
- (b) a payment or benefit in kind, a payment or benefit in kind of a specified description, or a payment or benefit in kind other than one of a specified description.

In this subsection “specified” means specified in the regulations.”

***Member's explanatory statement***

*See the explanatory statement for my amendment at page 46, line 25.*

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Clause 26, page 46, line 30, at end insert —

- “(3A) Subsection (1) does not apply in relation to an employee if the employer shows that the variation would not result in a reduction of the employee’s pay and benefits.”

***Member's explanatory statement***

*This amendment seeks to ensure that dismissal after a refusal to accept a variation cannot be considered unfair if the variation does not entail reduced pay and benefits.*

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Clause 26, page 46, line 30, at end insert —

- “(3A) Subsection (1) does not apply if the variation concerns the employee’s place of work and section 139(1)(a) (ii) or 139(1)(b)(ii) (redundancy: ceasing to carry on business) applies.”

***Member's explanatory statement***

*This amendment clarifies that dismissals amounting to a place of work redundancy are not to be treated as automatically unfair.*

LORD GODDARD OF STOCKPORT

Clause 26, page 46, line 30, at end insert —

- “(3A) Subsections (2) and (3) do not apply where —
- (a) the proposed variation is minor,
  - (b) the variation is not detrimental to the employee’s terms and conditions, and
  - (c) the variation does not relate to pay, working hours, or location of work.”

***Member's explanatory statement***

*This amendment would exclude routine and non-detrimental variations from triggering automatic unfair dismissal protections.*

BARONESS JONES OF WHITCHURCH

Clause 26, page 46, line 31, at beginning insert “In the case of an employer that is not a local authority,”

***Member's explanatory statement***

*This amendment is consequential on my amendments of clause 26 at page 46, line 36 and page 47, line 2.*

## BARONESS JONES OF WHITCHURCH

Clause 26, page 46, line 33, before “variation” insert “restricted”

***Member's explanatory statement***

*See the explanatory statement for my amendment at page 46, line 25.*

## BARONESS JONES OF WHITCHURCH

Clause 26, page 46, line 36, leave out from “affect” to end of line 38 and insert “—

- (i) the employer’s ability to carry on the business as a going concern, or
- (ii) where the employer is a public sector employer, the financial sustainability of carrying out the employer’s statutory functions,”

***Member's explanatory statement***

*The effect of this amendment is that, for the purposes of the exception to new section 104I(1) of the Employment Rights Act 1996, a public sector employer (other than a local authority) may rely on financial difficulties that are affecting, or likely in the immediate future to affect, the financial sustainability of carrying out the employer’s statutory functions.*

## BARONESS JONES OF WHITCHURCH

Clause 26, page 47, line 2, before “variation” insert “restricted”

***Member's explanatory statement***

*See the explanatory statement for my amendment at page 46, line 25.*

## BARONESS JONES OF WHITCHURCH

Clause 26, page 47, line 2, at end insert —

- “(4A) In the case of an employer that is a local authority, subsection (1) does not apply in relation to an employee if —
  - (a) at the time of the dismissal, a relevant intervention direction has effect in relation to the authority,
  - (b) the relevant intervention direction —
    - (i) specifies that the reason, or one of the reasons, for the giving of the direction is that the authority is undergoing financial difficulties, and
    - (ii) contains provision relating to the financial management or financial governance of the authority, and
  - (c) the authority shows that —
    - (i) the reason for the restricted variation was to eliminate or significantly reduce, or significantly mitigate the effect of,

- any of the financial difficulties referred to in paragraph (b)(i), and
  - (ii) in all the circumstances the authority could not reasonably have avoided the need to make the restricted variation.
- (4B) In determining whether –
- (a) in the case of a public sector employer (other than a local authority), subsection (4)(b) is met, or
  - (b) in the case of a local authority, subsection (4A)(c)(ii) is met,
- an employment tribunal must apply the same principles as would be applied by a court on an application for judicial review.”

***Member's explanatory statement***

*This amendment provides that the exception for employers undergoing financial difficulties applies to a local authority only if a “relevant intervention direction” has effect in relation to it. It also makes provision about how an employment tribunal should decide whether a public sector employer (including a local authority) could not reasonably have avoided the need to make the variation.*

BARONESS JONES OF WHITCHURCH

Clause 26, page 47, line 4, after “met,” insert “or (where the employer is a local authority) the conditions in paragraphs (a), (b) and (c) of subsection (4A) are met,”

***Member's explanatory statement***

*This amendment is consequential on the amendment of clause 26 at page 47, line 2 that inserts a new subsection (4A) into section 104I of the Employment Rights Act 1996.*

BARONESS JONES OF WHITCHURCH

Clause 26, page 47, line 19, before “variation” insert “restricted”

***Member's explanatory statement***

*See the explanatory statement for my amendment at page 46, line 25.*

BARONESS JONES OF WHITCHURCH

Clause 26, page 47, line 21, at end insert –

- “(5A) In this section –
- “English local authority” means –
- (a) a county council or district council in England;
  - (b) a London borough council;
  - (c) the Greater London Authority;
  - (d) the Council of the Isles of Scilly;
  - (e) the Common Council of the City of London in its capacity as a local authority, a police authority or a port health authority;

(f) a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009;

(g) a combined county authority established under section 9(1) of the Levelling-up and Regeneration Act 2023;

“local authority” means –

- (a) an English local authority,
- (b) a Welsh local authority, or
- (c) a Scottish local authority;

“public sector employer” means a person that –

- (a) is wholly or mainly funded from public funds,
- (b) is under a statutory duty to carry out any functions of a public nature, and
- (c) so far as carrying out those functions, does not operate on a commercial basis;

“recognised”, in relation to a trade union, has the same meaning as in the Trade Union and Labour Relations (Consolidation) Act 1992 (see section 178 of that Act);

“relevant intervention direction” means –

- (a) in the case of an English local authority, a direction under section 15(5) or (6)(a) of the Local Government Act 1999 (powers to deal with failure to comply with duties relating to best value authorities);
- (b) in the case of a Welsh local authority, a direction under section 106 or 107 of the Local Government and Elections (Wales) Act 2021 (asc 1) (intervention powers of Welsh Ministers);
- (c) in the case of a Scottish local authority, an enforcement direction under section 24 of the Local Government in Scotland Act 2003 (asp 1) relating wholly or partly to a failure of the authority to comply with its duties under section 1 of that Act (local authorities’ duty to secure best value);

“Scottish local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;

“statutory duty” means a duty imposed by or under any enactment, including –

- (a) a Measure or Act of the National Assembly for Wales or an Act of Senedd Cymru, and
- (b) an Act of the Scottish Parliament;

“statutory functions”, in relation to a public sector employer, means functions of a public nature which the employer is under a statutory duty to carry out;

“Welsh local authority” means –

- (a) a county council or county borough council in Wales;
- (b) a corporate joint committee established under Part 5 of the Local Government and Elections (Wales) Act 2021.”



***Member's explanatory statement***

*This amendment inserts a number of definitions that are needed for the purposes of section 104I of the Employment Rights Act 1996, as amended by my other amendments of clause 26.*

BARONESS JONES OF WHITCHURCH

Clause 26, page 47, line 21, at end insert –

- “(5B) The reference in subsection (4A)(a) to a relevant intervention direction includes a relevant intervention direction given before the day on which the Employment Rights Act 2025 was passed.”

***Member's explanatory statement***

*This amendment makes it clear that, for the purposes of subsection (4A)(a) of new section 104I of the Employment Rights Act 1996, it does not matter if the relevant intervention direction was given before the day on which the Employment Rights Bill receives Royal Assent.*

BARONESS JONES OF WHITCHURCH

Clause 26, page 47, leave out lines 22 to 31

***Member's explanatory statement***

*This amendment is consequential on my other amendments of clause 26.*

BARONESS JONES OF WHITCHURCH

Clause 26, page 47, line 31, at end insert –

**“104J Contracts of employment: variations that are not restricted variations**

- (1) This section applies to the dismissal of an employee if –
  - (a) the employee was employed for the purposes of a business carried on by the employer, and
  - (b) the reason (or, if more than one, the principal reason) for the dismissal is a reason within subsection (2) or (3).
- (2) The reason within this subsection is that –
  - (a) the employer sought to vary the employee's contract of employment,
  - (b) the variation was not a restricted variation or, where the employer sought to make more than one variation, none of the variations was a restricted variation, and
  - (c) the employee did not agree to the variation.
- (3) The reason within this subsection is to enable the employer to employ another person, or to re-engage the employee, under a varied contract of employment to carry out the same duties, or substantially the same duties, as the employee carried out before being dismissed.

- (4) For the purposes of subsection (3), a contract of employment is a “varied” contract of employment if –
- (a) the terms of the contract are not the same as the terms of the contract of employment under which the employee worked before being dismissed, and
  - (b) none of the differences between the two sets of terms constitutes a restricted variation;
- and, in a case where subsection (3) applies, any reference in this section to the variation is to be read accordingly.
- (5) The matters that must be considered in determining the question whether the dismissal is fair or unfair include the following –
- (a) the reason for the variation;
  - (b) any consultation carried out by the employer with the employee about varying the employee’s contract of employment;
  - (c) if the employee is of a description in respect of which an independent trade union is recognised by the employer, any consultation carried out by the employer with that trade union;
  - (d) if the employee is not of a description in respect of which an independent trade union is recognised by the employer, any consultation carried out by the employer with any other person representing the interests of the employee that, at the time of the dismissal, had authority to receive information and to be consulted about the dismissal on the employee’s behalf;
  - (e) anything offered to the employee by the employer in return for agreeing to the variation;
  - (f) any matters specified for the purposes of this subsection in regulations made by the Secretary of State.
- (6) In this section –
- “recognised”, in relation to a trade union, has the same meaning as in the Trade Union and Labour Relations (Consolidation) Act 1992 (see section 178 of that Act);
  - “restricted variation” has the same meaning as in section 104I.”

***Member's explanatory statement***

*This amendment provides that, where an employee is dismissed for failing to agree to a variation of their contract of employment that is not a “restricted variation”, the matters that must be considered in determining whether the dismissal is fair or unfair include those specified in new section 104J(5) of the Employment Rights Act 1996.*

## BARONESS JONES OF WHITCHURCH

Clause 26, page 47, line 31, at end insert –

**“104K Redundancy: replacement of employees with people who are not employees**

- (1) An employee who is dismissed is to be regarded for the purposes of this Part as unfairly dismissed if –
  - (a) the employee was employed for the purposes of a business carried on by the employer, and
  - (b) the reason (or, if more than one, the principal reason) for the dismissal is to enable the employer to replace the employee with an individual who is not an employee of the employer.
- (2) For the purposes of this section –
  - (a) an employer replaces an employee with an individual who is not an employee of the employer if (and only if) –
    - (i) the individual, or the individual taken together with one or more employees of the employer or other individuals, is to carry out activities, in pursuance of a relevant contract, for the purposes of the employer’s business,
    - (ii) those activities are the same, or substantially the same, activities as the employee, or the employee taken together with one or more other employees of the employer, carried out before being dismissed, and
    - (iii) the employee’s dismissal is not wholly or mainly attributable to the fact that the requirements of the employer’s business for those activities to be carried out have ceased or diminished or are expected to cease or diminish;and any reference in this section to replacing an employee is to be read accordingly;
  - (b) a reference to replacing an employee with an individual who is not an employee of the employer includes the case where the individual is the one who has been dismissed;
  - (c) “relevant contract”, in relation to an employer, means a contract, other than a contract of employment, to which the employer is a party (whether or not the individual carrying out activities in pursuance of the contract is a party to it).
- (3) In the case of an employer that is not a local authority, subsection (1) does not apply in relation to an employee if the employer shows that –
  - (a) the reason for the replacement was to eliminate, prevent or significantly reduce, or significantly mitigate the effect of, any financial difficulties which at the time of the dismissal were affecting, or were likely in the immediate future to affect –
    - (i) the employer’s ability to carry on the business as a going concern, or

- (ii) where the employer is a public sector employer, the financial sustainability of carrying out the employer's statutory functions, and
  - (b) in all the circumstances the employer could not reasonably have avoided the need to replace the employee.
- (4) In the case of an employer that is a local authority, subsection (1) does not apply in relation to an employee if –
  - (a) at the time of the dismissal, a relevant intervention direction has effect in relation to the authority,
  - (b) the relevant intervention direction –
    - (i) specifies that the reason, or one of the reasons, for the giving of the direction is that the authority is undergoing financial difficulties, and
    - (ii) contains provision relating to the financial management or financial governance of the authority, and
  - (c) the authority shows that –
    - (i) the reason for the replacement was to eliminate or significantly reduce, or significantly mitigate the effect of, any of the financial difficulties referred to in paragraph (b)(i), and
    - (ii) in all the circumstances the authority could not reasonably have avoided the need to replace the employee.
- (5) In determining whether –
  - (a) in the case of a public sector employer (other than a local authority), subsection (3)(b) is met, or
  - (b) in the case of a local authority, subsection (4)(c)(ii) is met,
 an employment tribunal must apply the same principles as would be applied by a court on an application for judicial review.
- (6) Where the employer shows that the conditions in paragraphs (a) and (b) of subsection (3) are met, or (where the employer is a local authority) the conditions in paragraphs (a), (b) and (c) of subsection (4) are met, the matters that must be considered in determining the question whether the dismissal is fair or unfair include the following –
  - (a) any consultation carried out by the employer with the employee about replacing the employee;
  - (b) if the employee is of a description in respect of which an independent trade union is recognised by the employer, any consultation carried out by the employer with that trade union;
  - (c) if the employee is not of a description in respect of which an independent trade union is recognised by the employer, any consultation carried out by the employer with any other person representing the interests of the employee that, at the time of the dismissal, had authority to receive information and to be consulted about the dismissal on the employee's behalf;

- (d) any matters specified for the purposes of this subsection in regulations made by the Secretary of State.

(7) In this section –

“contract” means a contract whether express or implied and (if it is express) whether oral or in writing;

“English local authority” means –

- (a) a county council or district council in England;
- (b) a London borough council;
- (c) the Greater London Authority;
- (d) the Council of the Isles of Scilly;
- (e) the Common Council of the City of London in its capacity as a local authority, a police authority or a port health authority;
- (f) a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009;
- (g) a combined county authority established under section 9(1) of the Levelling-up and Regeneration Act 2023;

“local authority” means –

- (a) an English local authority,
- (b) a Welsh local authority, or
- (c) a Scottish local authority;

“public sector employer” means a person that –

- (a) is wholly or mainly funded from public funds,
- (b) is under a statutory duty to carry out any functions of a public nature, and
- (c) so far as carrying out those functions, does not operate on a commercial basis;

“recognised”, in relation to a trade union, has the same meaning as in the Trade Union and Labour Relations (Consolidation) Act 1992 (see section 178 of that Act);

“relevant intervention direction” means –

- (a) in the case of an English local authority, a direction under section 15(5) or (6)(a) of the Local Government Act 1999 (powers to deal with failure to comply with duties relating to best value authorities);
- (b) in the case of a Welsh local authority, a direction under section 106 or 107 of the Local Government and Elections (Wales) Act 2021 (asc 1) (intervention powers of Welsh Ministers);
- (c) in the case of a Scottish local authority, an enforcement direction under section 24 of the Local Government in Scotland Act 2003 (asp 1) relating wholly or partly to a failure of the authority to comply with its duties under section 1 of that Act (local authorities’ duty to secure best value);

“Scottish local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;

“statutory duty” means a duty imposed by or under any enactment, including —

- (a) a Measure or Act of the National Assembly for Wales or an Act of Senedd Cymru, and
- (b) an Act of the Scottish Parliament;

“statutory functions”, in relation to a public sector employer, means functions of a public nature which the employer is under a statutory duty to carry out;

“Welsh local authority” means —

- (a) a county council or county borough council in Wales;
- (b) a corporate joint committee established under Part 5 of the Local Government and Elections (Wales) Act 2021.

- (8) The reference in subsection (4)(a) to a relevant intervention direction includes a relevant intervention direction given before the day on which the Employment Rights Act 2025 was passed.

- (3A) In section 105 (redundancy), in the heading, after “Redundancy” insert “: other cases”.

***Member's explanatory statement***

*This amendment provides that an employee's dismissal is automatically unfair if the reason for the dismissal was to enable the employer to replace the employee, on a broadly like-for-like basis, with someone who is not employed but is, for example, an agency worker or a self-employed contractor. There are exceptions to this rule in circumstances where the reason for the replacement is to address financial difficulties of the employer and the employer could not reasonably have avoided the need to replace the employee.*

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Clause 26, page 47, line 34, after “with” insert “subsection (3A) and”

***Member's explanatory statement***

*This amendment clarifies that dismissals amounting to a place of work redundancy are not to be treated as automatically unfair.*

BARONESS JONES OF WHITCHURCH

Clause 26, page 47, line 34, leave out “subsection (4)” and insert “subsections (4) and (4A)”

***Member's explanatory statement***

*This amendment is consequential on the amendment of clause 26 at page 47, line 2 that inserts a new subsection (4A) into section 104I of the Employment Rights Act 1996.*

## BARONESS JONES OF WHITCHURCH

Clause 26, page 47, line 35, at end insert —

“(gp) subsection (1) of section 104K (read with subsections (3) and (4) of that section) applies.”

***Member's explanatory statement***

*This amendment is consequential on the amendment of clause 26 at page 47, line 31 that inserts a new section 104K into the Employment Rights Act 1996.*

## BARONESS JONES OF WHITCHURCH

Clause 26, page 47, line 37, leave out ““104I(5)(e),”.” and insert ““104I,”

***Member's explanatory statement***

*This amendment provides for regulations under new section 104I of the Employment Rights Act 1996 to be subject to the affirmative resolution procedure.*

## BARONESS JONES OF WHITCHURCH

Clause 26, page 47, line 37, at end insert “104J(5)(f),”

***Member's explanatory statement***

*This amendment provides for regulations under subsection (5)(f) of new section 104J of the Employment Rights Act 1996 to be subject to the affirmative resolution procedure.*

## BARONESS JONES OF WHITCHURCH

Clause 26, page 47, line 37, at end insert “104K(6)(d),”.

***Member's explanatory statement***

*This amendment provides for regulations under subsection (6)(d) of new section 104K of the Employment Rights Act 1996 to be subject to the affirmative resolution procedure.*

**After Clause 26**

## BARONESS NOAKES

After Clause 26, insert the following new Clause —

**“Part 1 exemptions**

- (1) The Secretary of State may by regulations specify that specified categories of person shall be exempt in whole or in part from all or any of the provisions of Part 1 of this Act.
- (2) Regulations may provide that exemptions apply for a specified period of time.

- (3) The categories of person exempted by regulations may be defined by the activities which they carry out, their size, their legal status or in any other way that the Secretary of State considers appropriate.
- (4) Regulations made under this section are subject to the affirmative procedure.”

BARONESS KRAMER

After Clause 26, insert the following new Clause –

**“Protected disclosures and the Office of the Whistleblower**

- (1) The Employment Rights Act 1996 is amended as follows.
- (2) For section 43A (meaning of “protected disclosure”) substitute –

**“43A Meaning of “protected disclosure”**

In this Act a “protected disclosure” means any disclosure of information which is made in the public interest to persons specified in section 43C(1), and which is a qualifying disclosure under section 43C(1), which relates to one or more of the matters in section 43B(1) and which relates to a circumstance which has occurred, is occurring or may occur.”

- (3) In section 43B (disclosures qualifying for protection), for subsection (1) substitute –
  - “(1) In this Part, a qualifying disclosure means any disclosure of information which relates to –
    - (a) a criminal offence or regulatory breach;
    - (b) the failure of any person including a relevant person to comply with a legal obligation;
    - (c) a miscarriage of justice;
    - (d) the endangering of the health or safety of any person;
    - (e) damage to the environment;
    - (f) mismanagement of public funds;
    - (g) misuse or abuse of authority;
    - (h) such other matters as may be prescribed in regulations made by the Secretary of State;
    - (i) concealment of information or removal or deletion or destruction of any documents relating to the above matters.”
- (4) In section 43C (disclosure to employer or other responsible person), for subsection (1) substitute –
  - “(1) The persons referred to in section 43A are –
    - (a) the Office of the Whistleblower;
    - (b) a relevant person;
    - (c) a person who, in the reasonable belief of the person making the disclosure is a relevant person;
    - (d) a person to whom it is reasonable for the person making the disclosure to make that disclosure.”



- (5) After section 43C, insert the following new section –

**“43CA Disclosure to the Office of the Whistleblower**

- (1) The Secretary of State must, by regulations made by statutory instrument, within one year after the day on which the Employment Rights Act 2025 is passed, establish a body corporate called the Office of the Whistleblower (hereafter referred to as “the Office”).
- (2) The principal duty of the Office is to protect whistleblowers and have oversight of the process of whistleblowing.
- (3) The functions of the Office are to –
  - (a) set minimum standards for whistleblowing policies, procedures and reporting structures;
  - (b) monitor and enforce compliance with those standards;
  - (c) provide an independent disclosure and reporting service;
  - (d) provide support for whistleblowers;
  - (e) bring actions for the offence specified in subsection (6) including action notices, redress orders and interim relief orders which may be appealed to the First-tier Tribunal;
  - (f) prevent the exercise of Confidentiality Agreements and Non-Disclosure Agreements except where non-disclosure is for purposes of commercial confidentiality or to provide whistleblower anonymity.
- (4) For the purposes of this Act, a person is a “whistleblower” if they are a worker who has made, makes or is intending to make a protected disclosure or is perceived by a relevant person to have made, be making or intend to make a protected disclosure, related to their employment.
- (5) Any whistleblower who is dismissed from their employment may refer their case to the Office of the Whistleblower, regardless of whether whistleblowing is cited as a cause of their dismissal.
- (6) A person who intentionally or recklessly submits a whistleblower to detriment is guilty of an offence.
- (7) For the purposes of this section, the maximum amount of the fine shall be –
  - (a) in the case of an individual, 10% of their gross annual income, not exceeding £50,000;
  - (b) in any other case, an amount not exceeding 10% of the entity’s annual global turnover.
- (8) Cases arising from subsection (6) are to be heard by the Employment Tribunal.
- (9) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.””

***Member's explanatory statement***

*This amendment establishes the Office of the Whistleblower to protect whistleblowers, oversee whistleblowing processes, and enforce compliance with reporting standards. It also allows dismissed whistleblowers to refer their cases to the Office and expands the definition of protected disclosures to cover various public interest concerns, including criminal offences and mismanagement of public funds.*

BARONESS KRAMER  
BARONESS MORGAN OF COTES

After Clause 26, insert the following new Clause —

**“Regulations to protect whistleblowers**

- (1) The Secretary of State must, by regulations, make provision to —
  - (a) extend the circumstances in which an employee is considered unfairly dismissed after making a protected disclosure, and
  - (b) require employers to take reasonable steps to investigate any disclosure made to them under section 43C of the Employment Rights Act 1996.
- (2) Regulations made under subsection 1 apply to any employer with —
  - (a) 50 or more employees,
  - (b) an annual business turnover or annual balance sheet total of £10 million or more,
  - (c) operations in financial services, or
  - (d) vulnerabilities in other respects to money laundering or terrorist financing.
- (3) When making regulations under subsection (1)(b), the Secretary of State must set out in statutory guidance what “reasonable steps” should include.
- (4) The Secretary of State must make regulations under this section within six months of the day on which this Act is passed.
- (5) Regulations under this section are subject to the negative resolution procedure.”

***Member's explanatory statement***

*This new clause requires the Secretary of State to make regulations strengthening whistleblower protections by broadening unfair dismissal grounds and obliging certain employers to take reasonable steps to investigate protected disclosures.*

BARONESS GREY-THOMPSON

After Clause 26, insert the following new Clause —

**“Serious childhood illness pay and leave**

The Secretary of State must, by regulations made by statutory instrument subject to the affirmative resolution procedure, amend section 171ZZ16 (entitlement) of the Social Security Contributions and Benefits Act 1992 and section 80EF (neonatal

care leave) of the Employment Rights Act 1996 so that the provisions in those sections extend to parents caring for a child up to the age of 16.”

***Member's explanatory statement***

*This amendment introduces a right for parents to be absent from work for a prescribed period, and to be paid during that period at a prescribed rate, to care for a child between the ages of 29 days and 16 years who is receiving, or has received, specified types of medical or palliative care.*

LORD PALMER OF CHILDS HILL  
LORD ASHCOMBE

After Clause 26, insert the following new Clause —

**“Right to be accompanied by a certified professional companion**

- (1) Section 10 of the Employment Relations Act 1999 (right to be accompanied) is amended as follows.
- (2) In subsection (3), after paragraph (b) insert —
  - “(ba) a person who has been reasonably certified in writing by a professional body as having experience of, or as having received training in, acting as a worker’s companion at disciplinary or grievance hearings, or”.
- (3) After subsection (7) insert —
  - “(8) In this section, “professional body” means any organisation which is authorised by regulations made by statutory instrument.”.
- (4) In section 42 of the Employment Relations Act 1999 (orders and regulations), after “3,” insert “10(8),”.

***Member's explanatory statement***

*This new clause would expand the right to be accompanied by a certified companion at disciplinary and grievance hearings. It would also give the Secretary of State the power to authorise such bodies by regulation, subject to the affirmative procedure, thereby ensuring parliamentary oversight.*

BARONESS FOX OF BUCKLEY  
LORD SHARPE OF EPSOM  
LORD ASHCOMBE

After Clause 26, insert the following new Clause —

**“Right to be accompanied**

- (1) Section 10 of the Employment Relations Act 1999 (right to be accompanied) is amended as follows.
- (2) Omit subsection (2A)(b).
- (3) Omit subsection (3).”

***Member's explanatory statement***

*This new Clause removes the restriction of a trade union as only being those who may accompany a worker. This will allow any person the worker chooses to accompany the worker; for example, family, friends, professionals from the relevant industry etc. It retains the provision that the worker may only be accompanied by one companion.*

BARONESS PENN  
LORD PALMER OF CHILDS HILL  
LORD HAMPTON  
BARONESS LISTER OF BURTERSETT  
*Revised version of the amendment printed on 4 July*

★

After Clause 26, insert the following new Clause —

**“Statutory parental leave: length and pay**

- (1) The Secretary of State must lay a comprehensive review of all statutory parental leave before Parliament by no later than 1 January 2027.
- (2) Within six months of the publication of the review set out in subsection (1), the Secretary of State must by regulations increase the rate of pay for statutory parental leave and pay available to fathers and second parents in the first year after their child is born.
- (3) By 1 January 2030, the Secretary of State must by further regulations provide for at least six weeks of non-transferable paid leave to be paid to fathers and second parents in the first year after their child is born.
- (4) Regulations under subsection (3) must be set as a minimum at the level of —
  - (a) 90% of a father’s salary, or
  - (b) the level of median gross full-time employee earnings in the United Kingdom, defined by the ONS Annual Survey for Hours and Earnings, whichever is lower.
- (5) Regulations under this section are subject to the affirmative resolution procedure.”

***Member's explanatory statement***

*This amendment seeks to improve the length and pay of leave for fathers in line with recommendations from the Women and Equalities Select Committee report ‘Equality at Work: Paternity and Shared Parental Leave’.*

BARONESS PENN  
LORD PALMER OF CHILDS HILL

After Clause 26, insert the following new Clause —

**“Publication of information about parental leave and pay policies: regulations**

- (1) The Secretary of State must make regulations to require any employer with more than 250 employees to publish information on the internet about the employer’s policies on parental leave and pay for parental leave.
- (2) Regulations under subsection (1) must be published within one year of the day on which this Act is passed.
- (3) Regulations under this section are subject to the affirmative resolution procedure.”

***Member’s explanatory statement***

*This amendment seeks to require companies with more than 250 employees to publish information about their parental leave and pay policies.*

BARONESS PENN  
LORD PALMER OF CHILDS HILL

After Clause 26, insert the following new Clause —

**“Statutory paternity pay**

In section 171ZA(2) of the Social Security Contributions and Benefits Act 1992, omit paragraphs (b) and (d).”

***Member’s explanatory statement***

*This amendment seeks to make statutory paternity pay a day one employment right.*

LORD HOLMES OF RICHMOND

★

After Clause 26, insert the following new Clause —

**“Prohibition of unpaid work experience for a period exceeding four weeks**

- (1) The National Minimum Wage Act 1998 is amended as follows.
- (2) After section 3(3) (exclusion of, and modifications for, certain classes of person) insert —
  - “(3A) “No provision shall be made under subsection (2)(a) in respect of persons participating in a scheme designed to provide work experience for a continuous or non-continuous period which exceeds four weeks.””

- (3) After section 41 (power to apply Act to individuals who are not otherwise “workers”) insert—

**“41A Application of this Act to persons undertaking work experience**

- (1) The Secretary of State must, in exercising the powers under section 41, provide that this Act applies to a person undertaking work experience with the same employer for a continuous or non-continuous period which exceeds four weeks.
- (2) The Secretary of State must make regulations in accordance with subsection (1) within a period of six months, beginning with the day on which the Employment Rights Act 2025 is passed.
- (3) Such regulations must provide that a person undertaking such work experience who has ceased to be of compulsory school age, but has not attained the age of 26, is eligible to receive the national minimum wage at the rate specified for workers of the person’s age.
- (4) In this section—  
“employer” has the meaning given to it by subsection 54(4) of this Act (Meaning of “worker”, “employee” etc.), and also includes any organisation which provides an individual with work experience;  
“work experience” means observing, replicating, assisting with and carrying out any task with the aim of gaining experience of a particular workplace, organisation, industry or work-related activity.””

***Member’s explanatory statement***

*This amendment seeks to ensure that unpaid work experience cannot be used to avoid National Minimum Wage regulations.*

**Clause 34**

LORD HOLMES OF RICHMOND

★

Clause 34, page 61, line 2 at end insert—

- “(A1) After section 5(1)(ec) of the Employment Agencies Act 1973 (general regulations), insert—
- “(f) requiring the Secretary of State to introduce regulations for employment businesses participating in employment arrangements to underpin recognised certifications and industry standards, particularly for businesses acting as payment intermediaries.””

***Member’s explanatory statement***

*This amendment would ensure that the regulations the Government intend to bring forward for Payment Intermediaries (also known as umbrella companies) make use of the compliant part of the market’s existing industry led codes and accreditations. It does not involve the creation of a new body or the creation of a new framework.*

**After Clause 34****LORD GODDARD OF STOCKPORT**

After Clause 34, insert the following new Clause –

**“Employment law code of practice**

- (1) Within 30 months of the passage of this Act, the Secretary of State must publish a code of practice containing guidance for small and medium-sized enterprises on their legal obligations under this Act.
- (2) It is the purpose of the document to provide clarity for smaller and medium sized enterprises on compliance with the provisions contained in this Act.
- (3) The document must include, in particular –
  - (a) an overview of the relevant legal duties placed on employers under this Act;
  - (b) a practical framework outlining how such businesses can meet those duties;
  - (c) guidance on best practice suitable to businesses of this size.
- (4) The Code of Practice may be updated by the Secretary of State as they see fit.”

***Member's explanatory statement***

*This amendment requires the Secretary of State to publish a statutory code of practice for small businesses in adhering to the employment and legal requirements of this Act.*

**Schedule 4****BARONESS JONES OF WHITCHURCH**

Schedule 4, page 207, line 17, at end insert –

- “(6) Subsections (2) to (5) –
- (a) do not apply in relation to a term or condition of a person’s employment if, and to the extent that, giving effect to the agreement would alter the term or condition to the person’s detriment;
  - (b) do not prevent the terms and conditions of a person’s employment from including a term or condition that is more favourable to the person than that which would otherwise have effect by virtue of those subsections.”

***Member's explanatory statement***

*This amendment provides that an agreement of the School Support Staff Negotiating Body cannot alter a person’s terms and conditions of employment to make the person worse off, and does not prevent an employer from offering more favourable terms and conditions than those provided for by the agreement.*

## BARONESS JONES OF WHITCHURCH

Schedule 4, page 207, line 29, after “apply” insert “(but see subsection (8))”

***Member's explanatory statement***

*This amendment is consequential on my amendment of Schedule 4 at page 208, line 4.*

## BARONESS JONES OF WHITCHURCH

Schedule 4, page 208, line 4, at end insert —

“(8) Subsections (4) to (7) —

- (a) do not apply in relation to a term or condition of a person’s employment if, and to the extent that, giving effect to the regulations would alter the term or condition to the person’s detriment;
- (b) do not prevent the terms and conditions of a person’s employment from including a term or condition that is more favourable to the person than that which would otherwise have effect by virtue of those subsections.”

***Member's explanatory statement***

*This amendment provides that, where the School Support Staff Negotiating Body has been unable to reach an agreement about a matter and the Secretary of State makes regulations about the matter, the regulations cannot alter a person’s terms and conditions of employment to make the person worse off, and do not prevent an employer from offering more favourable terms and conditions than those provided for by the regulations.*

## BARONESS JONES OF WHITCHURCH

Schedule 4, page 208, leave out lines 8 to 14

***Member's explanatory statement***

*This amendment is consequential on my amendment of Schedule 4 at page 208, line 4.*

## BARONESS JONES OF WHITCHURCH

Schedule 4, page 208, line 22, leave out “(7)” and insert “(8)”

***Member's explanatory statement***

*This amendment is consequential on my amendment of Schedule 4 at page 208, line 4.*

**Clause 44**

## BARONESS JONES OF WHITCHURCH

Clause 44, page 66, line 22, at end insert —

“(5) Subsections (2) to (4) —



- (a) do not apply in relation to a term or condition of a social care worker's employment if, and to the extent that, giving effect to the agreement would alter the term or condition to the social care worker's detriment;
- (b) do not prevent the terms and conditions of a social care worker's employment from including a term or condition that is more favourable to the social care worker than that which would otherwise have effect by virtue of those subsections."

***Member's explanatory statement***

*This amendment provides that an agreement of a Social Care Negotiating Body cannot alter a person's terms and conditions of employment to make the person worse off, and does not prevent an employer from offering more favourable terms and conditions than those provided for by the agreement.*

**Clause 45**

BARONESS JONES OF WHITCHURCH

Clause 45, page 67, line 2, after "apply" insert "(but see subsection (8))"

***Member's explanatory statement***

*This amendment is consequential on my amendment of clause 45 at page 67, line 10.*

BARONESS JONES OF WHITCHURCH

Clause 45, page 67, line 10, at end insert—

"(8) Subsections (5) to (7)—

- (a) do not apply in relation to a term or condition of a social care worker's employment if, and to the extent that, giving effect to the regulations would alter the term or condition to the social care worker's detriment;
- (b) do not prevent the terms and conditions of a social care worker's employment from including a term or condition that is more favourable to the social care worker than that which would otherwise have effect by virtue of those subsections."

***Member's explanatory statement***

*This amendment provides that, where a Social Care Negotiating Body has been unable to reach an agreement about a matter and the appropriate authority makes regulations about the matter, the regulations cannot alter a person's terms and conditions of employment to make the person worse off, and do not prevent an employer from offering more favourable terms and conditions than those provided for by the regulations.*

**Clause 46**

BARONESS JONES OF WHITCHURCH

Clause 46, page 67, line 27, at end insert —

- “(3A) Regulations under this section that by virtue of subsection (2)(b) make provision about the consequences of a failure to comply with a duty imposed by the regulations in relation to a provision of guidance or a code of practice must provide for the guidance or code to be laid before the appropriate legislature and subject to the procedure specified.”

***Member's explanatory statement***

*This amendment provides that, where regulations under clause 46 provide for the issuing of guidance or a code of practice by the Secretary of State, and make provision about the consequences of a failure to comply with a duty imposed in relation to the guidance or code, the regulations must provide for the guidance or code to be laid before Parliament and to be subject to the procedure specified in the regulations. The amendment also imposes an equivalent duty in relation to regulations made by the Welsh Ministers or Scottish Ministers.*

BARONESS JONES OF WHITCHURCH

Clause 46, page 67, line 28, after “section” insert “ —

“the appropriate legislature” means —

- (a) in the case of regulations of the Secretary of State, Parliament;
- (b) in the case of regulations of the Welsh Ministers, Senedd Cymru;
- (c) in the case of regulations of the Scottish Ministers, the Scottish Parliament;”

***Member's explanatory statement***

*This amendment is consequential on my other amendment of this clause.*

**Clause 49**

BARONESS JONES OF WHITCHURCH

Clause 49, page 69, leave out lines 13 to 19

***Member's explanatory statement***

*This amendment is consequential on my amendment of clause 45 at page 67, line 10.*

**Clause 54**

BARONESS JONES OF WHITCHURCH

Clause 54, page 73, line 32, leave out from “84A(2)” to end of line 34

***Member's explanatory statement***

*This amendment, together with my other amendment of this clause, provides that regulations under new section 84A(2) of the Merchant Shipping Act 1995 giving effect to international agreements relating to maritime employment will be subject to the affirmative resolution procedure.*

BARONESS JONES OF WHITCHURCH

Clause 54, page 73, leave out lines 37 to 42

***Member's explanatory statement***

*See the explanatory statement for my other amendment of this clause.*

**After Clause 54**

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

After Clause 54, insert the following new Clause —

**“Right to opt out of collective agreements**

- (1) A worker who is not a member of a trade union may elect, in writing, to opt out of the terms of a collective agreement that would otherwise apply to them under this Act.
- (2) In such a case, the worker shall be entitled to rely on the statutory rights conferred by this Act without reference to the collective agreement.”

***Member's explanatory statement***

*This amendment provides non-union workers with the right to opt out of collective agreements, reinforcing individual freedom of contract and protecting access to statutory entitlements.*

LORD PARKINSON OF WHITLEY BAY  
LORD FAULKNER OF WORCESTER  
THE EARL OF CLANCARTY

After Clause 54, insert the following new Clause —

**“CHAPTER 4**

INDUSTRIAL UNDERTAKINGS

**Restriction on the employment of children in industrial undertakings**

In section 1 of the Employment of Women, Young Persons, and Children Act 1920 (restrictions on the employment of women, young persons, and children in industrial undertakings), at the end of subsection (1) insert “(but voluntary work on a heritage railway or heritage tramway is not employment in an industrial undertaking)”.

## LORD HENDY

After Clause 54, insert the following new Clause—

**“Sectoral collective bargaining**

- (1) The Secretary of State may make regulations for the establishment of Statutory Joint Industrial Councils.
- (2) The regulations shall provide that—
  - (a) a Statutory Joint Industrial Council shall be composed of equal numbers of—
    - (i) nominees of employers’ associations (or nominees of employers) which appear to ACAS to represent employers in the sector, and
    - (ii) nominees of independent trade unions which appear to ACAS to represent workers in the sector;
  - (b) a Statutory Joint Industrial Council shall have the function of conducting collective bargaining to—
    - (i) establish levels and rates of remuneration (including pensions), terms, conditions and other benefits for those who work in the particular sector of the economy,
    - (ii) determine any other matter within the scope of section 178(2) of the Trade Union and Labour Relations (Consolidation) Act 1992 (collective agreements and collective bargaining),
    - (iii) formulate its constitution and procedural arrangements including a dispute resolution procedure,
    - (iv) resolve any other matter which the Statutory Joint Industrial Council desires to consider;
  - (c) any agreements reached by a Statutory Joint Industrial Council shall apply to the workers and employers in the relevant sector save to the extent that a previous or a subsequent contract or collective agreement makes more favourable provision;
  - (d) it is for the Secretary of State (in the light of advice from ACAS) to determine what constitutes a sector of the economy for the purposes of establishing a Statutory Joint Industrial Council; and
  - (e) a Statutory Joint Industrial Council may only be made following consultation with—
    - (i) nominees of employers’ associations (and/or nominees of employers) which appear to ACAS to represent employers in the sector, and
    - (ii) nominees of independent trade unions which appear to ACAS to represent workers in the sector.
- (3) Regulations made under this section are subject to the affirmative resolution procedure.”

***Member's explanatory statement***

*This amendment is intended to enable regulations to be laid for sectoral collective bargaining in particular sectors of the economy. The concept of the Statutory Joint Industrial Council is taken*

*from s.90 and Schedule 8, Employment Protection Act 1975, reproduced in Part II of the Wages Councils Act 1979.*

### Clause 56

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Clause 56, page 76, line 35, at end insert—

- “(c) may not be made if the employer in question is a small or medium-sized enterprise.”

#### ***Member's explanatory statement***

*This amendment and others in the name of Lord Sharpe of Epsom provide that a trade union cannot give an access request if the employer is a small or medium-sized business, unless the Secretary of State has provided for this in regulations. Such regulations (where they affect small or medium-sized businesses) may not be made before 6 April 2028, and without prior consultation and publication of an impact assessment. They also provide that the Secretary of State must consult and publish an impact assessment prior to making regulations to vary the required percentage.*

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Clause 56, page 77, line 14, at end insert—

““small or medium-sized business” shall have the meaning given to it in section 7 of the Small Business, Enterprise and Employment Act 2015.

- (7) The Secretary of State may by regulations made by statutory instrument provide for the disapplication of subsection (2)(c), whether in respect of small or medium-sized businesses of a specified class, or in respect of small or medium-sized businesses generally.
- (8) Regulations made under subsection (7) may not be made—
- (a) unless the Secretary of State has—
    - (i) consulted with small or medium-sized businesses and their representatives on the potential impacts of extending the provisions of this Chapter to small or medium-sized businesses;
    - (ii) prepared and published a review on the impact of extending the provisions of this Chapter to small or medium-sized businesses, and laid a document containing that review before each House of Parliament;
  - (b) in any event, before 6 April 2028.
- (9) A statutory instrument containing regulations under subsection (7) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

***Member's explanatory statement***

*This amendment and others in the name of Lord Sharpe of Epsom provide that a trade union cannot give an access request if the employer is a small or medium-sized business, unless the Secretary of State has provided for this in regulations. Such regulations (where they affect small or medium-sized businesses) may not be made before 6 April 2028, and without prior consultation and publication of an impact assessment. They also provide that the Secretary of State must consult and publish an impact assessment prior to making regulations to vary the required percentage.*

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Clause 56, page 85, leave out lines 23 to 25 and insert “a panel of three members of the Committee”

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Clause 56, page 85, leave out lines 26 to 29

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Clause 56, page 86, leave out lines 9 to 15

**Schedule 6**

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Schedule 6, page 227, line 12, leave out sub-paragraphs (3) and (4)

***Member's explanatory statement***

*This amendment and others in the name of Lord Sharpe maintain the existing 10% membership threshold for union recognition applications by removing provisions that would have allowed this threshold to be modified through secondary legislation.*

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Schedule 6, page 227, line 22, leave out sub-paragraphs (6) and (7)

***Member's explanatory statement***

*This amendment and others in the name of Lord Sharpe maintain the existing 10% membership threshold for union recognition applications by removing provisions that would have allowed this threshold to be modified through secondary legislation.*

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Schedule 6, page 241, line 16, leave out “the required percentage (see paragraph 171B)” and insert “10 per cent”

***Member's explanatory statement***

*This amendment and others in the name of Lord Sharpe maintain the existing 10% membership threshold for union recognition applications by removing provisions that would have allowed this threshold to be modified through secondary legislation.*

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Schedule 6, page 243, line 10, leave out “the required percentage (see paragraph 171B)” with “10 per cent”

***Member's explanatory statement***

*This amendment and others in the name of Lord Sharpe maintain the existing 10% membership threshold for union recognition applications by removing provisions that would have allowed this threshold to be modified through secondary legislation.*

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Schedule 6, page 244, line 12, leave out paragraph 34

***Member's explanatory statement***

*This amendment and others in the name of Lord Sharpe maintain the existing 10% membership threshold for union recognition applications by removing provisions that would have allowed this threshold to be modified through secondary legislation.*

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Schedule 6, page 254, line 22, leave out “the required percentage (see paragraph 171B)” and insert “10 per cent”

***Member's explanatory statement***

*This amendment and others in the name of Lord Sharpe maintain the existing 10% membership threshold for union recognition applications by removing provisions that would have allowed this threshold to be modified through secondary legislation.*

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Schedule 6, page 254, line 26, leave out “the required percentage” and insert “10 per cent”

***Member's explanatory statement***

*This amendment and others in the name of Lord Sharpe maintain the existing 10% membership threshold for union recognition applications by removing provisions that would have allowed this threshold to be modified through secondary legislation.*

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Schedule 6, page 254, line 36, leave out “the required percentage” and insert “10 per cent”

***Member's explanatory statement***

*This amendment and others in the name of Lord Sharpe maintain the existing 10% membership threshold for union recognition applications by removing provisions that would have allowed this threshold to be modified through secondary legislation.*

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Schedule 6, page 269, line 32, leave out paragraph 65

***Member's explanatory statement***

*This amendment and others in the name of Lord Sharpe maintain the existing 10% membership threshold for union recognition applications by removing provisions that would have allowed this threshold to be modified through secondary legislation.*

LORD LUCAS

Schedule 6, page 269, line 34, at end insert “constituting at least 3 workers”

***Member's explanatory statement***

*This amendment seeks to avoid inadvertently putting further pressure on SMEs, by requiring further minimum thresholds for the required percentage.*

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Schedule 6, page 270, line 9, at end insert —

- “(5) Regulations made under sub-paragraph (2) that affect small or medium-sized businesses may not be made unless the Secretary of State has—
  - (a) consulted with small or medium-sized businesses and their representatives on the impacts of varying the required percentage, and whether different provision should be made for small or medium-sized businesses;
  - (b) prepared and published a review on the impact on small or medium-sized businesses of varying the required percentage, and



laid a document containing that review before each House of Parliament.”

***Member's explanatory statement***

*This amendment and others in the name of Lord Sharpe of Epsom provide that a trade union cannot give an access request if the employer is a small or medium-sized business, unless the Secretary of State has provided for this in regulations. Such regulations (where they affect small or medium-sized businesses) may not be made before 6 April 2028, and without prior consultation and publication of an impact assessment. They also provide that the Secretary of State must consult and publish an impact assessment prior to making regulations to vary the required percentage.*

**Clause 65**

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Clause 65, page 96, line 23, leave out subsection (2)

***Member's explanatory statement***

*This probing amendment would reinstate the 50% threshold requirement for industrial action to be voted on by a trade union and seeks to probe whether the Government perceives a risk to the democratic integrity of trade union ballots for industrial action as a result of the provisions to remove the 50% requirement.*

LORD EVANS OF RAINOW

Clause 65, page 96, line 26, leave out paragraph (b)

***Member's explanatory statement***

*This amendment would maintain the 50% threshold requirement in section 226(2)(a) of the 1992 Act for industrial action decisions. This represents a balance between protecting workers' rights while ensuring industrial action has broad workforce support.*

**After Clause 72**

LORD HENDY

After Clause 72, insert the following new Clause –

**“Right to take industrial action**

- (1) The Trade Union and Labour Relations (Consolidation) Act 1992 is amended as follows.
- (2) In section 220 (peaceful picketing) –
  - (a) in subsection (1), for paragraphs (a) and (b) substitute “a place of work”;
  - (b) omit subsections (2) to (4).
- (3) Omit section 224 (secondary action).

- (4) In section 244 (meaning of “trade dispute” in Part V) –
  - (a) in subsection (1), for “a dispute between workers and their employer which relates wholly or mainly to” substitute “a dispute between workers and one or more employers connected with”;
  - (b) in subsection (5), for “a worker employed by that employer” substitute “a worker employed by an employer”.

***Member's explanatory statement***

*These amendments would remove the provisions (in sections 224 and 244) that render unlawful all forms of ‘secondary’ industrial action including the rights of pickets to picket places of work other than their own.*

**Clause 73**

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Clause 73, page 101, line 27, at end insert –

**“236E Actions short of a strike: exemption**

- (1) The right of a worker not to be subjected to detriment under section 236A does not apply in cases where the worker is involved in one or more of the following activities –
  - (a) intimidation at picket lines,
  - (b) protests organised by trade unions in furtherance of a dispute –
    - (i) at the premises of a company,
    - (ii) at the private residences of senior managers, or
    - (iii) at the premises of other organisations that are connected with the dispute,
  - (c) harassment or bullying of non-striking workers, or those who are covering for striking workers,
  - (d) victimisation or harassment of senior managers, or
  - (e) action aimed at damaging property or disrupting business contingency planning.
- (2) The Secretary of State must ensure that the circumstances under subsection (1), in which the right of a worker not to be subjected to detriment do not apply, are set out in a code of practice.”

***Member's explanatory statement***

*This amendment would disapply the right not to suffer detriment as a result of industrial action in certain circumstances.*

**Clause 75**

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Leave out Clause 75

**Clause 113**

LORD CARTER OF HASLEMERE  
LORD SHARPE OF EPSOM  
BARONESS NEVILLE-ROLFE

Leave out Clause 113

**Schedule 10**

BARONESS JONES OF WHITCHURCH

Schedule 10, page 282, line 28, leave out “that subsection” and insert “subsection (3)”

***Member's explanatory statement***

*This amendment corrects an incorrect cross-reference.*

BARONESS JONES OF WHITCHURCH

Schedule 10, page 293, line 17, at end insert—

“(ga) Schedule 1;”

***Member's explanatory statement***

*This amendment provides for the repeal of Schedule 1 to the Immigration Act 2016 as a consequence of the abolition of the Director of Labour Market Enforcement.*

BARONESS JONES OF WHITCHURCH

Schedule 10, page 293, line 19, leave out “9, 11,”

***Member's explanatory statement***

*The effect of this amendment is to repeal paragraph 10 of Schedule 3 to the Immigration Act 2016, which is not needed as a result of the repeal of paragraphs 11 and 12 of that Schedule by the Bill.*

**After Clause 150**

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

After Clause 150, insert the following new Clause –

**“Disapplication for businesses with fewer than 50 employees**

None of the amendments made by sections 1 to 6, 8 to 13, 27, 55, 56 or 62 apply to businesses with fewer than 50 employees.”

***Member's explanatory statement***

*This amendment seeks to disapply specific provisions of the Bill for businesses with fewer than 50 employees.*

THE EARL OF CLANCARTY  
LORD FREYBERG  
LORD CLEMENT-JONES  
LORD SHARPE OF EPSOM

*Revised version of the amendment published on 26 June*

After Clause 150, insert the following new Clause –

**“Independent Freelance Commissioner**

- (1) There is to be an office known as the Office of the Freelance Commissioner.
- (2) The Office in subsection (1) must be established by the Secretary of State by regulations three months after the day on which this Act is passed.
- (3) The Office of the Freelance Commissioner will be led by an individual appointed by the Secretary of State titled the “Independent Freelance Commissioner”.
- (4) The role in subsection (3) is referred to as the “Freelance Commissioner”.
- (5) The Freelance Commissioner may appoint staff to the Office of the Freelance Commissioner they consider necessary for assisting in the exercise of their functions in subsection (6).
- (6) The Freelance Commissioner is responsible for –
  - (a) representing the interests of freelance workers in the application of employment rights under this Act,
  - (b) ensuring fair treatment of freelance workers across different sectors,
  - (c) regularly engaging with sectors with high proportions of freelance workers about the application of provisions of this Act,
  - (d) gathering and analysing data about the freelance workforce,
  - (e) identifying issues and finding solutions to challenges faced by freelance workers as a result of provisions in this Act, and
  - (f) ensuring that the duty to consider the freelancer workforce under section (*Duty to consider freelancer workforce*) of the Employment Rights Act 1996 is discharged properly.

- (7) The Freelance Commissioner must publish an annual report on the discharge of their functions set out in subsection (6) and lay this report before Parliament.
- (8) For this purpose of this section, a freelancer is defined according to section (definition of “freelancer”) of the Employment Rights Act 1996.
- (9) Regulations under this section are subject to the negative resolution procedure.”

***Member's explanatory statement***

*This amendment establishes the office of the Freelance Commissioner and makes provisions for relevant duties and responsibilities.*

LORD CLEMENT-JONES  
THE EARL OF CLANCARTY  
LORD FREYBERG

After Clause 150, insert the following new Clause —

**“Definition of “freelancer”**

After section 230 of the Employment Rights Act 1996 (employees, workers etc) insert —

**“230A Definition of “freelancer”**

- (1) For the purposes of this Act, a “freelancer” means an individual who is engaged to work by a company directly on flexible contracts, through their own company or through other companies on a short-term basis, and who is typically responsible for their own tax and national insurance contributions and is not entitled to the same employment rights as employees.
- (2) The Secretary of State may, by regulations, issue further guidance on the factors to be considered when determining whether an individual is a “freelancer” for the purposes of this Act, taking into account evolving working practices and relevant case law.””

***Member's explanatory statement***

*This amendment provides a definition of a freelancer.*

LORD CLEMENT-JONES  
THE EARL OF CLANCARTY  
LORD FREYBERG

After Clause 150, insert the following new Clause –

**“Duty to consider freelancer workforce**

After section 230 of the Employment Rights Act 1996 (employees, workers etc) insert –

**“230A Duty to consider freelancer workforce**

- (1) When formulating new policies or regulations that may impact the workforce, relevant government departments, including but not limited to the Department for Business and Trade, the Department for Work and Pensions, and the Department for Culture, Media and Sport, must have due regard to the specific needs and circumstances of the freelancer workforce, as defined in section 230A.
- (2) The Freelance Commissioner must be consulted during the development of any such policies or regulations to provide expert advice on their potential impact on freelancers.”

***Member's explanatory statement***

*This amendment places a duty on government departments to consider the needs of freelancers when developing new policies and regulations.*

LORD FREYBERG  
THE EARL OF CLANCARTY  
LORD CLEMENT-JONES

After Clause 150, insert the following new Clause –

**“Impact assessment: arts and cultural organisations**

Within 12 months of the day on which this Act is passed, the Secretary of State must publish an assessment of the impact of provisions in this Act on arts and cultural organisations.”

***Member's explanatory statement***

*This amendment mandates the government to assess the financial impact of new employment protections on arts and cultural organisations.*

LORD FREYBERG  
THE EARL OF CLANCARTY  
LORD CLEMENT-JONES

After Clause 150, insert the following new Clause –

**“Independent review board**

- (1) Within six months of the day on which this Act is passed, the Secretary of State must establish an independent review board to monitor the impact of changes made to employment rights by this Act on the arts and cultural sector.
- (2) The independent review board must –
  - (a) conduct annual impact assessments, including consideration of employment rates and sector growth,
  - (b) recommend policy adjustments if evidence shows that changes to employment rights made by this Act are leading to unintended consequences, and
  - (c) hear representations from trade unions, the arts and cultural sector and any other such persons they see fit.”

***Member's explanatory statement***

*This amendment establishes an independent review board to monitor the real-world impact of employment reforms on cultural institutions through annual assessments and policy recommendations, ensuring that new regulations can be adjusted if they lead to unintended consequences such as job losses or organisational closures.*

LORD FREYBERG  
*Revised version of the amendment published on 27 June*

After Clause 150, insert the following new Clause –

**“Ministerial responsibility for assessing and acting on the impact of this Act on freelancers**

- (1) The Prime Minister must specify a Minister of the Crown to be responsible for assessing the impact of provisions in this Act on freelancers.
- (2) The Minister appointed by virtue of subsection (1) is responsible for –
  - (a) analysing available data about the freelance workforce,
  - (b) engaging with sectors with high proportions of freelance workers about the application of provisions of this Act,
  - (c) identifying issues and recommending necessary changes to improve employment rights for freelance workers.
- (3) Following an assessment under subsection (2), the Minister must take steps to –
  - (a) represent the interests of freelance workers in the application of employment rights under this Act,
  - (b) ensure fair treatment of freelance workers across different sectors,

- (c) ensure that relevant government departments, including but not limited to the —
  - (i) Department for Business and Trade,
  - (ii) Department for Work and Pensions,
  - (iii) Department for Culture, Media and Sport,
  - (iv) Department for Education, and
  - (v) Department for Science, Innovation and Technology,
 have due regard to the specific needs and circumstances of the freelance workforce.
- (4) The Minister must publish reports on the discharge of their functions set out in subsections (2) and (3) and lay this report before Parliament.
- (5) For the purposes of this section, a “freelancer” means an individual who is engaged to work by a company directly on flexible contracts, through their own company or through other companies on a short-term basis, and who is typically responsible for their own tax and national insurance contributions and is not entitled to the same employment rights as employees.
- (6) The Secretary of State may, by regulations subject to the negative procedure, issue further guidance on the factors to be considered when determining whether an individual is a “freelancer” for the purposes of this Act, taking into account evolving working practices and relevant case law.”

***Member's explanatory statement***

*This amendment creates a dedicated ministerial position responsible for managing the impact of employment legislation on freelancers and makes provisions for relevant duties and responsibilities.*

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

After Clause 150, insert the following new Clause —

**“Review of impact on small businesses**

- (1) The Secretary of State must conduct a review of the impact of this Act on small businesses.
- (2) The review must be carried out no later than 18 months after the day on which this Act is passed.
- (3) The Secretary of State must publish the findings of the review within three months of its completion.
- (4) In this section, “small business” means a business that employs fewer than 50 employees.”

***Member's explanatory statement***

*This new clause requires the Secretary of State to conduct and publish a review of the impact of the Act on small businesses within 18 months of its passage.*



LORD FREYBERG  
THE EARL OF CLANCARTY

After Clause 150, insert the following new Clause —

**“Report: freelancers, self-employed persons and sole traders**

- (1) Within nine months of the day on which this Act is passed, the Secretary of State must publish a report setting out —
  - (a) fixed definitions of the following categories of workers —
    - (i) freelancers,
    - (ii) self-employed persons, and
    - (iii) sole traders,
  - (b) an assessment of how the categories of worker in subsection (1)(a) may be impacted differently by the provisions of this Act, and
  - (c) recommendations to ensure fair and equitable treatment of workers across the categories in subsection (1)(a).
- (2) The Secretary of State must lay the report under subsection (1) before Parliament.”

***Member's explanatory statement***

*This probing amendment seeks to clarify how the Government defines freelancers, self-employed persons and sole traders, and to understand how this Bill may affect those categories of worker.*

LORD HOLMES OF RICHMOND

★ After Clause 150, insert the following new Clause —

**“Employer use of AI**

Any employer who develops, deploys or uses AI in relation to their workers must ensure that such use of AI adheres to the principles of —

- (a) safety, security and robustness,
- (b) transparency and explainability,
- (c) fairness,
- (d) accountability, assurance and governance,
- (e) accessibility and inclusive by design, and
- (f) contestability and redress.”

LORD HOLMES OF RICHMOND

★ After Clause 150, insert the following new Clause —

**“AI responsible officers**

- (1) The Secretary of State, having consulted those organisations and individuals that they consider appropriate, must by regulations provide that any business which develops, deploys or uses AI, in relation to their workers, must have a designated AI officer, with duties —

- (a) to ensure the safe, ethical, unbiased and non-discriminatory use of AI by the business in relation to their workers,
  - (b) to ensure, so far as reasonably practicable, that data used by the business in any AI technology is unbiased.
- (2) Regulations under subsection (1) are subject to the negative resolution procedure.
- (3) Section 414C of the Companies Act 2006 (contents of strategic report) is amended as follows.
- (4) After sub-paragraph (7)(b)(iii), insert –
  - “(iv) any development, deployment or use of AI by the company, and the name and activities of the AI officer designated under the Employment Rights Act 2025”.

LORD HOLMES OF RICHMOND

★

After Clause 150, insert the following new Clause –

**“Employer and worker development, deployment or use of AI: Transparency, IP obligations and labelling**

- (1) The Secretary of State, after consulting such persons as they consider appropriate, must by regulations provide that –
  - (a) any worker involved in training AI must –
    - (i) supply to the relevant Government department a record of all third-party data and intellectual property (“IP”) used in that training, and
    - (ii) assure the relevant department that they use all such data and IP by informed consent; and comply with all applicable IP and copyright obligations,
  - (b) any worker supplying a product or service involving AI must give customers clear and unambiguous health warnings, labelling and opportunities to give or withhold informed consent in advance, and
  - (c) any employer which develops, deploys or uses AI in relation to their workers must allow independent third parties accredited by a designated body to audit its processes and systems.
- (2) Regulations under this section must provide for informed consent to be expressed via an opt-in procedure.
- (3) Regulations under subsection (1) are subject to the negative resolution procedure.”

## LORD HOLMES OF RICHMOND

★ After Clause 150, insert the following new Clause –

**“AI use of a worker’s data**

No worker’s data can be ingested by AI, sold on to AI businesses or used in AI in any way without the express consent, on an opt-in basis, of that worker.”

## LORD HOLMES OF RICHMOND

★ After Clause 150, insert the following new Clause –

**“AI use in the workplace**

No worker can be subject to any form of AI in the course of their work without them being meaningfully informed that AI is being used and having the right to decide whether they will be subject to use of that AI on an opt-in basis.”

## LORD HOLMES OF RICHMOND

★ After Clause 150, insert the following new Clause –

**“Blind and sight-impaired people employment gap: Task and Finish Group**

- (1) On the day on which this Act is passed, the Secretary of State must establish a Task and Finish Group to consider all the evidence as to why the level of employment for blind and sight-impaired people has remained so far below the overall employment level in the UK for so long.
- (2) The Group must produce a cross-economy, cross-society, cross-government action plan within 18 months of its establishment.”

## LORD HOLMES OF RICHMOND

★ After Clause 150, insert the following new Clause –

**“AI in recruitment and employment**

- (1) On the day on which this Act is passed, the Secretary of State must commission a review into the uses of AI in the fields of recruitment and employment.
- (2) The review must consider –
  - (a) such matters as the creation of a new regulator for the uses of AI in recruitment and employment, and
  - (b) whether a cross sector, agile AI Regulator would enable the uses of AI in recruitment and employment to be covered alongside all other uses of AI in the economy, ensuring clarity and consistency of regulatory approach.”

## LORD HOLMES OF RICHMOND

★ After Clause 150, insert the following new Clause –

**“Task and Finish Group: AI in the workplace**

- (1) On the day on which this Act is passed, the Secretary of State must establish a Task and Finish Group on AI in the workplace.
- (2) The Group in subsection (1) may consider issues such as the effect of AI on employees and their rights at work.
- (3) Within 12 months of the day on which this Act is passed, the Group established by subsection (1) must publish a report with recommendations to the Government and employers about the means by which AI-augmented work can be underpinned by trust and responsible development and deployment.
- (4) The Secretary of State must lay the report in subsection (3) before both Houses of Parliament.”

## LORD HOLMES OF RICHMOND

★ After Clause 150, insert the following new Clause –

**“Challenges posed by algorithmic allocation of work by employers**

- (1) On the day on which this Act is passed, the Secretary of State must launch a project to investigate the potential challenges posed by the algorithmic allocation of work by employers.
- (2) Within 12 months of the day on which this Act is passed, the project must report to the Secretary of State with recommendations for statutory guidance to manage the challenges posed by the algorithmic allocation of work by employers.
- (3) The statutory guidance under subsection (2) must be underpinned by concepts such as –
  - (a) human in the loop procedures,
  - (b) right to challenge algorithmic decisions, and
  - (c) right to a readily understandable explanation of algorithmic decisions in a language or form of the employee’s choice.”

**Clause 156**

LORD SHARPE OF EPSOM  
LORD HUNT OF WIRRAL

Clause 156, page 153, line 25, at end insert “but section 20 may not come into force until 1 October 2027.”

***Member’s explanatory statement***

*This amendment prevents Clause 20 from coming into force until October 2027.*



# Employment Rights Bill

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## RUNNING LIST OF ALL AMENDMENTS ON REPORT

*Tabled up to and including  
8 July 2025*

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*8 July 2025*

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