

# Employment Rights Bill

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## COMMONS AGREEMENT AND AMENDMENTS, DISAGREEMENTS, AMENDMENTS IN LIEU AND AMENDMENT TO THE WORDS SO RESTORED TO THE BILL

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*[The page and line references are to HL Bill 81, the Bill as first printed for the Lords]*

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### Clause 1

#### LORDS AMENDMENT 1

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

#### COMMONS REASON

*The Commons disagree to Lords Amendment 1 for the following Reason –*

- 1A** *Because it is appropriate for workers who meet the qualifying criteria to receive a guaranteed hours offer without having to make a request for one.*

### Clause 3

#### LORDS AMENDMENT 7

- 7** Clause 3, page 23, line 14, 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).”

#### COMMONS REASON

*The Commons disagree to Lords Amendment 7 for the following Reason –*

- 7A** *Because it is unnecessary; the Bill already produces the effect provided for by the amendment.*

## LORDS AMENDMENT 8

- 8 Clause 3, page 23, line 17, leave out “a specified amount of time” and insert “48 hours”

## COMMONS REASON

*The Commons disagree to Lords Amendment 8 for the following Reason –*

- 8A *Because defining ‘short notice’ in the Bill would pre-empt consultation and limit the Government’s discretion.*

## After Clause 18

## LORDS AMENDMENT 21

- 21 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.”.

## COMMONS DISAGREEMENT AND AMENDMENTS IN LIEU

*The Commons disagree to Lords Amendment 21 but propose the following Amendments to the Bill in lieu of that Amendment –*

- 21A Page 42, line 5, at end insert the following new Clause –

**“Review of extent of right to time off for public duties**

- (1) The Secretary of State must, before the end of the relevant period –
  - (a) review the purposes for which employers are required to permit their employees to take time off in accordance with section 50 of the Employment Rights Act 1996 (right to time off for public duties), and
  - (b) publish a report setting out the findings of the review.
- (2) In carrying out the review, the Secretary of State must, in particular, consider whether employers should be required to permit their employees to take time off in accordance with that section for the purposes of performing the functions of a special constable.
- (3) In this section –

“the relevant period” means the period of 12 months beginning with the day on which this Act is passed;

“special constable” means –

- (a) a person appointed as a special constable for a police area in England and Wales,
- (b) a person appointed as a special constable under section 25 of the Railways and Transport Safety Act 2003 (special constables of the British Transport Police Force), or
- (c) a person appointed as a special constable under section 9 of the Police and Fire Reform (Scotland) Act 2012 (asp 8) (special constables of the Police Service of Scotland).”

**21B** Clause 156, page 150, line 13, at end insert –

“( ) section (*Review of extent of right to time off for public duties*)(review of extent of right to time off for public duties);”

#### **After Clause 22**

#### LORDS AMENDMENT 22

**22** After Clause 22, insert the following new Clause –

#### **“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”.

#### COMMONS AGREEMENT AND AMENDMENTS

*The Commons agree to Lords Amendment 22 and propose the following Amendments to that Amendment –*

- 22A** Line 65, leave out from “within” to “of” in line 66 and insert “any of sections 13, 15 to 19A and 21(2)”
- 22B** Line 77, leave out subsections (5) and (6)

#### Clause 23

#### LORDS AMENDMENT 23

- 23** 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.”

#### COMMONS REASON

*The Commons disagree to Lords Amendment 23 for the following Reason –*

- 23A** *Because it is appropriate for protection from unfair dismissal to apply from the beginning of a person’s employment.*

#### After Clause 26

#### LORDS AMENDMENT 46

- 46** 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.”

#### COMMONS REASON

*The Commons disagree to Lords Amendment 46 for the following Reason –*

- 46A** *Because it is inappropriate to make changes in the manner proposed to the protections for workers who make protected disclosures and to the duties of employers in relation to such disclosures.*

## LORDS AMENDMENT 47

**47** 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),”.

## COMMONS REASON

*The Commons disagree to Lords Amendment 47 for the following Reason –*

**47A** *Because requiring employers to permit workers to be accompanied at disciplinary or grievance hearings by persons other than trade union officials or other workers would likely lead to an increase in the cost, complexity and length of such hearings.*

## LORDS AMENDMENT 48

**48** After Clause 26, insert the following new Clause –

**“Definition of seasonal work**

- (1) In making regulations under Part 1 of this Act, the Secretary of State must have regard to the specific characteristics and requirements of seasonal work as defined in subsection (2).
- (2) “Seasonal work” means work that –
  - (a) is performed during a particular period or periods of the year,
  - (b) recurs substantially in the same periods each year,
  - (c) is directly linked to a predictable and temporary increase in demand for labour during those periods,
  - (d) includes work in sectors where such patterns are common, including but not limited to –
    - (i) agriculture and horticulture,
    - (ii) the creative industries, including theatre and live performance,
    - (iii) retail,
    - (iv) hospitality, and
    - (v) tourism and events, and

- (e) is entered into for a fixed duration not exceeding 26 weeks to meet the temporary demand.”

#### COMMONS REASON

*The Commons disagree to Lords Amendment 48 for the following Reason –*

**48A** *Because the amendment is unnecessary.*

#### LORDS AMENDMENT 49

**49** After Clause 26, insert the following new Clause –

##### **“Consultation on Part 1**

- (1) The Secretary of State must initiate a consultation on the effects of the provisions in Part 1 of this Act.
- (2) As part of the consultation under subsection (1), the Secretary of State must ensure that views are specifically sought from at least 500 small and medium-sized enterprises (SMEs).
- (3) The Secretary of State must lay before each House of Parliament, within 18 weeks of the initiation referred to in subsection (1), a report on the outcome of that consultation, including a summary of responses received from SMEs.”

#### COMMONS REASON

*The Commons disagree to Lords Amendment 49 for the following Reason –*

**49A** *Because the amendment is unnecessary.*

#### **After Clause 54**

#### LORDS AMENDMENT 60

**60** 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)”.

#### COMMONS REASON

*The Commons disagree to Lords Amendment 60 for the following Reason –*



- 60A** *Because the existing legal framework does not prevent children from carrying out suitable voluntary work on heritage railways and tramways.*

**Clause 59**

**LORDS AMENDMENT 61**

- 61** Leave out Clause 59

**COMMONS REASON**

*The Commons disagree to Lords Amendment 61 for the following Reason –*

- 61A** *Because it is appropriate to remove the requirement for members of a trade union to opt in to contributing to the political fund of the union.*

**Clause 65**

**LORDS AMENDMENT 62**

- 62** Clause 65, page 95, line 12, leave out subsection (2)

**COMMONS REASON**

*The Commons disagree to Lords Amendment 62 for the following Reason –*

- 62A** *Because it is appropriate to remove the provision that industrial action is regarded as having the support of a ballot only if at least 50% of those eligible to vote in the ballot did so.*

**Clause 156**

**LORDS AMENDMENT 72**

- 72** Clause 156, page 150, line 19, leave out paragraph (b)

**COMMONS REASON**

*The Commons disagree to Lords Amendment 72 for the following Reason –*

- 72A** *Because it is appropriate to remove the requirement for members of a trade union to opt in to contributing to the political fund of the union.*

**Schedule 3**

**LORDS AMENDMENT 106**

- 106** Schedule 3, page 188, line 25, 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.”.

#### COMMONS DISAGREEMENT AND AMENDMENT TO THE WORDS SO RESTORED TO THE BILL

*The Commons disagree to Lords Amendment 106 but propose the following Amendment to the words so restored to the Bill –*

**106A** Schedule 3, page 189, line 14, for “(3)” substitute “(6)”

#### LORDS AMENDMENT 107

**107** Schedule 3, page 190, line 26, 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”

#### COMMONS REASON

*The Commons disagree to Lords Amendment 107 for the following Reason –*

**107A** *Because it is appropriate for protection from unfair dismissal to apply from the beginning of a person’s employment.*

#### LORDS AMENDMENT 108

**108** Schedule 3, page 190, line 30, leave out “on or before the last day of” and insert “during”

#### COMMONS REASON

*The Commons disagree to Lords Amendment 108 for the following Reason –*

**108A** *Because it is appropriate for protection from unfair dismissal to apply from the beginning of a person’s employment.*

#### LORDS AMENDMENT 109

**109** Schedule 3, page 191, line 31, leave out from beginning to end of line 2 on page 192

#### COMMONS REASON

*The Commons disagree to Lords Amendment 109 for the following Reason –*

**109A** *Because it is appropriate for protection from unfair dismissal to apply from the beginning of a person’s employment.*

#### LORDS AMENDMENT 110

**110** Schedule 3, page 192, line 10, leave out paragraphs (b) and (c)

## COMMONS REASON

*The Commons disagree to Lords Amendment 110 for the following Reason –*

- 110A** *Because it is appropriate for protection from unfair dismissal to apply from the beginning of a person's employment.*

## LORDS AMENDMENT 111

- 111** Schedule 3, page 192, line 20, after “occurs” insert “before the employee has been continuously employed for the period set out in section 108(1) or”

## COMMONS REASON

*The Commons disagree to Lords Amendment 111 for the following Reason –*

- 111A** *Because it is appropriate for protection from unfair dismissal to apply from the beginning of a person's employment.*

## LORDS AMENDMENT 112

- 112** Schedule 3, page 192, line 26, leave out “for “she has been continuously employed for any period” substitute “the” and insert “after “any period” insert “or the”

## COMMONS REASON

*The Commons disagree to Lords Amendment 112 for the following Reason –*

- 112A** *Because it is appropriate for protection from unfair dismissal to apply from the beginning of a person's employment.*

## LORDS AMENDMENT 113

- 113** Schedule 3, page 192, line 29, leave out “for “he has been continuously employed for any period” substitute “the” and insert “after “any period” insert “or the”

## COMMONS REASON

*The Commons disagree to Lords Amendment 113 for the following Reason –*

- 113A** *Because it is appropriate for protection from unfair dismissal to apply from the beginning of a person's employment.*

## LORDS AMENDMENT 114

- 114** Schedule 3, page 192, line 32, leave out sub-paragraphs (3) and (4)

## COMMONS REASON

*The Commons disagree to Lords Amendment 114 for the following Reason –*

- 114A** *Because it is appropriate for protection from unfair dismissal to apply from the beginning of a person's employment.*

## LORDS AMENDMENT 115

- 115** Schedule 3, page 192, line 39, leave out sub-paragraphs (6) to (10)

## COMMONS REASON

*The Commons disagree to Lords Amendment 115 for the following Reason –*

- 115A** *Because it is appropriate for protection from unfair dismissal to apply from the beginning of a person's employment.*

## LORDS AMENDMENT 116

- 116** Schedule 3, page 193, line 12, leave out paragraph 7

## COMMONS REASON

*The Commons disagree to Lords Amendment 116 for the following Reason –*

- 116A** *Because it is appropriate for protection from unfair dismissal to apply from the beginning of a person's employment.*

## LORDS AMENDMENT 117

- 117** Schedule 3, page 193, line 22, leave out sub-paragraph (2)

## COMMONS REASON

*The Commons disagree to Lords Amendment 117 for the following Reason –*

- 117A** *Because it is appropriate for protection from unfair dismissal to apply from the beginning of a person's employment.*

## LORDS AMENDMENT 118

- 118** Schedule 3, page 193, line 38, leave out paragraphs (b) to (d)

## COMMONS REASON

*The Commons disagree to Lords Amendment 118 for the following Reason –*

- 118A** *Because it is appropriate for protection from unfair dismissal to apply from the beginning of a person's employment.*

## LORDS AMENDMENT 119

- 119** Schedule 3, page 194, line 1, leave out paragraph 11

## COMMONS REASON

*The Commons disagree to Lords Amendment 119 for the following Reason –*

- 119A** *Because it is appropriate for protection from unfair dismissal to apply from the beginning of a person's employment.*

LORDS AMENDMENT 120

- 120** Schedule 3, page 194, leave out lines 11 to 22

COMMONS REASON

*The Commons disagree to Lords Amendment 120 for the following Reason –*

- 120A** *Because it is appropriate for protection from unfair dismissal to apply from the beginning of a person's employment.*

**Schedule 4**

LORDS AMENDMENT 121

- 121** Schedule 4, page 195, line 18, at end insert –

“(3) The SSSNB must not restrict employers from introducing innovative or improved terms and conditions of employment beyond the national framework, provided that such terms meet or exceed any minimum standards set by the SSSNB.”

COMMONS REASON

*The Commons disagree to Lords Amendment 121 for the following Reason –*

- 121A** *Because the Bill already enables employers to offer terms and conditions of employment that are more favourable than those determined by the School Support Staff Negotiating Body.*

# Employment Rights Bill

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COMMONS AGREEMENT AND AMENDMENTS, DISAGREEMENTS, AMENDMENTS  
IN LIEU AND AMENDMENT TO THE WORDS SO RESTORED TO THE BILL

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*16 September 2025.*

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