

Employment Rights Bill

COMMONS REASONS, INSISTENCE, NON-INSISTENCE, DISAGREEMENTS AND AMENDMENTS IN LIEU

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

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.*

LORDS NON-INSISTENCE AND AMENDMENT IN LIEU

The Lords do not insist on their Amendment 1, to which the Commons have disagreed for their Reason 1A, and do propose Amendment 1B in lieu –

- 1B** Clause 1, page 2, line 14, at end insert –
- “(1A) From the date on which this section comes into force, after the end of each reference period the employer must send the worker a written notice explaining their right to receive a guaranteed hours offer under subsection (1) and giving them the opportunity to decline such an offer.
 - (1B) If the worker does not respond to the notice, or responds to confirm that they wish to receive an offer, the employer must make a guaranteed hours offer under subsection (1).
 - (1C) A worker who is sent a notice under subsection (1A) may at any time ask not to receive any further notices or offers, after which the employer must not send further notices or make offers under this section.

- (1D) A worker who has asked not to receive notices or offers under subsection (1C) may notify the employer that they wish to start receiving notices and offers again after the end of the next reference period, after which the employer must act in accordance with subsections (1A) and (1B)."

COMMONS REASON

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

- 1C** *Because it would weaken workers' rights to guaranteed hours.*

Clause 23

LORDS AMENDMENTS 23 AND 106 TO 120

- 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.*

Schedule 3

- 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)”

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.*

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.*

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.*

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.*

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.*

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.*

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.*

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.*

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.*

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.*

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.*

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.*

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.*

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.*

LORDS INSISTENCE

The Lords do insist on their Amendments 23 and 106 to 120 for Reason 120B, and do disagree with the Commons in their Amendment 106A.

120B *Because the Lords wish the Commons to consider the matter again.*

COMMONS INSISTENCE, NON-INSISTENCE, AND AMENDMENTS IN LIEU

The Commons insist on their disagreement to Lords Amendments 23 and 106 to 120 but do not insist on their Amendment 106A and propose Amendments 120C, 120D, and 120E to the Bill in lieu of Lords Amendments 23 and 106 to 120 –

- 120C** Schedule 3, page 189, line 14, for “(3)” substitute “(6)”
- 120D** Schedule 3, page 191, line 13, at end insert –
- “(6) Before making –
- (a) the first regulations to be made under subsection (4), and
- (b) the first regulations to be made in reliance on subsection (5)(b),
- the Secretary of State must consult such persons as the Secretary of State considers appropriate.””
- 120E** Schedule 3, page 191, line 27, at end insert –
- “(5C) Before making the first regulations to be made in reliance on subsection (5A), the Secretary of State must consult such persons as the Secretary of State considers appropriate.””

After Clause 26

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 NON-INSISTENCE AND AMENDMENT IN LIEU

The Lords do not insist on their Amendment 48, to which the Commons have disagreed for their Reason 48A, and do propose Amendment 48B in lieu –

48B 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) is carried out in one or more of the following sectors –
 - (i) agriculture and horticulture,
 - (ii) the creative industries, including theatre and live performance,
 - (iii) retail
 - (iv) hospitality,
 - (v) tourism, leisure and events, and
 - (vi) construction and landscaping, and
 - (e) is entered into for a fixed duration not exceeding 26 weeks to meet the temporary demand.
- (3) The Secretary of State may by regulations made by statutory instrument add further sectors to the list in subsection (2)(d), provided that work in those sectors meets the criteria outlined in subsection (2)(a) to (2)(c).
- (4) Regulations under subsection (3) are subject to the affirmative procedure.”

COMMONS REASON

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

48C *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.*

LORDS NON-INSISTENCE AND AMENDMENTS IN LIEU

The Lords do not insist on their Amendment 60, to which the Commons have disagreed for their Reason 60A, and do propose Amendments 60B and 60C in lieu –

60B After Clause 54, insert the following new Clause –

“Restriction on the employment of children in industrial undertakings

- (1) The Secretary of State must, on the day this Act is passed, instruct the Office for Rail and Road and the Health and Safety Executive to draw up guidance on the industrial undertakings which they consider are, and are not, appropriate for people under the age of 18 to carry out when employed by or volunteering for a heritage railway or heritage tramway.
- (2) This guidance must take into account –
 - (a) the Employment of Women, Young Persons, and Children Act 1920,
 - (b) the Children and Young Persons Act 1933,
 - (c) the Children and Young Persons (Scotland) Act 1937,
 - (d) the Children and Young Persons Act (Northern Ireland) 1968,
 - (e) the Health and Safety at Work etc. Act 1974,
 - (f) the Management of Health and Safety at Work Regulations 1999, and
 - (g) other relevant legislation.
- (3) The Office for Rail and Road and the Health and Safety Executive must publish this guidance within six months of the day on which this Act is passed.”

60C Clause 156, page 150, line 13, at end insert –

“(za) section (*Restriction on the employment of children in industrial undertakings*)
(restriction on the employment of children in industrial undertakings);”

COMMONS DISAGREEMENT AND AMENDMENTS IN LIEU

The Commons disagree with Lords Amendments 60B and 60C but propose Amendments 60D and 60E to the Bill in lieu –

60D Page 60, line 23, at end insert the following new Clause –

“Guidance about the employment of children on heritage railways

- (1) The Office of Rail and Road and the Health and Safety Executive, acting jointly, must, before the end of the relevant 12-month period, prepare and publish guidance setting out circumstances in which a child carrying out activities for the purposes of a heritage railway in Great Britain is, or is not, to be regarded as employed in an industrial undertaking for the purposes of section 1 of the Employment of Women, Young Persons and Children Act 1920 (restrictions on the employment of children in industrial undertakings).
- (2) The Office of Rail and Road and the Health and Safety Executive, acting jointly –
 - (a) may from time to time revise guidance published under this section;
 - (b) must publish any revisions of that guidance.
- (3) In this section –
 - “heritage railway” means a railway which –
 - (a) is operated for the purposes of –
 - (i) preserving, recreating or simulating railways of the past, or
 - (ii) demonstrating or operating historical or special types of motive power or rolling stock, and
 - (b) is exclusively or primarily used for recreational or educational purposes;
 - “railway” includes a tramway;
 - “the relevant 12-month period” means the period of 12 months beginning with the day on which this Act is passed.”

60E Clause 156, page 150, line 13, at end insert –

“() section (*Guidance about the employment of children on heritage railways*)
(guidance about the employment of children on heritage railways);”

Clause 59

LORDS AMENDMENTS 61 AND 72

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 156

- 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.*

LORDS INSISTENCE

The Lords do insist on their Amendments 61 and 72 for Reason 72B.

- 72B** *Because the Lords wish the Commons to consider the matter again.*

COMMONS INSISTENCE AND AMENDMENT IN LIEU

The Commons insist on their disagreement to Lords Amendments 61 and 72 but propose Amendment 72C to the Bill in lieu –

- 72C** Clause 59, page 87, line 10, after “case,” insert “the earlier of –
- (i) a day specified in, or determined in accordance with, the rules of the union, and
 - (ii)”

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.*

LORDS INSISTENCE

The Lords do insist on their Amendments 62 for Reason 62B.

62B *Because the Lords wish the Commons to consider the matter again.*

COMMONS INSISTENCE AND AMENDMENT IN LIEU

The Commons insist on their disagreement to Lords Amendment 62 but propose Amendment 62C to the Bill in lieu –

62C Clause 156, page 151, line 6, at end insert –

- “(5) In deciding whether and when to make regulations under subsection (3) bringing section 65 (industrial action ballots: turnout threshold) into force for any purpose, the Secretary of State must have regard to what effect any provision made after this Act is passed for industrial action ballots to be conducted otherwise than by post has had, or is expected to have, on the proportion of those eligible to vote voting in such ballots.
- (6) In subsection (5) “industrial action ballot” means a ballot for the purposes of section 226 of the Trade Union and Labour Relations (Consolidation) Act 1992 (ballots on industrial action).”

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