

Employment Rights Bill

COMMONS REASON

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

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.”

LORDS INSISTENCE

The Lords do insist on their Amendments 23 and 106 to 120 for Reason 120F, and do disagree with the Commons in their Amendments 120C, 120D and 120E.

120F *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 with the Lords in their Amendments 23 and 106 to 120 but do not insist on their Amendments 120C, 120D and 120E and propose the following Amendments to the Bill in lieu of Lords Amendments 23 and 106 to 120 –

120G Leave out Clause 23 and insert the following new Clause –

“Right not to be unfairly dismissed: qualifying period and compensatory awards

- (1) Part 10 of the Employment Rights Act 1996 (unfair dismissal) is amended in accordance with subsections (2) and (3).
- (2) In section 108 (qualifying period of employment) –
 - (a) in subsection (1), for “two years” substitute “six months”;
 - (b) in subsection (2), for ““two years”” substitute ““six months””.
- (3) Omit section 124 (limit of compensatory award etc).

- (4) In section 209 of that Act (powers to amend Act), in subsection (5), omit “108(1),”.
- (5) Schedule (*Minor and consequential amendments relating to section (Right not to be unfairly dismissed: qualifying period and compensatory awards)*) contains minor and consequential amendments relating to this section.”

120H

Leave out Schedule 3 and insert the following new Schedule –

“SCHEDULE

MINOR AND CONSEQUENTIAL AMENDMENTS RELATING TO SECTION (*RIGHT NOT TO BE
UNFAIRLY DISMISSED: QUALIFYING PERIOD AND COMPENSATORY AWARDS*)

Employment Rights Act 1996

- 1 (1) The Employment Rights Act 1996 is amended as follows.
 - (2) In section 92 (right to written statement of reasons for dismissal), in subsection (3), for “two years” substitute “six months”.
 - (3) In section 108 (qualifying period of employment), in subsection (3) –
 - (a) after paragraph (h) insert –

“(ha) section 4(3)(b) of the Rehabilitation of Offenders Act 1974
(read with any order made under section 4(4) of that Act)
applies,”;
 - (b) omit paragraphs (k) and (o).
 - (4) In section 117 (enforcement of order for reinstatement or re-engagement and compensation), in subsection (2), for “Subject to section 124, the” substitute “The”.
 - (5) In section 118 (compensation: general), in subsection (1)(b), omit “124,”.
 - (6) In section 123 (compensatory award), in subsection (1), omit “124,”.
 - (7) In section 205A (employee shareholders), in subsection (10), for the words from “where” to the end substitute “where –
 - (a) the dismissal is by reason of any requirement or recommendation that is referred to in section 64(2), or
 - (b) the reason (or, if more than one, the principal reason) for the dismissal is, or relates to, the employee’s political opinions or affiliations.”
 - (8) In section 209 (powers to amend Act) –
 - (a) in subsection (2) –
 - (i) in paragraph (e), omit “section 124(1), (2) and (5),”;
 - (ii) in paragraph (j), omit “, 124(2)”;
 - (b) in subsection (5), omit “92(3),”.
 - (9) In section 226 (rights on termination), in subsection (3), for “, 121 or 124” substitute “or 121”.
 - (10) In section 236 (orders and regulations), in subsection (3), omit “124(2),”.

Employment Relations Act 1999

- 2 (1) The Employment Relations Act 1999 is amended as follows.
- (2) In section 34 (indexation of amounts, etc) –
 - (a) in subsection (1), omit paragraph (c);
 - (b) omit subsections (4) to (4B).
- (3) In section 37, omit subsection (1).

Enterprise and Regulatory Reform Act 2013

- 3 In the Enterprise and Regulatory Reform Act 2013, omit section 15 (power to increase or decrease limit of compensatory award).

Coronavirus Act 2020

- 4 In Schedule 7 to the Coronavirus Act 2020, omit paragraph 17.

Power to make further consequential amendments

- 5 (1) The provision that may be made under section 151 (power to make consequential amendments) by any regulations that amend a relevant provision in consequence of the repeal of section 124 of the Employment Rights Act 1996 by section (*Right not to be unfairly dismissed: qualifying period and compensatory awards*)(3) includes (among other things) –
 - (a) provision amending section 34 of the Employment Relations Act 1999 for the purpose of applying that section to a relevant sum;
 - (b) provision conferring power on the Secretary of State by regulations to vary a relevant limit, in the same manner and to the same extent as the power conferred by section 15 of the Enterprise and Regulatory Reform Act 2013 to vary the limit imposed by section 124(1) of the Employment Rights Act 1996 (but see sub-paragraph (4));
 - (c) provision that is consequential on provision within paragraph (a) or (b).
- (2) For the purposes of this paragraph –
 - (a) “relevant provision” means –
 - (i) a provision listed in sub-paragraph (3), or
 - (ii) any other provision that limits the amount of compensation payable by virtue of the provision by reference to the limit imposed by section 124 of the Employment Rights Act 1996;
 - (b) “relevant sum” means a sum specified in a relevant provision, in consequence of the repeal of that section, for the purposes of limiting the amount of compensation payable by virtue of the provision;
 - (c) “relevant limit” means a limit on the amount of compensation payable by virtue of a relevant provision that is specified in the provision in consequence of that repeal;
 - (d) the reference in sub-paragraph (1)(b) to section 15 of the Enterprise and Regulatory Reform Act 2013 is a reference to that section as it had effect immediately before the coming into force of paragraph 3.

- (3) The provisions referred to in sub-paragraph (2)(a)(i) (each of which limits the amount of compensation payable by virtue of the provision by reference to the limit imposed by section 124 of the Employment Rights Act 1996) are –
- (a) section 67 of the Trade Union and Labour Relations (Consolidation) Act 1992 (right not to be unjustifiably disciplined by trade union: remedies for infringement);
 - (b) section 140 of that Act (remedies for refusal of employment, etc on grounds related to union membership);
 - (c) section 176 of that Act (right not to be excluded or expelled from trade union: remedies);
 - (d) paragraph 160 of Schedule A1 to that Act (trade union recognition: enforcement of right not to be subjected to detriment);
 - (e) section 49 of the Employment Rights Act 1996 (protection from suffering detriment in employment: remedies), so far as relating to subsection (5A), (7), (7A) or (7B) of that section;
 - (f) section 24 of the National Minimum Wage Act 1998 (enforcement of right not to be subjected to detriment), so far as relating to employment tribunals in Great Britain;
 - (g) section 56 of the Pensions Act 2008 (pension scheme membership: enforcement of right not to be subjected to detriment);
 - (h) regulation 4 of the Exclusivity Terms in Zero Hours Contracts (Redress) Regulations 2015 (S.I. 2015/2021) (enforcement of right not to be subjected to detriment);
 - (i) regulation 9 of the Exclusivity Terms for Zero Hours Workers (Unenforceability and Redress) Regulations 2022 (S.I. 2022/1145) (enforcement of right not to be subjected to detriment).
- (4) The power that may be conferred by provision made by virtue of sub-paragraph (1)(b) includes power to specify different amounts in relation to different descriptions of persons by whom compensation is payable by virtue of a relevant provision.
- (5) The power to make regulations under section 151 is to be regarded as including power to make provision amending section 49(7A) or (7B) of the Employment Rights Act 1996, as inserted by paragraph 9 of Schedule 2, in consequence of the repeal of section 124 of the Employment Rights Act 1996 regardless of whether that repeal comes into force before or after the day on which that paragraph is brought into force for any purpose.”

120J Clause 26, page 45, line 30, at end insert –

“(3D) Subsection (1) does not apply in relation to an employee if on the effective date of termination the employee has not yet started work.”

120K As an amendment to Lords Amendment 40, at the end of line 34 insert –

“(2A) Subsection (1) does not apply in relation to an employee if on the effective date of termination the employee has not yet started work.”

120L As an amendment to Lords Amendment 41, leave out “(4) and” and insert “(3D) to”

- 120M** As an amendment to Lords Amendment 42, line 2, leave out “(3) and” and insert “(2A) to”

LORDS NON-INSISTENCE AND AMENDMENTS TO AMENDMENTS IN LIEU

The Lords do not insist on their Amendments 23 and 106 to 120, to which the Commons have disagreed, agree with the Commons Amendments 120G, 120H and 120J to 120M in lieu of Lords Amendments 23 and 106 to 120, do propose Amendment 120N as an amendment to Commons Amendment 120G and Amendments 120P to 120S as amendments to Commons Amendment 120H –

- 120N** Leave out subsection (3) and insert –
- “(3) In section 124 (limit of compensatory award etc.), after subsection (5), insert –
- “(6) The Secretary of State must, within three months of the day on which the Employment Rights Act 2025 is passed, conduct a review of the limit imposed by this section on the amount of the compensation awarded or compensatory award made.
- (7) A review under subsection (6) must include a consultation with –
- (a) employers’ organisations,
 - (b) trade unions,
 - (c) organisations representing employment law practitioners, and
 - (d) such other persons as the Secretary of State considers appropriate.””
- 120P** Leave out sub-paragraphs 1(4) to (6)
- 120Q** In sub-paragraph 1(8), leave out paragraph (a)
- 120R** Leave out sub-paragraphs 1(9) and (10)
- 120S** Leave out paragraphs 2 to 5

COMMONS REASON

The Commons disagree to Lords Amendment 120N to Commons Amendment 120G and to Lords Amendments 120P to 120S to Commons Amendment 120H for the following Reason –

- 120T** *Because it is appropriate to remove the limit on compensatory awards imposed by section 124 of the Employment Rights Act 1996.*

Employment Rights Bill

COMMONS REASON

15 December 2025.

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