

## **Employment Relations (Flexible Working) Bill**

### **Memorandum from the Department for Business, Energy, and Industrial Strategy (BEIS) to the Delegated Powers and Regulatory Reform Committee**

#### **A. INTRODUCTION**

1. This memorandum has been prepared for the Delegated Powers and Regulatory Reform Committee to assist with its scrutiny of the Employment Relations (Flexible Working) Bill (“the Bill”), as introduced in the House of Commons on 15 June 2022. This memorandum identifies the provision of the Bill that confers powers to make delegated legislation. It explains why the power has been taken and explains the nature of, and the reason for, the procedure selected.
2. The Bill contains a single provision concerning delegated powers. It is not a Henry VIII power. The provision allows the Secretary of State to commence the measures in the Bill by regulations.
3. The Department has considered the use of powers in the Bill as set out below and is satisfied that they are necessary and justified.

#### **B. PURPOSE AND EFFECT OF THE BILL**

4. In September 2021, the Government consulted on changes to the statutory right to request flexible working, an employment right under Part VIIIA of the Employment Rights Act 1996. The proposals focussed on encouraging a better dialogue about flexible working opportunities, increasing the frequency of requests and speeding up the administrative process.
5. The Employment Relations (Flexible Working) Bill gives effect to several of the changes that were consulted on.

#### **C. DELEGATED POWERS**

6. The Bill contains two clauses, the first covering the changes to the right to request flexible working and the second covering the power to commence the first clause by regulations.
7. This memorandum deals with the provision for delegated legislation.

Summary of delegated powers

8. Clause 2 confers new powers on the Secretary of State to commence clause 1 by regulations.

Reference	Power
Clause 2	Makes provision for a power allowing the Secretary of State to commence clause 1 by regulations.

9. The power is consistent with the standard approach to commencement orders.

**Clause 2**

***Power conferred on: Secretary of State***

***Power exercised by: Regulations made by Statutory Instrument***

***Parliamentary Procedure: None***

Context and purpose

10. Clause 2 contains a standard power for the Secretary of State to bring the provisions of the Bill into force by commencement regulations.

Justification for taking the power

11. Allowing provisions in the Bill to be brought into force by regulations will afford the necessary flexibility to commence the provisions of the Bill at the appropriate time, having regard to the need to make any related secondary legislation, issue guidance and undertake appropriate training, as the case may be.

Justification for the procedure

12. As is usual with commencement powers, regulations made under clause 2 are not subject to any parliamentary procedure. Parliament has approved the principle of the provisions to be commenced by enacting them; commencement by regulations enables the provisions to be brought into force at a convenient time.