
Committee Stage: Thursday 26 January 2023

Strikes (Minimum Service Levels) Bill (Amendment Paper)

This document lists all amendments tabled to the Strikes (Minimum Service Levels) Bill. Any withdrawn amendments are listed at the end of the document. The amendments are arranged in the order in which it is expected they will be decided.

★ New Amendments.

☆ Amendments which will comply with the required notice period at their next appearance.

New Amendments: 59 to 120 and NC3 to NC4

Chris Stephens
Stephen Flynn
Mhairi Black
Alan Brown
David Linden
Brendan O'Hara

25

☆ Page 1, line 2, leave out Clause 1

Chris Stephens
Stephen Flynn
Mhairi Black
Alan Brown
David Linden
Brendan O'Hara

26

☆ Page 1, line 10, leave out Clause 2

Zarah Sultana 80
 John McDonnell
 Richard Burgon
 Beth Winter

★ Clause 3, page 1, line 14, after “may”, insert “not”

Member’s explanatory statement

The purpose of this amendment is to ensure that any consequential provision is made only by an Act of Parliament.

Andy McDonald 84
 John McDonnell
 Richard Burgon
 Beth Winter

★ Clause 3, page 1, line 15, at end insert—

“(1A) No such regulations shall be made without the prior agreement of the Confederation of British Industry and the Trades Union Congress.”

Member’s explanatory statement

This amendment, together with Amendment 83, is intended to partially fulfil the conditions required by ILO Convention 87 by providing that minimum service levels are reached by negotiation.

Angela Rayner 100
 Jonathan Reynolds
 Justin Madders
 Imran Hussain

★ Clause 3, page 1, line 16, leave out subsections (2) and (3)

Member’s explanatory statement

This amendment would remove the Secretary State’s powers to amend, repeal or revoke primary legislation, through regulations.

Chris Stephens 27
 Stephen Flynn
 Mhairi Black
 Alan Brown
 David Linden
 Brendan O’Hara
 John McDonnell

☆ Clause 3, page 1, line 16, after “may” insert “not”

Member’s explanatory statement

The purpose of this amendment is to ensure that any amendment, repeal or revocation of primary legislation is made only by an Act of Parliament.

Angela Rayner
Jonathan Reynolds
Justin Madders
Imran Hussain

101

★ Clause 3, page 1, line 18, leave out from “Act” to end of line 19.

Member’s explanatory statement

This amendment would remove the Secretary of State’s powers to bring in regulations to amend, repeal or revoke primary legislation, later in the same session of Parliament as this Act.

David Linden
Alan Brown
Chris Stephens

22

☆ Clause 3, page 1, line 19, at end insert—

“(2A) No provision whatsoever having effect in Northern Ireland may be made under or by virtue of this Act unless and until the Northern Ireland Assembly has approved a joint decision by the First Minister and deputy First Minister that such provision should be made.”

Member’s explanatory statement

This amendment is intended to ensure that the Bill will not be extended to cover Northern Ireland without appropriate devolved consent.

Angela Rayner
Jonathan Reynolds
Justin Madders
Imran Hussain

102

★ Clause 3, page 2, line 5, leave out “is subject to annulment” and insert “must be made under the affirmative resolution procedure”

Member’s explanatory statement

This amendment would ensure that any regulations made under clause 3, must be made under the affirmative resolution procedure.

Gavin Newlands

106

★ Clause 3, page 2, line 7, at end insert—

“(4A) No regulations made by statutory instrument under this section shall apply to any service which relates to the provisions of—

- (a) the Transport (Scotland) Act 2019;
- (b) the Transport (Scotland) Act 2001;
- (c) section 8 of the Railways Act 2005;
- (d) section 10 of the Civic Government (Scotland) Act 1982; or
- (e) any passenger ferry operating within the portion of the UK Exclusive Economic Zone lying under the jurisdiction of Scotland,

or to any service defined by Scottish ministers are relating to the provision of transport services in Scotland.”

Member’s explanatory statement

This amendment would exclude most passenger transport services in Scotland from being subject to minimum service regulations laid by the Secretary of State.

Chris Stephens
Stephen Flynn
Mhairi Black
Alan Brown
David Linden
Brendan O’Hara

28

☆ Clause 3, page 2, line 8, leave out subsection (5) and insert—

“(5) “primary legislation” means an Act of Parliament.

(6) For the avoidance of doubt, this section shall not apply to—

- (a) an Act or Measure of Senedd Cymru, or
- (b) an Act of the Scottish Parliament.”

Member’s explanatory statement

The purpose of this amendment is to provide that, if Clause 3(2) is retained, the power of United Kingdom Ministers to amend primary legislation should not apply to Acts of the Scottish Parliament or the Senedd Cymru.

Beth Winter
John McDonnell
Richard Burgon

97

★ Clause 3, page 2, line 8, leave out subsection (5) and insert—

“(5A) For the avoidance of doubt, this section shall not apply to—

- (i) an Act or Measure of Senedd Cymru, or
- (ii) an Act of the Scottish Parliament.”

Member’s explanatory statement

The purpose of this amendment is to preclude the power of United Kingdom Ministers in clause 3(2) to amend primary legislation and extends that power to Acts of the Scottish Parliament or the Senedd Cymru.

Beth Winter 81
 John McDonnell
 Richard Burgon

- ★ Clause 3, page 2, line 8, leave out from “means” to end of line 11 and insert “an Act of Parliament.”

Member’s explanatory statement

This amendment would remove Acts of the Scottish Parliament or Senedd Cymru from the power to amend or repeal primary legislation by regulations made by statutory instrument.

Liz Saville Roberts 76
 Hywel Williams
 Ben Lake

- ★ Clause 3, page 2, line 10, leave out subsection (b)

Member’s explanatory statement

This amendment would prevent the Secretary of State from being able to make consequential amendments to an Act or Measure of Senedd Cymru.

Beth Winter 98
 John McDonnell
 Richard Burgon

- ★ Clause 4, page 2, line 13, leave out from “England” to end of line 13 and insert “only.

- (2) This Act does not apply to disputes which take place in—
- (a) Scotland or Wales; or
 - (b) the United Kingdom if any of the workers who are parties to the dispute are employed by an employer to work in Scotland or Wales, as the case may be.
- (3) For the avoidance of doubt, this Act shall apply only to disputes where all the workers who are parties to the dispute are employed by an employer to work in England.”

Member’s explanatory statement

The purpose of this amendment is to exclude the application of the Act to Scotland and Wales.

Beth Winter

77

★ Clause 4, page 2, line 13, leave out “and Wales”

Member’s explanatory statement

The purpose of this amendment is to exclude the application of the Act to Wales.

Chris Stephens
 Stephen Flynn
 Mhairi Black
 Alan Brown
 David Linden
 Brendan O’Hara

30

☆ Clause 4, page 2, line 13, leave out “and Scotland”

Member’s explanatory statement

This amendment is intended to prevent the Bill applying to Scotland. See also Amendments 36, 37 and 38.

Gavin Newlands

107

★ Clause 4, page 2, line 13, leave out “and Wales and Scotland.”

Member’s explanatory statement

This amendment would confine the extent of the Act to England.

Chris Stephens
 Stephen Flynn
 Mhairi Black
 Alan Brown
 David Linden
 Brendan O’Hara

29

☆ Page 2, line 12, leave out Clause 4

Chris Stephens
Stephen Flynn
Mhairi Black
Alan Brown
David Linden
Brendan O'Hara

31

☆ Clause 5, page 2, line 15, at beginning insert "Subject to subsection (2),"

Member's explanatory statement

See explanatory statement for Amendment 32.

Angela Rayner
Jonathan Reynolds
Justin Madders
Imran Hussain

67

★ Clause 5, page 2, line 15, leave out "This Act comes into force on the day on which this Act is passed" and insert—

- "(1) Sections 4 to 6 of this Act come into force on the day on which this Act is passed.
- (2) The remaining provisions of this Act come into force on a date specified by the Secretary of State, which may not be before one month after the day on which the Joint Committee on Human Rights, following the taking of written and oral evidence, has published a report as to whether in its opinion the Act's provisions are compatible with the right to freedom of assembly and association under Article 11 of the European Convention, as well as the right to strike as recognised in other international instruments that the United Kingdom has ratified"

Member's explanatory statement

This amendment requires the publication of a report from Joint Committee on Human Rights before the Act can come into operation.

Richard Burgon		20
John McDonnell		
Ian Mearns		
Zarah Sultana		
Grahame Morris		
Ian Lavery		
Andy McDonald	Beth Winter	Clive Lewis
Claudia Webbe	Claire Hanna	Peter Dowd
Ian Byrne	Kenny Macaskill	Jeremy Corbyn
Yasin Mohammed	Marsha De Cordova	Mick Whitley
Cat Smith		

☆ Clause 5, page 2, line 15, leave out "on the day on which this Act is passed" and insert "in accordance with section [*Compliance condition for commencement*]"

Chris Stephens
Stephen Flynn
Mhairi Black
Alan Brown
David Linden
Brendan O'Hara

32

☆ Clause 5, page 2, line 15, at end insert—

- “(2) But no regulations may be made under this Act before the Secretary of State has laid before Parliament statements of consent to the Act from—
- (a) the Scottish Parliament,
 - (b) Senedd Cymru, and
 - (c) the Greater London Assembly.”

Member's explanatory statement

The intention of this Amendment is to prevent the Act coming into operation until after consent to the Act has been obtained from the Scottish Parliament, Senedd Cymru and the Greater London Assembly.

Chris Stephens
Stephen Flynn
Mhairi Black
Alan Brown
David Linden
Brendan O'Hara

33

☆ Clause 6, page 2, line 17, leave out “Strikes (Minimum Service Levels)” and insert “Anti-Strikes (Forced Working)”

Member's explanatory statement

The intention of this Amendment is to alter the short title of the Act.

Richard Burgon
John McDonnell
Ian Mearns
Zarah Sultana
Grahame Morris
Ian Lavery
Andy McDonald
Claudia Webbe
Ian Byrne
Yasin Mohammed
Cat Smith

Beth Winter
Claire Hanna
Kenny Macaskill
Marsha De Cordova

Clive Lewis
Peter Dowd
Jeremy Corbyn
Mick Whitley

NC1

☆ To move the following Clause—

“Compliance condition for commencement

- (1) This section and sections 4 to 6 come into force on the day this Act is passed.
- (2) The remainder of the Act comes into force on a day to be specified in regulations by the Secretary of State which may not be earlier than the day after the High Court has issued a certificate under this section.
- (3) The Secretary of State may apply to a Judge of the High Court of Justice for a certificate that the law in this Act is compliant with—
 - (a) the obligations set out in Convention 87 of the International Labour Organisation;
 - (b) the obligations set out in the European Social Charter of 1961 which have been ratified by the United Kingdom;
 - (c) the obligations of the United Kingdom set out in Article 387 subparagraphs (2) and (4) of the UK/EU Trade and Cooperation Agreement 2021; and
 - (d) the obligations of the United Kingdom set out in Article 399 subparagraphs (2) and (5) of the UK/EU Trade and Cooperation Agreement 2021.
- (4) On an application made by the Secretary of State for the certificate in subsection (3) above, after hearing the Secretary of State, the Trades Union Congress, the Confederation of British Industry and such other organisations or individuals whose applications the Judge may consider should be heard, the Judge shall grant the certificate only if the court is satisfied that the law of the United Kingdom is compliant with the obligations set out in paragraph (3).”

Member’s explanatory statement

This new clause would prevent the Act from coming into operation until a court had certified that the Act complied with the UK’s relevant international obligations.

Chris Stephens
 Stephen Flynn
 Mhairi Black
 Alan Brown
 David Linden
 Brendan O'Hara

NC2

☆ To move the following Clause—

“Extent (No. 2)

- (1) This Act extends and applies to England only.
- (2) This Act does not apply to disputes which take place in—
 - (a) Scotland or Wales; or
 - (b) anywhere in Great Britain, if any of the workers who are parties to the dispute are employed by an employer to work in Scotland or Wales, as the case may be.
- (3) For the avoidance of doubt, this Act shall apply only to disputes where all the workers who are parties to the dispute are employed by an employer to work in England.”

Member’s explanatory statement

The purpose of this new clause is to exclude the application of the Act to Scotland and Wales.

Liz Saville Roberts
 Hywel Williams
 Ben Lake

NC3

★ To move the following Clause—

“Impact assessment: duties to work with trade unions in Wales

The Secretary of State must, within one month of the day on which this Act is passed, lay before Parliament an assessment of the effect of this Act on industrial relations in Wales, with particular reference to the intended outcomes of the Social Partnership and Public Procurement (Wales) Bill currently before Senedd Cymru.”

Member’s explanatory statement

This new clause would require the Government to publish an assessment of the impact of this Act on social partnership.

Chris Stephens

NC4

★ To move the following Clause—

“Requirement for consent from devolved institutions

No regulations may be made under any provision of the 1992 Act inserted by this Act before the Secretary of State has laid before Parliament statements of consent to this Act from—

- (a) the Scottish Parliament,
 - (b) Senedd Cymru,
 - (c) the Greater London Assembly, and
 - (d) Combined Authorities in England that have responsibility for delivering services that fall within any of the categories set out in s234B(4) of the 1992 Act.”
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Chris Stephens
Stephen Flynn
Mhairi Black
Alan Brown
David Linden
Brendan O’Hara

36

☆ Schedule, page 3, line 7, after “services” insert “in England and Wales”

Member’s explanatory statement

This amendment is intended to prevent the Bill applying to Scotland.

Chris Stephens
Stephen Flynn
Mhairi Black
Alan Brown
David Linden
Brendan O’Hara

37

☆ Schedule, page 3, line 8, after “services” insert “in England and Wales”

Member’s explanatory statement

This amendment is intended to prevent the Bill applying to Scotland.

Chris Stephens
Stephen Flynn
Mhairi Black
Alan Brown
David Linden
Brendan O’Hara

38

- ☆ Schedule, page 3, line 11, after “services” insert “in England and Wales”

Member’s explanatory statement

This amendment is intended to prevent the Bill applying to Scotland.

Andy McDonald
John McDonnell
Richard Burgon
Beth Winter

83

- ★ Schedule, page 3, line 12, at end insert—

“(1A) No such regulations shall be made without the prior agreement of the Confederation of British Industry and the Trades Union Congress.”

Member’s explanatory statement

This amendment, together with Amendment 84, is intended to partially fulfil the conditions required by ILO Convention 87 by providing that minimum service levels are reached by negotiation.

Joanna Cherry

115

- ★ Schedule, page 3, line 12, at end insert—

“(1A) Minimum service regulations—

- (a) may be made only if the Secretary of State reasonably believes them to be necessary to protect the life, personal safety or health of the whole or part of the population; and
- (b) may provide only for levels of service reasonably considered necessary to provide protection for the life, personal safety or health of the whole or part of the population.”

Member’s explanatory statement

This new subsection would limit the levels of service which the Secretary of State could set in regulations to levels of service that the Secretary of State reasonably believes to be necessary to protect life, personal safety or health.

Joanna Cherry

116

- ★ Schedule, page 3, line 12, at end insert—

“(1B) Minimum service regulations must—

- (a) not provide for levels of service which are greater than those necessary to satisfy the basic needs of the population or the minimum requirements of the service; and
- (b) ensure that the scope of the minimum service does not render ineffective any strike it affects.”

Member’s explanatory statement

This new subsection would limit minimum service regulations to the levels indicated as appropriate in conclusions of the International Labour Organisation’s Committee on Freedom of Association.

Angela Rayner
Jonathan Reynolds
Justin Madders
Imran Hussain
John McDonnell

15

- ☆ Schedule, page 3, line 15, leave out “even” and insert “except”

Member’s explanatory statement

This amendment would stop the Secretary of State from being able to set minimum service levels for disputes that have already been balloted for.

Angela Rayner
Jonathan Reynolds
Justin Madders
Imran Hussain

99

- ★ Schedule, page 3, line 15, leave out “even if” and insert “unless”

Member’s explanatory statement

The amendment seeks to stop regulations under this Bill from being applied to strikes which have already been balloted for.

Alan Brown
Chris Stephens
Stephen Flynn
Mhairi Black
David Linden
Brendan O’Hara

59

- ★ Schedule, page 3, line 20, at end insert—

“(2A) A minimum service level must not be framed so that it would require more than 30% of a workforce to be served with a work notice.”

Member's explanatory statement

This amendment would limit the proportion of a workforce which can be required by a minimum service level so as to ensure that a majority of workers will be able to withdraw labour.

Alan Brown
Chris Stephens
Stephen Flynn
Mhairi Black
David Linden
Brendan O'Hara

60

★ Schedule, page 3, line 20, at end insert—

“(2A) A minimum service level must be framed to take account of the actual levels of service provided in the previous year.

(2B) After a minimum service level regulations have been issued, no work notices may be issued for any further strikes unless the employer has maintained the minimum service level on days not affected by strike for at least 3 months.”

Member's explanatory statement

This amendment would prevent employers from requiring a minimum service level if the employer had not previously been able to maintain such a level on days not affected by strike action.

Alan Brown
Chris Stephens
Stephen Flynn
Mhairi Black
David Linden
Brendan O'Hara

61

★ Schedule, page 3, line 20, at end insert—

“(2A) Where minimum service levels must not exceed 20% of normal service levels achieved, expect in so far as additions to the minimum service level is wholly determined for operational reasons related to health and safety requirements.”

Member's explanatory statement

This amendment would stipulate 20% of normal service levels as an upper threshold for minimum service levels.

Christine Jardine

16

☆ Schedule, page 3, line 21, leave out subsection (3)

Member's explanatory statement

See Amendment 17.

David Linden

21

- ☆ Schedule, page 3, line 22, at end insert—

- “(2) The Secretary of State may not add to the list of categories in subsection (4) below.
- (3) The Secretary of State may by regulations made by statutory instrument subject to annulment remove any categories from subsection (4) below.
- (4) After a category has been removed from subsection (4) below, it may not be added back in to that subsection except by primary legislation.”

Member’s explanatory statement

This amendment bars any addition to, or any reinstatement of, the 6 categories of service to which this Act applies, while facilitating the removal of any of those categories.

Christine Jardine

17

- ☆ Schedule, page 3, line 23, leave out from “that” to end of line 31 and insert “have been approved for specification under this Act by resolution of each House of Parliament.”

Member’s explanatory statement

This amendment would ensure that minimum service level regulations apply only to services that have been approved by resolution in both Houses.

Angela Rayner
Jonathan Reynolds
Justin Madders
Imran Hussain
John McDonnell
Beth Winter
Richard Burgon

9

- ☆ Schedule, page 3, line 25, leave out paragraph (a)

Member’s explanatory statement

This amendment would remove “health services” from the Bill.

Angela Rayner
Jonathan Reynolds
Justin Madders
Imran Hussain

75

- ★ Schedule, page 3, line 25, at end insert—

“except nurses, doctors, paramedics, ambulance support workers, veterinary services, community health services, pharmacists, mental health services, sexual health services, speech and language therapy services, dental services and transportation of medical supplies services.”

Member's explanatory statement

This amendment would various occupations and sub-sectors of the health sector from the regulations in the Bill.

Angela Rayner Jonathan Reynolds Justin Madders Imran Hussain John McDonnell Beth Winter Richard Burgon	10
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- ☆ Schedule, page 3, line 26, leave out paragraph (b)

Member's explanatory statement

This amendment would remove "fire and rescue services" from the Bill.

Angela Rayner Jonathan Reynolds Justin Madders Imran Hussain John McDonnell Beth Winter Richard Burgon Mhairi Black Brendan O'Hara	11
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	Chris Stephens Alan Brown	Stephen Flynn David Linden
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- ☆ Schedule, page 3, line 27, leave out paragraph (c)

Member's explanatory statement

This amendment would remove "education services" from the Bill.

Angela Rayner Jonathan Reynolds Justin Madders Imran Hussain	74
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- ★ Schedule, page 3, line 27, at end insert—

"except primary schools, secondary schools, further education colleges, universities, contracted school transportation, private schools and academies."

Member's explanatory statement

This amendment would exempt various occupations and sub-sectors of the education sector from the regulations in the Bill.

Angela Rayner Jonathan Reynolds Justin Madders Imran Hussain John McDonnell Beth Winter Richard Burgon Mhairi Black Brendan O'Hara	Chris Stephens Alan Brown	Stephen Flynn David Linden	12
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- ☆ Schedule, page 3, line 28, leave out paragraph (d)

Member's explanatory statement

This amendment would remove "transport services" from the Bill.

Angela Rayner Jonathan Reynolds Justin Madders Imran Hussain	73
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- ★ Schedule, page 3, line 28, at end insert —

"except aviation services, airline services, airport services, airport fire services, car delivery services, road haulage services, parcel delivery services, bus services, tram services, rail infrastructure, rail engineering ferry and waterway services, seafarers, and dock services."

Member's explanatory statement

This amendment would exempt various occupations and sub-sectors of the transport sector from the regulations in the Bill.

Gavin Newlands	109
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- ★ Schedule, page 3, line 28, at end insert ", except where the service is—

- (i) a rail service wholly or partly within Scotland,
- (ii) a bus service registered with the Traffic Commissioner for Scotland,
- (iii) a ferry service wholly or partly within Scotland,
- (iv) any aviation service which uses a facility holding an aerodrome certificate issued the Civil Aviation Authority for all or part of its journey, or
- (v) any aviation service which receives funding as part of a Public Service Obligation."

Member's explanatory statement

This amendment would exempt passenger transport services in, to, and from Scotland from being subject to a work notice.

Angela Rayner
Jonathan Reynolds
Justin Madders
Imran Hussain
John McDonnell
Beth Winter
Richard Burgon

13

- ☆ Schedule, page 3, line 29, leave out paragraph (e)

Member's explanatory statement

This amendment would remove “decommissioning of nuclear installations and management of radioactive waste and spent fuel” from the Bill.

Angela Rayner
Jonathan Reynolds
Justin Madders
Imran Hussain
John McDonnell
Beth Winter
Richard Burgon

14

- ☆ Schedule, page 3, line 31, leave out paragraph (f)

Member's explanatory statement

This amendment would remove “border security” from the Bill.

Christine Jardine
Wera Hobhouse
Helen Morgan
Jamie Stone
Sarah Olney
Tim Farron
Daisy Cooper

2

Wendy Chamberlain Munira Wilson

Schedule, page 3, line 31, at end insert—

- “(5) Levels of service set by regulations under subsection (1) may not exceed the lowest actual level of service for the relevant service recorded on any day of the 12 months before the regulations are laid.
- (6) Before making regulations under subsection (1) for the relevant service, the Secretary of State must lay before Parliament a report showing that the condition in subsection (5) is met.”

Member's explanatory statement

This new subsection (5) would require the Secretary of State to specify any minimum service levels made in regulations under subsection (1) of the new inserted section 234B at a level no higher than the lowest actual level of service recorded on any day in the year before the new regulations are laid. Subsection (6) requires the Secretary of State to lay a report before Parliament to prove that the condition in subsection (5) has been met.

Angela Rayner
Jonathan Reynolds
Justin Madders
Imran Hussain
John McDonnell

4

Schedule, page 3, line 31, at end insert—

- “(5) The Secretary of State may not make any regulations under this section until after a Minister of the Crown has laid before Parliament assessments outlining the impacts of the Strikes (Minimum Service Levels) Act 2023 on—
- (a) workforce numbers,
 - (b) Individual workers,
 - (c) employers,
 - (d) trade unions, and
 - (e) equalities.”

Member’s explanatory statement

This amendment would require the Government to publish assessments of how the proposed legislation would impact on workforce numbers, individual workers, equalities, employers and trade unions before the Bill comes into operation.

Angela Rayner
Jonathan Reynolds
Justin Madders
Imran Hussain
John McDonnell

3

Schedule, page 3, line 31, at end insert—

“234BA Power to specify minimum service levels: health and safety

- (1) Minimum service regulations must take into account the levels of service provided in the relevant service in periods when that service is not affected by strikes.
- (2) Before making any regulations under section 234B, the Secretary of State must lay before Parliament an assessment of the level of service provided within the relevant specified category over the most recent period of 12 months for which data is available.
- (3) The assessment under subsection (2) must include an analysis of performance in relation to health and safety standards applicable to the relevant service.
- (4) The Secretary of State must give priority in making regulations under section 234B to maintaining health and safety standards during a strike which are no lower than the relevant applicable standards in the specified service.”

Member’s explanatory statement

This amendment would require the Government to assess health and safety performance in the affected sector before making minimum service regulations.

Chris Stephens
Stephen Flynn
Mhairi Black
Alan Brown
David Linden
Brendan O'Hara
John McDonnell

40

☆ Schedule, page 3, line 31, at end insert—

“234BA Parliamentary Scrutiny

- (1) Where regulations are made under section 234B—
 - (a) a senior Minister of the Crown shall as soon as is reasonably practicable lay the regulations before Parliament, and
 - (b) the regulations shall lapse at the end of the period of seven days beginning with the date of laying unless during that period each House of Parliament passes a resolution approving them.
- (2) If each House of Parliament passes a resolution that the regulations shall cease to have effect, the regulations shall cease to have effect—
 - (a) at such time, after the passing of the resolutions, as may be specified in them, or
 - (b) if no time is specified in the resolutions, at the beginning of the day after that on which the resolutions are passed (or, if they are passed on different days, at the beginning of the day after that on which the second resolution is passed).
- (3) If each House of Parliament passes a resolution that regulations shall have effect with a specified amendment, the regulations shall have effect as amended, with effect from—
 - (a) such time, after the passing of the resolutions, as may be specified in them, or
 - (b) if no time is specified in the resolutions, the beginning of the day after that on which the resolutions are passed (or, if they are passed on different days, the beginning of the day after that on which the second resolution is passed).
- (4) Nothing in this section—
 - (a) shall prevent the making of new regulations, or
 - (b) shall affect anything done by virtue of regulations before they lapse, cease to have effect or are amended under this section.

234BB Parliamentary Scrutiny: Prorogation and Adjournment

- (1) If when regulations are made under section 234B Parliament stands prorogued, His Majesty shall by proclamation under the Meeting of Parliament Act 1797 (c. 127) require Parliament to meet on a specified day.
- (2) If when emergency regulations are made under section 234B the House of Commons stands adjourned, the Speaker of the House of Commons shall arrange for the House to meet on a day during that period of adjournment.

- (3) If when emergency regulations are made under section 234B the House of Lords stands adjourned, the Speaker of the House of Lords shall arrange for the House to meet on a day during that period of adjournment.”

Member’s explanatory statement

The inserted sections 234BA and 234BB are designed to enhance the power of Parliament to approve regulations. These provisions are based on the power to make regulations in the Civil Contingencies Act 2004.

David Linden
Alan Brown
Chris Stephens

23

- ☆ Schedule, page 3, line 31, at end insert—

- “(5) Regulations made under this section in relation to strikes affecting services in an area for which an elected mayor is responsible may not be made without the consent of the elected mayor for that area.”

Member’s explanatory statement

This amendment would require the consent of the relevant elected mayor before minimum service levels could be set in relation to an area for which an elected mayor was responsible.

Chris Stephens
Stephen Flynn
Mhairi Black
Alan Brown
David Linden
Brendan O’Hara

39

- ☆ Schedule, page 3, line 31, at end insert—

- “(5) Regulations under this Act may not—
- (a) prohibit or enable the prohibition of participation in, or any activity in connection with, a strike or other industrial action;
 - (b) create an offence; or
 - (c) require levels of service on strike days which are higher than those ordinarily provided on non strike days.
- (6) Regulations may not make provision which is contrary to the United Kingdom’s international obligations, and in particular—
- (a) International Labour Organisation Convention No 87;
 - (b) Social Charter of the Council of Europe, Article 6(4); and
 - (c) EU-UK Trade and Cooperation Agreement, Article 399.
- (7) For the purposes of subsection 6(a), reference shall be made to the Observations of the ILO Committee of Experts, and the Conclusions of the ILO Committee on Freedom of Association to determine the United Kingdom’s international obligations.

- (8) For the purposes of subsection 6(b), reference shall be made to the Conclusions of the European Committee of Social Rights to determine the United Kingdom’s international obligations.”

Member’s explanatory statement

This amendment is designed to restrict the power of the Secretary of State to make regulations, and in particular, to ensure that regulations should not authorise any steps which restrict the right to strike. Subsections (5)(a) and (b) are based on the restraints on the power to make regulations in the Civil Contingencies Act 2004. Subsection (5)(c) is new. The amendment is designed to ensure also that any regulations are compatible with international obligations.

Chris Stephens
Stephen Flynn
Mhairi Black
Alan Brown
David Linden
Brendan O’Hara
John McDonnell

41

☆ Schedule, page 3, line 31, at end insert—

“234BC Consultation with Devolved Administrations

- (1) Regulations which relate wholly or partly to Scotland may not be made unless a senior Minister of the Crown has consulted the Scottish Ministers.
- (2) Regulations which relate wholly or partly to Wales may not be made unless a senior Minister of the Crown has consulted the National Assembly for Wales.
- (3) For the purposes of (1) and (2) consultation means consultation with a view to reaching an agreement.”

Member’s explanatory statement

The inserted Section 234BC is designed to ensure that the Minister must consult the Scottish and Welsh ministers before regulations are made. Section 234BC(1) and (2) are based on similar provisions in the Civil Contingencies Act 2004.

Zarah Sultana
John McDonnell
Richard Burgon
Beth Winter

82

★ Schedule, page 3, line 31, at end insert—

“234BD Consultation with Social Partners

- (1) Before making regulations under section 234B the Secretary of State shall consult organisations representative of employers and trade unions.
- (2) Consultation under subsection (1) shall take place with a view to reaching an agreement.
- (3) Where consultation takes place without an agreement being reached, the Secretary of State shall refer the matter to arbitration for the

resolution of any matters of disagreement between the Secretary of State and the organisations representative of employers and trade unions.

- (4) The arbitrator appointed under subsection (3) shall be an independent person appointed by ACAS from a panel of arbitrators established by ACAS for this purpose.
- (5) The decision of the arbitrator shall be binding.
- (6) The Secretary of State shall not make regulations which are inconsistent with the decision of the arbitrator."

Member's explanatory statement

The proposed new section 234BD is intended to require the Secretary of State's to consult and agree minimum service levels with the social partners, failing which minimum service levels will be determined by an independent arbitrator.

Richard Burgon
John McDonnell
Beth Winter

94

★ Schedule, page 3, line 31, at end insert—

- "(5) Regulations may not—
- (a) prohibit or enable the prohibition of participation in, or any activity in connection with, a strike or other industrial action;
 - (b) create an offence; or
 - (c) require levels of service on strike days which are higher than those ordinarily provided on non-strike days.
- (6) Regulations may not make provision which is contrary to the United Kingdom's international obligations, and in particular—
- (a) International Labour Organisation Convention No 87;
 - (b) Social Charter of the Council of Europe, Article 6(4); and
 - (c) EU-UK Trade and Cooperation Agreement, Article 399.
- (7) To determine the United Kingdom's international obligations for the purposes of subsection 6(a), reference shall be made to the Observations of the ILO Committee of Experts, and the Conclusions of the ILO Committee on Freedom of Association, and for the purposes of subsection 6(b), reference shall be made to the conclusions of the European Committee of Social Rights."

Member's explanatory statement

This amendment would prevent the Secretary of State from making regulations which unduly abridge the right to strike. Section 234(5)(a) and (b) are based on the Civil Contingencies Act 2004. Section 234(5)(c) is new. The amendment is intended to require any regulations to be compatible with the UK's international obligations.

Gavin Newlands

108

- ★ Schedule, page 3, line 31, at end insert—

“(5) Any services deemed to fall within a category specified in subsection (4) which are subject to the competence of—

- (a) the Scottish Parliament,
- (b) the Senedd,
- (c) the Northern Ireland Assembly,
- (d) the Greater London Authority,
- (e) a combined authority constituted under the Local Democracy, Economic Development and Construction Act 2009,
- (f) any other elected body named by the Secretary of State,

shall not be subject to regulations made under subsection (3).”

Member’s explanatory statement

This amendment would remove any service provided by a devolved government or authority from being subject to a regulation made by the Secretary of State under this Act.

Joanna Cherry

117

- ★ Schedule, page 3, line 31, at end insert—

“234BA Requirement for opportunity for negotiated settlement and involvement of independent body

- (1) The Secretary of State may not make minimum service regulations in respect of any strike of which a trade union gives notice to an employer under section 234A unless—
 - (a) the employer and the trade union have been given a reasonable opportunity to reach a negotiated agreement on minimum service levels in respect of the strike; and
 - (b) if the employer and the trade union have not been able to reach an agreement on minimum service levels—
 - (i) the employer and trade union have both been given a reasonable opportunity to make representations to a quasi-judicial body independent of the employer, trade union and Government; and
 - (ii) the independent body has been given a period that is reasonable in the circumstances to determine minimum service levels in respect of the strike.
- (2) If the employer and trade union have reached a negotiated agreement on minimum service levels in respect of the strike referred to in subsection (1), the Secretary of State may not make minimum service regulations in respect of that strike.
- (3) If the independent body referred to in subsection (1)(b)(i) and (ii) above has determined minimum service levels in respect of the strike within the reasonable period—

- (a) The employer and trade union are bound by those minimum service levels;
- (b) The Secretary of State may not make minimum service regulations in respect of the strike referred to in subsection (1)."

Member's explanatory statement

This amendment would prevent the Secretary of State making minimum service regulations in respect of a strike unless the trade union and employer have had an opportunity to reach a negotiated agreement on those levels, and where an independent body has had the opportunity to determine the levels in the absence of an agreement.

Angela Rayner	119
Jonathan Reynolds	
Justin Madders	
Imran Hussain	

- ★ Schedule, page 3, line 34, after second "a" insert "recognised"

Chris Stephens	42
Stephen Flynn	
Mhairi Black	
Alan Brown	
David Linden	
Brendan O'Hara	
John McDonnell	

- ☆ Schedule, page 4, line 1, at end insert—

“(1A) An employer shall also send a copy of a work notice to any person identified therein as someone required to work during the strike.”

Member's explanatory statement

This amendment is designed to require the employer to send a copy of the notice to each of the individuals identified in the notice.

Gavin Newlands	111
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- ★ Schedule, page 4, line 18, at end insert—

“(c) not relate to a service which does not relate to a competence listed in Schedule 5 of the Scotland Act 1998.”

Member's explanatory statement

This amendment this would exclude any devolved services in Scotland from being subject to a work notice.

Angela Rayner
Jonathan Reynolds
Justin Madders
Imran Hussain

70

- ★ Schedule, page 4, leave out lines 19 to 21 and insert—

“(5) A work notice must not identify any more than the minimum number of persons necessary for the purpose of providing the levels of service under the minimum service regulation.”

Member’s explanatory statement

This amendment, with Amendments 71 and 72, is intended to require employers to take reasonable steps to ensure the serving of work notices does not prevent lawful industrial action from taking place.

Angela Rayner
Jonathan Reynolds
Justin Madders
Imran Hussain

69

- ★ Schedule, page 4, line 21, after “regulations”, insert—

“and no person shall be identified in one or more work notices where the effect would be that they would be prevented from taking part in industrial action on fifty per cent or more of the days included in the notice referred to in section 234C(1)(a)”

Member’s explanatory statement

This amendment is intended to ensure that specific workers cannot be prevented from striking by this Bill.

Angela Rayner
Jonathan Reynolds
Justin Madders
Imran Hussain

120

- ★ Schedule, page 4, line 21, at end, insert “or have the effect of preventing any one person taking part in protected industrial action”

Mick Whitley
John McDonnell
Richard Burgon
Beth Winter

93

- ★ Schedule, page 4, line 21, at end insert—

“(5A) A work notice must not include a person who is an official of the trade union (within the meaning of section 119) at the time a work notice is issued.”

Member's explanatory statement

This amendment would exempt trade union officials from a work notice under the Act.

Angela Rayner
Jonathan Reynolds
Justin Madders
Imran Hussain

64

- ★ Schedule, page 4, line 24, at end insert “; or whether the person took part in the activities of an independent trade union at an appropriate time; or made use of trade union services at an appropriate time.”

Member's explanatory statement

This amendment would ensure that the selection of persons for work notices cannot be targeted at trade union activists.

Angela Rayner
Jonathan Reynolds
Justin Madders
Imran Hussain

68

- ★ Schedule, page 4, line 24, at end insert —
 - “or whether the person took part in the activities of an independent trade union at an appropriate time; or made use of trade union services at an appropriate time.
 - (6A) An employer having regard to one or more of the matters referred to in subsection (6) in deciding whether to identify a person in a work notice shall be deemed to subject that person to a detriment for the purpose of section 146 of this Act.
 - (6B) Subjecting a person to a detriment in contravention of section 146 of this Act by reason of subsections (6) and (6A) shall be actionable as a breach of statutory duty.
 - (6C) A person deemed to have been subjected to a detriment for the purpose of section 146 by reason of subsections (6) and (6A) may, as an alternative to pursuing an action for breach of statutory duty in accordance with subsection 6B, present a claim to an Employment Tribunal in accordance with that section.
 - (6D) If there facts from which a court or tribunal could conclude, in the absence of any other explanation, that the employer has contravened, or is likely to contravene, subsections (6) and (6A), it must find that such a contravention occurred, or is likely to occur, unless the employer shows that it did not, or is not likely, to occur.”

Member's explanatory statement

This amendment is intended to gives legal recourse in cases where employers may choose to target trade union members with work notices.

John McDonnell 85
 Richard Burgon
 Beth Winter

- ★ Schedule, page 4, line 25, leave out from “must” to end of line 28 and insert “reach agreement with the union about the number of persons to be identified and the work to be specified in the notice.”

Member’s explanatory statement

This amendment is intended to partially fulfil the conditions required by ILO Convention 87 by providing that minimum service levels are reached by negotiation between the social partners

Angela Rayner 103
 Jonathan Reynolds
 Justin Madders
 Imran Hussain

- ★ Schedule, page 4, line 25, leave out from “must” to end of line 28 and insert “take reasonable steps to reach agreement”

Member’s explanatory statement

This amendment aims to ensure that minimum service levels are reached by negotiation between employers and trade unions.

Chris Stephens 43
 Stephen Flynn
 Mhairi Black
 Alan Brown
 David Linden
 Brendan O’Hara

- ☆ Schedule, page 4, line 25, leave out subsection (7) and insert —

- “(7A) A work notice shall not be valid unless the employer has consulted the recognised trade union, or in the absence of a recognised trade union, a representative trade union.
- (7B) Consultation under subsection (7A) shall take place with a view to reaching an agreement.
- (7C) Where consultation takes place without an agreement being reached, the employer shall refer the matter to arbitration for the resolution of any matters of disagreement between the employer and the trade union.
- (7D) The arbitrator appointed under subsection (7C) shall be an independent person appointed by ACAS from a panel of arbitrators established by ACAS for this purpose.”

Member’s explanatory statement

This amendment is designed to enhance the employer’s duty to consult about work notices.

Sam Tarry
John McDonnell
Richard Burgon
Beth Winter

86

- ★ Schedule, page 4, line 25, leave out paragraph (7) and insert—

“(7A) A work notice shall not be valid unless the employer has consulted the recognised trade union, in the absence of which a representative trade union.

(7B) Consultation under subsection (7A) shall take place with a view to reaching an agreement.

(7C) In the event of a failure to agree the matters in (7A) the employer or the union may refer any or all disputed issues to an arbitrator who shall be an independent person appointed by ACAS from a panel of arbitrators established by ACAS for this purpose and the decision of the arbitrator shall be binding.”

Member’s explanatory statement

This alternative amendment turns on a duty to consult rather than to reach agreement.

Angela Rayner
Jonathan Reynolds
Justin Madders
Imran Hussain

71

- ★ Schedule, page 4, line 27, leave out “and”

Member’s explanatory statement

This amendment, with Amendments 70 and 72, is intended to require employers to take reasonable steps to ensure the serving of work notices does not prevent lawful industrial action from taking place.

Angela Rayner
Jonathan Reynolds
Justin Madders
Imran Hussain

65

- ★ Schedule, page 4, line 28, leave out “have regard to any views expressed by the union in response” and insert “take into account the views expressed by the trade union with a view to reaching agreement with the union.”

Member’s explanatory statement

This amendment is intended to promote good faith engagement between the employer and trade union when consulting over work notices.

Angela Rayner
Jonathan Reynolds
Justin Madders
Imran Hussain

72

- ★ Schedule, page 4, line 28, after “response” insert “and (c) be satisfied that the requirement in subsection (5) is satisfied.”

Member’s explanatory statement

This amendment, with Amendments 70 and 71, is intended to require employers to take reasonable steps to ensure the serving of work notices does not prevent lawful industrial action from taking place.

John McDonnell
Richard Burgon
Beth Winter

87

- ★ Schedule, page 4, line 28, at end insert —

“(7A) In the event of a failure to agree the matters in subsection (7), the employer or the union may refer any or all disputed issues to an arbitrator who shall be an independent person appointed by ACAS from a panel of arbitrators established by ACAS for this purpose and the decision of the arbitrator shall be binding.”

Member’s explanatory statement

This amendment is intended to partially fulfil the conditions required by ILO Convention 87 by providing that minimum service levels are reached by negotiation between the social partners.

John McDonnell
Richard Burgon
Beth Winter

88

- ★ Schedule, page 4, line 28, at end insert —

“(8A) A variation shall not be valid unless the employer has consulted the recognised trade union, in the absence of which a representative trade union.

(8B) Consultation under subsection (7B) shall take place with a view to reaching an agreement.

(8C) In the event of a failure to agree the matters in (7B) the employer or the union may refer any or all disputed issues to an arbitrator who shall be an independent person appointed by ACAS from a panel of arbitrators established by ACAS for this purpose and the decision of the arbitrator shall be binding.”

Member’s explanatory statement

This alternative amendment turns on a duty to consult rather than to reach agreement.

Gavin Newlands

112

- ★ Schedule, page 4, line 28, at end insert—

“(7A) No employee of any organisation listed in Schedule 1 of the Civil Contingencies Act 2004 shall be subject to any work notice.”

Member’s explanatory statement

This amendment would exempt any occupation or employee subject to the above Act from any regulations allowing a work notice to be issued.

Chris Stephens
Stephen Flynn
Mhairi Black
Alan Brown
David Linden
Brendan O’Hara

44

- ☆ Schedule, page 4, line 30, after “union” insert “and to each individual person identified in the notice”

Member’s explanatory statement

See Amendment 42.

Ian Lavery
John McDonnell
Richard Burgon
Beth Winter

95

- ★ Schedule, page 4, line 30, after “varied” insert “to any person identified therein as someone required to work during the strike and,”

Member’s explanatory statement

This amendment is intended to require the employer to send a copy of the notice to each of the individuals identified in the notice.

Ian Mearns
John McDonnell
Richard Burgon
Beth Winter

89

- ★ Schedule, page 4, line 34, leave out paragraph (9) and insert—

“(9A) In the event of a failure to agree the matters in subsection (7A) the employer or the union may refer any or all disputed issues to an arbitrator who shall be an independent person appointed by ACAS from a panel of arbitrators established by ACAS for this purpose and the decision of the arbitrator shall be binding.”

Member's explanatory statement

This amendment is intended to partially fulfil the conditions required by ILO Convention 87 by providing that minimum service levels are reached by negotiation between the social partners.

Ian Mearns
John McDonnell
Richard Burgon
Beth Winter

90

- ★ Schedule, page 4, line 34, leave out paragraph (9) and insert—

- “(9A) An employer may vary a work notice.
- (9B) A variation shall not be valid unless the employer has consulted the recognised trade union, in the absence of which a representative trade union.
- (9C) Consultation under subsection (9A) shall take place with a view to reaching an agreement.
- (9D) In the event of a failure to agree the matters in (9A) the employer or the union may refer any or all disputed issues to an arbitrator who shall be an independent person appointed by ACAS from a panel of arbitrators established by ACAS for this purpose and the decision of the arbitrator shall be binding.”

Member's explanatory statement

This alternative amendment turns on a duty to consult rather than to reach agreement.

Angela Rayner
Jonathan Reynolds
Justin Madders
Imran Hussain

104

- ★ Schedule, page 4, line 34, leave out from “must” to end of line 37 and insert “take reasonable steps to reach agreement”

Member's explanatory statement

This amendment aims to ensure that minimum service levels are reached by negotiation between employers and trade unions.

Ian Lavery
John McDonnell
Richard Burgon
Beth Winter

96

- ★ Schedule, page 4, line 34, at end insert—

- “(za) send a copy of a work notice to any person identified therein as someone required to work during the strike,”

Member's explanatory statement

This amendment is intended to require the employer to send a copy of the notice to each of the individuals identified in the notice.

Chris Stephens
Stephen Flynn
Mhairi Black
Alan Brown
David Linden
Brendan O'Hara

46

- ☆ Schedule, page 4, line 35, after "union" insert "and each individual person identified in the notice"

Member's explanatory statement

See Amendment 42.

Angela Rayner
Jonathan Reynolds
Justin Madders
Imran Hussain

66

- ★ Schedule, page 4, line 37, leave out "have regard to any views expressed by the union in response" and insert "take into account the views expressed by the trade union with a view to reaching agreement with the union."

Member's explanatory statement

This amendment is intended to promote good faith engagement between the employer and trade union when consulting over work notices.

Chris Stephens
Stephen Flynn
Mhairi Black
Alan Brown
David Linden
Brendan O'Hara

47

- ☆ Schedule, page 4, line 37, after "union" insert "and by each individual person identified in the notice"

Member's explanatory statement

See Amendment 42.

Chris Stephens
 Stephen Flynn
 Mhairi Black
 Alan Brown
 David Linden
 Brendan O'Hara
 John McDonnell

48

☆ Schedule, page 4, line 40, at end insert—

“234CA Protection of Employees

- (1) A person shall not be subject to a work notice if the person in question has not been given or received the work notice.
- (2) The onus will be on the employer to prove that an individual received a work notice.
- (3) Failure to comply with a work notice shall not—
 - (a) be regarded as a breach of the contract of employment of any person identified in the work notice; or
 - (b) constitute grounds for dismissal or any other detrimental action.
- (4) Having regard to subsection (3), failure to comply with a work notice shall be deemed to be—
 - (a) a trade union activity undertaken at an appropriate time for the purposes of section 146 above; and
 - (b) participation in industrial action for the purposes of sections 238 and 238A below.”

Member’s explanatory statement

This inserted Section 234CA is designed to ensure that compliance with a work notice should be voluntary on the part of the employee in question. Provision is also made to protect the individual who decides not to comply from any sanction imposed by the employer.

Gavin Newlands

110

★ Schedule, page 4, line 40, at end insert—

- “(11) (a) A work notice must be submitted to the Presiding Officer of the Scottish Parliament, the Llywydd of the Senedd, and the Speaker of the Northern Ireland Assembly for consideration by a sitting of each body.
- (b) Where less than four-fifths of those elected representatives constituting each body vote in favour of a motion supporting the granting of a work notice, the notice shall be deemed invalid.”

Member’s explanatory statement

This amendment would ensure that a work notice would be valid only if its provisions were submitted by an employer to the three devolved institutions and received the support of over 80% of elected members in each chamber.

Gavin Newlands

113

- ★ Schedule, page 5, line 6, at end insert—

“(2A) No disclosure of information authorised by section 234C shall apply to any individual habitually residents or ordinarily employed in Scotland.”

Member’s explanatory statement

This amendment would protect the personal data of people living and working in Scotland.

Chris Stephens

Stephen Flynn

Mhairi Black

Alan Brown

David Linden

Brendan O’Hara

John McDonnell

49

- ☆ Schedule, page 5, leave out lines 9 to 22

Member’s explanatory statement

The purpose of this amendment is to delete inserted section 234E in order to exclude the operation of the duty of the union to take reasonable steps to ensure that all workers identified in the work notice comply with the notice.

Ian Mearns

John McDonnell

Richard Burgon

Beth Winter

79

- ★ Schedule, page 5, line 14, leave out from “234C” to end of line 17

Member’s explanatory statement

This would remove the requirement for trade unions to take reasonable steps for employees to comply with work notices, as these are not a matter between trade union and member, but between employer and employee.

Angela Rayner

Jonathan Reynolds

Justin Madders

Imran Hussain

63

- ★ Schedule, page 5, line 17, leave out “comply with” and insert “are aware of”

Member’s explanatory statement

This amendment would ensure that the trade union’s legal duty is restricted to making its members aware of the content of the work notice.

Grahame Morris
John McDonnell
Richard Burgon
Beth Winter

92

★ Schedule, page 5, line 17, at end insert—

- “(c) in paragraph (b), if it is alleged that a union failed to take “reasonable steps”, a failure to take any of the following steps shall not be taken to constitute a failure to take reasonable steps—
- (i) to discipline or impose any detriment for non-compliance or threatened non-compliance, or for inducing or seeking to induce non-compliance by another member with a work notice, or
 - (ii) to threaten to discipline or impose any detriment for non-compliance or threatened non-compliance, or for inducing or seeking to induce non-compliance by another member with a work notice, or
 - (iii) to instruct a member not to comply with a work notice, or to revoke any instruction or encouragement to take part in the strike.”

Member’s explanatory statement

This amendment is intended to limit the requirement that a union should police its own members.

Chris Stephens
Stephen Flynn
Mhairi Black
Alan Brown
David Linden
Brendan O’Hara

52

☆ Schedule, page 5, line 22, at end insert—

- “(3) A trade union shall be deemed fully to have complied with its obligation under section (1) if it informs any members identified in a work notice that they have been so identified.
- (4) For the purpose of subsection (3) a trade union is required to do only whatever is reasonably practicable by whatever means it deems appropriate.
- (5) For the purposes of subsection (3) a trade union will not be deemed to have failed to comply with its duty in paragraph (b) on the ground only that one or more members has or have not been informed that they are the subject of a work notice.
- (6) For the avoidance of doubt, a trade union will not be required to discipline or expel a member who—
- (a) refuses to comply with a requirement to work under a work notice, or

- (b) encourages others not to comply with a work notice.”

Member’s explanatory statement

This amendment is intended to restrict the trade union’s compliance duty under the Act.

Rachael Maskell

105

- ★ Schedule, page 5, line 22, at end insert—

“234EA Regulations: prior consultation

- (1) When an industrial action ballot result is announced in any of the categories listed in section 234B(4), and prior to the making of any minimum service regulations, the employer and any Government department, including the HM Treasury, funding the employer must enter into meaningful negotiations over all the reasons for the dispute in order to try and resolve the dispute.
- (2) Ahead of any meaningful negotiation, all parties must set out their positions and papers must be exchanged at least 48 hours ahead of the commencement of these negotiations.
- (3) As part of these negotiations, the employer may choose to discuss minimum service levels within their workplaces.
- (4) Parties may deploy ACAS to assist in mediating the meaningful negotiations at any point in the process.
- (5) While meaningful negotiations are undertaken, by agreement of both parties the timetable for industrial action may be suspended from the time of the announcement to the first day of action planned to be taken, but that timetable may be recommenced following the first meeting, should the trade union so determine.
- (6) In this section, “meaningful negotiations” require—
 - (a) a full exchange of respective positions from both of the parties, including an exchange of documents at least 48 hours ahead of negotiations,
 - (b) the opportunity to discuss minimum service levels during the period of the strike, should negotiations prove not to secure an outcome,
 - (c) both parties to turn up to the talks and to enter into talks on all the issues registered as the reason for the dispute,
 - (d) both parties to be given the opportunity to set out their case,
 - (e) parties to explore what steps need to be undertaken to resolve the dispute, and
 - (f) that where possible a resolution is found.”

Member’s explanatory statement

The intention of this amendment is to avoid the need for minimum service regulations by prior settlement of industrial disputes.

Angela Rayner
Jonathan Reynolds
Justin Madders
Imran Hussain

118

★ Schedule, page 5, line 22, at end insert—

“(3) Peaceful picketing within the meaning of section 220 of the 1992 Act shall not be regarded as an act done by the union to induce a person to take part, or continue to take part, in the strike, for the purposes of subsection (1).”

Member’s explanatory statement

The intention of this amendment is avoid picketing alone being a cause for a claim against the union under the Act on the basis that this was inducing an identified person to take part in the strike.

Chris Stephens
Stephen Flynn
Mhairi Black
Alan Brown
David Linden
Brendan O’Hara

50

☆ Schedule, page 5, line 23, after “consultation” insert “with Social Partners”

Member’s explanatory statement

This amendment is linked to Amendment 51.

Angela Rayner
Jonathan Reynolds
Justin Madders
Imran Hussain
John McDonnell

8

☆ Schedule, page 5, line 23, at end insert—

“(A1) Before making regulations under section 234B the Secretary of State must receive a report into minimum services in the affected sector from the relevant House of Commons select committee.

(A2) For the purpose of subsection (A1), “relevant House of Commons select committee” means—

- (a) House of Commons Home Affairs Committee for regulations affecting fire and rescue services, and border security as set out in 234B(4),
- (b) House of Commons Education Committee for regulations affecting education services as set out in 234B(4),
- (c) House of Commons Transport Committee for regulations affecting transport services as set out in 234B(4),
- (d) House of Commons Health and Social Care Committee for regulations affecting health services as set out in 234B(4),

- (e) House of Commons Business, Energy and Industrial Strategy Committee for regulations affecting decommissioning of nuclear installations and management of radioactive waste and spent fuel as set out in 234B(4).
- (A3) The Speaker of the House of Commons may determine in case of any doubt the relevant successor of any committee mentioned in subsection (A2)."

Member's explanatory statement

This amendment would require that each relevant Select Committee conducts and publishes inquiries on how the Act will impact on each named sector, before the Act can be brought into operation.

Chris Stephens
 Stephen Flynn
 Mhairi Black
 Alan Brown
 David Linden
 Brendan O'Hara

51

☆ Schedule, page 5, line 24, leave out subsection (1) and insert—

- “(1A) Before making regulations under section 234B the Secretary of State shall consult organisations representative of employers and trade unions.
- (1B) Consultation under subsection (1) shall take place with a view to reaching an agreement.
- (1C) Where consultation takes place without an agreement being reached, the Secretary of State shall refer the matter to arbitration for the resolution of any matters of disagreement between the Secretary of State and the organisations representative of employers and trade unions.
- (1D) The arbitrator appointed under subsection (3) shall be an independent person appointed by ACAS from a panel of arbitrators established by ACAS for this purpose.
- (1E) The decision of the arbitrator shall be binding.
- (1F) The Secretary of State shall not make regulations which are inconsistent with the decision of the arbitrator.”

Member's explanatory statement

Consistently with the practice in other countries, the purpose of this amendment is to remove the Secretary of State's unilateral power to determine what minimum service levels should be. The Secretary of State would be required to consult and agree minimum service levels with the social partners, failing which minimum service levels will be determined by an independent arbitrator.

John McDonnell
Richard Burgon
Beth Winter

62

★ Schedule, page 5, line 25, leave out lines 23 to 40 and insert—

“234F Consultation

- (1) If a Minister of the Crown proposes to make regulations under this Act the Minister must—
 - (a) consult such organisations as appear to the Minister to be representative of interests substantially affected by the proposals;
 - (b) where the proposals relate to the functions of one or more statutory bodies, consult those bodies, or persons appearing to the Minister to be representative of those bodies;
 - (c) consult the Scottish Ministers and the Welsh Ministers, and
 - (d) consult such other persons as the Minister considers appropriate.
- (2) If, as a result of any consultation required by subsection (1), it appears to the Minister that it is appropriate to change the whole or any part of the proposals, the Minister must undertake such further consultation with respect to the changes as the Minister considers appropriate.
- (3) If, before the day on which this section comes into force, any consultation was undertaken which, had it been undertaken after that day, would to any extent have satisfied the requirements of this section, those requirements shall to that extent be taken to have been satisfied.
- (4) In subsection (1)(b) “statutory body” means—
 - (a) a body established by or under any enactment; or
 - (b) the holder of any office so established.

234FA Draft regulations and explanatory document laid before Parliament

- (1) If, after the conclusion of the consultation required by section 234F, the Minister considers it appropriate to proceed with the making of regulations, the Minister must lay before Parliament for a period of at least 60 days —
 - (a) a draft of the regulation, together with
 - (b) an explanatory document.
- (2) The explanatory document must—
 - (a) introduce and give reasons for the regulations;
 - (b) give details of—
 - (i) any consultation undertaken under section 234F;
 - (ii) any representations received as a result of the consultation;
 - (iii) the changes (if any) made as a result of those representations;
 - (c) explain why the draft regulations are consistent with the United Kingdom’s international legal obligations.

234FB Super-affirmative resolution procedure

- (1) In determining whether to make regulations, the Minister must have regard to—
 - (a) any representations made,
 - (b) any resolution of either House of Parliament, and
 - (c) any recommendations of a committee of either House of Parliament charged with
 - (d) reporting on the draft regulations,any recommendations of a committee of either House of Parliament charged with reporting on the draft regulations,
- (2) If, after the expiry of the 60-day period, the Minister wishes to make regulations in the terms of the draft, the Minister must lay before Parliament a statement—
 - (a) stating whether any representations were made under subsection (1)(a); and
 - (b) if any representations were so made, giving details of them.
- (3) The Minister may after the laying of such a statement make regulations in the terms of the draft if it is approved by a resolution of each House of Parliament.
- (4) However, a committee of either House charged with reporting on the draft regulations may, at any time after the laying of a statement under subsection (3) and before the draft regulations are approved by that House under subsection (3), recommend under this subsection that no further proceedings be taken in relation to the draft regulations.
- (5) Where a recommendation is made by a committee of either House under subsection (4) in relation to a draft regulations, no proceedings may be taken in relation to the draft regulations in that House under subsection (3) unless the recommendation is, in the same Session, rejected by resolution of that House.
- (6) If, after the expiry of the 60-day period, the Minister wishes to make regulations consisting of a version of the draft regulations with material changes, the Minister must lay before Parliament—
 - (a) a revised draft of the regulations; and
 - (b) a statement giving details of—
 - (i) any representations made under subsection (1)(a); and
 - (ii) the revisions proposed.
- (7) The Minister may after laying a revised draft regulations and statement under subsection (6) make regulations in the terms of the revised draft if they are approved by a resolution of each House of Parliament.
- (8) However, a committee of either House charged with reporting on the revised draft regulations may, at any time after the revised draft regulations are laid under subsection (6) and before they are approved by that House under subsection (7), recommend under this subsection that no further proceedings be taken in relation to the revised draft regulations.
- (9) Where a recommendation is made by a committee of either House under subsection (8) in relation to a revised draft regulations, no proceedings

may be taken in relation to the revised draft regulations in that House under subsection (7) unless the recommendation is, in the same Session, rejected by resolution of that House.

- (10) In this section the “60-day period” means the period of 60 days beginning with the day on which the draft regulations were laid before Parliament under section 234FA.”

Member’s explanatory statement

This amendment would provide a super-affirmative procedure for Regulations under the Act.

Angela Rayner
Jonathan Reynolds
Justin Madders
Imran Hussain
John McDonnell

5

- ☆ Schedule, page 5, line 25, leave out “such persons as the Secretary of State considers appropriate” and, at end insert —
- “(a) trade unions in each affected sector,
 - (b) employers in each affected sector,
 - (c) relevant Government Departments for each affected sector, and
 - (d) relevant Parliamentary Select Committees for each affected sector.”

Member’s explanatory statement

The intention of this amendment is to require that the Government consults with a range of stakeholders for each affected sector before making regulations, including relevant trade unions, employers, Government Departments and Select Committees.

Gavin Newlands

114

- ★ Schedule, page 5, line 25, leave out “such persons as the Secretary of State considers appropriate” and insert—
- “(a) the Scottish Trade Union Congress,
 - (b) the Trade Union Congress,
 - (c) the Irish Congress of Trade Unions,
 - (d) all trade unions entered on the list maintained by the Certification Officer under Section 3 of the Trade Union and Labour Relations (Consolidation) Act 1992,
 - (e) the Scottish Parliament,
 - (f) Scottish Ministers,
 - (g) Senedd Cymru,
 - (h) Welsh Ministers,
 - (i) the Northern Ireland Assembly,
 - (j) the Northern Ireland Executive, and
 - (k) such persons as the Secretary of State considers appropriate.”

Member's explanatory statement

This amendment would mandate consultation with all relevant trade union bodies, individual trade unions, the Scottish Parliament, Senedd Cymru, Northern Ireland Assembly, and allow the Secretary of State to consult others.

Chris Stephens
 Stephen Flynn
 Mhairi Black
 Alan Brown
 David Linden
 Brendan O'Hara
 John McDonnell

53

☆ Schedule, page 5, line 26, at end insert—

“(1A) For the avoidance of doubt subsection (1) is without prejudice to the obligations of the Secretary of State in section 234BC (duty to consult Devolved Administrations) and section 234BD (duty to consult Social Partners).”

Member's explanatory statement

This amendment is linked to Amendment 41.

David Linden
 Alan Brown
 Chris Stephens

24

☆ Schedule, page 5, line 26, at end insert—

“(1A) In particular, the Secretary of State must consult elected mayors of Greater London and of Combined Authorities in respect of minimum service levels for services for which they have responsibility.”

Member's explanatory statement

The intention of this amendment is to ensure that elected mayors with strategic responsibilities for transport, for example, are included in the consultations before minimum service levels are set.

Grahame Morris
 John McDonnell
 Richard Burgon
 Beth Winter

91

★ Schedule, page 5, line 31, at end insert —

“(2A) A trade union shall be deemed fully to have complied with its obligation under section (1) if it informs any of its members identified in a work notice that they have been so identified.

(2B) For the purpose of subsection (2A) a trade union is required to do only whatever is reasonably practicable by whatever means it deems appropriate.

- (2C) For the purposes of subsection (2A) a trade union will not be deemed to have failed to comply with its duty in paragraph (b) on the ground only that one or more members has or have not been informed that they are the subject of a work notice.”

Member’s explanatory statement

This amendment is intended to limit the requirement that a union should police its own members.

Angela Rayner
Jonathan Reynolds
Justin Madders
Imran Hussain
John McDonnell

7

- ☆ Schedule, page 5, line 39, leave out “(as well as by consultation after that time)”

Member’s explanatory statement

The intention of this amendment is to require that the consultation may be satisfied only by consultation completed before the passing of the Act.

Angela Rayner
Jonathan Reynolds
Justin Madders
Imran Hussain
John McDonnell

6

- ☆ Schedule, page 5, line 40, at end insert —

- “(6) Any consultation carried out by the Government under this section must be published within six weeks of the day on which this Act is passed.”

Member’s explanatory statement

The intention of this amendment is to require that the Government makes public any and all consultations.

Christine Jardine

18

- ☆ Schedule, page 5, line 40, at end insert—

“234FA Impact assessment of this Part

- (1) The Secretary of State must conduct a review into the impact of this Act on each the categories listed in section 234B(4), with regard to—
- (a) recruitment of new staff,
 - (b) retention of existing staff, and
 - (c) the provision of adequate staffing levels in the long-term.

- (2) The Secretary of State must lay a copy of the report under subsection (1) before both Houses of Parliament no later than six months after the day on which this Act is passed.”

Member’s explanatory statement

This amendment would require the Secretary of State to conduct a report into the impact of the Bill on recruiting staff, retaining staff and the provision of adequate staffing levels in the long-term.

Christine Jardine

19

- ☆ Schedule, page 5, line 40, at end insert—

“234FB Impact assessment of this Part (No. 2)

- (1) The Secretary of State must conduct a review into the impact of this Act on—
- (a) numbers of working hours lost attributable to the operation of this Act, and
 - (b) the total cost to the Exchequer of litigation arising from legal challenges to this Act over the first 12 months after the day on which this Act is passed.
- (2) The Secretary of State must lay a copy of the report under subsection (1) before both Houses of Parliament no later than 18 months after the day on which this Act is passed.”

Member’s explanatory statement

This amendment would require the Secretary of State to conduct an impact assessment on the working hours lost, and costs to government of legal challenges, incurred as a result of the Act.

Chris Stephens
Stephen Flynn
Mhairi Black
Alan Brown
David Linden
Brendan O’Hara

54

- ☆ Schedule, page 6, line 2, at end insert—

“senior Minister of the Crown” means—

- (a) the First Lord of the Treasury (the Prime Minister),
- (b) any of Her Majesty’s Principal Secretaries of State, and
- (c) the Commissioners of Her Majesty’s Treasury.”

Member’s explanatory statement

This provision is based on the Civil Contingencies Act 2004: see Amendment 41.

Chris Stephens 55
 Stephen Flynn
 Mhairi Black
 Alan Brown
 David Linden
 Brendan O’Hara

- ☆ Schedule, page 6, line 9, leave out paragraphs 3 to 5

Member’s explanatory statement

The purpose of this amendment is to ensure that trade unions do not incur delictual or tortious liability where there is a failure to take reasonable steps to ensure workers fail to comply with work notices.

Angela Rayner 1
 Jonathan Reynolds
 Justin Madders
 Imran Hussain
 John McDonnell

Schedule, page 6, line 29, leave out paragraphs 6 to 10

Member’s explanatory statement

This amendment would preserve existing protections from unfair dismissal, including for an employee who participates in a strike contrary to a work notice under this Bill.

Ian Lavery 78
 John McDonnell
 Richard Burgon
 Beth Winter

- ★ Schedule, page 6, line 33, leave out paragraph 8

Member’s explanatory statement

This amendment would remove the Bill’s intention to remove protection against unfair dismissal for workers who refuse to work on strike days.

Chris Stephens 58
 Stephen Flynn
 Mhairi Black
 Alan Brown
 David Linden
 Brendan O’Hara

- ☆ Schedule, page 7, line 4, at end insert—

“(ab) however, where the industrial action is a strike relating to the provision of a particular service, an employee who takes part shall be treated as having taken part in protected action if the only reason why the action is not protected in accordance with subsection (1) is that the union has failed to comply with section 234E above.”

Member's explanatory statement

This amendment would ensure that unfair dismissal protection for participating in industrial action is retained where the union has failed to take reasonable steps in accordance with section 234E.

Chris Stephens	56
Stephen Flynn	
Mhairi Black	
Alan Brown	
David Linden	
Brendan O'Hara	

- ☆ Page 3, line 1, leave out Schedule

Chris Stephens	57
Stephen Flynn	
Mhairi Black	
Alan Brown	
David Linden	
Brendan O'Hara	

- ☆ Title, line 1, leave out "about minimum service levels in connection with the taking by trade unions of strike action relating to certain services" and insert "to make provision for workers in specified services to be subject to compulsory work notices contrary to their decision to withdraw their labour in an industrial dispute"

Member's explanatory statement

The intention of this Amendment is to re-phrase the long title of the Act.

Order of the House

[16 January 2023]

That the following provisions shall apply to the Strikes (Minimum Service Levels) Bill:

Committal

1. The Bill shall be committed to a Committee of the whole House.

Proceedings in Committee

2. Proceedings in Committee and any proceedings on Consideration shall (so far as not previously concluded) be brought to a conclusion five hours after the commencement of proceedings in Committee of the whole House.
3. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion six hours after the commencement of proceedings in Committee of the whole House.
4. Standing Order No. 83B (Programming committees) shall not apply to proceedings in Committee of the whole House, to any proceedings on Consideration or to proceedings on Third Reading.

Other proceedings

5. Any other proceedings on the Bill may be programmed.
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Withdrawn Amendments

The following amendments were withdrawn on 25 January 2023:

34, 35, 45