

WORKER PROTECTION (AMENDMENT OF EQUALITY ACT 2010)

EXPLANATORY NOTES ON LORDS AMENDMENTS

What these notes do

- 1 These Explanatory Notes relate to the Lords Amendments to the Worker Protection (Amendment of Equality Act 2010) Bill as brought from the House of Lords on 13 September 2023 (Bill 367-EN).
- 2 These Explanatory Notes have been prepared by the Government Equalities Office in order to assist the reader of the Bill and the Lords amendments, and to help inform debate on the Lords amendments. They do not form part of the Bill and have not been endorsed by Parliament.
- 3 These Explanatory Notes, like the Lords amendments themselves, refer to HL101, the Bill as first printed for the Lords.
- 4 These Explanatory Notes need to be read in conjunction with the Lords amendments and the text of the Bill. They are not, and are not meant to be, a comprehensive description of the Lords amendments.
- 5 Both Lords Amendments 1 and 2 were tabled by Baroness Noakes and were supported by the Government.
- 6 In the following Commentary, an asterisk(*) appears in the heading of any paragraph that deals with a non-Government amendment.

Commentary on Lords amendments

Lords Amendments to Clause 1: Liability of employer for harassment of employee by third-parties*

Lords Amendment 1

- 7 This amendment would remove Clause 1. Clause 1 reintroduces provisions against third-party harassment into the Equality Act 2010. If agreed to, this would mean that the situation would remain as it has been since the repeal of the third-party harassment protections in 2013.

Lords Amendments to Clause 2: Employer duty to prevent sexual harassment of employees*

Lords Amendment 2

- 8 Lords Amendment 2 amends the requirement on employers from taking 'all reasonable steps' to taking 'reasonable steps' in respect of their duty to prevent sexual harassment.
- 9 The removal of Clause 1 and the removal of 'all' from Clause 2 would mean that the Bill would introduce only one measure - a duty on employers to take 'reasonable steps' to prevent sexual harassment of their employees.
- 10 The Equality Act 2010 already contains a statutory requirement that an employment tribunal must assess whether an employer "took all reasonable steps" in order to determine legal liability. This amendment will not change the Equality Act's existing statutory requirement but will create a different test for the new duty on employers.

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