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**Report Stage:** Wednesday 12 March 2025

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**Employment Rights Bill, As Amended**  
(Amendment Paper)

This document lists all amendments tabled to the Employment Rights 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 Any withdrawn amendments are listed at the end of the document.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.

This document should be read alongside the Speaker's provisional selection and grouping, which sets out the order in which the amendments will be debated.

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*DAY 2*

*NEW CLAUSES AND NEW SCHEDULES  
RELATING TO THE SUBJECT MATTER  
OF, AND AMENDMENTS TO, PART 4,  
PART 5 AND PART 6; REMAINING NEW  
CLAUSES AND NEW SCHEDULES;*

*REMAINING PROCEEDINGS ON  
CONSIDERATION.*

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**Secretary Jonathan Reynolds**

Gov **NC39**

To move the following Clause—

**“Trade union recognition**

Schedule (*Trade union recognition*) amends Schedule A1 to the Trade Union and Labour Relations (Consolidation) Act 1992 (collective bargaining: recognition).”

**Member's explanatory statement**

This new clause would introduce NS2.

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**Secretary Jonathan Reynolds**

Gov **NC40**

To move the following Clause—

**“Political funds: requirement to pass  
political resolution**

In section 73 of the Trade Union and Labour Relations (Consolidation) Act 1992 (passing and effect of political resolution)—

- (a) omit subsection (3);
- (b) in subsection (4), for “before the end of that period” substitute “a political resolution (“the old resolution”) is in force and”.

## Member's explanatory statement

This new clause would remove the requirement for a political resolution to be renewed every ten years in order for a trade union to maintain a political fund.

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### Secretary Jonathan Reynolds

Gov **NC41**

To move the following Clause—

#### **“Industrial action ballots: support thresholds**

- (1) The Trade Union and Labour Relations (Consolidation) Act 1992 is amended in accordance with subsections (2) and (3).
- (2) In section 226 (requirement of ballot before action by trade union)—
  - (a) in subsection (2)(a)(iii), for “the required number of persons (see subsections (2A) to (2C))” substitute “the majority voting in the ballot”;
  - (b) omit subsections (2A) to (2F).
- (3) In section 231 (information for members as to result of ballot)—
  - (a) insert “and” at the end of paragraph (e);
  - (b) omit paragraph (g) (and the “and” before it).

- (4) In consequence of the amendments made by subsection (2), omit section 3 of the Trade Union Act 2016.”

### **Member's explanatory statement**

See the explanatory statement for amendment 192 - this new clause contains provision omitted by that amendment and consequential amendments to section 231 of the Trade Union and Labour Relations (Consolidation) Act 1992.

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### **Secretary Jonathan Reynolds**

Gov **NC42**

To move the following Clause—

#### **“Notice of industrial action ballot and sample voting paper for employers**

In section 226A of the Trade Union and Labour Relations (Consolidation) Act 1992 (notice of ballot and sample voting paper for employers)—

(a) in subsection (2)(c)—

- (i) in sub-paragraph (i), for the words from “figures” to “arrived at” substitute “number mentioned in subsection (2B)”;
- (ii) in sub-paragraph (ii), for “figures and that explanation” substitute “that number”;

- (b) for subsection (2B) substitute—
  - “(2B) The number is the total number of employees concerned.”;
- (c) in subsection (2C)—
  - (i) in paragraph (b), omit the words from “and the number” to “categories”;
  - (ii) in paragraph (c), omit the words from “and the number” to “workplaces”;
- (d) in subsection (2D), for “figures” substitute “the number”.

### **Member's explanatory statement**

This new clause would remove the requirements for a trade union to provide information to an employer ahead of an industrial action ballot as to the number of employees concerned in each category or workplace and to provide an explanation of how the total number of employees concerned was determined by the union.

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**Secretary Jonathan Reynolds**

Gov **NC43**

To move the following Clause—

#### **“Period after which industrial action ballot ceases to be effective**

In section 234 of the Trade Union and Labour Relations (Consolidation) Act 1992 (period after which industrial action ballot ceases to be effective), in subsection (1), for the words from “period” to the end substitute “period of

12 months beginning with the date of the ballot”.

### **Member's explanatory statement**

This new clause would increase the time period for which an industrial action ballot has effect from 6 months (or up to 9 months by agreement between the employer and trade union) to 12 months (without the possibility of extension).

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### **Secretary Jonathan Reynolds**

Gov **NC44**

To move the following Clause—

#### **“Power to give notice of underpayment**

- (1) Where it appears to the Secretary of State that—
  - (a) on any day (“the relevant day”), a sum in respect of—
    - (i) one or more periods ending before the relevant day, or
    - (ii) one or more events occurring before the relevant day,was due from a person (the “liable party”) to an individual (the “underpaid individual”) under or by virtue of a statutory pay provision (see subsection (7)), and
  - (b) any period for payment of that sum to be made has ended without the sum having been paid to the underpaid individual,

the Secretary of State may give a notice of underpayment to the liable party.

- (2) A notice of underpayment is a notice under this section requiring the liable party to pay the required sum to the underpaid individual before the end of the period of 28 days beginning with the day on which the notice is given. For the meaning of the “required sum”, see section (*Calculation of the required sum*).
- (3) Subsection (1) is subject to—
  - (a) subsection (6), and
  - (b) section (*Period to which notice of underpayment may relate*) (period to which notice of underpayment may relate).
- (4) The Secretary of State may give a notice of underpayment to a person in respect of a sum that was due from the person on the relevant day whether or not the sum remains due at the time of the giving of the notice (see, in particular, section (*Penalties for underpayment*) (penalties for underpayment)).
- (5) But where all or part of that sum has been paid before the giving of the notice, the requirement imposed by the notice is, to that extent, to be treated as met.
- (6) The Secretary of State may not give a notice of underpayment in respect of any matter if—
  - (a) proceedings have been brought about the matter by virtue of section (*Power to bring*

- proceedings in employment tribunal*) (power to bring proceedings in employment tribunal), and
- (b) the proceedings have not been finally determined or discontinued.
- (7) In this Part “statutory pay provision” means a provision of relevant labour market legislation that—
- (a) confers a right or entitlement to the payment of any sum to an individual, or
- (b) prohibits or restricts the withholding of payment of any sum to an individual.”

### **Member's explanatory statement**

Where an employer has failed to pay a worker an amount due to the worker under a provision of legislation listed in Part 1 of Schedule 5 (for example, the minimum wage or statutory sick pay), the Secretary of State may give the employer a notice of underpayment requiring the employer to pay the amount due.

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**Secretary Jonathan Reynolds**

Gov **NC45**

To move the following Clause—

#### **“Calculation of the required sum**

- (1) For the purposes of section (*Power to give notice of underpayment*)(2), the “required sum” is whichever is the greater of the following sums—



- (a) the sum that was due to the underpaid individual on the relevant day;
- (b) in a case where regulations under subsection (2) apply, the sum determined in accordance with the regulations.

This is subject to subsection (4).

- (2) Regulations made by the Secretary of State may make provision for determining the sum required to be paid to an individual by a notice of underpayment in a case where the sum due to the individual on any day under or by virtue of a statutory pay provision would have been greater had that sum been determined by reference to the statutory pay provision as it has effect at the time of giving the notice of underpayment.
- (3) But regulations under subsection (2) may not make provision in relation to any provision of the National Minimum Wage Act 1998 (see instead section 17 of that Act).
- (4) If the required sum in respect of an underpaid individual would (in the absence of this subsection) be greater than the specified maximum for the statutory pay provision concerned, the required sum in respect of the underpaid individual is the specified maximum.
- (5) For the purposes of subsection (4) “the specified maximum”, in relation to a statutory pay provision, means an amount specified by,

or determined in accordance with, regulations made by the Secretary of State.

- (6) Regulations under this section are subject to the affirmative resolution procedure.”

### **Member's explanatory statement**

This new clause provides for the calculation of the sum that is required to be paid. There is power to provide for the amount owed to be uprated in line with legislative changes occurring after the sum first became due. There is also power to set a cap on the amount that can be required to be paid by a notice of underpayment in respect of a single individual.

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### **Secretary Jonathan Reynolds**

Gov **NC46**

To move the following Clause—

#### **“Period to which notice of underpayment may relate**

- (1) A notice of underpayment may not relate to any sum that became due under or by virtue of a statutory pay provision before the beginning of the claim period.
- (2) The “claim period”, in relation to a notice of underpayment, is the period of six years ending with the day on which the notice is given.

- (3) The Secretary of State may by regulations amend this section so as to alter the length of the claim period.
- (4) Regulations under subsection (3)—
  - (a) may specify different claim periods in relation to different statutory pay provisions;
  - (b) may not provide for the claim period in relation to a notice of underpayment to be greater than the period of six years ending with the day on which the notice is given.
- (5) Regulations under subsection (3) are subject to the affirmative resolution procedure.
- (6) A notice of underpayment may relate to sums that became due before the coming into force of this section.
- (7) But a notice of underpayment may not relate to any sum that became due before the day on which this Act is passed.
- (8) Subsection (7) does not apply to a notice of underpayment so far as it relates to any sum due under section 17 of the National Minimum Wage Act 1998 (entitlement to additional remuneration for failure to pay at least the minimum wage).
- (9) See also section (*Replacement notice of underpayment*)(3) (claim period for replacement notices of underpayment)."

## **Member's explanatory statement**

This new clause provides that a notice of underpayment may relate to sums that become due within the period of six years ending with the giving of the notice. There is power to alter the length of this period, but it cannot be more than six years. A notice of underpayment may also relate to sums that become due before the coming into force of this clause, as otherwise the power to give notices of underpayment would not become exercisable to its full extent until six years after that time.

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**Secretary Jonathan Reynolds**

Gov **NC47**

To move the following Clause—

**“Notices of underpayment: further provision**

- (1) Where a notice of underpayment relates to more than one underpaid individual, the notice may identify the individuals by name or by description.
- (2) A notice of underpayment must specify, for each underpaid individual to whom it relates—
  - (a) the relevant day in relation to the individual;
  - (b) the sum due to the individual on that day and how that sum was calculated;

- (c) the period or periods, or event or events, in respect of which it was due;
- (d) the statutory pay provision under or by virtue of which it was due;
- (e) the fact that any period for payment of that sum to be made ended without the sum having been paid;
- (f) the required sum in respect of the individual and (if different from the sum mentioned in paragraph (b)) how that sum was calculated.”

### **Member's explanatory statement**

This new clause makes provision about the information to be included in a notice of underpayment.

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### **Secretary Jonathan Reynolds**

Gov **NC48**

To move the following Clause—

#### **“Penalties for underpayment**

- (1) A notice of underpayment must require the liable party to pay a penalty to the Secretary of State. This is subject to section (*Further provision about penalties*)(1).
- (2) The penalty must be paid before the end of the period of 28 days beginning with the day on which the notice is given.

- (3) The amount of the penalty is the total of the amounts for each underpaid individual to whom the notice relates calculated in accordance with subsections (4) and (5) (but see subsection (6)).
- (4) The amount for each underpaid individual to whom the notice relates is 200% of the sum specified in the notice of underpayment as the sum due to the individual on the relevant day (see section (*Notices of underpayment: further provision*)(2)(b)).
- (5) But if the amount determined under subsection (4) for any underpaid individual would be more than £20,000, the amount for the individual taken into account in calculating the penalty is to be £20,000.
- (6) If a penalty calculated in accordance with subsection (3) would be less than £100, the amount of the penalty is to be £100.
- (7) The Secretary of State may by regulations amend this section—
  - (a) so as to substitute a different percentage for a percentage for the time being specified in this section;
  - (b) so as to substitute a different amount for an amount for the time being specified in this section;
  - (c) so as to specify different percentages or amounts for different purposes.

- (8) Regulations under subsection (7) are subject to the affirmative resolution procedure.”

### **Member's explanatory statement**

This new clause provides that a notice of underpayment must also impose a financial penalty on the person given the notice, and sets out how the penalty will be calculated. The maximum penalty in respect of an underpaid individual is £20,000, but a notice of underpayment may relate to more than one such individual.

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**Secretary Jonathan Reynolds**

Gov **NC49**

To move the following Clause—

#### **“Further provision about penalties**

- (1) The Secretary of State may by directions specify circumstances in which a notice of underpayment is not to impose a requirement to pay a penalty.
- (2) A direction under subsection (1) may be amended or revoked by a further direction.
- (3) A notice of underpayment that imposes a requirement to pay a penalty must—
  - (a) specify the amount of the penalty,
  - (b) state how that amount was calculated, and
  - (c) specify the date by which the penalty must be paid.

- (4) In a case where a notice of underpayment imposes a requirement on a person to pay a penalty, if the person, before the end of the period of 14 days beginning with the day on which the notice is given—
- (a) pays (or has paid) the required sum specified in the notice of underpayment, and
  - (b) pays at least half the penalty,
- the person is to be regarded as having paid the penalty.
- (5) Any penalty received by the Secretary of State in accordance with section (*Penalties for underpayment*) is to be paid into the Consolidated Fund.”

### **Member's explanatory statement**

This new clause enables the Secretary of State to specify circumstances in which a penalty is not to be imposed. It also enables a person who has paid the sum owed to the underpaid individual, and at least 50% of the penalty, within 14 days of being given the notice to satisfy their liability entirely.

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**Secretary Jonathan Reynolds**

Gov **NC50**

To move the following Clause—

**“Suspension of penalty where criminal proceedings have been brought, etc**

- (1) Subsection (3) applies where—



- (a) the Secretary of State is proposing to give a notice of underpayment that imposes a requirement on a person to pay a penalty, and
  - (b) it appears to the Secretary of State that—
    - (i) relevant criminal proceedings have been brought, or
    - (ii) relevant criminal proceedings may be brought.
- (2) In this section “relevant criminal proceedings” means proceedings against the person for a labour market offence in respect of any act or omission to which the notice relates (“the relevant conduct”).
- (3) The notice of underpayment may contain provision suspending the requirement to pay the penalty until a notice terminating the suspension is given to the person under subsection (4).
- (4) The Secretary of State may give the person a notice terminating the suspension (a “penalty activation notice”) if it appears to the Secretary of State—
  - (a) in a case referred to in subsection (1)(b)(i), that the proceedings have concluded without the person having been convicted of a labour market offence in respect of the relevant conduct, or
  - (b) in a case referred to in subsection (1)(b)(ii)—

- (i) that relevant criminal proceedings will not be brought, or
  - (ii) that relevant criminal proceedings have concluded without the person having been convicted of a labour market offence in respect of the relevant conduct.
- (5) Where a penalty activation notice is given, the requirement to pay the penalty has effect as if the notice of underpayment had been given on the day on which the penalty activation notice was given.
- (6) The Secretary of State must give the person a notice withdrawing the requirement to pay the penalty if it appears to the Secretary of State that the person has been convicted of a labour market offence in respect of the relevant conduct.”

### **Member's explanatory statement**

This new clause enables a penalty imposed by a notice of underpayment to be suspended where the person given the notice is subject to criminal proceedings in respect of the conduct to which the notice relates.

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**Secretary Jonathan Reynolds**Gov **NC51**

To move the following Clause—

**“Appeals against notices of underpayment**

- (1) A person to whom a notice of underpayment is given may appeal to a tribunal against any one or more of the following—
  - (a) the decision to give the notice;
  - (b) any requirement imposed by the notice to pay a sum to an individual;
  - (c) any requirement imposed by the notice to pay a penalty.
- (2) An appeal under this section must be made before the end of the period of 28 days beginning with the day on which the notice is given.
- (3) An appeal under subsection (1)(a) may be made only on one or more of the following grounds—
  - (a) that no sum was due to any individual to whom the notice relates on the specified day under or by virtue of the specified provision;
  - (b) that, in the case of every sum specified in the notice as due to an individual to whom the notice relates, the sum had been paid before the end of the period mentioned in section (*Power to give notice of underpayment*)(1)(b);

- (c) that, in the case of every sum specified in the notice as due to an individual to whom the notice relates, the sum was one to which a notice may not relate by virtue of subsection (1) or (7) of section (*Period to which notice of underpayment may relate*) (period to which notice may relate).
- (4) An appeal under subsection (1)(b) in relation to an individual may be made only on one or more of the following grounds—
- (a) that, on the specified day, no sum was due to the individual under or by virtue of the specified provision;
  - (b) that, in the case of any sum specified in the notice as due to the individual, the sum had been paid before the end of the period mentioned in section (*Power to give notice of underpayment*)(1)(b);
  - (c) that, in the case of any sum specified in the notice as due to the individual, the sum was one to which a notice may not relate by virtue of subsection (1) or (7) of section (*Period to which notice of underpayment may relate*);
  - (d) that the amount specified in the notice as the sum required to be paid to the individual is incorrect;
  - (e) that, in the case of a replacement notice given under section (*Replacement notice of underpayment*), the notice contravenes subsection (2) of that section.

- (5) An appeal under subsection (1)(c) may be made only on one or more of the following grounds—
- (a) that the notice was given in circumstances specified in a direction under section (*Further provision about penalties*)(1);
  - (b) that the amount of the penalty specified in the notice of underpayment has been incorrectly calculated (whether because the notice is incorrect in some of the particulars which affect that calculation or for some other reason).
- (6) Where the tribunal allows an appeal under subsection (1)(a), it must cancel the notice.
- (7) Where, in a case where subsection (6) does not apply, the tribunal allows an appeal under subsection (1)(b) or (c)—
- (a) the tribunal must rectify the notice, and
  - (b) the notice of underpayment, as rectified, has effect as if it had been given on the day on which the tribunal makes its determination.
- (8) In this section—
- “the specified day”, in relation to an individual, means the day specified in accordance with section (*Notices of underpayment: further provision*)(2)(a) in relation to the individual;
  - “the specified provision”, in relation to an individual, means the statutory pay

provision specified in accordance with section (*Notices of underpayment: further provision*)(2)(d) in relation to the individual;

“tribunal” means—

- (a) an employment tribunal, in relation to England and Wales or Scotland;
- (b) an industrial tribunal, in relation to Northern Ireland.”

### **Member's explanatory statement**

This new clause provides for a right of appeal against a notice of underpayment.

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**Secretary Jonathan Reynolds**

Gov **NC52**

To move the following Clause—

#### **“Withdrawal of notice of underpayment**

(1) Where—

- (a) a notice of underpayment has been given to a person (and not already withdrawn or cancelled), and
- (b) it appears to the Secretary of State that the notice incorrectly includes or omits any requirement or is incorrect in any particular,

the Secretary of State may appeal against the notice must be dismissed. State may withdraw it by giving a notice of withdrawal to the person.

- (2) Where a notice of underpayment given to a person is withdrawn and no replacement notice of underpayment is given in accordance with section (*Replacement notice of underpayment*)—
- (a) any sum paid by or recovered from the person by way of penalty payable under the notice must be repaid to the person with interest at the appropriate rate running from the date when the sum was paid or recovered;
  - (b) any appeal against the notice must be dismissed.
- (3) In subsection (2)(a) “the appropriate rate” means the rate that, on the date the sum was paid or recovered, was specified in section 17 of the Judgments Act 1838.
- (4) Where subsection (2) applies, the notice of withdrawal must indicate the effect of that subsection (but a failure to do so does not make the withdrawal ineffective).”

### **Member's explanatory statement**

This new clause enables a notice of underpayment that is incorrect in some way to be withdrawn. If a replacement notice is not given, then any penalty paid by the person must be repaid with interest.

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**Secretary Jonathan Reynolds**Gov **NC53**

To move the following Clause—

**“Replacement notice of underpayment**

- (1) If the Secretary of State—
  - (a) gives a notice of withdrawal to a person under section (*Withdrawal of notice of underpayment*), and
  - (b) is of the opinion referred to in section (*Power to give notice of underpayment*)(1) in relation to any individual specified in the notice which is being withdrawn (“the original notice”),the Secretary of State may at the same time give a fresh notice of underpayment to the person (a “replacement notice”).
- (2) The replacement notice may not relate to any individual to whom the original notice did not relate.
- (3) The claim period for a replacement notice (see section (*Period to which notice of underpayment may relate*)(1)) is the period—
  - (a) beginning with the claim period for the original notice, and
  - (b) ending with the day on which the replacement notice is given.

Accordingly, the replacement notice may relate to sums that became due after the day on which the original notice was given.



- (4) The replacement notice must—
  - (a) set out the differences between it and the original notice that it is reasonable for the Secretary of State to consider are material, and
  - (b) explain the effect of section (*Effect of replacement notice of underpayment*).
- (5) Failure to comply with subsection (4) does not make the replacement notice ineffective.
- (6) Where a replacement notice is withdrawn under section (*Withdrawal of notice of underpayment*), no further replacement notice may be given under subsection (1) as a result of the withdrawal.
- (7) Nothing in this section affects any power that exists apart from this section to give a notice of underpayment in relation to any underpaid individual.”

### **Member's explanatory statement**

This new clause enables a replacement notice of underpayment to be given where an earlier notice has been withdrawn. The replacement notice cannot relate to any underpaid individual to whom the original notice did not relate, but may relate to sums that have become due since the original notice was given.

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**Secretary Jonathan Reynolds**Gov **NC54**

To move the following Clause—

**“Effect of replacement notice of underpayment**

- (1) This section applies where a notice of underpayment is withdrawn under section (*Withdrawal of notice of underpayment*) and a replacement notice is given in accordance with section (*Replacement notice of underpayment*).
- (2) If an appeal has been made under section (*Appeals against notices of underpayment*) in respect of the original notice and the appeal has not been withdrawn or finally determined before the time when that notice is withdrawn—
  - (a) that appeal (“the earlier appeal”) has effect after that time as if it had been made in respect of the replacement notice, and
  - (b) the person given the notice may exercise the right of appeal under that section in respect of the replacement notice only if the earlier appeal is withdrawn.
- (3) If a sum was paid by or recovered from the person by way of penalty under the original notice—

- (a) an amount equal to that sum (or, if more than one, the total of those sums) is to be treated as having been paid in respect of the penalty imposed by the replacement notice, and
  - (b) any amount by which that sum (or total) exceeds the amount of the penalty imposed by the replacement notice must be repaid to the person with interest at the appropriate rate running from the date when the sum (or, if more than one, the first of them) was paid or recovered.
- (4) In subsection (3)(b) “the appropriate rate” means the rate that, on the date mentioned in that provision, was specified in section 17 of the Judgments Act 1838.”

### **Member's explanatory statement**

This new clause sets out the effect of a replacement notice of underpayment.

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### **Secretary Jonathan Reynolds**

Gov **NC55**

To move the following Clause—

#### **“Enforcement of requirement to pay sums due to individuals**

- (1) In a case where it appears to the Secretary of State that the liable party has failed to comply with a requirement in a notice of underpayment to pay a sum to an underpaid

individual, the Secretary of State may apply to the court for an order under this section.

- (2) An application under this section may be made only if—
  - (a) the relevant 28-day period has ended, and
  - (b) the liable party's appeal rights are exhausted (see subsection (5)).
- (3) If, on an application under this section, the court is satisfied that—
  - (a) the notice was given to the liable party and has not been withdrawn, and
  - (b) the liable party has failed to comply with a requirement imposed by the notice to pay a sum to an underpaid individual, the court must order the liable party to pay the sum to the underpaid individual within the period specified in the order.
- (4) This section does not affect any right of an underpaid individual to recover any sums owed by the liable party to the individual.
- (5) For the purposes of this section, the liable party's appeal rights are exhausted if—
  - (a) the relevant 28-day period ended without an appeal being made under section (*Appeals against notices of underpayment*) in respect of the notice,

- (b) any appeal made under that section by the liable party in respect of the notice has been withdrawn, or
  - (c) any such appeal has been finally determined and the notice has not been cancelled under subsection (6) of that section.
- (6) In this section—
- “the court” means—
    - (a) the county court, in relation to England and Wales;
    - (b) the sheriff, in relation to Scotland;
    - (c) a county court, in relation to Northern Ireland;
  - “the relevant 28-day period” means the period of 28 days beginning with the day on which the notice (or, where section *(Appeals against notices of underpayment)*(7)(b) applies, the rectified notice) is given.”

### **Member's explanatory statement**

This new clause enables the Secretary of State to apply to a court for an order requiring a person who has not complied with a notice of underpayment to pay the sum required to be paid to the underpaid individual.

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**Secretary Jonathan Reynolds**Gov **NC56**

To move the following Clause—

**“Enforcement of requirement to pay penalty**

- (1) In England and Wales, a penalty is recoverable as if it were payable under an order of the county court.
- (2) In Scotland, a penalty may be enforced in the same manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.
- (3) In Northern Ireland, a penalty is recoverable as if it were payable under an order of a county court.
- (4) Where action is taken under this section for the recovery of a penalty, the penalty—
  - (a) in relation to England and Wales, is to be treated for the purposes of section 98 of the Courts Act 2003 (register of judgments and orders etc) as if it were a judgment entered in the county court;
  - (b) in relation to Northern Ireland, is to be treated for the purposes of Article 116 of the Judgments Enforcement (Northern Ireland) Order 1981 (S.I. 1981/226 (N.I. 6)) (register of judgments) as if it were a judgment in respect of which an

application has been accepted under Article 22 or 23(1) of that Order.

- (5) In this section “penalty” means a penalty payable under a notice of underpayment.”

### **Member's explanatory statement**

This new clause provides for how the requirement to pay a penalty imposed by a notice of underpayment may be enforced.

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## **Secretary Jonathan Reynolds**

Gov **NC57**

To move the following Clause—

### **“Power to bring proceedings in employment tribunal**

- (1) In a case where—
- (a) a worker has the right under any enactment to bring proceedings about a matter in an employment tribunal in England and Wales or Scotland, and
  - (b) it appears to the Secretary of State that the worker is not going to bring proceedings about that matter,
- the Secretary of State may, in place of the worker, bring proceedings about the matter in an employment tribunal under the enactment.
- (2) Subsection (1) does not apply to—
- (a) any right to bring proceedings about a matter in respect of which a notice of

- underpayment under section (*Power to give notice of underpayment*) has been given;
- (b) any right arising under or by virtue of the Agricultural Sector (Wales) Act 2014 (anaw 6) or the Agricultural Wages (Scotland) Act 1949.
- (3) Where by virtue of this section the Secretary of State brings proceedings in place of a worker—
- (a) the proceedings are to be proceeded with as if they had been brought by the worker, and
  - (b) for the purposes of dealing with the proceedings, and any proceedings arising out of those proceedings, references to the worker in any enactment are to be read as including a reference to the Secretary of State.
- (4) But, despite subsection (3), any power which an employment tribunal dealing with the proceedings would have to make a declaration, decision, award or other order in favour of the worker if the worker had brought the proceedings continues to be exercisable in relation to the worker (not the Secretary of State).
- (5) Any appeal arising out of proceedings brought by the Secretary of State in place of a worker



by virtue of this section may be brought by the worker as well as by the Secretary of State.

- (6) The Secretary of State is not liable to any worker for anything done (or omitted to be done) in, or in connection with, the discharge or purported discharge of the Secretary of State's functions by virtue of this section.
- (7) For the purposes of this section—
- (a) any reference to a worker includes—
    - (i) an individual who is not a worker as defined by section 230(3) of the Employment Rights Act 1996 but who is a worker for the purposes of Part 4A of that Act (see section 43K(1) of that Act), and
    - (ii) an individual seeking to be employed by a person as a worker;
  - (b) any reference to a right to bring proceedings under an enactment is to such a right however expressed, and includes any right to present a complaint or make any other description of claim or application;
  - (c) any reference to the Secretary of State includes an enforcement officer.”

### **Member's explanatory statement**

This new clause would enable the Secretary of State, in a case where a worker has the right to bring proceedings about a matter in an employment

tribunal, to bring proceedings about that matter in place of the worker. An employment tribunal hearing such proceedings may still make a financial award, etc in the worker's favour if, for example, the complaint about the matter is well-founded.

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## Secretary Jonathan Reynolds

Gov **NC58**

To move the following Clause—

### **“Power to provide legal assistance**

- (1) The Secretary of State may assist a person who is or may become party to civil proceedings in England and Wales or Scotland relating to employment or trade union law or the law of labour relations.
- (2) In giving assistance under this section the Secretary of State may provide or arrange for the provision of—
  - (a) legal advice;
  - (b) legal representation;
  - (c) any other form of assistance.
- (3) But the Secretary of State may not provide, or arrange for the provision of, facilities for the settlement of a dispute.
- (4) Where proceedings relate or may relate partly to employment or trade union law or the law of labour relations (“employment-related matters”) and partly to other matters—

- (a) assistance may be given under this section in respect of any aspect of the proceedings, and
  - (b) if the proceedings cease to relate to employment-related matters—
    - (i) assistance may nevertheless continue to be given under this section in respect of the proceedings, but
    - (ii) the fact that assistance has been given under this section in respect of the proceedings does not require such assistance to continue to be given.
- (5) This section does not affect any restriction imposed in respect of representation—
- (a) by virtue of an enactment, or
  - (b) in accordance with the practice of a court or tribunal.
- (6) A legislative provision which requires insurance or an indemnity in respect of advice given in connection with a settlement agreement does not apply to advice provided by the Secretary of State under this section.”

### **Member's explanatory statement**

This new clause would enable the Secretary of State to provide, or arrange for the provision of, assistance to any person who is or may become party to civil proceedings relating to employment or trade union law or the law of labour relations.

Such assistance may include, in particular, legal advice or representation.

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## Secretary Jonathan Reynolds

Gov **NC59**

To move the following Clause—

### **“Recovery of costs of legal assistance**

- (1) Subsection (2) applies where—
  - (a) the Secretary of State has assisted a person under section (*Power to provide legal assistance*) in relation to proceedings, and
  - (b) the person becomes entitled to some or all of the person’s costs or, in Scotland, expenses in the proceedings (whether as a result of an award or as a result of an agreement).
- (2) The Secretary of State’s expenditure in giving the assistance—
  - (a) is to be charged on sums paid to the person by way of costs or expenses, and
  - (b) may be enforced as a debt due to the Secretary of State.
- (3) A requirement to pay money to the Secretary of State under subsection (2) ranks, in England and Wales, after a requirement imposed by virtue of section 25 of the Legal Aid, Sentencing and Punishment of Offenders

- Act 2012 (statutory charge in connection with civil legal aid).
- (4) Subsection (2), in its application to Scotland, does not affect the operation of section 17(2A) of the Legal Aid (Scotland) Act 1986 (requirement in certain cases to pay to the Scottish Legal Aid Board sums recovered under awards of, or agreements as to, expenses).
  - (5) For the purposes of subsection (2), the Secretary of State's expenditure is to be calculated in accordance with such provision (if any) as the Secretary of State makes for the purpose by regulations.
  - (6) Regulations under subsection (5) may, in particular, provide for the apportionment of expenditure incurred by the Secretary of State—
    - (a) partly for one purpose and partly for another, or
    - (b) for general purposes.
  - (7) Regulations under subsection (5) are subject to the negative resolution procedure.”

### **Member's explanatory statement**

Where the Secretary of State has given assistance to a person under NC58, and the person is entitled to be paid costs in the proceedings, this new clause enables the Secretary of State to recover the costs

of giving the assistance out of the costs paid to the person.

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## Secretary Jonathan Reynolds

Gov **NC60**

To move the following Clause—

### **“Power to recover costs of enforcement**

- (1) The Secretary of State may by regulations make provision requiring a relevant person, or a relevant person of a specified description, to pay a charge as a means of recovering any enforcement costs incurred in relation to the person.
- (2) For the purposes of this section—
  - “enforcement costs”, in relation to a relevant person, means any costs incurred in connection with the exercise of an enforcement function of the Secretary of State in relation to the person;
  - “relevant person” means a person who has failed to comply with any relevant labour market legislation;
  - “specified” means specified in the regulations.
- (3) Regulations under this section may—
  - (a) provide that the amount of a charge is—
    - (i) a fixed amount, or
    - (ii) an amount calculated by reference to an hourly rate;

- (b) provide for the amount of the charge to be determined by the Secretary of State in accordance with the regulations.
- (4) The regulations may in particular—
  - (a) provide that the amount of a charge is to be determined by the Secretary of State in accordance with a scheme made and published by the Secretary of State, and
  - (b) make provision about such schemes, including the principles governing such schemes.
- (5) The provision that may be made by regulations under this section includes, among other things—
  - (a) provision for charges to be payable only in specified circumstances;
  - (b) provision about reductions, exemptions and waivers;
  - (c) provision about how and when charges are to be paid;
  - (d) provision about the collection or recovery of payments;
  - (e) provision for the charging of interest on unpaid charges;
  - (f) provision about the resolution of disputes relating to the payment of charges, including provision for the making of appeals to a court or tribunal.

- (6) Regulations under this section are subject to the negative resolution procedure.
- (7) Sums paid to the Secretary of State under this section are not required to be paid into the Consolidated Fund.”

### **Member's explanatory statement**

This new clause would enable the Secretary of State to recover enforcement costs incurred in relation to a person who has failed to comply with the legislation which the Secretary of State is responsible for enforcing under Part 5. Regulations may require such a person to pay a charge in order to recover those costs. The amount of the charge would be determined in accordance with the regulations, and there is power for the Secretary of State to make and publish a scheme for determining the amount of a charge.

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**John McDonnell**

**NC8**

Mary Kelly Foy

Richard Burgon

Mike Amesbury

Dr Simon Opher

Jon Trickett

Brian Leishman Steve Witherden Andy McDonald

Neil Kate Osborne Ian Byrne

Duncan-Jordan Imran Hussain Zarah Sultana

Kim Johnson Jeremy Corbyn

Nadia Whittome



To move the following Clause—

**“Prison officers: inducements to withhold services**

In section 127 of the Criminal Justice and Public Order Act 1994 (Inducements to withhold services or to indiscipline)—

- (a) in subsection (1), omit paragraph (a);
- (b) omit subsection (1A);
- (c) omit subsection (7).”

**Member's explanatory statement**

This new clause would repeal provisions in the Criminal Justice and Public Order Act 1994 that prohibit inducing a prison officer to take (or continue to take) any industrial action.

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**John McDonnell**

**NC9**

Mary Kelly Foy

Mike Amesbury

Jon Trickett

Brian Leishman

Steve Witherden

Andy McDonald Neil

Kate Osborne

Ian Byrne

Duncan-Jordan

Imran Hussain

Zarah Sultana

Kim Johnson

Jeremy Corbyn

Nadia Whittome

To move the following Clause—

**“Inducement of prison officers: exempted persons**

After section 127A of the Criminal Justice and Public Order Act 1994 (inducements to withhold services or to indiscipline), insert—

**“Section 127B: Prison officers and trade unions: exempted persons**

Section 127 (inducements to withhold services or to indiscipline) does not apply to—

- (a) Any listed trade union representing prison officers, or
- (b) any person acting on behalf of a listed trade union representing prison officers.””

**Member's explanatory statement**

This new clause would repeal, with respect to trade unions representing prison officers, provisions that prohibit the inducement of industrial action or indiscipline by a prison officer.

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**Steve Darling****NC19**

Sarah Gibson

Daisy Cooper

Clive Jones

Cameron Thomas

Jess Brown-Fuller

Ian Sollom

To move the following Clause—

**“Right to be accompanied**

- (1) Section 10 of the Employment Relations Act 1999 (right to be accompanied) is amended as follows.
- (2) In subsection (3), after paragraph (b) insert—
  - “(ba) person who has been reasonably certified in writing by a Professional Body as having experience of, or as having received training in, acting as a worker’s companion at disciplinary or grievance hearings, or”
- (3) After subsection (7) insert—
  - “(8) In this section, “Professional Body” means any organisation which is authorised by a regulation made by the Secretary of State pursuant to subsection (9).
  - (9) The Secretary of State may make a regulation or regulations authorising any

organisation as a Professional Body for the purposes of this section.””

### **Member's explanatory statement**

This new clause would expand the right to be accompanied by a certified companion at disciplinary and grievance hearings.

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### **Rebecca Long Bailey**

**NC28**

Jon Trickett

Apsana Begum

Steve Witherden

Brian Leishman

Andy McDonald

Richard Burgon Bell

Liz Saville

Neil

Ribeiro-Addy

Roberts

Duncan-Jordan Kate Osborne

Ian Byrne

Imran Hussain Zarah Sultana

Nadia Whittome

John McDonnell Jeremy Corbyn

To move the following Clause—

#### **“Enforcement against companies subject to insolvency or voluntary liquidation**

(1) A Labour Market Enforcement Strategy under section 81 must include—

(a) the Secretary of State’s assessment of—

(i) the scale and nature of non-compliance with employment tribunal awards due to insolvency or voluntary liquidation during the period

- of three years ending immediately before the strategy period;
    - (ii) the scale and nature of such non-compliance involving phoenixing during the same period; and
    - (iii) the likely scale and nature of such non-compliance during the strategy period;
  - (b) a proposal for the strategy period setting out how enforcement functions of the Secretary of State are to be exercised in relation to such non-compliance.
- (2) An annual report under section 82 must include—
  - (a) an assessment of the effect of the applicable strategy on the scale and nature of non-compliance with employment tribunal awards, including non-compliance due to insolvency or voluntary liquidation, and
  - (b) an assessment of the effect of the applicable strategy on the scale and nature of non-compliance involving phoenixing.
- (3) For the purposes of this section, “phoenixing” means the practice of dissolving or otherwise closing a business and establishing a new one with a similar purpose, with the effect of avoiding the enforcement of employment tribunal awards or other debts.”

## **Member's explanatory statement**

This new clause would require the Secretary of State to include, in the Labour Market Enforcement Strategy and annual reports under this Bill, information about non-compliance with employment tribunal awards by, and enforcement against, companies ordered to pay such awards that have been subject to insolvency or voluntary liquidation, including in instances in which the directors go on to set up a similar company to avoid enforcement.

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### **Rebecca Long Bailey**

**NC29**

Jon Trickett

Apsana Begum

Steve Witherden

Brian Leishman

Andy McDonald

Richard Burgon

Neil Ribeiro-Addy

Duncan-Jordan Kate Osborne

Imran Hussain Zarah Sultana

John McDonnell Jeremy Corbyn

Liz Saville

Roberts

Ian Byrne

Nadia Whittome

To move the following Clause—

**“Trade union representatives: right not to suffer career detriment**

(1) In Part V of the Employment Rights Act 1996 (Protection from suffering detriment in employment), after section 47(1A), insert—

“(1B) This section applies where the detriment in question relates to matters of internal promotion or progression.”

(2) The Trade Union and Labour Relations (Consolidation) Act 1992 is amended in accordance with subsections (3) to (6).

(3) In the italic title before section 137, after “Access to employment”, add “and career progression”.

(4) After section 138, insert—

**“138A Career progression**

(1) An employer must ensure that any employee undertaking trade union representative duties does not experience detriment in matters of internal career progression as a result of the employee’s trade union activities.

(2) Where an employee who is a trade union representative has not been appointed to a more senior role, in circumstances in which the employee met the minimum criteria for the role and demonstrated that

criteria through the application, the employer must provide a written statement.

- (3) The written statement under subsection (2) must include evidence to demonstrate that the decision not to appoint the employee was not affected by the employee's trade union activities.

### **138B Career progression: support for trade union representatives**

An employer must have in place a policy to support the career progression of employees who are trade union representatives. The policy must set out—

- (a) how the employees will be supported in matters of internal progression and promotion; and
- (b) how the employer will consider trade union experience in assessing applications for more senior roles.””

- (5) In section 140(1), after “section 138” insert “or 138A”.
- (6) In section 142(1), after “section 138” insert “or 138A”.””

### **Member's explanatory statement**

This new clause would enhance protections to trade union representatives, extending them to cover detriment in matters of career progression,



and would require employers to demonstrate that they have not denied promotion to trade union representatives as a result of their trade union activities. It would also require employers to have a policy in place to support the career progression of employees who are trade union representatives.

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**Zarah Sultana**

**NC31**

Apsana Begum  
Steve Witherden  
Brian Leishman  
Andy McDonald  
Richard Burgon

Bell	Liz Saville	Kim Johnson
Ribeiro-Addy	Roberts	Ian Byrne
Neil	Kate Osborne	Jeremy Corbyn
Duncan-Jordan	Nadia Whittome	
Imran Hussain		

To move the following Clause—

**“Removal of secondary action provisions**

In the Trade Union and Labour Relations (Consolidation) Act 1992, omit section 224 (secondary action).”

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**NC64****Andy McDonald**

Apsana Begum

Jon Trickett

John McDonnell

Steve Witherden

Brian Leishman

Richard Burgon Bell

Neil

Kate Osborne Ribeiro-Addy Duncan-Jordan

Zarah Sultana Ian Byrne Imran Hussain

Nadia Whittome Jeremy Corbyn

To move the following Clause—

**“Duties of trade unions**

- (1) The Trade Union and Labour Relations (Consolidation) Act 1992 is amended as follows.
- (2) In section 219 (protection from certain tort liabilities), after subsection (4) insert—
  - “(5) But subsection (4) does not have effect in relation to any act in contemplation or furtherance of a trade dispute which relates wholly or mainly to proposals by an employer to vary terms and conditions of employment of two or more employees accompanied by the threat (explicit or implied) of dismissal if that variation is not agreed.””

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**Andy McDonald**

**NC65**

Apsana Begum

Jon Trickett

John McDonnell

Steve Witherden

Brian Leishman

Richard Burgon Bell

Neil

Kate Osborne Ribeiro-Addy

Duncan-Jordan

Zarah Sultana Ian Byrne

Imran Hussain

Nadia Whittome Jeremy Corbyn

To move the following Clause—

**“Personal Liability for breach of tribunal orders**

- (1) Where, in relation to a body corporate—
- (a) a financial order made by an employment tribunal or agreed by the claimant and the body corporate; or
  - (b) an order of reinstatement or re-engagement made by an employment tribunal or agreed by the claimant and the body corporate

has not been fulfilled by the date specified in the order or agreement, without reasonable excuse, and that failure is proved—

- (a) to have been committed with the consent or connivance of an officer of the body, or
- (b) to be attributable to any neglect on the part of such an officer,

that officer shall be personally liable to reimburse the claimant in whose favour the order had been made or agreed.

- (2) An officer found liable for reimbursement under subsection (1) may be disqualified as a director or prevented from becoming a director.”

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**Andy McDonald**

**NC66**

Apsana Begum

Jon Trickett

John McDonnell

Steve Witherden

Brian Leishman

Richard Burgon Bell

Neil

Kate Osborne Ribeiro-Addy Duncan-Jordan

Zarah Sultana Ian Byrne Imran Hussain

Nadia Whittome Jeremy Corbyn

To move the following Clause—

**“Public sector contracting: trade union recognition**

- (1) The Procurement Act 2023 is amended as follows.

(2) In Part (2) (principles and objectives), after section 14A insert—

**“14B Obligations of contractors to recognise trade unions**

- (1) The Secretary of State has a duty to ensure that any contract entered into by a—
- (a) government department;
  - (b) executive agency of government;
  - (c) non departmental public body; or
  - (d) non Ministerial department,
- is compliant with the requirements set out in subsection (2).
- (2) A contract under subsection (1) must—
- (a) recognise an independent trade union for the purposes of collective bargaining, and
  - (b) take steps to ensure that any sub-contractor to the contractor which carries out any obligation under the public contract recognises an independent trade union for the purposes of collective bargaining.
- (3) For the purposes of this section, “recognises”, “independent trade union” and “collective bargaining” have the same meaning as in the Trade Union and Labour Relations (Consolidation) Act 1992.

- (4) An independent trade union may make a complaint against a contracting authority, which is a party to a public contract, that it or a contractor or sub-contractor which carries out any obligation under the public contract is in breach of the term in subsection (2).
- (5) The complaint may be made to the Central Arbitration Committee.
- (6) If the Central Arbitration Committee finds the complaint to be well founded, it shall grant a declaration to that effect.
- (7) Where the Central Arbitration Committee makes a declaration in accordance with subsection (6), it shall order that the respondent contracting authority shall take whatever steps appear to the Central Arbitration Committee as necessary to ensure that the contracting authority and every contractor or sub-contractor which carries out any obligation under the public contract comply with the implied term in subsection (2).
- (8) The steps that may be taken under subsection (7) include termination of the contract, which shall not be regarded as a breach of contract by the contracting authority concerned if a principal reason for the termination is compliance with an

order of the Central Arbitration Committee under (7).

- (9) An appeal lies on a point of law to the Employment Appeal Tribunal by either party to proceedings brought under subsection (5).”

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## Andy McDonald

**NC67**

Apsana Begum

Jon Trickett

John McDonnell

Steve Witherden

Brian Leishman

Richard Burgon Bell

Neil

Kate Osborne Ribeiro-Addy

Duncan-Jordan

Zarah Sultana Ian Byrne

Imran Hussain

Nadia Whittome Jeremy Corbyn

To move the following Clause—

**“Sectoral collective bargaining: 80 per cent coverage**

- (1) The Secretary of State must, within six months of the passing of this Act, lay before Parliament an action plan to achieve, within five years, that the principal terms and conditions of employment of at least 80 percent of workers in the United Kingdom are determined by collective agreement.

- (2) The action plan under subsection (1) must be informed by consultation with organisations representing employers and trade unions.”

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## Andy McDonald

**NC68**

Apsana Begum

Jon Trickett

John McDonnell

Steve Witherden

Brian Leishman

Richard Burgon Bell

Neil

Kate Osborne Ribeiro-Addy

Duncan-Jordan

Zarah Sultana Ian Byrne

Imran Hussain

Nadia Whittome Jeremy Corbyn

To move the following Clause—

**“Sectoral collective bargaining: other sectors**

- (1) Regulations under this Act may include regulations for collective bargaining in other sectors of the economy.
- (2) Regulations made under subsection (1)—
- (a) may only be made following consultation with representatives of workers and employers in those sectors; and
  - (b) may provide that agreements reached by such collective bargaining shall apply to the workers and employers in the relevant sector save to the extent that a previous



or subsequent collective agreement has provided a more favourable term or condition.”

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**Andy McDonald****NC69**

Apsana Begum

Jon Trickett

John McDonnell

Steve Witherden

Brian Leishman

Richard Burgon Bell

Neil

Kate Osborne Ribeiro-Addy

Duncan-Jordan

Zarah Sultana Ian Byrne

Imran Hussain

Nadia Whittome Jeremy Corbyn

To move the following Clause—

**“Statement of trade union rights**

Every employee, worker and self-employed person has the right—

- (a) to join an independent trade union of his choice, subject only to its rules;
- (b) to take part in the activities of an independent trade union at an appropriate time, subject only to its rules.”

**NC70****Andy McDonald**

Apsana Begum

Jon Trickett

John McDonnell

Steve Witherden

Brian Leishman

Richard Burgon Bell

Neil

Kate Osborne Ribeiro-Addy

Duncan-Jordan

Zarah Sultana Ian Byrne

Imran Hussain

Nadia Whittome Jeremy Corbyn

To move the following Clause—

**“Right of Trade Unions to Access  
Workplaces**

In part 1 of the Trade Union and Labour Relations (Consolidation) Act 1992 (trade unions), before Chapter 5A, insert—

**“CHAPTER 5ZA****RIGHT OF TRADE UNIONS TO ACCESS  
WORKPLACES****70ZA Right of access**

(1) A designated official of an independent trade union shall have a right to enter premises occupied by an employer in order to access a workplace or workplaces, subject to the conditions set out below.

(2) An employer shall not—

- (a) refuse entry to a designated trade union official seeking to exercise his or her right of access under sub-section (1), or
  - (b) otherwise obstruct such an official in the exercise of his or her right of access under sub-section (1).
- (3) A “designated trade union official” means a person nominated by the trade union to exercise the right of access on its behalf.

### **70ZB Access purposes**

- (1) The right of access may be exercised for the access purposes.
- (2) The access purposes are to—
  - (a) meet, represent, recruit or organize workers (whether or not they are members of a trade union); and
  - (b) facilitate collective bargaining.

### **70ZC Notice to employer**

- (1) The right of access may be exercised only after the designated official of an independent trade union has given notice of an intention to do so to the employer whose premises it is proposed to enter for the purposes of access to a workplace or workplaces.
- (2) The notice must be—

- (a) in writing; and
  - (b) given at least 24 hours before it is intended to exercise the right of access;
- (3) The notice required to be given under subsection (2) shall—
  - (a) specify the purpose for which entry is sought; and
  - (b) identify the workers or categories of workers the designated official intends to meet, represent, recruit or organize.
- (4) The right of access may be exercised without giving notice where there are exceptional circumstances such as to justify access without prior notice.
- (5) Whether circumstances are exceptional shall be determined by having regard to the relevant provisions of a Code of Practice issued by ACAS.

### **70ZD Access conditions**

- (1) The right of access is subject to the following conditions.
- (2) The right of access may be exercised—
  - (a) only at a reasonable time, and
  - (b) subject to reasonable conditions imposed by the employer.

- (3) What is reasonable for the purposes of subsection (2) shall be determined by having regard to the relevant provisions of a Code of Practice issued by ACAS.

## **70ZE Dwellings**

- (1) The right of access does not apply to any part of premises which are used exclusively as a dwelling.
- (2) Where sub-section (1) applies and only where sub-section (1) applies, the employer shall provide a reasonable, suitable, and alternative venue to enable the right of access to be exercised.
- (3) What is reasonable and suitable for the purposes of subsection (2) shall be determined by having regard to the relevant provisions of a Code of Practice issued by ACAS.

## **70ZF Enforcement of right of access**

- (1) Where an employer refuses or obstructs access contrary to section 70ZA, a complaint may be made to the CAC by the trade union of which the designated official is a representative.
- (2) Where the CAC finds the complaint to be well-founded it shall make a declaration to that effect and may make an order requiring the employer to comply with

section 70ZA, subject to such conditions as the CAC may determine.

- (3) If the CAC makes a declaration under subsection (2) the trade union may, within the period of three months beginning with the date on which the declaration is made, make an application to the Employment Appeal Tribunal for a penalty notice to be issued.
- (4) Where such an application is made, the Employment Appeal Tribunal shall issue a written penalty notice to the employer requiring the employer to pay a penalty to the trade union in respect of each refusal or obstruction of access unless satisfied, on hearing representations from the employer, that the refusal or obstruction of access resulted from a reason beyond the employer's control or that the employer has some other reasonable excuse.
- (5) If the CAC makes an order under subsection (2) the order shall be recorded in the High Court and on being recorded may be enforced as if it were an order of the High Court.

### **70ZG Penalty notice**

- (1) A penalty notice issued under section 70ZF(4) shall specify—

- (a) the amount of the penalty which is payable;
  - (b) the date before which the penalty must be paid; and
  - (c) the failure and period to which the penalty relates.
- (2) A penalty set by the Employment Appeal Tribunal under section 70ZF(4) may not exceed a prescribed amount.
- (3) Matters to be taken into account by the Employment Appeal Tribunal when setting the amount of the penalty shall include—
- (a) the gravity of each refusal or obstruction of access;
  - (b) the period of time over which each refusal or obstruction of access occurred;
  - (c) the number of occasions on which each refusal or obstruction of access occurred;
  - (d) the reason for each refusal or obstruction of access;
  - (e) the number of workers affected by each refusal or obstruction of access; and
  - (f) the number of workers employed by the undertaking.
- (4) The Employment Appeal Tribunal shall also take into account any previous

refusal or obstruction of access to a designated official of the independent trade union to which the application relates.

- (5) If the specified date in a penalty notice for payment of the penalty has passed and—
  - (a) the period during which an appeal may be made has expired without an appeal having been made; or
  - (b) such an appeal has been made and determined, the trade union may recover from the employer, as a civil debt due to it, any amount payable under the penalty notice which remains outstanding.
- (6) The making of an appeal suspends the effect of a penalty notice pending the outcome of the appeal.

## **70ZH Other provisions relating to trade union access**

- (1) Sections 70ZA-70ZG are in addition and without prejudice to any other provisions relating to trade union access to workers.
- (2) For the avoidance of doubt, the latter include but are not confined to—
  - (a) Section 188(5A) of this Act
  - (b) Sections 198A and 198B of this Act;
  - (c) Schedule A1, paragraphs 26 and 118 of this Act;



- (d) ACAS Code of Practice on time off for trade union duties and activities issued under section 199 of this Act, for the time being in force; and
- (e) Any collective agreement which makes more favourable provision.”

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**Liam Byrne**

**NC82**

To move the following Clause—

**“Fair Work Agency: review of resourcing**

- (1) The Secretary of State must conduct a review of the resources available to the Fair Work Agency.
- (2) The review must be published and laid before Parliament within six months of this section coming into force.”

**Member's explanatory statement**

This new clause asks the Secretary of State to review the resources available to the Fair Work Agency to ensure that enforcement of provisions in the Act are effective.

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**Andrew Griffith**

**NC88**

Greg Smith

Dame Harriett Baldwin

To move the following Clause—

**“Rules as to political fund**

- (1) The Trade Union and Labour Relations (Consolidation) Act 1992 is amended as follows.
- (2) In subsection (1) of section 84 (Contributions to political fund from members of the union), after subsection (1), insert—
  - “(1A) An opt-in notice under subsection (1) must include the member of the trade union’s consent to annual renewal of the contribution to the political fund (a “renewal opt-in”).
  - (1B) The renewal opt-in must be sent by the member of the trade union— (a) within six months of the initial opt-in and every six months thereafter, or (b) each time payment is due, at least 28 days before payment is taken, whichever is longer.
  - (1C) If the member of the trade union does not provide a renewal opt-in, the trade union must provide a date by which the member must notify the trade union of their consent to continued contribution towards the political fund, which must be no earlier than 28 days before the next payment to the political fund is due.
  - (1D) If the member has not—

- (a) opted into an arrangement under subsection (1A) or (1B), or
- (b) given notification of their consent to continued contributions by the date specified under subsection (1C), their payments to the political fund must cease before the renewal date.””

### **Member's explanatory statement**

This new clause will ensure that trade union members are asked whether they wish their contribution to the political fund to renew automatically and would require that, if the member does not wish to renew their contribution, the union must provide a date by which the member has to confirm they wish to continue to contribute.

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**Andrew Griffith**

**NC89**

Greg Smith

Dame Harriett Baldwin

To move the following Clause—

#### **“Certification Officer: growth duty**

- (1) The Trade Union and Labour Relations (Consolidation) Act 1992 is amended as follows.

(2) In section 254 (The Certification Officer), after subsection (2), insert—

“(2A) In discharging the functions of the Certification Office, the Certification Officer must, so far as reasonably possible, act in such a way as to advance the following objectives—

- (a) the international competitiveness of the economy of the United Kingdom; and
- (b) economic growth of the United Kingdom in the medium to long term.”

### **Member's explanatory statement**

This new clause would require the Certification Officer to advance the objectives of the international competitiveness of the economy and its growth in the medium to long term.

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**Andrew Griffith**

**NC90**

Greg Smith

Dame Harriett Baldwin

To move the following Clause—

### **“Regulations under Part 4**

When making regulations under Part 4 of this Act, the Secretary of State must have regard to the following objectives—

- (a) the international competitiveness of the economy of the United Kingdom; and
- (b) the economic growth of the United Kingdom in the medium to long term.”

### **Member's explanatory statement**

This amendment would require the Secretary of State, when making regulations under Part 4 of the Bill, to have regard to the objective of the international competitiveness of the economy and its growth in the medium to long term.

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**John McDonnell**

**NC96**

Richard Burgon  
Andy McDonald  
Apsana Begum  
Neil Duncan-Jordan  
Steve Witherden

Kate Osborne    Ian Byrne    Imran Hussain  
Zarah Sultana    Nadia Whittome    Jeremy Corbyn

To move the following Clause—

#### **“Annual report on application of changes in Parts 4 and 5 to seafarers**

- (1) The Secretary of State must lay before each House of Parliament an annual report extent to which the changes provided for in Parts 4 and 5 of this Act (“the relevant changes”) apply to seafarers.

- 
- (2) Each annual report must describe—
- (a) so far as appropriate, whether each relevant change applies or is intended to apply at the time of its commencement to seafarers on a relevant service within the meaning given by section 1 of the Seafarers (Wages and Working Conditions) Act 2023;
  - (b) any proposals by the Secretary of State to apply any relevant change to such seafarers subsequent to commencement;
  - (c) the extent to which the application of the relevant changes to seafarers is affected by any change or prospective change to the Maritime Labour Convention, adopted on 23 February 2006 by the International Labour Organisation.
- (3) The first annual report under this section must be laid before each House of Parliament within three months of the passing of this Act.”

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**Neil Duncan-Jordan****NC98**

Richard Burgon  
Andy McDonald  
Apsana Begum  
Steve Witherden  
Jon Trickett

Kate Osborne   Imran Hussain   Kim Johnson  
Chris Hinchliff   Dr Simon Opher   Brian Leishman  
Peter Lamb   Mary Kelly Foy   Ian Byrne  
Zarah Sultana   Nadia Whittome   Rosie Duffield  
John McDonnell   Jeremy Corbyn

To move the following Clause—

**“Pressure to impose union recognition requirement**

In the Trade Union and Labour Relations (Consolidation) Act 1992, omit section 225 (Pressure to impose union recognition requirement).”

**Member's explanatory statement**

This new clause would remove section 225 from the Trade Union and Labour Relations (Consolidation) Act 1992 on pressure to impose union recognition requirement.

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**Neil Duncan-Jordan****NC99**

Richard Burgon  
Apsana Begum  
Steve Witherden  
Jon Trickett  
Kate Osborne

Imran Hussain   Kim Johnson   Chris Hinchliff  
Dr Simon Opher   Brian Leishman   Peter Lamb  
Mary Kelly Foy   Ian Byrne   Zarah Sultana  
Nadia Whittome   Andy McDonald   Rosie Duffield  
John McDonnell   Jeremy Corbyn

To move the following Clause—

**“Electronic balloting**

- (1) The Secretary of State must, within six months of the passing of this Act, lay before Parliament a statutory instrument containing an order under section 54 of the Employment Relations Act 2004.
- (2) That order must specify that—
  - (a) permissible means may, in the case of any description of ballot or election, include (or consist of) electronic voting; and
  - (b) any ballot or election including (or consisting of) electronic voting must be conducted pursuant to section 230 (Conduct of ballot) of the Trade Union and



## Labour Relations (Consolidation) Act 1992.

- (3) The Secretary of State must not make an order under this section until a consultation with the Trades Union Congress and the Certification Officer has been conducted.
- (4) An order under this section may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.”

### **Member's explanatory statement**

This new clause requires the Secretary of State to make an order for electronic voting in a ballot or election pursuant to section 54 of the Employment Relations Act 2004 within six months of the passing of this Act, and following consultation with the TUC.

---

### **Neil Duncan-Jordan**

**NC100**

Richard Burgon  
Apsana Begum  
Steve Witherden  
Jon Trickett  
Kate Osborne

Imran Hussain   Kim Johnson   Chris Hinchliff  
Dr Simon Opher   Brian Leishman   Peter Lamb  
Mary Kelly Foy   Ian Byrne   Zarah Sultana  
Nadia Whittome   Andy McDonald   Rosie Duffield  
John McDonnell   Jeremy Corbyn

To move the following Clause—

**“Notice to employers of industrial action:  
amendment**

In section 234A of the Trade Union and Labour Relations (Consolidation) Act 1992, omit subsections (3) to (9) and insert—

- “(3) For the purposes of this section a relevant notice is one in writing which—
- (a) identifies—
    - (i) the day or the first of the days on which, at the time of the service of the relevant notice, the union proposes to call industrial action; and
    - (ii) the categories of employee the union intends to call on to take industrial action; and
  - (b) must be provided to the employer as early as practicable after the ballot result is known and the decision to take industrial action in furtherance of it has been taken.
- (4) If the industrial action relates to an event which has already taken place, no relevant notice shall be required.””

**Member's explanatory statement**

This new clause replaces the provisions in section 234A of the Trade Union and Labour Relations (Consolidation) Act 1992 to define a relevant notice

for industrial action, when one must be provided and when one is not required.

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**Ian Byrne**

**NC103**

Richard Burgon  
Andy McDonald  
Apsana Begum  
Neil Duncan-Jordan  
Steve Witherden

Kate Osborne Imran Hussain Zarah Sultana  
Nadia Whittome Brian Leishman John McDonnell  
Jeremy Corbyn

To move the following Clause—

**“Public sector contracting: trade union recognition**

- (1) The Procurement Act 2023 is amended as follows.
- (2) In Part (2) (principles and objectives), after section 14A insert—

**“14B Obligations of contractors to recognise trade unions**

- (1) The Secretary of State has a duty to ensure that any contract entered into after the coming into force of this Act by a—
  - (a) government department;
  - (b) executive agency of government;
  - (c) non departmental public body; or

- (d) non Ministerial department,  
is compliant with the requirements set out  
in subsection (2).
- (2) A contract under subsection (1) must  
require the contractor to such a  
contracting authority to—
- (a) recognise an independent trade union  
for the purposes of collective  
bargaining, and
- (b) take steps to ensure that any  
sub-contractor to the contractor which  
carries out any obligation under the  
public contract recognises an  
independent trade union for the  
purposes of collective bargaining.
- (3) For the purposes of this section,  
“recognises”, “independent trade union”  
and “collective bargaining” have the same  
meaning as in the Trade Union and  
Labour Relations (Consolidation) Act  
1992.
- (4) An independent trade union may make a  
complaint against a contracting authority,  
which is a party to a public contract, that  
it or a contractor or sub-contractor which  
carries out any obligation under the public  
contract is in breach of the term in  
subsection (2).
- (5) The complaint may be made to the  
Central Arbitration Committee.

- (6) If the Central Arbitration Committee finds the complaint to be well founded, it shall grant a declaration to that effect.
- (7) Where the Central Arbitration Committee makes a declaration in accordance with subsection (6), it shall order that the respondent contracting authority shall take whatever steps appear to the Central Arbitration Committee as necessary to ensure that the contracting authority and every contractor or sub-contractor which carries out any obligation under the public contract comply with the implied term in subsection (2).
- (8) The steps that may be taken under subsection (7) include termination of the contract, which shall not be regarded as a breach of contract by the contracting authority concerned if a principal reason for the termination is compliance with an order of the Central Arbitration Committee under subsection (7).
- (9) An appeal lies on a point of law to the Employment Appeal Tribunal by either party to proceedings brought under subsection (5).””

### **Member's explanatory statement**

This new clause is designed to ensure that all public contractors comply with the duty to recognise

a trade union for the purposes of collective bargaining and that such contractors take steps to ensure that any sub-contractors do the same. The terms “contracting authority” and “public contract” are defined in section 2 and 3 of the Procurement Act.

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**Ian Byrne**

**NC104**

Richard Burgon

Andy McDonald

Apsana Begum

Neil Duncan-Jordan

Steve Witherden

Kate Osborne Imran Hussain Zarah Sultana

Nadia Whittome Brian Leishman Jeremy Corbyn

To move the following Clause—

**“Public Sector contracting: UN Guiding Principles**

- (1) The Procurement Act 2023 is amended as follows.
- (2) In Part (2) (principles and objectives), after section 14B insert—

**“14C Obligations of contractors to abide by the UN Guiding Principles on Business and Human Rights**

- (1) It shall be an implied term of any public contract that the contractor to the contracting authority—

- 
- (a) abide by the UN Guiding Principles on Business and Human Rights, and
    - (b) takes steps to ensure that any sub-contractor to the contractor which carries out any obligation under the public contract abides by the UN Guiding Principles on Business and Human Rights.
  - (2) An independent trade union may make a complaint against a contracting authority, which is a party to a public contract, that it or a contractor or sub-contractor which carries out any obligation under the public contract is in breach of the implied term in subsection (1).
  - (3) The complaint may be made to the High Court of Justice.
  - (4) If the High Court finds the complaint to be well founded, it shall grant a declaration to that effect.
  - (5) Where the High Court makes a declaration in accordance with subsection (5), it shall order that the respondent contracting authority shall take whatever steps appear to the High Court as necessary to ensure that the contracting authority and every contractor or sub-contractor which carries out any obligation under the public contract

comply with the implied term in subsection (1).

- (6) For the avoidance of doubt the steps that may be taken under subsection (6) include termination of the contract, which for the avoidance of doubt shall not be regarded as a breach of contract by the contracting authority concerned.””

### **Member's explanatory statement**

This new clause is designed to ensure that all public contractors comply with the UN Guiding Principles on Business and Human Rights. It also sets out what companies are expected to do by way of policies, scrutiny of supply chains, due diligence and remediation.

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**John McDonnell**

**NC106**

Richard Burgon  
Andy McDonald  
Apsana Begum  
Neil Duncan-Jordan  
Steve Witherden

Kate Osborne    Ian Byrne    Imran Hussain  
Zarah Sultana    Nadia Whittome    Jeremy Corbyn



To move the following Clause—

**“Collective bargaining**

(1) The Trade Union and Labour Relations (Consolidation) Act 1992 is amended as follows.

(2) In section 209, after “industrial relations” insert—

“and in particular to encourage the extension of collective bargaining and the development and, where necessary, reform of collective bargaining machinery.””

**Member's explanatory statement**

This would add duties around collective bargaining to the general duty of ACAS.

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**John McDonnell**

**NC107**

Richard Burgon

Andy McDonald

Apsana Begum

Neil Duncan-Jordan

Steve Witherden

Kate Osborne

Ian Byrne

Imran Hussain

Zarah Sultana

Nadia Whittome

Jeremy Corbyn

To move the following Clause—

**“Whether agreement intended to be a legally enforceable contract**

- (1) The Trade Union and Labour Relations (Consolidation) Act 1992 is amended as follows.
- (2) For section 179, substitute—

**“179 Whether agreement intended to be a legally enforceable contract**

- (1) A collective agreement shall be conclusively presumed to have been intended by the parties to be a legally enforceable contract unless the agreement—
  - (a) is in writing, and
  - (b) contains a provision which (however expressed) states that the parties do not intend that the agreement shall be a legally enforceable contract.
- (2) A collective agreement which satisfies those conditions shall be conclusively presumed not to have been intended by the parties to be a legally enforceable contract.
- (3) If a collective agreement is in writing and contains a provision which (however expressed) states that the parties intend that one or more parts of the agreement specified in that provision, but not the whole of the

agreement, shall not be a legally enforceable contract, then—

- (a) the specified part or parts shall be conclusively presumed not to have been intended by the parties to be a legally enforceable contract, and
- (b) the remainder of the agreement shall be conclusively presumed to have been intended by the parties to be such a contract.

- (4) A part of a collective agreement which by virtue of subsection (3)(a) is not a legally enforceable contract may be referred to for the purpose of interpreting a part of the agreement which is such a contract.””

### **Member's explanatory statement**

This new clause replaces Section 179 on whether agreement intended to be a legally enforceable contract in the Trade Union and Labour Relations (Consolidation) Act 1992

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**Ian Lavery**

Jon Trickett

Zarah Sultana

Nadia Whittome

Kate Osborne

Richard Burgon

Andy McDonald Ian Byrne

Jeremy Corbyn

**NC108**

John McDonnell

To move the following Clause—

**“Industrial action: workers’ rights**

(1) The Trade Union and Labour Relations (Consolidation) Act 1992 is amended as follows.

(2) After section 219, insert—

**“219A Right to strike**

Every worker shall have the right to take industrial action, whether or not in breach of any contract, subject to the provisions of this Part.”

(3) Omit section 223 (Action taken because of dismissal for taking unofficial action).”

**Member's explanatory statement**

This new clause would establish a clearer right to strike and remove provisions from the Trade Union and Labour Relations (Consolidation) Act 1992 that make strike action unlawful on the grounds that it turns out (retrospectively) that the action the worker took was unofficial.

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**Ian Lavery****NC109**

Jon Trickett

Zarah Sultana

Nadia Whittome

Kate Osborne

Richard Burgon

Andy McDonald Ian Byrne

John McDonnell

Jeremy Corbyn

To move the following Clause—

**“Industrial action and ballots**

- (1) The Trade Union and Labour Relations (Consolidation) Act 1992 is amended as follows.
- (2) Omit—
  - (a) section 224 (Secondary action)
  - (b) 225 (Pressure to impose union recognition requirement)
  - (c) 226A (Notice of ballot and sample voting paper for employers)
  - (d) 228 (Separate workplace ballots), and
  - (e) 228A (Separate workplaces: single and aggregate ballots).
- (3) In section 234 (Period after which ballot ceases to be effective), omit subsections (1) to (5) and substitute:
  - “(1) Industrial action that is regarded as having the support of a ballot shall cease to be so regarded when—

- (a) the dispute which gave rise to it ceases, or
  - (b) the union has taken no steps to pursue the dispute for a period of six months.”
- (4) In subsection (1) of section 244, (Meaning of “trade dispute” in Part V)—
  - (a) omit “a dispute between workers and their employer” and substitute “a dispute between workers and one or more employers”.
  - (b) omit “which relates wholly or mainly to” and substitute “connected with”.
- (5) In subsection (5) of section 244, omit “a worker employed by that employer” and substitute “a worker employed by an employer”.

### **Member's explanatory statement**

This new clause would remove provisions that ban all forms of secondary action; make changes to the definition of “trade dispute”; enable industrial action to be taken to achieve recognition for collective bargaining; remove obligation on a TU to provide a ballot paper to the employer; give TUs more freedom to choose which constituencies they will ballot; and remove an obligation on the union in a long running dispute to re-run the ballot every six months.

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**Daisy Cooper****NC110**

To move the following Clause—

**“Review into the impact on small businesses**

- (1) The Secretary of State must, within three months of the passage of this Act, lay before Parliament a review on the impact of Part 4 (Trade Unions and Industrial Action, etc) of this Act on small and medium-sized enterprises.
- (2) The review under subsection (1) must have regard to—
  - (a) administrative costs;
  - (b) legal costs; and
  - (c) tax changes affecting small and medium-sized enterprises taking effect from the 2025-26 financial year.
- (3) For the purposes of this section, small and medium-sized enterprises are businesses employing 250 or fewer employees.”

**Member's explanatory statement**

This new clause would require the Secretary of State to publish a review on the impact of Part 4 of this Bill, on Trade Unions and Industrial Action, on SMEs within 3 months of the passage of this Act.

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**Daisy Cooper**

**NC111**

To move the following Clause—

**“Legal aid in employment tribunals**

- (1) The Secretary of State must, within three months of the passage of this Act, lay before Parliament a report on the options for expanding the right to legal aid in employment tribunals.
- (2) The report under subsection (1) must consider—
  - (a) the impact employers' compliance with measures contained within this Act; and
  - (b) the impact on employees' personal finances.”

**Member's explanatory statement**

This new clause would require the Secretary of State to report on the impact of expanding the right to legal aid in employment tribunals within 3 months of the passage of this Act.

---

**Daisy Cooper**

**NC112**

To move the following Clause—

**“Review of single enforcement body**

- (1) The Secretary of State must, within three months of the passage of this Act, lay before Parliament a review on the impact of a single



- enforcement body as provided for under Part 5.
- (2) The review under subsection (1) must assess the impact of the single enforcement body with the impact between 2019 and 2025 of the following four enforcement bodies—
    - (a) Gangmasters and Labour Abuse Authority (GLAA)
    - (b) Employment Agencies Standards Inspectorate (EAS)
    - (c) His Majesty's Revenue and Customs (HMRC)
    - (d) Health and Safety Executive (HSE)
  - (3) The review under subsection (1) must have regard to—
    - (a) business compliance costs
    - (b) Employers' compliance with employment law
    - (c) the number of employees seeking support in relation to employment disputes.”

### **Member's explanatory statement**

This new clause would require the Secretary of State to review the impact of a single enforcement body compared with separate enforcement bodies within 3 months of the passage of this Act.

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**Andy McDonald****270**

Apsana Begum

Jon Trickett

John McDonnell

Steve Witherden

Brian Leishman

Richard Burgon Bell

Neil

Kate Osborne Ribeiro-Addy

Duncan-Jordan

Zarah Sultana Ian Byrne

Imran Hussain

Nadia Whittome Jeremy Corbyn

Page 61, line 14 leave out Clause 50

**Member's explanatory statement**

New clause 70 is intended to replace Clause 50.

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**Secretary Jonathan Reynolds**Gov **162**

Clause 50, page 61, leave out line 15 and insert—

“(1) The Trade Union and Labour Relations (Consolidation) Act 1992 is amended in accordance with subsections (2) to (6).

(2) In Part 1”

**Member's explanatory statement**

This amendment is consequential on amendment 184.

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**Secretary Jonathan Reynolds**Gov **163**

Clause 50, page 61, line 24, leave out from “for” to “for” in line 25 and insert “one or more officials of the union to physically enter a workplace or communicate with workers (or both)”

**Member's explanatory statement**

This amendment and others to this clause would expand the scope of access agreements so that they can include provision about communication with workers other than by means of physical entry into a workplace (for example, by digital means).

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**Secretary Jonathan Reynolds**Gov **164**

Clause 50, page 61, leave out lines 30 and 31 and insert—

- “(4) “Access” means—
- (a) physical entry into a workplace;
  - (b) communication with workers.”

**Member's explanatory statement**

See the explanatory statement to amendment 163.

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**Liam Byrne****282**

Clause 50, page 61, line 31, after “workplace” insert, or

“(b) the right to use to any digital communications tools used by workers in the workplace.”

**Member's explanatory statement**

This amendment aims to ensure that access for unions to workplaces includes digital means of communication with workers.

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**Secretary Jonathan Reynolds**Gov **165**

Clause 50, page 61, leave out lines 32 and 33

**Member's explanatory statement**

This amendment is consequential on amendment 183.

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**Secretary Jonathan Reynolds**Gov **166**

Clause 50, page 61, line 33, at end insert—

“(5A) A reference to communication with workers is a reference to communication with workers (including the provision of information to workers) by any means, whether directly or indirectly.”

## **Member's explanatory statement**

See the explanatory statement to amendment 163 - this amendment would clarify that communication with workers in the context of access agreements means communication by any means and includes the provision of information to workers. For example, an access agreement could require an employer to provide information to their workers on behalf of officials of a union within an all-staff email.

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## **Secretary Jonathan Reynolds**

Gov **167**

Clause 50, page 61, line 35, after “meet,” insert “support,”

## **Member's explanatory statement**

This amendment would clarify that access can be for the purpose of supporting workers in any way.

---

## **Secretary Jonathan Reynolds**

Gov **168**

Clause 50, page 62, line 8, at end insert—

“(11) Section 70ZJA contains general limitations on the provision that may be made under this Chapter, including in access agreements.”

## **Member's explanatory statement**

This amendment is consequential on amendment 183.

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**Secretary Jonathan Reynolds**Gov **169**

Clause 50, page 62, line 12, leave out “to a workplace”

**Member's explanatory statement**

See the explanatory statement to amendment 163.

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**Secretary Jonathan Reynolds**Gov **170**

Clause 50, page 63, line 27, leave out “to the workplace”

**Member's explanatory statement**

See the explanatory statement to amendment 163.

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**Secretary Jonathan Reynolds**Gov **171**

Clause 50, page 63, line 30, leave out “to the workplace”

**Member's explanatory statement**

See the explanatory statement to amendment 163.

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**Secretary Jonathan Reynolds**Gov **172**

Clause 50, page 64, line 27, leave out “access a workplace” and insert “physically enter a workplace or communicate with workers (or both)”

## **Member's explanatory statement**

See the explanatory statement to amendment 163.

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### **Secretary Jonathan Reynolds**

Gov **173**

Clause 50, page 64, line 31, leave out “to a workplace”

## **Member's explanatory statement**

See the explanatory statement for amendment 163.

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### **Secretary Jonathan Reynolds**

Gov **174**

Clause 50, page 64, line 31, at end insert—

- “(ba) physical entry into a workplace should not be refused solely on the basis that communication with workers by means not involving physical entry into a workplace is permitted;
- (bb) communication with workers by means not involving physical entry into a workplace should not be refused solely on the basis that physical entry into a workplace is permitted;”

## **Member's explanatory statement**

See the explanatory statement for amendment 163 - this amendment would ensure that the Central Arbitration Committee’s determinations about access do not prioritise communication with

workers other than by means involving physical entry over physical entry and vice versa.

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**Secretary Jonathan Reynolds**

Gov **175**

Clause 50, page 65, line 5, leave out “to a workplace”

**Member's explanatory statement**

See the explanatory statement for amendment 163.

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**Secretary Jonathan Reynolds**

Gov **176**

Clause 50, page 65, leave out lines 10 and 11

**Member's explanatory statement**

See the explanatory statement for amendment 163.

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**Secretary Jonathan Reynolds**

Gov **177**

Clause 50, page 65, line 13, at end insert—

“(ca) the number of workers employed by the employer, or of a particular description, that are members of the union;”

**Member's explanatory statement**

See the explanatory statement for amendment 163.



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**Secretary Jonathan Reynolds**Gov **178**

Clause 50, page 65, line 14, leave out “the” and insert “a”

**Member's explanatory statement**

See the explanatory statement for amendment 163.

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**Secretary Jonathan Reynolds**Gov **179**

Clause 50, page 65, line 14, at end insert—  
“(da) a description of workers;”

**Member's explanatory statement**

See the explanatory statement for amendment 163.

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**Secretary Jonathan Reynolds**Gov **180**

Clause 50, page 65, line 15, leave out “to the workplace”

**Member's explanatory statement**

See the explanatory statement for amendment 163.

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**Secretary Jonathan Reynolds**Gov **181**

Clause 50, page 67, line 17, leave out “may not exceed a prescribed amount” and insert “may be any amount that the Central Arbitration Committee

considers appropriate, subject to regulations under section 70ZIA”

### **Member's explanatory statement**

This amendment and amendment 182 would allow the Secretary of State to make more detailed provision in regulations about the amounts required to be paid for breaches of access requirements.

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### **Secretary Jonathan Reynolds**

Gov **182**

Clause 50, page 67, line 30, at end insert—

**“70ZIA Power to make provision about amounts payable under section 70ZI**

- (1) The Secretary of State may prescribe that an amount payable under section 70ZI(5)(b)—
  - (a) must be at least a prescribed amount;
  - (b) may not exceed a prescribed amount.
- (2) An amount may be prescribed under subsection (1)(a) or (b)—
  - (a) as a fixed amount;
  - (b) by reference to one or more prescribed factors;
  - (c) as the highest or lowest of two or more prescribed amounts, whether prescribed as fixed amounts or by reference to one or more prescribed factors.

- (3) The factors that may be prescribed under subsection (2)(b) or (c) include (among others)—
- (a) the nature of the complaint under section 70ZI(2) against the person required to pay the amount (the “liable party”);
  - (b) whether the liable party has previously been subject to a complaint under section 70ZH(1) or 70ZI(2), or a prescribed number of such complaints, declared by the Central Arbitration Committee to be well-founded;
  - (c) whether the liable party is of a prescribed description;
  - (d) in the case of a liable party that is an undertaking, the turnover of the liable party in a prescribed period, including (in particular) worldwide, European or United Kingdom turnover;
  - (e) in the case of a liable party that is an employer—
    - (i) the number of workers employed by the liable party, or
    - (ii) the number of workers of a prescribed description employed by the liable party;
  - (f) in the case of a liable party that is a trade union, the number of members that the liable party has.

- (4) The Secretary of State may prescribe matters to which the Central Arbitration Committee must have regard in considering what amount is payable under section 70ZI(5)(b).”

### **Member's explanatory statement**

See the explanatory statement for amendment 181.

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## **Secretary Jonathan Reynolds**

Gov **183**

Clause 50, page 68, line 14, at end insert—

*“General limitations on access agreements etc*

### **70ZJA General limitations on access agreements etc**

- (1) Nothing in this Chapter requires or authorises any of the following (each, a “prohibited activity”)—
- (a) physical entry by any person into a dwelling;
  - (b) a disclosure of personal data without the consent of the data subject;
  - (c) a disclosure of information that would contravene the data protection legislation (but, in determining whether a disclosure would do so, the provisions of this Chapter are to be taken into account).
- (2) Accordingly—
- (a) a term of an access agreement entered into under section 70ZD that requires or

- authorises a prohibited activity is of no effect for the purposes of this Chapter;
- (b) the Central Arbitration Committee may not specify as a term of an access agreement under section 70ZE any term that would require or authorise a prohibited activity;
  - (c) the Central Arbitration Committee may not exercise any function under sections 70ZH to 70ZJ so as to require or authorise a prohibited activity.
- (3) In this section—
- (a) “consent” has the same meaning as in the UK GDPR (see Article 4(11) of the UK GDPR);
  - (b) “personal data”, “data subject”, “the data protection legislation” and “the UK GDPR” have the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).”

### **Member's explanatory statement**

This amendment would ensure that the provisions requiring trade unions to have access to workers and workplaces cannot require physical entry into dwellings, the disclosure of personal data without consent (whether or not that would be a breach of the data protection legislation) or a disclosure in breach of the data protection legislation (whether or not the breach arises from a lack of consent).

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**Secretary Jonathan Reynolds**Gov **184**

Clause 50, page 68, line 35, at end insert—

“(3) In section 263 (proceedings of the Central Arbitration Committee)—

(a) in subsection (4), omit “or, in Scotland, an oversman”;

(b) after subsection (6) insert—

“(6A) In relation to the discharge of the Committee’s functions under section 70ZE—

(a) section 263ZA and subsection (6) apply, and

(b) subsections (1) to (5) do not apply.”;

(c) in subsection (7), before “Schedule A1” insert “section 70ZH or 70ZI or”;

(d) after subsection (7) insert—

“(8) The reference in subsection (7) to the Committee’s functions under Schedule A1 does not include a reference to its functions under paragraph 166 of that Schedule.”

(4) After section 263 insert—

**“263ZA Proceedings of the Committee under section 70ZE**

(1) For the purpose of discharging its functions under section 70ZE in any

particular case, the Central Arbitration Committee is to consist of—

- (a) one member of the Committee, or
- (b) a panel of three members of the Committee,

as the chairman of the Committee may direct.

- (2) In deciding what direction to make under subsection (1), the chairman of the Committee must have regard to the complexity of the case, with a view to directing that the Committee is to consist of one member only in cases which the chairman considers are less complex.
- (3) For those purposes, the chairman must in particular—
  - (a) consider whether any terms proposed as terms on which officials of a qualifying trade union are to have access are prescribed under section 70ZF(3), and
  - (b) consider whether, if any of those terms are so prescribed, that fact reduces the complexity of the case, having regard to any other terms so proposed.
- (4) In subsection (3), “qualifying trade union” and “access” have the same meaning as in Chapter 5ZA of Part 1 (see section 70ZA).

- (5) The chairman of the Committee may amend a direction under subsection (1) at any time.
- (6) If a direction under subsection (1) is amended—
  - (a) the amendment does not affect anything done by the Committee before the amendment;
  - (b) anything done by the Committee before the amendment is to be treated as having been done by the Committee as it is constituted after the amendment.
- (7) If the Committee consists of one member of the Committee—
  - (a) the member is to be appointed by the chairman of the Committee;
  - (b) the member is not required to be the chairman or a deputy chairman of the Committee;
  - (c) the member may at the member's discretion sit in private where it appears expedient to do so.
- (8) If the Committee consists of a panel of three members of the Committee—
  - (a) the panel is to be appointed by the chairman of the Committee;
  - (b) the panel is to consist of the following members—



- (i) the chairman or a deputy chairman of the Committee;
    - (ii) a member of the Committee whose experience is as a representative of employers;
    - (iii) a member of the Committee whose experience is as a representative of workers;
  - (c) the panel is to be chaired by the chairman or the deputy chairman of the Committee;
  - (d) the panel may at the discretion of its chairman sit in private where it appears expedient to do so.
- (9) If—
- (a) a panel cannot reach a unanimous decision on a question arising before it, and
  - (b) a majority of the panel have the same opinion,
- the question is to be decided according to that opinion.
- (10) If—
- (a) a panel cannot reach a unanimous decision on a question arising before it, and
  - (b) a majority of the panel do not have the same opinion,

the chairman of the panel may decide the question acting with the full powers of an umpire.

- (11) Subject to the provisions of this section, the Committee may determine its own procedure.”
- (5) In section 263A (proceedings of the Central Arbitration Committee under Schedule A1)—
  - (a) for the heading substitute “Proceedings of the Committee: other special cases”;
  - (b) in subsection (1), for “under Schedule A1” substitute “in relation to which this section applies (see section 263(7))”;
  - (c) in subsection (6), omit “or, in Scotland, an oversman”;
  - (d) omit subsection (8).
- (6) In section 264 (awards of the Central Arbitration Committee)—
  - (a) in the heading, after “Awards” insert “etc”;
  - (b) in subsection (1), after “award,” insert “in any determination, declaration, order or other decision of the Committee under Chapter 5ZA of Part 1,”;
  - (c) after subsection (2) insert—
    - “(2A) Subsection (2) does not apply in relation to Chapter 5ZA of Part 1.”
- (7) In Schedule 1 to the Employment Relations Act 2004 (minor and consequential amendments), omit paragraph 15.”

## **Member's explanatory statement**

This amendment would make administrative provision associated with the functions of the Central Arbitration Committee under the new Chapter on trade union access rights. The CAC would sit as a panel with representation from unions and employers in most cases, but in certain cases decided by the chairman of the CAC, the CAC would sit as a single member.

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## **Secretary Jonathan Reynolds**

Gov **185**

Page 69, line 2, leave out Clause 51

## **Member's explanatory statement**

This amendment is consequential on the relevant provisions being inserted into NS2.

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## **Andy McDonald**

**271**

Jon Trickett

John McDonnell

Steve Witherden

Brian Leishman

Richard Burgon

Bell

Neil

Kate Osborne

Ribeiro-Addy

Duncan-Jordan

Zarah Sultana

Ian Byrne

Imran Hussain

Nadia Whittome

Jeremy Corbyn

Clause 51, page 69, line 18, at end insert—

“(2A) In paragraph 22 (collective bargaining: recognition)—

(a) leave out sub-paragraph (1)(b) and insert—

“the CAC has evidence, which it considers to be credible, that a majority of workers constituting the bargaining unit want the union (or unions) to conduct collective bargaining on their behalf’.”

(b) leave out subparagraphs (3), (4) and (5).

(2B) In paragraph 25 (collective bargaining: recognition)—

(a) in sub-paragraph (3)(a) leave out “20 working days” and substitute “10 working days”, and

(b) leave out sub-paragraph (3)(b).

(c) after sub-paragraph (4)(a) insert “(aa) by secure electronic voting,”

(d) in sub-paragraph (4)(c) leave out “and b” and substitute “to (c)”

(e) after sub-paragraph (4)(c) insert—

“(d) only amongst those who are employed in the proposed bargaining unit and were so employed at the time the application was made”.

(2C) In paragraph 26 after sub-paragraph (4) insert—

“(3A) In the event that the union (or unions) consider that such access has been unreasonably refused, it (or they) may apply to the CAC for a declaration and order that access be granted and in the event that such a declaration or order is made and the union (or unions) consider that such a declaration or order has been breached it (or they) may apply to the High Court for relief.”

(2D) In paragraph 26 after sub-paragraph (4B) insert—

“(4BA) The sixth duty is to refrain from any act or omission, direct or indirect, likely to encourage a union member or members to resign from union membership or likely to discourage a person from joining a union or any particular union.

(4BB) It shall be unlawful to compel a worker or workers by threat of detriment or dismissal to attend any meeting in which the employer, its servants or agents expresses the view directly or indirectly that—

(a) membership of a union or any union;  
or

- (b) recognition for the purposes of collective bargaining of a union or any union by the employer, is undesirable.”
- (2E) In paragraph 27B(2) leave out “must be made on or before the first working day after” and substitute “must be made within 20 working days after”.
- (2F) In paragraph 29 (collective bargaining: recognition) leave out sub-paragraph (3)(b).
- (2G) In paragraph 35(1) leave out “a collective agreement under which a union (or unions) are recognised as entitled to conduct collective bargaining” and substitute “a collective agreement under which an independent union (or independent unions) are recognised as entitled to conduct collective bargaining”.
- (2H) In paragraph 35(1) after “in the rules” insert “in relation to all pay, hours and holidays”.
- (2I) In paragraph 39(2)(a) leave out “years” and substitute “months”.
- (2J) In paragraph 40(2)(a) leave out “years” and substitute “months”.
- (2K) In paragraph 41(2)(a) leave out “years” and substitute “months”.

## **Member's explanatory statement**

This amendment makes changes to the Trade Union and Labour Relations (Consolidation) Act 1992 regarding union recognition and balloting.

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**Andrew Griffith**

**291**

Greg Smith

Dame Harriett Baldwin

Page 71, line 1, leave out Clause 52

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**Andrew Griffith**

**292**

Greg Smith

Dame Harriett Baldwin

Clause 52, page 71, line 6, at end insert—

“(2A) In subsection (1) of section 82 (Rules as to political fund), after paragraph (d) insert—

“(e) that trade union members who have not opted out of the political fund must signal, in writing, their agreement to continue contributing to the fund at the end of a period of 12 months after last opting into the fund, and

(f) that trade union members must be given an annual notice about their right to opt out of the political fund.

(1B) A notice under subsection (1)(f) must include a form that enables the member to opt out of the fund.”

### **Member's explanatory statement**

This amendment would require trade unions to notify their members every year of their right to opt out of the political fund, and to obtain an annual opt-in to the political fund from their members.

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### **Secretary Jonathan Reynolds**

Gov **186**

Clause 52, page 71, line 7, leave out from “For” to “substitute” in line 8 and insert “sections 84 (contributions to political fund from members of a union) and 84A (information to members about contributing to political fund)”

### **Member's explanatory statement**

This amendment is consequential on amendment 189.

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### **Secretary Jonathan Reynolds**

Gov **187**

Clause 52, page 71, leave out lines 15 to 25

### **Member's explanatory statement**

This amendment is consequential on amendment 189.



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**Secretary Jonathan Reynolds**Gov **188**

Clause 52, page 71, line 33, leave out from “of” to end of line 34 and insert “four weeks beginning with the day on which an opt-out information notice is given to the member under section 84A,”

**Member's explanatory statement**

This amendment is consequential on amendment 189 and would also require an opt-out notice to be given four weeks (rather than one month) after the opt-out information notice is given where a political resolution is passed for the first time, for the opt out to take effect on the day it is given.

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**Secretary Jonathan Reynolds**Gov **189**

Clause 52, page 72, leave out lines 11 and 12 and insert—

**“84A Opt-out information notices**

- (1) A trade union must give an opt-out information notice to each member of the union—
  - (a) within the period of eight weeks beginning with the day after the day on which a political resolution is passed by the members of the union under section 73, and
  - (b) within the period of eight weeks beginning with the end of—

- (i) the period of ten years beginning with the day on which a political resolution is passed, and
  - (ii) each successive period of ten years, unless during that period of ten years the political resolution is rescinded or otherwise ceases to have effect.
- (2) An “opt-out information notice” is a notice stating that—
  - (a) each member of the union has the right not to be a contributor to the political fund of the union, and
  - (b) a member may exercise that right by giving an opt-out notice under section 84.
- (3) An opt-out information notice must be given in accordance with rules of the union approved for the purpose by the Certification Officer.
- (4) In deciding whether to approve those rules, the Certification Officer must have regard in each case to the existing practice and character of the union.
- (5) As soon as is reasonably practicable after the end of any period of eight weeks within which an opt-out information notice must be given, a trade union must send to the Certification Officer a copy of—
  - (a) the opt-out information notice, or
  - (b) if there is more than one form of opt-out information notice, each form of notice.

- (6) A member of a trade union who claims that the union has failed to comply with this section may complain to the Certification Officer.
- (7) Where the Certification Officer is satisfied on a complaint under subsection (6) that a trade union has failed to comply with this section, the Officer may make such order for remedying the failure as the Officer thinks just under the circumstances.
- (8) Before deciding the matter the Certification Officer—
  - (a) may make such enquiries as the Officer thinks fit;
  - (b) must give the union and the member making the complaint an opportunity to make written representations;
  - (c) may give the union and the member making the complaint an opportunity to make oral representations.
- (9) An order made by the Certification Officer under this section may be enforced by the Certification Officer in the same way as an order of the court.”

### **Member's explanatory statement**

This amendment would require a trade union to give notice to its members every ten years that they have the right to opt out of contributing to the political fund.

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**Secretary Jonathan Reynolds**Gov **190**

Clause 52, page 72, line 22, leave out from “section” to “not” in line 24 and insert “84A (opt-out information notices) may provide for opt-out information notices”

**Member's explanatory statement**

This amendment is consequential on amendment 189.

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**Secretary Jonathan Reynolds**Gov **191**

Clause 52, page 72, line 27, leave out from “section” to third “to” in line 28 and insert “84A(1) is not to be taken to require opt-out information notices”

**Member's explanatory statement**

This amendment is consequential on amendment 189.

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**Andrew Griffith****293**

Greg Smith  
Dame Harriett Baldwin

Page 73, line 6, leave out Clause 54

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**Andrew Griffith****294**

Greg Smith

Dame Harriett Baldwin

Page 74, line 14, leave out Clause 55

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**Andrew Griffith****296**

Greg Smith

Dame Harriett Baldwin

Clause 55, page 75, line 3, after “employee”, insert—

“, and

(c) in relation to a public sector employer, the performance condition is met.”

(3A) The performance condition is met if the Secretary of State is satisfied that the public sector employer is meeting any performance standards set out in a relevant enactment.”

**Member's explanatory statement**

This amendment prevents facility time for equality representatives from being provided unless the relevant public sector organisation is meeting its statutory targets for performance.

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**Andrew Griffith****295**

Greg Smith  
Dame Harriett Baldwin

Page 78, line 5, leave out Clause 56

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**Andrew Griffith****299**

Greg Smith  
Dame Harriett Baldwin

Page 78, line 30, leave out Clause 58

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**Secretary Jonathan Reynolds**Gov **192**

Clause 58, page 79, leave out lines 3 to 6

**Member's explanatory statement**

This amendment removes the provision in clause 58 relating to support thresholds for industrial action ballots, in order for that provision to appear in a separate clause, NC41. This is for the purpose of providing for different commencement dates for the provisions on the turnout threshold (to be commenced by regulations) and support thresholds (to be commenced automatically two months after Royal Assent).

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**Secretary Jonathan Reynolds**Gov **193**

Clause 58, page 79, line 6, at end insert—

“(2A) In section 231 (information for members as to result of ballot)—

(a) omit paragraph (a);

(b) insert “and” at the end of paragraph (d);

(c) for paragraph (e) (and the “and” after it) substitute—

“(e) the number of spoiled voting papers.”;

(d) omit paragraph (f).”

**Member's explanatory statement**

See the explanatory statement for amendment 192. The effect of commencing the provisions on turnout and support thresholds at different times is that the consequential amendments to section 231 of the Trade Union and Labour Relations (Consolidation) Act 1992 (currently in clause 59(3)) need to be made separately (as they relate to those provisions) when each of those provisions is commenced.

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**Secretary Jonathan Reynolds**Gov **194**

Clause 58, page 79, line 9, leave out “(4),” and insert “(4)—

(a)”

## **Member's explanatory statement**

This amendment is consequential on amendment 196.

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## **Secretary Jonathan Reynolds**

Gov **195**

Clause 58, page 79, line 11, leave out “sections 2 and 3” and insert “section 2”

## **Member's explanatory statement**

This amendment is consequential on amendment 192.

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## **Secretary Jonathan Reynolds**

Gov **196**

Clause 58, page 79, line 12, at end insert—

“(b) in section (*Industrial action ballots: support thresholds*) of this Act, omit subsection (3)(a).”

## **Member's explanatory statement**

See the explanatory statement for amendment 192 - once clause 58 is brought into force, the provision in subsection (3)(a) of NC41 (which will come into force automatically two months after Royal Assent) will no longer be necessary.



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**Secretary Jonathan Reynolds**Gov **197**

Clause 59, page 79, line 14, leave out from beginning to “(information” in line 16 and insert—  
“(1) In section 229 of the Trade Union and Labour Relations (Consolidation) Act 1992”

**Member's explanatory statement**

This amendment is consequential on amendment 198.

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**Secretary Jonathan Reynolds**Gov **198**

Clause 59, page 79, line 18, leave out subsection (3)

**Member's explanatory statement**

This amendment is necessary because amendments to section 231 of the Trade Union and Labour Relations (Consolidation) Act 1992 to the same effect will now be contained in clause 58 (by virtue of amendment 193) and NC41.

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**Secretary Jonathan Reynolds**Gov **199**

Clause 59, page 79, line 26, leave out from “the” to “of” in line 27 and insert “amendment made by subsection (1), omit section 5”

## **Member's explanatory statement**

This amendment is consequential on amendment 198 - because of the need to amend different parts of section 231 of the Trade Union and Labour Relations (Consolidation) Act 1992 at different times, section 6 of the Trade Union Act 2016 (which inserted most of the current content of section 231) will not be repealed.

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### **Neil Duncan-Jordan**

**315**

Richard Burgon  
Apsana Begum  
Steve Witherden  
Kate Osborne  
Ian Byrne

Imran Hussain   Nadia Whittome   Andy McDonald  
Jeremy Corbyn

Page 79, line 28, leave out Clause 60

## **Member's explanatory statement**

This amendment would leave out Clause 60 on electronic balloting for industrial action. NC99 is intended to replace clause 60.

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**Ian Lavery****347**

Jon Trickett  
Zarah Sultana  
Nadia Whittome  
Brian Leishman  
Kate Osborne

Richard Burgon Andy McDonald Apsana Begum  
Ian Byrne Jeremy Corbyn

Clause 61, page 80, line 2, in title leave out “to employer”

**Member's explanatory statement**

This amendment paves the way for amendment 348.

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**Secretary Jonathan Reynolds****Gov 200**

Clause 61, page 80, line 4, after “action)” insert “—

- (a) in subsection (3B), omit paragraph (b) (but not the “and” after it);
- (b) in subsection (3C)(b), omit the words from “and the number” to “categories”;
- (c)”

**Member's explanatory statement**

This amendment would remove the requirement for a trade union to provide information to an employer ahead of industrial action as to the

number of employees in each category that are expected to take part in the action.

---

**Secretary Jonathan Reynolds**

Gov **201**

Clause 61, page 80, line 6, leave out “seventh” and insert “tenth”

**Member's explanatory statement**

This amendment would increase the notice a trade union must give the employer of industrial action from seven days to ten days.

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**Andrew Griffith**

**297**

Greg Smith  
Dame Harriett Baldwin

Clause 61, page 80, line 6, leave out “seventh” and insert “fourteenth”

**Member's explanatory statement**

This amendment would increase, from seven to 14 days, the notice period that trade unions are required to adhere to when notifying employers that they plan to take industrial action.

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**Secretary Jonathan Reynolds**

Gov **202**

Clause 61, page 80, line 8, leave out “(1)” and insert “(1)(c)”

## **Member's explanatory statement**

This amendment is consequential on amendment 200.

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### **Ian Lavery**

**348**

Jon Trickett

Zarah Sultana

Nadia Whittome

Kate Osborne

Richard Burgon

Andy McDonald Apsana Begum Ian Byrne

Jeremy Corbyn

Clause 61, page 80, line 9, at end insert—

“(3) The Trade Union and Labour Relations (Consolidation) Act 1992 is also amended as follows.

(4) In section 231 (Information as to result of ballot), omit from “shall” to after “told” and insert—

“display, reasonably prominently on its website, on a webpage reasonably easy to find and which is freely accessible to the general public—”

(5) Omit section 231A.”

## **Member's explanatory statement**

This amendment would change the requirements for notification about the results of a union ballot.

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**Ian Lavery****345**

Jon Trickett  
 Zarah Sultana  
 Nadia Whittome  
 Brian Leishman  
 Kate Osborne

Richard Burgon Andy McDonald Apsana Begum  
 Ian Byrne Jeremy Corbyn

Clause 62, page 80, line 11, in title leave out “Union supervision of”

**Member's explanatory statement**

This amendment paves the way for amendment 346.

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**Ian Lavery****346**

Jon Trickett  
 Zarah Sultana  
 Nadia Whittome  
 Brian Leishman  
 Kate Osborne

Richard Burgon Andy McDonald Apsana Begum  
 Ian Byrne Jeremy Corbyn

Clause 62, page 80, line 19, at end insert—

“(3) In section 220 (Peaceful picketing)—  
 (a) in subsection (1), after “attend”, insert “a place of work”;

- (b) omit subsections (1)(a) and (1)(b); and
- (c) omit subsections (2) to (4).”

### **Member's explanatory statement**

This amendment, along with amendment 348, would remove the restriction confining pickets to a worker's place of work.

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**Andrew Griffith**

**300**

Greg Smith  
Dame Harriett Baldwin

Clause 63, page 83, line 9, at end insert—

**“236E Actions short of a strike: exemption**

- (1) The right of a worker not to be subjected to detriment under section 236A does not apply in cases where the worker is involved in one or more of the following activities—
  - (a) intimidation at picket lines;
  - (b) protests organised by trade unions in furtherance of a dispute—
    - (i) at the premises of a company;
    - (ii) at the private residences of senior managers; or
    - (iii) at the premises of other organisations that are connected with the dispute;
  - (c) harassment or bullying of non-striking workers, or those who are covering for striking workers;

- (d) victimisation or harassment of senior managers; or
  - (e) action aimed at damaging property or disrupting business contingency planning.
- (2) The Secretary of State must ensure that the circumstances under subsection (1), in which the right of a worker not to be subjected to detriment do not apply, are set out in a code of practice.”

### **Member's explanatory statement**

This amendment would disapply the right not to suffer detriment as a result of industrial action in certain circumstances.

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### **Secretary Jonathan Reynolds**

Gov **203**

Clause 75, page 89, leave out lines 17 and 18

### **Member's explanatory statement**

This amendment is consequential on amendment 181.

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### **Secretary Jonathan Reynolds**

Gov **204**

Clause 75, page 89, line 18, at end insert—

“(da) section 70ZIA (enforcement of access agreements: amounts payable for breach);”



## Member's explanatory statement

This amendment is consequential on amendment 182.

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## Secretary Jonathan Reynolds

Gov 205

Clause 77, page 90, line 15, at end insert—

- “(6A) Subsection (1) does not limit the Secretary of State’s powers under—
- (a) section (*Power to bring proceedings in employment tribunal*) (power to bring proceedings in employment tribunal), or
  - (b) section (*Power to provide legal assistance*) (power to provide legal assistance).”

## Member's explanatory statement

This amendment is consequential on NC57 and NC58. It makes it clear that clause 77(1), which sets out the Secretary of State’s general function of enforcing the legislation listed in Part 1 of Schedule 5, does not limit what can be done under those new clauses (which apply in relation to a wider category of legislation).

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**Secretary Jonathan Reynolds**Gov **206**

Clause 78, page 90, line 31, at end insert—

“( ) any function under or by virtue of section (*Power to bring proceedings in employment tribunal*) or (*Power to provide legal assistance*) (powers in relation to civil proceedings);”

**Member's explanatory statement**

This amendment is consequential on NC57 and NC58. It excludes functions under or by virtue of those new clauses from being enforcement functions of the Secretary of State.

---

**Secretary Jonathan Reynolds**Gov **207**

Clause 79, page 91, line 2, at end insert—

“( ) any function of the Secretary of State by virtue of section (*Power to bring proceedings in employment tribunal*) (power to bring proceedings in employment tribunal);”

**Member's explanatory statement**

This amendment would enable the power conferred on the Secretary of State by NC57 to be delegated to a public authority under clause 79.

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**Secretary Jonathan Reynolds**Gov **208**

Clause 80, page 92, line 2, at end insert—

“( ) In addition to the matters referred to in subsection (1), the Board may also provide advice to the Secretary of State about such matters as the Secretary of State may specify relating to the Secretary of State’s functions under or by virtue of sections (*Power to bring proceedings in employment tribunal*) and (*Power to provide legal assistance*) (powers in relation to civil proceedings).”

**Member's explanatory statement**

This amendment is consequential on NC57 and NC58. It would enable the Advisory Board to provide advice on matters relating to the Secretary of State’s functions under those new clauses.

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**Secretary Jonathan Reynolds**Gov **209**

Clause 81, page 92, line 25, after “Parliament” insert “and the Northern Ireland Assembly”

**Member's explanatory statement**

This amendment would require the Secretary of State to lay a copy of the labour market enforcement strategy published under clause 81 before the Northern Ireland Assembly.

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**Secretary Jonathan Reynolds**Gov **210**

Clause 82, page 93, line 9, after “Parliament” insert “and the Northern Ireland Assembly”

**Member's explanatory statement**

This amendment would require the Secretary of State to lay copies of annual reports published under clause 82 before the Northern Ireland Assembly.

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**Secretary Jonathan Reynolds**Gov **211**

Clause 101, page 104, line 8, at end insert “, other than a power by virtue of section (*Power to bring proceedings in employment tribunal*) (power to bring proceedings in employment tribunal).”

**Member's explanatory statement**

The effect of this amendment is that, where an enforcement officer is exercising a power by virtue of NC57, the officer does not need to produce identification showing that the officer is authorised to do so.

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**Secretary Jonathan Reynolds**Gov **212**

Clause 106, page 106, line 28, at end insert—

““civil proceedings function” means a function under or by virtue of section (*Power to bring*

*proceedings in employment tribunal) or (Power to provide legal assistance) (powers in relation to civil proceedings);”*

### **Member's explanatory statement**

This amendment and other amendments to this clause are consequential on NC57 and NC58. They would enable the disclosure of information to an enforcing authority for the purposes of exercising functions under those new clauses. They would also enable information obtained in connection with the exercise of a function under those clauses to be used or disclosed in accordance with clause 106.

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### **Secretary Jonathan Reynolds**

Gov **213**

Clause 106, page 106, line 31, at end insert “(other than a power by virtue of section (*Power to bring proceedings in employment tribunal*)).”

### **Member's explanatory statement**

See the explanatory statement for amendment 212.

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### **Secretary Jonathan Reynolds**

Gov **214**

Clause 106, page 106, line 33, at end insert “or a civil proceedings function.”

### **Member's explanatory statement**

See the explanatory statement for amendment 212.

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**Secretary Jonathan Reynolds**Gov **215**

Clause 106, page 106, line 35, after “function” insert “or a civil proceedings function”

**Member's explanatory statement**

See the explanatory statement for amendment 212.

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**Secretary Jonathan Reynolds**Gov **216**

Clause 106, page 106, line 37, at end insert “or civil proceedings function;”

**Member's explanatory statement**

See the explanatory statement for amendment 212.

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**Secretary Jonathan Reynolds**Gov **217**

Clause 106, page 107, line 3, after “function” insert “or a civil proceedings function”

**Member's explanatory statement**

See the explanatory statement for amendment 212.

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**Secretary Jonathan Reynolds**Gov **218**

Clause 106, page 107, line 4, after first “function” insert “or civil proceedings function”

## **Member's explanatory statement**

See the explanatory statement for amendment 212.

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### **Secretary Jonathan Reynolds**

Gov **219**

Clause 106, page 107, line 7, after first “function” insert “or a civil proceedings function”

## **Member's explanatory statement**

See the explanatory statement for amendment 212.

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### **Secretary Jonathan Reynolds**

Gov **220**

Clause 113, page 111, line 6, at end insert “, other than a power by virtue of section (*Power to bring proceedings in employment tribunal*) (power to bring proceedings in employment tribunal).”

## **Member's explanatory statement**

This amendment is consequential on NC57. It would not be appropriate for the offence of obstruction to apply where an enforcement officer is exercising a power to bring proceedings in an employment tribunal.

---

**Secretary Jonathan Reynolds**Gov **221**

Clause 121, page 116, line 6, at end insert—

““the liable party”, in relation to a notice of underpayment, has the meaning given by section (*Power to give notice of underpayment*)(1);”

**Member's explanatory statement**

This amendment is consequential on NC44.

---

**Secretary Jonathan Reynolds**Gov **222**

Clause 121, page 116, line 10, after “120;” insert “and any reference to a failure to comply with relevant labour market legislation is to be read accordingly;”

**Member's explanatory statement**

This amendment is consequential on NC60.

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**Secretary Jonathan Reynolds**Gov **223**

Clause 121, page 116, line 10, at end insert—

““notice of underpayment” has the meaning given by section (*Power to give notice of underpayment*)(2);”

**Member's explanatory statement**

This amendment is consequential on NC44.



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**Secretary Jonathan Reynolds**Gov **224**

Clause 121, page 116, line 11, at end insert—

““the relevant day”, in relation to a notice of underpayment, has the meaning given by section (*Power to give notice of underpayment*)(1);”

**Member's explanatory statement**

This amendment is consequential on NC44.

---

**Secretary Jonathan Reynolds**Gov **225**

Clause 121, page 116, line 15, at end insert—

““statutory pay provision” has the meaning given by section (*Power to give notice of underpayment*)(7);”

**Member's explanatory statement**

This amendment is consequential on NC44.

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**Secretary Jonathan Reynolds**Gov **226**

Clause 121, page 116, line 21, at end insert—

““underpaid individual”, in relation to a notice of underpayment, has the meaning given by section (*Power to give notice of underpayment*)(1);”

## **Member's explanatory statement**

This amendment is consequential on NC44.

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### **Secretary Jonathan Reynolds**

Gov **227**

Clause 126, page 118, line 14, after “State” insert “or the Welsh Ministers”

## **Member's explanatory statement**

This amendment is consequential on NC37.

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### **Secretary Jonathan Reynolds**

Gov **228**

Clause 126, page 118, line 15, at end insert—

“( ) For provision about the making of regulations under this Act by the Scottish Ministers, see section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10) (which provides for such regulations to be made by Scottish statutory instrument).”

## **Member's explanatory statement**

This amendment is consequential on NC37. The effect of section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010 is that regulations made by the Scottish Ministers under Chapter 2 of Part 3 will be made by Scottish statutory instrument.

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**Secretary Jonathan Reynolds**Gov **229**

Clause 126, page 118, line 23, after “procedure”  
insert “—

“(a) in the case of regulations of the Secretary of  
State,”

**Member's explanatory statement**

This amendment is consequential on amendment  
230.

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**Secretary Jonathan Reynolds**Gov **230**

Clause 126, page 118, line 24, at end insert—

“(b) in the case of regulations of the Welsh  
Ministers, the statutory instrument  
containing the regulations is subject to  
annulment in pursuance of a resolution of  
Senedd Cymru;

(c) in the case of regulations of the Scottish  
Ministers, the regulations are subject to  
the negative procedure (see section 28  
of the Interpretation and Legislative  
Reform (Scotland) Act 2010 (asp 10)).”

**Member's explanatory statement**

This amendment is consequential on NC37. It  
defines what is meant by “negative resolution  
procedure” for regulations made by the Welsh  
Ministers or the Scottish Ministers.

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**Secretary Jonathan Reynolds**Gov **231**

Clause 126, page 118, line 26, after “procedure”  
insert “—

- (a) in the case of regulations of the Secretary of State,”

**Member's explanatory statement**

This amendment is consequential on amendment 232.

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**Secretary Jonathan Reynolds**Gov **232**

Clause 126, page 118, line 28, at end insert—

- “(b) in the case of regulations of the Welsh Ministers, the regulations may not be made unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, Senedd Cymru;
- (c) in the case of regulations of the Scottish Ministers, the regulations are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)).”

**Member's explanatory statement**

This amendment is consequential on NC37. It defines what is meant by “affirmative resolution

procedure” for regulations made by the Welsh Ministers or the Scottish Ministers.

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## **Secretary Jonathan Reynolds**

Gov **233**

Clause 126, page 118, line 29, after “included” insert “by a person”

### **Member's explanatory statement**

This amendment is consequential on NC37.

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## **Secretary Jonathan Reynolds**

Gov **234**

Clause 126, page 118, line 30, after “made” insert “by the person”

### **Member's explanatory statement**

This amendment is consequential on NC37.

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## **Secretary Jonathan Reynolds**

Gov **235**

Clause 128, page 119, line 4, leave out paragraphs (b) and (c) and insert—

“(b) in Part 3—

- (i) Chapter 1 extends to England and Wales;
- (ii) Chapter 2 extends to England and Wales and Scotland;

- (iii) Chapter 3 extends to England and Wales, Scotland and Northern Ireland;”

### **Member's explanatory statement**

This amendment is consequential on NC37. It provides for Chapter 2 to extend to England and Wales and Scotland.

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### **Peter Dowd**

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Paula Barker

Richard Burgon

Ian Byrne

Ellie Chowns

Neil Duncan-Jordan

Maya Ellis            Mary Kelly Foy    Patrick Hurley

Imran Hussain    Kim Johnson    Rachael Maskell

Connor NaismithBell            Jon Trickett

Steve WitherdenRibeiro-Addy    Andy McDonald

Carla Denyer    Brian Leishman    Adrian Ramsay

John McDonnell Siân Berry

Jeremy Corbyn

Clause 129, page 119, line 25, at end insert—

“(aa) section [*Working Time Council*];”

### **Member's explanatory statement**

This amendment is consequential on NC25.

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**Secretary Jonathan Reynolds**Gov **236**

Clause 129, page 119, line 28, at end insert—

“(za) section (*Political funds: requirement to pass political resolution*) (political funds: requirement to pass political resolution);”

**Member's explanatory statement**

This amendment would bring NC40 into force two months after Royal Assent.

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**Secretary Jonathan Reynolds**Gov **237**

Clause 129, page 119, line 34, leave out paragraph (e) and insert—

“(e) section (*Industrial action ballots: support thresholds*) (industrial action ballots: support thresholds);”

**Member's explanatory statement**

See the explanatory statement for amendment 192 - this amendment together with others will have the effect that the provision about support thresholds for industrial action ballots will come into force automatically two months after Royal Assent, whereas the provision about the turnout threshold will come into force by regulations.

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**Secretary Jonathan Reynolds**Gov **238**

Clause 129, page 119, line 34, at end insert—

“(ea) section (*Notice of industrial action ballot and sample voting paper for employers*) (notice of industrial action ballot and sample voting paper for employers);”

**Member's explanatory statement**

This amendment would bring NC42 into force two months after Royal Assent.

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**Secretary Jonathan Reynolds**Gov **239**

Clause 129, page 119, line 36, at end insert—

“(fa) section (*Period after which industrial action ballot ceases to be effective*) (period after which industrial action ballot ceases to be effective);”

**Member's explanatory statement**

This amendment would bring NC43 into force two months after Royal Assent.



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**John McDonnell****301**

Richard Burgon  
Andy McDonald  
Apsana Begum  
Neil Duncan-Jordan  
Steve Witherden

Kate Osborne    Ian Byrne            Imran Hussain  
Zarah Sultana    Nadia Whittome    Jeremy Corbyn

Clause 129, page 120, line 11, at end insert—

“(q) section [*Annual report on application of changes to employment rights to seafarers*];

(r) section [*Annual report on provisions relating to seafarers*]

(s) section [*Annual report on application of changes in Parts 4 and 5 to seafarers*]”

**Member's explanatory statement**

This amendment provides for the coming into force of NC94, NC95 and NC96 two months after the passing of the Act.

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**Andrew Griffith****283**

Greg Smith  
Dame Harriett Baldwin

Clause 129, page 120, line 13, at end insert—

“(3A) But no regulations under subsection (3) may be made to bring into force sections 1 to 6 of this Act until the findings of the report under section [Impact on employment tribunals: sections 1 to 6] have been approved by a resolution of the House of Commons on a motion moved by a Minister of the Crown.”

### **Member's explanatory statement**

This amendment would prevent the Bill's provisions on zero hours workers coming into force until the review of the impact on the employment tribunals of the Bill's provisions on zero hours workers had been assessed and approved by Parliament.

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**Andrew Griffith**

**284**

Greg Smith

Dame Harriett Baldwin

Clause 129, page 120, line 13, at end insert—

“(3A) But no regulations under subsection (3) may be made to bring into force section 7 of this Act until the findings of the report under section [Consultation and assessment on the right to request flexible working] have been approved by a resolution of the House of Commons on a motion moved by a Minister of the Crown.”

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**Andrew Griffith**

**285**

Greg Smith

Dame Harriett Baldwin

Clause 129, page 120, line 13, at end insert—

“(3A) But no regulations under subsection (3) may be made to bring into force section 18 of this Act until the findings of the report under section [Employer duties on harassment: impact assessment] have been approved by a resolution of the House of Commons on a motion moved by a Minister of the Crown.”

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**Andrew Griffith**

**286**

Greg Smith

Dame Harriett Baldwin

Clause 129, page 120, line 13, at end insert—

“(3A) But no regulations under subsection (3) may be made to bring into force section 21 and Schedule 2 of this Act until the findings of the report under section [Unfair dismissal: impact assessment] have been approved by a resolution of the House of Commons on a motion moved by a Minister of the Crown.”

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**Secretary Jonathan Reynolds**Gov **NS2**

To move the following Schedule—

**“SCHEDULE****TRADE UNION RECOGNITION****PART 1****INTRODUCTION**

- 1 Schedule A1 to the Trade Union and Labour Relations (Consolidation) Act 1992 is amended in accordance with Parts 2 to 5 of this Schedule.
- 2 Part 6 of this Schedule contains consequential amendments to the Employment Relations Act 2004.

**PART 2****RECOGNITION***Meaning of “the application day”*

- 3 In paragraph 2 (interpretation of Part 1 of Schedule A1), after sub-paragraph (5) insert—
  - “(6) In relation to an application under paragraph 11 or 12, a reference to the application day is to the day on which the CAC receives the application.”

### *Acceptance of applications*

- 4 (1) Paragraph 14 (acceptance of applications: multiple applications) is amended as follows.
- (2) After sub-paragraph (1) insert—
  - “(1A) For the purposes of sub-paragraph (1)(b), any worker who joined any of the relevant bargaining units after the application day is to be disregarded.”
- (3) In sub-paragraph (4), for “10 per cent test” substitute “required percentage test”.
- (4) In sub-paragraph (5)—
  - (a) for “10 per cent test” substitute “required percentage test”;
  - (b) for “at least 10 per cent” substitute “at least the required percentage (see paragraph 171B)”.
- (5) After sub-paragraph (5) insert—
  - “(5A) For the purposes of sub-paragraph (5), any worker who joined the relevant bargaining unit after the application day is to be disregarded.”
- (6) In sub-paragraph (7)—
  - (a) in paragraph (a), for “10 per cent test” substitute “required percentage test”;
  - (b) in paragraph (b), for “10 per cent test” substitute “required percentage test”.
- (7) In sub-paragraph (8), for “10 per cent test” substitute “required percentage test”.

### *Withdrawal of application*

- 5 In paragraph 16 (withdrawal of application), in sub-paragraph (1)(a), after “19F(5)” insert “, 19K(4) or (5), 19P(4) or (5)”.

### *Notice to cease consideration of application*

- 6 In paragraph 17 (notice to cease consideration of application), in sub-paragraph (3)(a), after “19F(5)” insert “, 19K(4) or (5), 19P(4) or (5)”.

### *Communication with workers through independent person after application*

- 7 (1) Paragraph 19C (appointment of independent person to handle communications between union and workers) is amended as follows.
- (2) After sub-paragraph (2) insert—
- “(2A) An application under sub-paragraph (2) is valid only if it is made before the end of the period of 5 working days starting with the day after the day on which the CAC gives the union (or unions) notice under paragraph 15(5) that the application mentioned in sub-paragraph (1) is accepted.”
- (3) In sub-paragraph (5)(c), after “19F(5)” insert “, 19K(4) or (5), 19P(4) or (5)”.
- (4) In sub-paragraph (7), for “an application” substitute “a valid application”.

## *Access agreements*

8 After paragraph 19F insert—

### *“Access agreements*

19G (1) This paragraph applies if—

- (a) the CAC accepts an application under paragraph 11(2) or 12(2) or (4), and
  - (b) the application is in progress.
- (2) The union (or unions) may, by giving notice to the CAC and the employer within the access request period, request access to the relevant workers in connection with the application.
- (3) In the case of an application under paragraph 11(2) or 12(2), the relevant workers are—
- (a) in relation to any time before an appropriate bargaining unit is agreed by the parties or decided by the CAC, those falling within the proposed bargaining unit, and
  - (b) in relation to any time after an appropriate bargaining unit is so agreed or decided, those falling within the bargaining unit agreed or decided upon.
- (4) In the case of an application under paragraph 12(4), the relevant workers

are those falling within the bargaining unit agreed by the parties.

- (5) The access request period is the period of 5 working days starting with the day after the day on which the CAC gives the union (or unions) notice under paragraph 15(5) that the application is accepted.
  - (6) For the purposes of this paragraph and paragraphs 19H to 19K, an application under paragraph 11 or 12 is in progress if none of the following has occurred—
    - (a) the withdrawal of the application;
    - (b) the CAC giving notice to the union (or unions) of a decision under paragraph 20 that the application is invalid;
    - (c) the CAC giving notice to the union (or unions) of a declaration issued under paragraph 19F(5), 19K(4) or (5), 19P(4) or (5), 22(2) or 27(2) in relation to the application;
    - (d) the holding of any ballot arising from the application.
- 19H (1) This paragraph applies if—
- (a) the CAC accepts an application under paragraph 11(2) or 12(2) or (4),
  - (b) the union requests (or unions request) access to the relevant



workers under paragraph 19G(2) in connection with the application, and

- (c) the application is in progress.
- (2) The CAC must try to help the parties to reach agreement within the negotiation period as to terms on which the union is (or unions are) to have access to the relevant workers.
- (3) The negotiation period is, subject to any notice under sub-paragraph (4) or (6), the period of 15 working days starting with the day after the day on which the union gives (or unions give) notice to the employer under paragraph 19G(2).
- (4) If, during the negotiation period, the CAC concludes that there is no reasonable prospect of the parties' agreeing terms on which the union is (or unions are) to have access to the relevant workers before the time when (apart from this sub-paragraph) the negotiation period would end, the CAC may, by a notice given to the parties, declare that the negotiation period ends with the date of the notice.
- (5) A notice under sub-paragraph (4) must contain reasons for reaching the

conclusion mentioned in that sub-paragraph.

- (6) If, during the negotiation period, the parties apply to the CAC for a declaration that the negotiation period is to end with a date (specified in the application) which is earlier or later than the date with which it would otherwise end, the CAC may, by a notice given to the parties, declare that the negotiation period ends with the specified date.

19I(1) This paragraph applies if—

- (a) the CAC accepts an application under paragraph 11(2) or 12(2) or (4),
  - (b) the union requests (or unions request) access to the relevant workers under paragraph 19G(2) in connection with the application,
  - (c) the parties have not within the negotiation period agreed terms on which the union is (or unions are) to have access to the relevant workers, and
  - (d) the application is in progress.
- (2) Within the adjudication period, the CAC must—

- (a) decide the terms on which the union is (or unions are) to have access to the relevant workers, or
    - (b) decide that the union is (or unions are) not to have access to the relevant workers.
  - (3) The adjudication period is—
    - (a) the period of 10 working days starting with the day after the day with which the negotiation period ends, or
    - (b) such longer period (so starting) as the CAC may specify to the parties by notice containing reasons for the extension.
  - (4) Any terms decided by the CAC must be terms that the CAC regards as allowing such access to the relevant workers as is reasonable to enable the union (or unions) to—
    - (a) inform the workers of the object of the application or any ballot arising from it, and
    - (b) seek their support and their opinions on the issues involved.
- 19J(1) This paragraph applies if—
- (a) an access agreement is entered into, and
  - (b) the application under paragraph 11 or 12 is in progress.

- (2) “Access agreement” means—
  - (a) terms on which the union is (or unions are) to have access to the relevant workers and which are agreed between the parties under paragraph 19H during the negotiation period, or
  - (b) terms on which the union is (or unions are) to have access to the relevant workers and which are decided by the CAC under paragraph 19I,and such an agreement is “entered into” when the terms are so agreed or decided.
- (3) The parties must comply with the access agreement.
- (4) The employer must refrain from making any offer to any or all of the relevant workers which—
  - (a) has or is likely to have the effect of inducing any or all of them not to attend any relevant meeting between the union (or unions) and the relevant workers, and
  - (b) is not reasonable in the circumstances.
- (5) The employer must refrain from taking, or threatening to take, any action

- against a worker solely or mainly on the grounds that the worker—
- (a) attended or took part in any relevant meeting between the union (or unions) and the relevant workers, or
  - (b) indicated an intention to attend or take part in such a meeting.
- (6) In the case of an application under paragraph 11(2) or 12(2), the relevant workers are—
- (a) in relation to any time before an appropriate bargaining unit is agreed by the parties or decided by the CAC, those falling within the proposed bargaining unit, and
  - (b) in relation to any time after an appropriate bargaining unit is so agreed or decided, those falling within the bargaining unit agreed or decided upon.
- (7) In the case of an application under paragraph 12(4), the relevant workers are those falling within the bargaining unit agreed by the parties.
- (8) A meeting is a relevant meeting in relation to a worker for the purposes of sub-paragraphs (4) and (5) if—
- (a) it is organised in accordance with an access agreement or as a result

- of a step ordered to be taken under paragraph 19K to remedy a failure to comply with the duty in sub-paragraph (3), and
- (b) it is one which the employer is, by such an agreement or order as is mentioned in paragraph (a), required to permit the worker to attend.
- (9) The duties imposed by sub-paragraphs (4) and (5) do not confer any rights on a worker; but that does not affect any other right which a worker may have.
- (10) Any provision of an access agreement that would require personal data relating to any of the relevant workers to be disclosed to any person who is not an appointed person is of no effect for the purposes of this Part of this Schedule.
- (11) In sub-paragraph (10)—
- (a) “appointed person” means—
    - (i) a person appointed to handle communications under paragraph 19C, or
    - (ii) a person appointed to conduct a ballot under paragraph 25;
  - (b) “personal data” has the same meaning as in the Data Protection

Act 2018 (see section 3 of that Act).

- (12) An access agreement is to be conclusively presumed not to have been intended by the parties to be a legally enforceable contract; and, accordingly, where an access agreement is, or is part of, a collective agreement, section 179(2) and (3)(a) do not apply to the access agreement.
- 19K (1) Sub-paragraph (2) applies if—
- (a) the CAC is satisfied that a party has failed to fulfil any of the duties imposed on that party by paragraph 19J, and
  - (b) the application under paragraph 11 or 12 is in progress.
- (2) The CAC may order the party—
- (a) to take such steps to remedy the failure as the CAC considers reasonable and specifies in the order, and
  - (b) to do so within such period as the CAC considers reasonable and specifies in the order.
- (3) Sub-paragraphs (4) and (5) apply if—
- (a) the CAC is satisfied that a party has failed to comply with an order under sub-paragraph (2),

- (b) the application under paragraph 11 or 12 is in progress,
  - (c) the parties have agreed an appropriate bargaining unit or the CAC has decided an appropriate bargaining unit, and
  - (d) in the case of an application under paragraph 11(2) or 12(2), the CAC, if required to do so, has decided under paragraph 20 that the application is not invalid.
- (4) If the party that has failed to comply is the employer, the CAC may issue a declaration that the union is (or unions are) recognised as entitled to conduct collective bargaining on behalf of the bargaining unit.
- (5) If the party that has failed to comply is a union, the CAC may issue a declaration that the union is (or unions are) not entitled to be so recognised.
- 19L (1) Each of the powers specified in sub-paragraph (2) is to be taken to include power to issue Codes of Practice about any matter relating to requests for access under paragraph 19G(2), including (among other things)—
- (a) what access is reasonable for the purposes of paragraph 19I(4);



- (b) the duty in paragraph 19J(4).
- (2) The powers are—
  - (a) the power of ACAS under section 199(1);
  - (b) the power of the Secretary of State under section 203(1)(a).”

### *Unfair practices*

- 9 After paragraph 19L (inserted by paragraph 8 of this Schedule) insert—

#### *“Unfair practices*

- 19M (1) Each of the parties informed by the CAC under paragraph 15(5) that an application under paragraph 11 or 12 is accepted must refrain from using any unfair practice in relation to the application.
- (2) A party uses an unfair practice if, with a view to influencing the outcome of the application, the party does any of the following—
- (a) dismisses, or threatens to dismiss, a worker;
  - (b) takes, or threatens to take, disciplinary action against a worker;
  - (c) subjects, or threatens to subject, a worker to any other detriment;

- (d) offers to pay money, or give money's worth, to a relevant worker in return for the worker's agreement to vote in a particular way, or to abstain from voting, in a relevant ballot;
  - (e) makes an outcome-specific offer to a relevant worker;
  - (f) coerces, or attempts to coerce, a relevant worker to disclose—
    - (i) whether the worker intends to vote, or to abstain from voting, in any relevant ballot, or
    - (ii) how the worker intends to vote, or has voted, in any relevant ballot;
  - (g) uses, or attempts to use, undue influence on a relevant worker.
- (3) In sub-paragraph (2)—
- (a) “relevant ballot” means any ballot that is or may be held in which workers are asked whether they want the union (or unions) to conduct collective bargaining on their behalf, and
  - (b) “relevant worker” means any worker who is or would be entitled to vote in a relevant ballot.
- (4) For the purposes of sub-paragraph (2)(e) an “outcome-specific offer” is an

offer to pay money, or give money's worth, which—

(a) is conditional on the issuing by the CAC of a declaration that—

(i) the union is (or unions are) recognised as entitled to conduct collective bargaining on behalf of a bargaining unit, or

(ii) the union is (or unions are) not entitled to be so recognised, and

(b) is not conditional on anything which is done or occurs as a result of the declaration in question.

(5) The duty imposed by this paragraph does not confer any rights on a worker; but that does not affect any other right which a worker may have.

(6) Each of the following powers is to be taken to include power to issue Codes of Practice about unfair practices for the purposes of this paragraph—

(a) the power of ACAS under section 199(1);

(b) the power of the Secretary of State under section 203(1)(a).

19N (1) A party may complain to the CAC that another party has failed to comply with paragraph 19M.

- (2) A complaint under sub-paragraph (1) may not be made after—
  - (a) the application under paragraph 11 or 12 is withdrawn;
  - (b) the CAC gives notice to the union (or unions) of a decision under paragraph 20 that the application is invalid;
  - (c) the CAC notifies the union (or unions) of a declaration issued under paragraph 19F(5), 19K(4) or (5), 19P(4) or (5), 22(2) or 27(2) in relation to the application;
  - (d) if the CAC informs the union (or unions) under paragraph 25(9) of a ballot in relation to the application, the fifth working day after—
    - (i) the date of the ballot, or
    - (ii) if votes may be cast in the ballot on more than one day, the last of those days.
- (3) Within the decision period the CAC must decide whether the complaint is well-founded.
- (4) A complaint is well-founded if the CAC finds that the party complained against used an unfair practice.
- (5) The decision period is—

- (a) the period of 10 working days starting with the day after the day on which the complaint under sub-paragraph (1) was received by the CAC, or
- (b) such longer period (so starting) as the CAC may specify to the parties by a notice containing reasons for the extension.

19O (1) This paragraph applies if the CAC decides that a complaint under paragraph 19N is well-founded.

- (2) The CAC must, as soon as is reasonably practicable, issue a declaration to that effect.
- (3) The CAC may order the party concerned to take any action specified in the order within such period as may be so specified.
- (4) Sub-paragraph (5) applies if—
  - (a) the parties have agreed an appropriate bargaining unit or the CAC has decided an appropriate bargaining unit, and
  - (b) the CAC has at any time informed the union (or unions) under paragraph 25(9) of a ballot in relation to the application (including a ballot that was cancelled or is ineffective).

- (5) The CAC may give notice to the employer and to the union (or unions) that it intends to arrange for the holding of a secret ballot in which the workers constituting the bargaining unit, other than those who joined the bargaining unit after the application day, are asked whether they want the union (or unions) to conduct collective bargaining on their behalf.
- (6) The CAC may make an order under sub-paragraph (3), or give a notice under sub-paragraph (5), either at the same time as it issues the declaration under sub-paragraph (2) or at any other time before any of the following occurs—
  - (a) the withdrawal of the application under paragraph 11 or 12;
  - (b) the CAC giving notice to the union (or unions) of a decision under paragraph 20 that the application is invalid;
  - (c) the CAC notifying the union (or unions) of a declaration issued under paragraph 19F(5), 19K(4) or (5), 19P(4) or (5), 22(2) or 27(2) in relation to the application;
  - (d) if the CAC informs the union (or unions) under paragraph 25(9) of

a ballot in relation to the application, the CAC acting under paragraph 29 in relation to the ballot.

- (7) The action specified in an order under sub-paragraph (3) must be such as the CAC considers reasonable in order to mitigate the effect of the failure of the party concerned to comply with the duty imposed by paragraph 19M.
  - (8) The CAC may make more than one order under sub-paragraph (3).
- 19P (1) Sub-paragraphs (4) to (6) apply if—
- (a) the CAC issues a declaration under paragraph 19O(2) that a complaint that a party has failed to comply with paragraph 19M is well-founded,
  - (b) the application under paragraph 11 or 12 has not been withdrawn,
  - (c) the parties have agreed an appropriate bargaining unit or the CAC has decided an appropriate bargaining unit,
  - (d) in the case of an application under paragraph 11(2) or 12(2), the CAC, if required to do so, has decided under paragraph 20 that the application is not invalid,

- (e) the CAC has not notified the union (or unions) of a declaration issued under paragraph 19F(5), 19K(4) or (5), 19P(4) or (5), 22(2) or 27(2) in relation to the application, and
  - (f) sub-paragraph (2) or (3) applies.
- (2) This sub-paragraph applies if the declaration states that the unfair practice used consisted of or included—
  - (a) the use of violence, or
  - (b) the dismissal of a union official.
- (3) This sub-paragraph applies if the CAC has made an order under paragraph 19O(3) and—
  - (a) it is satisfied that the party subject to the order has failed to comply with it, or
  - (b) it makes another declaration under paragraph 19O(2) in relation to a complaint against that party.
- (4) If the party that has failed to comply is the employer, the CAC may issue a declaration that the union is (or unions are) recognised as entitled to conduct collective bargaining on behalf of the bargaining unit.
- (5) If the party that has failed to comply is a union, the CAC may issue a



declaration that the union is (or unions are) not entitled to be so recognised.

- (6) The powers conferred by this paragraph are in addition to those conferred by paragraph 19O.”

*Powers of CAC on proceeding with application*

10(1) Paragraph 22 (powers of CAC where majority of workers are members of union) is amended as follows.

- (2) In sub-paragraph (1)(a), after “19F(5)” insert “, 19K(4) or (5) or 19P(4) or (5)”.

- (3) After sub-paragraph (1) insert—

“(1A) For the purposes of sub-paragraph (1)(b), any worker who joined the bargaining unit after the application day is to be disregarded.”

- (4) In sub-paragraph (3), after “bargaining unit” insert “, other than those who joined the bargaining unit after the application day,”.

- (5) After sub-paragraph (4) insert—

“(4A) For the purposes of sub-paragraph (4)(b) and (c), evidence from or relating to a worker who joined the bargaining unit after the application day is to be disregarded.”

11(1) Paragraph 23 (CAC to order ballot where majority of workers are not members of union) is amended as follows.

- (2) In sub-paragraph (1)(a), after “19F(5)” insert “, 19K(4) or (5) or 19P(4) or (5)”.
- (3) After sub-paragraph (1) insert—
  - “(1A) For the purposes of sub-paragraph (1)(b), any worker who joined the bargaining unit after the application day is to be disregarded.”
- (4) In sub-paragraph (2), after “bargaining unit” insert “, other than those who joined the bargaining unit after the application day,”.

### *Ballots*

- 12 (1) Paragraph 24 (notice of holding of ballot) is amended as follows.
  - (2) In sub-paragraph (1), after “paragraph” insert “19O(5),”.
  - (3) In sub-paragraph (5)—
    - (a) before paragraph (a) insert—
      - “(za) in the case of notice given under paragraph 19O(5), the period of 5 working days starting with the day on which the union (or the last of the unions) receives that notice,”;
    - (b) in paragraph (a)—
      - (i) at the beginning insert “in the case of notice given under paragraph 22(3) or 23(2),”;

- (ii) for the words from “the CAC’s notice” to the end substitute “that notice”;
  - (c) in paragraph (b), for “so starting” substitute “starting with the day mentioned in paragraph (za) or (a) (as the case may be)”.
- (4) In sub-paragraph (6)—
  - (a) before paragraph (a) insert—
    - “(za) in the case of notice given under paragraph 19O(5), the period of 5 working days starting with the day on which the union (or the last of the unions) receives that notice,”;
  - (b) in paragraph (a)—
    - (i) at the beginning insert “in the case of notice given under paragraph 22(3) or 23(2),”;
    - (ii) for the words from “the CAC’s notice” to the end substitute “that notice”;
  - (c) in paragraph (b), for “so starting” substitute “starting with the day mentioned in paragraph (za) or (a) (as the case may be)”.

- 13 In paragraph 25 (rules relating to ballot), after sub-paragraph (1) insert—
  - “(1A) A worker who joined the bargaining unit after the application day is not eligible to vote in the ballot.”
- 14 (1) Paragraph 26 (duties of employer in relation to ballot) is amended as follows.
  - (2) In sub-paragraph (1), omit “five”.
  - (3) In sub-paragraph (2)—
    - (a) for “The first duty is to” substitute “The employer must”;
    - (b) for “the second and third duties are not” substitute “no other duty of the employer under this Part of this Schedule is”.
  - (4) Omit sub-paragraph (3).
  - (5) In sub-paragraph (4)—
    - (a) in the words before paragraph (a), for “The third duty is to” substitute “The employer must”;
    - (b) in paragraph (a)—
      - (i) for “to give” substitute “give”;
      - (ii) for “constituting the bargaining unit” substitute “eligible to vote in the ballot”;
    - (c) omit paragraph (b);
    - (d) in paragraph (c)—
      - (i) for “to inform” substitute “inform”;
      - (ii) omit “or (b)”.

(6) After sub-paragraph (4) insert—

“(4ZA) If the ballot is being held by virtue of paragraph 19O(5), the duty under sub-paragraph (4)(a) is limited to—

- (a) giving the CAC the names and home addresses of any workers eligible to vote in the ballot which have not previously been given to it in accordance with that duty;
- (b) informing the CAC of any change to the name or home address of a worker whose name and home address have previously been given to the CAC in accordance with that duty;
- (c) informing the CAC of any worker whose name had previously been given to it in accordance with that duty who has ceased to be within the bargaining unit.”

(7) Omit sub-paragraphs (4A) to (4E), (4G), (8) and (9).

15 After paragraph 27 insert—

“27ZA(1) This paragraph applies if—

- (a) the union has (or unions have) been informed of a ballot under paragraph 25(9), and
- (b) the CAC issues a declaration under paragraph 19K.

- (2) If the ballot has not been held, the CAC must take steps to cancel it.
- (3) If the ballot is held, it is to have no effect.

27ZB (1) This paragraph applies if—

- (a) the union has (or unions have) been informed of a ballot under paragraph 25(9),
  - (b) a complaint is made under paragraph 19N, and
  - (c) the ballot did not begin before the beginning of the decision period referred to in paragraph 19N(5).
- (2) The CAC may by notice to the parties and the qualified independent person postpone the date on which the ballot is to begin until a date which falls after the end of the decision period.

27ZC (1) This paragraph applies if—

- (a) the union has (or unions have) been informed of a ballot under paragraph 25(9),
- (b) the CAC issues a declaration that a complaint under paragraph 19N is well-founded, and
- (c) the CAC—
  - (i) gives a notice under paragraph 19O(5), or

- (ii) issues a declaration under paragraph 19P(4) or (5).
  - (2) If the ballot has not been held, the CAC must take steps to cancel it.
  - (3) If the ballot is held, it is to have no effect.
- 27ZD (1) This paragraph applies if—
- (a) the CAC gives a notice under paragraph 19O(5), and
  - (b) the CAC has previously made an order under paragraph 27(1) in relation to a cancelled or ineffective ballot in connection with the application to which the notice relates.
- (2) The order has effect, to the extent that the CAC specifies in a notice to the parties, as if it were made for the purposes of the ballot to which the notice under paragraph 19O(5) relates.”
- 16 Omit paragraphs 27A to 27F (unfair practices during ballot).
- 17 (1) Paragraph 28 (costs of ballot) is amended as follows.
- (2) After sub-paragraph (1) insert—
- “(1A) If the ballot is one to which a notice under paragraph 19O(5) relates, the gross costs of the ballot are to be borne

by such of the parties and in such proportions as the CAC may determine.”

- (3) In sub-paragraph (2), for “The gross costs” substitute “If the ballot is one to which a notice under paragraph 22(3) or 23(2) relates, the gross costs”.
- (4) In sub-paragraph (4), for “the employer and the union (or each of the unions)” substitute “the party or parties required to bear the costs”.

18 (1) Paragraph 29 (result of ballot) is amended as follows.

- (2) For sub-paragraphs (1) and (1A) substitute—
  - “(1) The CAC must act under this paragraph as soon as reasonably practicable after—
    - (a) the CAC is informed of the result of a ballot by the person conducting it, and
    - (b) the complaint period ends.
  - (1ZA) The complaint period is the period of 5 working days starting with the day after—
    - (a) the day of the ballot, or
    - (b) if votes may be cast in the ballot on more than one day, the last of those days.



- (1A) The duty in sub-paragraph (1) does not apply—
- (a) if a complaint is made under paragraph 19N, on or before the day on which the CAC decides whether the complaint is well-founded;
  - (b) if the CAC gives a notice under paragraph 19O(5)."
- (3) For sub-paragraph (3) substitute—
- “(3) If the result is that the union is (or unions are) supported by a majority of the workers voting, the CAC must issue a declaration that the union is (or unions are) recognised as entitled to conduct collective bargaining on behalf of the bargaining unit.”
- (4) Omit sub-paragraphs (5) to (7).

*General provisions about admissibility of applications*

- 19 (1) Paragraph 35 (admissibility of applications: existing collective agreement) is amended as follows.
- (2) After sub-paragraph (1) insert—
- “(1A) For the purposes of sub-paragraph (1), any worker who joined the relevant bargaining unit after the application day is to be disregarded.”

(3) After sub-paragraph (5) insert—

“(5A) In applying sub-paragraph (1) an agreement for recognition (the agreement in question) must be ignored if—

- (a) the union recognised under the agreement in question does not have (or none of the unions recognised under the agreement in question has) a certificate of independence,
- (b) the union (or unions) making the application under paragraph 11 or 12 made the application before the end of the period of reflection, and
- (c) the agreement in question was entered into during the restricted period.

(5B) The period of reflection is the period of 20 working days starting with the first day after the end of—

- (a) the first period referred to in paragraph 10(6), in the case of an application under paragraph 11, or
- (b) the second period referred to in paragraph 10(7), in the case of an application under paragraph 12.

(5C) The restricted period is the period—

- (a) starting with the day on which the employer receives a valid request

- for recognition under paragraph 4,  
and
- (b) ending with the day on which the CAC makes a decision under paragraph 15.”
- 20 In paragraph 36 (admissibility of applications: minimum support), for sub-paragraph (1) substitute—
- “(1) An application under paragraph 11 or 12 is not admissible unless the CAC decides that members of the union (or unions) constitute at least the required percentage (see paragraph 171B) of the workers constituting the relevant bargaining unit.
- (1A) For the purposes of sub-paragraph (1), any worker who joined the relevant bargaining unit after the application day is to be disregarded.”
- 21 (1) Paragraph 38 (admissibility of applications: overlapping bargaining unit) is amended as follows.
- (2) In sub-paragraph (1)(d)—
- (a) after “19F(5),” insert “19K(4) or (5), 19P(4) or (5),”;
- (b) omit “27D(3), 27D(4),”.
- (3) After sub-paragraph (2) insert—
- “(2A) For the purposes of sub-paragraph (2)(a), any worker who joined the

relevant bargaining unit or the bargaining unit referred to in sub-paragraph (1) after the application day is to be disregarded.”

- 22 In paragraph 40 (admissibility of applications: union not entitled to be recognised), in sub-paragraph (1)—
- (a) for “27D(4)” substitute “19K(5), 19P(5)”;
  - (b) omit the words from “; and this is so” to the end.
- 23 After paragraph 40 insert—
- “40A (1) This paragraph applies if the CAC issues a declaration under paragraph 81E(5), 81J(5) or 29(4) (where it applies by virtue of paragraph 89(5)) that a union is (or unions are) not entitled to be recognised as entitled to conduct collective bargaining on behalf of a bargaining unit.
- (2) An application under paragraph 11 or 12 is not admissible if—
- (a) the application is made within the period of 3 years starting with the day after the day on which the declaration was issued,
  - (b) the relevant bargaining unit is the same or substantially the same as the bargaining unit mentioned in sub-paragraph (1), and

- (c) the application is made by the union (or unions) which made the application leading to the declaration.
- (3) The relevant bargaining unit is—
- (a) the proposed bargaining unit, where the application is under paragraph 11(2) or 12(2);
  - (b) the agreed bargaining unit, where the application is under paragraph 12(4).”
- 24 In paragraph 41 (admissibility of applications: union required to cease bargaining arrangements), in sub-paragraph (1)—
- (a) for “119D(4), 119H(5)” substitute “116E(5), 116J(5)”;
  - (b) for “the ballot concerned is arranged” substitute “the declaration is issued”.

### *General provisions about validity of applications*

- 25(1) Paragraph 44 (validity of applications: existing collective agreement) is amended as follows.
- (2) After sub-paragraph (1) insert—
- “(1A) For the purposes of sub-paragraph (1), any worker who joined the relevant bargaining unit after the application day is to be disregarded.”

(3) After sub-paragraph (5) insert—

“(6) In applying sub-paragraph (1) an agreement for recognition (the agreement in question) must be ignored if—

- (a) the union recognised under the agreement in question does not have (or none of the unions recognised under the agreement in question has) a certificate of independence,
- (b) the union (or unions) making the application under paragraph 11 or 12 made the application before the end of the period of reflection, and
- (c) the agreement in question was entered into during the restricted period.

(7) The period of reflection is the period of 20 working days starting with the first day after the end of—

- (a) the first period referred to in paragraph 10(6), in the case of an application under paragraph 11, or
- (b) the second period referred to in paragraph 10(7), in the case of an application under paragraph 12.

(8) The restricted period is the period—

- (a) starting with the day on which the employer receives a valid request

- for recognition under paragraph 4,  
and
- (b) ending with the day on which the CAC makes a decision under paragraph 20.”
- 26 For paragraph 45 (validity of applications: minimum support) substitute—
- “45 (1) The application in question is invalid unless the CAC decides that members of the union (or unions) constitute at least the required percentage (see paragraph 171B) of the workers constituting the relevant bargaining unit.
- (2) For the purposes of sub-paragraph (1), any worker who joined the relevant bargaining unit after the application day is to be disregarded.”
- 27 (1) Paragraph 46 (validity of applications: overlapping bargaining unit) is amended as follows.
- (2) In sub-paragraph (1)(d)—
- (a) after “19F(5),” insert “19K(4) or (5), 19P(4) or (5),”;
- (b) omit “27D(3), 27D(4),”.
- (3) After sub-paragraph (2) insert—
- “(3) For the purposes of sub-paragraph (2)(a), any worker who joined the relevant bargaining unit or the

bargaining unit referred to in sub-paragraph (1) after the application day is to be disregarded.”

- 28 In paragraph 48 (validity of applications: union not entitled to be recognised), in sub-paragraph (1)—
- (a) for “27D(4)” substitute “19K(5), 19P(5)”;
  - (b) omit the words from “; and this is so” to the end.
- 29 After paragraph 48 insert—
- “48A (1) This paragraph applies if the CAC issues a declaration under paragraph 81E(5), 81J(5) or 29(4) (where it applies by virtue of paragraph 89(5)) that a union is (or unions are) not entitled to be recognised as entitled to conduct collective bargaining on behalf of a bargaining unit.
- (2) The application in question is invalid if—
- (a) the application is made within the period of 3 years starting with the date of the declaration,
  - (b) the relevant bargaining unit is the same or substantially the same as the bargaining unit mentioned in sub-paragraph (1), and
  - (c) the application is made by the union (or unions) which made the



application leading to the declaration.”

- 30 In paragraph 49 (validity of applications: union required to cease bargaining arrangements), in sub-paragraph (1)—
- (a) for “119D(4), 119H(5)” substitute “116E(5), 116J(5)”;
  - (b) for “the ballot concerned is arranged” substitute “the declaration is issued”.

### *Competing applications*

- 31 In paragraph 51 (competing applications), in sub-paragraph (2)(c), for “10 per cent test” substitute “required percentage test”.

### *Voluntary recognition*

- 32 In paragraph 52 (voluntary recognition), in sub-paragraph (3)(f), after “19F(5)” insert “, 19K(4) or (5), 19P(4) or (5)”.

## **PART 3**

### **CHANGES AFFECTING BARGAINING UNIT AFTER RECOGNITION**

#### *Access agreements*

- 33 After paragraph 81 insert—
- “*Access agreements*
- 81A (1) This paragraph applies if—
- (a) the CAC accepts an application under paragraph 66 or 75, and

- (b) the application is in progress.
- (2) The union (or unions) may, by giving notice to the CAC and the employer within the access request period, request access to the relevant workers in connection with the application.
  - (3) The relevant workers are—
    - (a) in relation to any time before the CAC decides that a bargaining unit other than the original unit is an appropriate bargaining unit, the workers constituting the original unit, and
    - (b) in relation to any time after the CAC decides that a bargaining unit other than the original unit is an appropriate bargaining unit, the workers constituting the new unit (see paragraph 82(4)).
  - (4) But, where there is more than one new unit, references to the relevant workers are references to the workers constituting each new unit separately.
  - (5) The access request period is the period of 5 working days starting with the day after the day on which the CAC gives the union (or unions) notice under paragraph 68(5) or 76(5) that the application is accepted.

- (6) For the purposes of this paragraph and paragraphs 81B to 81E, an application under paragraph 66 or 75 is in progress if none of the following has occurred—
- (a) the withdrawal of the application;
  - (b) the CAC issuing a declaration under paragraph 69(3), 78(3), 81E(4) or (5) or 81J(4) or (5) in relation to the application;
  - (c) the CAC notifying the union (or unions) of its decision under paragraph 77(2) or 77(3);
  - (d) in relation to the new unit (or, if there is more than one, all of the new units)—
    - (i) the CAC issuing a declaration under paragraph 83(2), 85(2), 86(3) or 87(2), or under paragraph 27(2) (where it applies by virtue of paragraph 89(5)),
    - (ii) the union (or unions) notifying the CAC under paragraph 89(1), or
    - (iii) the holding of any ballot arising from the application.
- 81B (1) This paragraph applies if—
- (a) the CAC accepts an application under paragraph 66 or 75,

- (b) the union requests (or unions request) access to the relevant workers under paragraph 81A(2) in connection with the application, and
  - (c) the application is in progress.
- (2) The CAC must try to help the parties to reach agreement within the negotiation period as to terms on which the union is (or unions are) to have access to the relevant workers.
- (3) The negotiation period is, subject to any notice under sub-paragraph (4) or (6), the period of 15 working days starting with the day after the day on which the union gives (or unions give) notice to the employer under paragraph 81A(2).
- (4) If, during the negotiation period, the CAC concludes that there is no reasonable prospect of the parties' agreeing terms on which the union is (or unions are) to have access to the relevant workers before the time when (apart from this sub-paragraph) the negotiation period would end, the CAC may, by a notice given to the parties, declare that the negotiation period ends with the date of the notice.

- (5) A notice under sub-paragraph (4) must contain reasons for reaching the conclusion mentioned in that sub-paragraph.
  - (6) If, during the negotiation period, the parties apply to the CAC for a declaration that the negotiation period is to end with a date (specified in the application) which is earlier or later than the date with which it would otherwise end, the CAC may, by a notice given to the parties, declare that the negotiation period ends with the specified date.
- 81C (1) This paragraph applies if—
- (a) the CAC accepts an application under paragraph 66 or 75,
  - (b) the union requests (or unions request) access to the relevant workers under paragraph 81A(2) in connection with the application,
  - (c) the parties have not within the negotiation period agreed terms on which the union is (or unions are) to have access to the relevant workers, and
  - (d) the application is in progress.
- (2) Within the adjudication period, the CAC must—

- (a) decide the terms on which the union is (or unions are) to have access to the relevant workers, or
    - (b) decide that the union is (or unions are) not to have access to the relevant workers.
  - (3) The adjudication period is—
    - (a) the period of 10 working days starting with the day after the day with which the negotiation period ends, or
    - (b) such longer period (so starting) as the CAC may specify to the parties by notice containing reasons for the extension.
  - (4) Any terms decided by the CAC must be terms that the CAC regards as allowing such access to the relevant workers as is reasonable to enable the union (or unions) to—
    - (a) inform the workers of the object of the application or any ballot arising from it, and
    - (b) seek their support and their opinions on the issues involved.
- 81D (1) This paragraph applies if—
- (a) an access agreement is entered into, and
  - (b) the application under paragraph 66 or 75 is in progress.

- (2) “Access agreement” means—
  - (a) terms on which the union is (or unions are) to have access to the relevant workers and which are agreed between the parties under paragraph 81B during the negotiation period, or
  - (b) terms on which the union is (or unions are) to have access to the relevant workers and which are decided by the CAC under paragraph 81C,and such an agreement is “entered into” when the terms are so agreed or decided.
- (3) The parties must comply with the access agreement.
- (4) The employer must refrain from making any offer to any or all of the relevant workers which—
  - (a) has or is likely to have the effect of inducing any or all of them not to attend any relevant meeting between the union (or unions) and the relevant workers, and
  - (b) is not reasonable in the circumstances.
- (5) The employer must refrain from taking, or threatening to take, any action

- against a worker solely or mainly on the grounds that the worker—
- (a) attended or took part in any relevant meeting between the union (or unions) and the relevant workers, or
  - (b) indicated an intention to attend or take part in such a meeting.
- (6) The relevant workers are—
- (a) in relation to any time before the CAC decides that a bargaining unit other than the original unit is an appropriate bargaining unit, the workers constituting the original unit, and
  - (b) in relation to any time after the CAC decides that a bargaining unit other than the original unit is an appropriate bargaining unit, the workers constituting the new unit (see paragraph 82(4)).
- (7) But, where there is more than one new unit, references to the relevant workers are references to the workers constituting each new unit separately.
- (8) A meeting is a relevant meeting in relation to a worker for the purposes of sub-paragraphs (4) and (5) if—
- (a) it is organised in accordance with an access agreement or as a result



of a step ordered to be taken under paragraph 81E to remedy a failure to comply with the duty in sub-paragraph (3), and

- (b) it is one which the employer is, by such an agreement or order as is mentioned in paragraph (a), required to permit the worker to attend.
- (9) The duties imposed by sub-paragraphs (4) and (5) do not confer any rights on a worker; but that does not affect any other right which a worker may have.
- (10) Any provision of an access agreement that would require personal data relating to any of the relevant workers to be disclosed to any person other than a person appointed to conduct a ballot under paragraph 25 (where it applies by virtue of paragraph 89(4)) is of no effect for the purposes of this Part of this Schedule.
- (11) “Personal data” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).
- (12) An access agreement is to be conclusively presumed not to have been intended by the parties to be a legally enforceable contract; and, accordingly, where an access

agreement is, or is part of, a collective agreement, section 179(2) and (3)(a) do not apply to the access agreement.

- 81E (1) Sub-paragraph (2) applies if—
- (a) the CAC is satisfied that a party has failed to fulfil any of the duties imposed on that party by paragraph 81D, and
  - (b) the application under paragraph 66 or 75 is in progress.
- (2) The CAC may order the party—
- (a) to take such steps to remedy the failure as the CAC considers reasonable and specifies in the order, and
  - (b) to do so within such period as the CAC considers reasonable and specifies in the order.
- (3) Sub-paragraphs (4) and (5) apply if—
- (a) the CAC is satisfied that a party has failed to comply with an order under sub-paragraph (2),
  - (b) the application under paragraph 66 or 75 is in progress, and
  - (c) the CAC has given notice under paragraph 70 or 79 of a decision as to the bargaining unit which is (or units which are) appropriate (each, a “new unit”).

- (4) If the party that has failed to comply is the employer, the CAC may issue a declaration that the union is (or unions are) recognised as entitled to conduct collective bargaining on behalf of the new unit or units.
  - (5) If the party that has failed to comply is a union, the CAC may issue a declaration that the union is (or unions are) not entitled to be so recognised.
- 81F (1) Each of the powers specified in sub-paragraph (2) is to be taken to include power to issue Codes of Practice about any matter relating to requests for access under paragraph 81A(2), including (among other things)—
- (a) what access is reasonable for the purposes of paragraph 81C(4);
  - (b) the duty in paragraph 81D(4).
- (2) The powers are—
- (a) the power of ACAS under section 199(1);
  - (b) the power of the Secretary of State under section 203(1)(a).”

## *Unfair practices*

34 After paragraph 81F (inserted by paragraph 33 of this Schedule) insert—

### *“Unfair practices*

81G (1) Each of the parties informed by the CAC under paragraph 68(5) or 76(5) that an application under paragraph 66 or 75 is accepted must refrain from using any unfair practice in relation to the application.

(2) A party uses an unfair practice if, with a view to influencing the outcome of the application, the party does any of the following—

- (a) dismisses, or threatens to dismiss, a worker;
- (b) takes, or threatens to take, disciplinary action against a worker;
- (c) subjects, or threatens to subject, a worker to any other detriment;
- (d) offers to pay money, or give money's worth, to a relevant worker in return for the worker's agreement to vote in a particular way, or to abstain from voting, in a relevant ballot;
- (e) makes an outcome-specific offer to a relevant worker;

- (f) coerces, or attempts to coerce, a relevant worker to disclose—
    - (i) whether the worker intends to vote, or to abstain from voting, in any relevant ballot, or
    - (ii) how the worker intends to vote, or has voted, in any relevant ballot;
  - (g) uses, or attempts to use, undue influence on a relevant worker.
- (3) In sub-paragraph (2)—
- (a) “relevant ballot” means any ballot that is or may be held in which workers are asked whether they want the union (or unions) to conduct collective bargaining on their behalf, and
  - (b) “relevant worker” means any worker who is or would be entitled to vote in a relevant ballot.
- (4) For the purposes of sub-paragraph (2)(e) an “outcome-specific offer” is an offer to pay money, or give money’s worth, which—
- (a) is conditional on the issuing by the CAC of a declaration that—
    - (i) the union is (or unions are) recognised as entitled to conduct collective bargaining

- on behalf of a bargaining unit,  
or
  - (ii) the union is (or unions are) not entitled to be so recognised,  
and
  - (b) is not conditional on anything which is done or occurs as a result of the declaration in question.
- (5) The duty imposed by this paragraph does not confer any rights on a worker; but that does not affect any other right which a worker may have.
- (6) Each of the following powers is to be taken to include power to issue Codes of Practice about unfair practices for the purposes of this paragraph—
- (a) the power of ACAS under section 199(1);
  - (b) the power of the Secretary of State under section 203(1)(a).
- 81H (1) A party may complain to the CAC that another party has failed to comply with paragraph 81G.
- (2) A complaint under sub-paragraph (1) may not be made after a conclusion event occurs.
- (3) The following are conclusion events—
- (a) the withdrawal of the application under paragraph 66 or 75;

- (b) the CAC issuing a declaration under paragraph 69(3), 78(3), 81E(4) or (5) or 81J(4) or (5) in relation to the application;
  - (c) the CAC notifying the union (or unions) of its decision under paragraph 77(2) or 77(3);
  - (d) if the CAC has given notice under paragraph 70 or 79 of a decision as to the bargaining unit which is (or units which are) appropriate (each, a “new unit”), any of the following occurring in relation to the new unit (or, if there is more than one, all of the new units)—
    - (i) the CAC issuing a declaration under paragraph 83(2), 85(2), 86(3) or 87(2), or under paragraph 27(2) (where it applies by virtue of paragraph 89(5));
    - (ii) the union (or unions) notifying the CAC under paragraph 89(1);
    - (iii) the post-ballot complaint period having ended.
- (4) The post-ballot complaint period is, in relation to any ballot held arising from the application, the period of 5 working days after—
- (a) the date of the ballot, or

- (b) if votes may be cast in the ballot on more than one day, the last of those days.
  - (5) Within the decision period the CAC must decide whether the complaint is well-founded.
  - (6) A complaint is well-founded if the CAC finds that the party complained against used an unfair practice.
  - (7) The decision period is—
    - (a) the period of 10 working days starting with the day after the day on which the complaint under sub-paragraph (1) was received by the CAC, or
    - (b) such longer period (so starting) as the CAC may specify to the parties by a notice containing reasons for the extension.
- 81I(1) This paragraph applies if the CAC decides that a complaint under paragraph 81H is well-founded.
- (2) The CAC must, as soon as is reasonably practicable, issue a declaration to that effect.
  - (3) The CAC may order the party concerned to take any action specified in the order within such period as may be so specified.



- (4) Sub-paragraph (5) applies if—
  - (a) the CAC has given notice under paragraph 70 or 79 of a decision as to the bargaining unit which is (or units which are) appropriate (each, a “new unit”), and
  - (b) the CAC has at any time informed the union (or unions) under paragraph 25(9) (where it applies by virtue of paragraph 89(4)) of a ballot in relation to the application (including a ballot that was cancelled or is ineffective).
- (5) The CAC may give notice to the employer and to the union (or unions) that it intends to arrange for the holding of a secret ballot (or secret ballots) in which the workers constituting the new unit (or each of the new units) are asked whether they want the union (or unions) to conduct collective bargaining on their behalf.
- (6) The CAC may make an order under sub-paragraph (3), or give a notice under sub-paragraph (5), either at the same time as it issues the declaration under sub-paragraph (2) or at any other time before any of the following occurs—

- (a) the withdrawal of the application under paragraph 66 or 75;
  - (b) the CAC issuing a declaration under paragraph 69(3), 78(3), 81E(4) or (5) or 81J(4) or (5) in relation to the application;
  - (c) the CAC notifying the union (or unions) of its decision under paragraph 77(2) or 77(3);
  - (d) in relation to the new unit (or, if there is more than one, all of the new units)—
    - (i) the CAC issuing a declaration under paragraph 83(2), 85(2), 86(3) or 87(2), or under paragraph 27(2) (where it applies by virtue of paragraph 89(5)),
    - (ii) the union (or unions) notifying the CAC under paragraph 89(1), or
    - (iii) the holding of any ballot arising from the application.
- (7) The action specified in an order under sub-paragraph (3) must be such as the CAC considers reasonable in order to mitigate the effect of the failure of the party concerned to comply with the duty imposed by paragraph 81G.

(8) The CAC may make more than one order under sub-paragraph (3).

81J(1) Sub-paragraphs (4) to (6) apply if—

(a) the CAC issues a declaration under paragraph 81I(2) that a complaint that a party has failed to comply with paragraph 81G is well-founded,

(b) the application under paragraph 66 or 75 has not been withdrawn,

(c) the CAC has given notice under paragraph 70 or 79 of a decision as to the bargaining unit which is (or units which are) appropriate (each, a “new unit”),

(d) the CAC has not issued a declaration under paragraph 69(3), 78(3), 81E(4) or (5) or 81J(4) or (5) in relation to the application,

(e) the CAC has not notified the union (or unions) of its decision under paragraph 77(2) or 77(3),

(f) in relation to the new unit (or, if there is more than one, all of the new units), none of the following has occurred—

(i) the CAC issuing a declaration under paragraph 83(2), 85(2), 86(3) or 87(2), or under paragraph 27(2) (where it

- applies by virtue of paragraph 89(5)),
  - (ii) the union (or unions) notifying the CAC under paragraph 89(1), or
  - (iii) the holding of any ballot arising from the application, and
  - (g) sub-paragraph (2) or (3) applies.
- (2) This sub-paragraph applies if the declaration states that the unfair practice used consisted of or included—
- (a) the use of violence, or
  - (b) the dismissal of a union official.
- (3) This sub-paragraph applies if the CAC has made an order under paragraph 81I(3) and—
- (a) it is satisfied that the party subject to the order has failed to comply with it, or
  - (b) it makes another declaration under paragraph 81I(2) in relation to a complaint against that party.
- (4) If the party that has failed to comply is the employer, the CAC may issue a declaration that the union is (or unions are) recognised as entitled to conduct collective bargaining on behalf of the new unit or units.

- (5) If the party that has failed to comply is a union, the CAC may issue a declaration that the union is (or unions are) not entitled to be so recognised.
- (6) The powers conferred by this paragraph are in addition to those conferred by paragraph 81I.”

*Powers of CAC where CAC decides new unit appropriate*

35(1) Paragraph 86 (new bargaining unit: assessment of support) is amended as follows.

(2) For sub-paragraph (2) substitute—

“(2) The CAC must decide whether members of the union (or unions) constitute at least the required percentage (see paragraph 171B) of the workers constituting the new unit.”

(3) In sub-paragraph (3), for “one or both of the questions in the negative” substitute “that members of the union (or unions) do not constitute at least the required percentage of the workers constituting the new unit”.

36 In paragraph 87 (powers of CAC where majority of workers are members of union), for sub-paragraph (1) substitute—

“(1) This paragraph applies if, following a decision under paragraph 86(2), the CAC is satisfied that a majority of

workers constituting the new unit are members of the union (or unions).”

37 In paragraph 88 (powers of CAC where majority of workers are not members of union), for sub-paragraph (1) substitute—

“(1) This paragraph applies if—

(a) the CAC decides under paragraph 86(2) that members of the union (or unions) constitute at least the required percentage of the workers constituting the new unit, but

(b) the CAC is not satisfied that a majority of workers constituting the new unit are members of the union (or unions).”

38(1) Paragraph 89 (ballots) is amended as follows.

(2) In sub-paragraph (4), at the end insert “, but as if paragraph 25(1A) were omitted.”

(3) In sub-paragraph (5)—

(a) omit the “and” at the end of paragraph (a);

(b) after paragraph (a) insert—

“(aa) references to provisions of paragraphs 19G to 19P were references to the corresponding provisions of paragraphs 81A to 81J,

- (ab) the duty in paragraph 26(4) included—
  - (i) a duty to give to the CAC, as soon as is reasonably practicable, the name and home address of any worker who joins the bargaining unit after the employer has complied with paragraph 26(4)(a), and
  - (ii) a duty to inform the CAC, as soon as is reasonably practicable, of any worker whose name has been given to the CAC under that duty and who ceases to be within the bargaining unit, and”;
- (c) in paragraph (b), for “26(4F) to (4H)” substitute “26(4F) and (4H)”.
- (4) In sub-paragraph (8), for “or 27D(3)” substitute “, 81E(4) or 81J(4)”.
- (5) In sub-paragraph (9), for “27D(4)” substitute “81E(5) or 81J(5)”.

### *Withdrawal of application*

- 39 In paragraph 93 (withdrawal of application), in sub-paragraph (1)(a), for “or 78(3)” substitute “, 78(3), 81E(4) or (5) or 81J(4) or (5)”.

## PART 4

### DERECOGNITION

#### *Access agreements*

40 After paragraph 116 insert—

#### *“Access agreements*

116A(1) This paragraph applies if—

- (a) the CAC accepts an application under paragraph 106, 107 or 112, and
  - (b) the application is in progress.
- (2) The union (or unions) may, by giving notice to the CAC and the employer within the access request period, request access to the workers constituting the bargaining unit in connection with the application.
- (3) The access request period is the period of 5 working days starting with the day after the day on which the CAC gives the union (or unions) notice under paragraph 111(5) or 115(5) that the application is accepted.
- (4) For the purposes of this paragraph and paragraphs 116B to 116E, an application under paragraph 106, 107 or 112 is in progress if none of the following has occurred—



- (a) in the case of an application under paragraph 106 or 107, the withdrawal of the application;
- (b) in the case of an application under paragraph 112, an agreement or withdrawal as described in paragraph 116(1);
- (c) the CAC refusing the application under paragraph 116E(4), 116J(4)(a) or (6) or 119(2);
- (d) the CAC notifying the union (or unions) of a declaration issued under paragraph 116E(5) or 116J(5) in relation to the application;
- (e) the holding of any ballot arising from the application.

116B (1) This paragraph applies if—

- (a) the CAC accepts an application under paragraph 106, 107 or 112,
  - (b) the union requests (or unions request) access to the workers constituting the bargaining unit under paragraph 116A(2) in connection with the application, and
  - (c) the application is in progress.
- (2) The CAC must try to help the parties to reach agreement within the negotiation period as to terms on which

the union is (or unions are) to have access to the workers.

- (3) The negotiation period is, subject to any notice under sub-paragraph (4) or (6), the period of 15 working days starting with the day after the day on which the union gives (or unions give) notice to the employer under paragraph 116A(2).
- (4) If, during the negotiation period, the CAC concludes that there is no reasonable prospect of the parties' agreeing terms on which the union is (or unions are) to have access to the workers before the time when (apart from this sub-paragraph) the negotiation period would end, the CAC may, by a notice given to the parties, declare that the negotiation period ends with the date of the notice.
- (5) A notice under sub-paragraph (4) must contain reasons for reaching the conclusion mentioned in that sub-paragraph.
- (6) If, during the negotiation period, the parties apply to the CAC for a declaration that the negotiation period is to end with a date (specified in the application) which is earlier or later than the date with which it would

otherwise end, the CAC may, by a notice given to the parties, declare that the negotiation period ends with the specified date.

- 116C(1) This paragraph applies if—
- (a) the CAC accepts an application under paragraph 106, 107 or 112,
  - (b) the union requests (or unions request) access to the workers constituting the bargaining unit under paragraph 116A(2) in connection with the application,
  - (c) the parties have not within the negotiation period agreed terms on which the union is (or unions are) to have access to the workers, and
  - (d) the application is in progress.
- (2) Within the adjudication period, the CAC must—
- (a) decide the terms on which the union is (or unions are) to have access to the workers, or
  - (b) decide that the union is (or unions are) not to have access to the workers.
- (3) The adjudication period is—
- (a) the period of 10 working days starting with the day after the day

- with which the negotiation period ends, or
- (b) such longer period (so starting) as the CAC may specify to the parties by notice containing reasons for the extension.
- (4) Any terms decided by the CAC must be terms that the CAC regards as allowing such access to the workers constituting the bargaining unit as is reasonable to enable the union (or unions) to—
- (a) inform the workers of the object of the application or any ballot arising from it, and
  - (b) seek their support and their opinions on the issues involved.
- 116D (1) This paragraph applies if—
- (a) an access agreement is entered into, and
  - (b) the application under paragraph 106, 107 or 112 is in progress.
- (2) “Access agreement” means—
- (a) terms on which the union is (or unions are) to have access to the workers constituting the bargaining unit and which are agreed between the parties under paragraph 116B during the negotiation period, or

- (b) terms on which the union is (or unions are) to have access to the workers constituting the bargaining unit and which are decided by the CAC under paragraph 116C, and such an agreement is to be treated as “entered into” when the terms are so agreed or decided.
- (3) The parties must comply with the access agreement.
- (4) The employer must refrain from making any offer to any or all of the workers constituting the bargaining unit which—
  - (a) has or is likely to have the effect of inducing any or all of them not to attend any relevant meeting between the union (or unions) and the workers constituting the bargaining unit, and
  - (b) is not reasonable in the circumstances.
- (5) The employer must refrain from taking, or threatening to take, any action against a worker solely or mainly on the grounds that the worker—
  - (a) attended or took part in any relevant meeting between the union (or unions) and the workers constituting the bargaining unit, or

- (b) indicated an intention to attend or take part in such a meeting.
- (6) A meeting is a relevant meeting in relation to a worker for the purposes of sub-paragraphs (4) and (5) if—
  - (a) it is organised in accordance with an access agreement or as a result of a step ordered to be taken under paragraph 116E to remedy a failure to comply with the duty in sub-paragraph (3), and
  - (b) it is one which the employer is, by such an agreement or order as is mentioned in paragraph (a), required to permit the worker to attend.
- (7) The duties imposed by sub-paragraphs (4) and (5) do not confer any rights on a worker; but that does not affect any other right which a worker may have.
- (8) Any provision of an access agreement that would require personal data relating to any of the relevant workers to be disclosed to a person other than a person appointed under paragraph 117 to conduct a ballot is of no effect for the purposes of this Part of this Schedule.

- (9) “Personal data” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).
- (10) An access agreement is to be conclusively presumed not to have been intended by the parties to be a legally enforceable contract; and, accordingly, where an access agreement is, or is part of, a collective agreement, section 179(2) and (3)(a) do not apply to the access agreement.
- 116E (1) Sub-paragraph (2) applies if—
- (a) the CAC is satisfied that a party has failed to fulfil any of the duties imposed on that party by paragraph 116D, and
  - (b) the application under paragraph 106, 107 or 112 is in progress.
- (2) The CAC may order the party—
- (a) to take such steps to remedy the failure as the CAC considers reasonable and specifies in the order, and
  - (b) to do so within such period as the CAC considers reasonable and specifies in the order.
- (3) Sub-paragraphs (4) and (5) apply if—
- (a) the CAC is satisfied that a party has failed to comply with an order under sub-paragraph (2), and

- (b) the application under paragraph 106, 107 or 112 is in progress.
  - (4) If the party that has failed to comply is the employer, and the application is under paragraph 106 or 107, the CAC may refuse the application.
  - (5) If the party that has failed to comply is a union, the CAC may issue a declaration that the bargaining arrangements are to cease to have effect; and the bargaining arrangements cease to have effect accordingly.
- 116F(1) Each of the powers specified in sub-paragraph (2) is to be taken to include power to issue Codes of Practice about any matter relating to requests for access under paragraph 116A(2), including (among other things)—
- (a) what access is reasonable for the purposes of paragraph 116C(4);
  - (b) the duty in paragraph 116D(4).
- (2) The powers are—
- (a) the power of ACAS under section 199(1);
  - (b) the power of the Secretary of State under section 203(1)(a).”



## *Unfair practices*

41 After paragraph 116F (inserted by paragraph 40 of this Schedule) insert—

### *“Unfair practices*

116G(1) Each of the parties informed by the CAC under paragraph 111(5) or 115(5) that an application under paragraph 106, 107 or 112 is accepted must refrain from using any unfair practice in relation to the application.

(2) A party uses an unfair practice if, with a view to influencing the outcome of the application, the party does any of the following—

- (a) dismisses, or threatens to dismiss, a worker;
- (b) takes, or threatens to take, disciplinary action against a worker;
- (c) subjects, or threatens to subject, a worker to any other detriment;
- (d) offers to pay money, or give money's worth, to a relevant worker in return for the worker's agreement to vote in a particular way, or to abstain from voting, in a relevant ballot;
- (e) makes an outcome-specific offer to a relevant worker;

- (f) coerces, or attempts to coerce, a relevant worker to disclose—
    - (i) whether the worker intends to vote, or to abstain from voting, in any relevant ballot, or
    - (ii) how the worker intends to vote, or has voted, in any relevant ballot;
  - (g) uses, or attempts to use, undue influence on a relevant worker.
- (3) In sub-paragraph (2)—
- (a) “relevant ballot” means any ballot that is or may be held in which workers are asked whether the bargaining arrangements should be ended, and
  - (b) “relevant worker” means any worker who is or would be entitled to vote in a relevant ballot.
- (4) For the purposes of sub-paragraph (2)(e) an “outcome-specific offer” is an offer to pay money, or give money’s worth, which—
- (a) is conditional on—
    - (i) the issuing by the CAC of a declaration that the bargaining arrangements are to cease to have effect, or

- (ii) the refusal by the CAC of an application under paragraph 106, 107 or 112, and
    - (b) is not conditional on anything which is done or occurs as a result of that declaration, or, as the case may be, of that refusal.
  - (5) For the purposes of this paragraph and paragraphs 116H to 116J as they apply in relation to an application under paragraph 112, references to a party are to be read as including references to the worker or workers making the application.
  - (6) The duty imposed by this paragraph does not confer any rights on a worker; but that does not affect any other right which a worker may have.
  - (7) Each of the following powers is to be taken to include power to issue Codes of Practice about unfair practices for the purposes of this paragraph—
    - (a) the power of ACAS under section 199(1);
    - (b) the power of the Secretary of State under section 203(1)(a).
- 116H(1) A party may complain to the CAC that another party has failed to comply with paragraph 116G.

- (2) A complaint under sub-paragraph (1) may not be made after—
  - (a) in the case of an application under paragraph 106 or 107, the application is withdrawn;
  - (b) in the case of an application under paragraph 112, an agreement or withdrawal as described in paragraph 116(1);
  - (c) the CAC refuses the application under paragraph 116E(4), 116J(4)(a) or (6) or 119(2);
  - (d) the CAC notifies the union (or unions) of a declaration issued under paragraph 116E(5) or 116J(5) in relation to the application;
  - (e) if the CAC informs the union (or unions) under paragraph 117(11) of a ballot, the fifth working day after—
    - (i) the date of the ballot, or
    - (ii) if votes may be cast in the ballot on more than one day, the last of those days.
- (3) Within the decision period the CAC must decide whether the complaint is well-founded.

- (4) A complaint is well-founded if the CAC finds that the party complained against used an unfair practice.
  - (5) The decision period is—
    - (a) the period of 10 working days starting with the day after the day on which the complaint under sub-paragraph (1) was received by the CAC, or
    - (b) such longer period (so starting) as the CAC may specify to the parties by a notice containing reasons for the extension.
- 116I(1) This paragraph applies if the CAC decides that a complaint under paragraph 116H is well-founded.
- (2) The CAC must, as soon as is reasonably practicable, issue a declaration to that effect.
  - (3) The CAC may order the party concerned to take any action specified in the order within such period as may be so specified.
  - (4) Sub-paragraph (5) applies if the CAC has at any time informed the union (or unions) under paragraph 117(11) of a ballot in relation to the application (including a ballot that was cancelled or is ineffective).

- (5) The CAC may make arrangements for the holding of a secret ballot in which the workers constituting the bargaining unit are asked whether the bargaining arrangements should be ended.
- (6) The CAC may make an order under sub-paragraph (3), or make arrangements under sub-paragraph (5), either at the same time as it issues the declaration under sub-paragraph (2) or at any other time before any of the following occurs—
  - (a) in the case of an application under paragraph 106 or 107, the withdrawal of the application;
  - (b) in the case of an application under paragraph 112, an agreement or withdrawal as described in paragraph 116(1);
  - (c) the CAC refusing the application under paragraph 116E(4), 116J(4)(a) or (6) or 119(2);
  - (d) the CAC notifying the union (or unions) of a declaration issued under paragraph 116E(5) or 116J(5) in relation to the application;
  - (e) if the CAC informs the union (or unions) under paragraph 117(11) of a ballot, the CAC acting under

paragraph 121 in relation to the ballot.

- (7) The action specified in an order under sub-paragraph (3) must be such as the CAC considers reasonable in order to mitigate the effect of the failure of the party concerned to comply with the duty imposed by paragraph 116G.
- (8) The CAC may make more than one order under sub-paragraph (3).

116J(1) Sub-paragraphs (4) to (7) apply if—

- (a) the CAC issues a declaration under paragraph 116I(2) that a complaint that a party has failed to comply with paragraph 116G is well-founded,
- (b) the application under paragraph 106, 107 or 112 has not been withdrawn or, in the case of an application under paragraph 112, there has been no agreement as described in paragraph 116(1),
- (c) the CAC has not refused the application under paragraph 116E(4), 116J(4)(a) or (6) or 119(2);
- (d) the CAC has not notified the union (or unions) of a declaration issued under paragraph 116E(5) or

- 116J(5) in relation to the application, and
- (e) sub-paragraph (2) or (3) applies.
- (2) This sub-paragraph applies if the declaration states that the unfair practice used consisted of or included—
    - (a) the use of violence, or
    - (b) the dismissal of a union official.
  - (3) This sub-paragraph applies if the CAC has made an order under paragraph 116I(3) and—
    - (a) it is satisfied that the party subject to the order has failed to comply with it, or
    - (b) it makes another declaration under paragraph 116I(2) in relation to a complaint against that party.
  - (4) If the party that has failed to comply is the employer, the CAC may—
    - (a) refuse the employer's application under paragraph 106 or 107;
    - (b) order the employer to refrain from any campaigning in relation to an application under paragraph 112.
  - (5) If the party that has failed to comply is a union, the CAC may issue a declaration that the bargaining arrangements are to cease to have effect on a date specified by the CAC



in the declaration; and the bargaining arrangements cease to have effect accordingly.

- (6) If the party that has failed to comply is the worker making an application under paragraph 112 (or any of the workers making an application under paragraph 112), the CAC may refuse the application.
- (7) The powers conferred by this paragraph are in addition to those conferred by paragraph 116I.

116K(1) This paragraph applies if the CAC has made an order against the employer under paragraph 116I(3) or 116J(4)(b) in relation to an application under paragraph 112.

- (2) The worker making the application (or each of the workers making the application) and the union (or each of the unions) are entitled to enforce obedience to the order.
- (3) The order may be enforced—
  - (a) in England and Wales, in the same way as an order of the county court;
  - (b) in Scotland, in the same way as an order of the sheriff.”

## *Ballots*

42(1) Paragraph 117 (ballots: general) is amended as follows.

(2) In sub-paragraph (1), for “This paragraph” substitute “Sub-paragraph (3)”.

(3) In sub-paragraph (2), for “This paragraph” substitute “Sub-paragraph (3)”.

(4) In sub-paragraph (4), for “The ballot” substitute “A ballot arranged under sub-paragraph (3), or under paragraph 116(5),”.

43(1) Paragraph 118 (duties of employer in relation to ballot) is amended as follows.

(2) In sub-paragraph (1), omit “five”.

(3) In sub-paragraph (2)—

(a) for “The first duty is to” substitute “The employer must”;

(b) for “the second and third duties are not” substitute “no other duty of the employer under this Part of this Schedule is”.

(4) Omit sub-paragraph (3).

(5) In sub-paragraph (4)—

(a) in the words before paragraph (a), for “The third duty is to” substitute “The employer must”;

(b) in paragraph (a), for “to give” substitute “give”;

- (c) in paragraph (b), for “to give” substitute “give”;
  - (d) in paragraph (c), for “to inform” substitute “inform”.
- (6) After sub-paragraph (4) insert—
- “(4ZA) If the ballot is arranged under paragraph 116I(5), the duty under sub-paragraph (4)(a) is limited to—
- (a) giving the CAC the names and home addresses of any workers in the bargaining unit which have not previously been given to it in accordance with that duty;
  - (b) giving the CAC the names and home addresses of those workers who have joined the bargaining unit since the employer last gave the CAC information in accordance with that duty;
  - (c) informing the CAC of any change to the name or home address of a worker whose name and home address have previously been given to the CAC in accordance with that duty;
  - (d) informing the CAC of any worker whose name had previously been given to it in accordance with that duty who has ceased to be within the bargaining unit.”

- (7) Omit sub-paragraphs (4A) to (4E), (8) and (9).
- 44 In paragraph 119 (breach of paragraph 118), after sub-paragraph (4) insert—
- “(5) If—
- (a) the ballot has been arranged in consequence of an application under paragraph 112,
  - (b) the CAC has made an order against the employer under sub-paragraph (1), and
  - (c) the ballot has not been held, the worker making the application (or each of the workers making the application) and the union (or each of the unions) are entitled to enforce obedience to the order.
- (6) The order may be enforced—
- (a) in England and Wales, in the same way as an order of the county court;
  - (b) in Scotland, in the same way as an order of the sheriff.”
- 45 After paragraph 119 insert—
- “119ZA (1) This paragraph applies if—
- (a) the union has (or unions have) been informed of a ballot under paragraph 117(11), and

- (b) the CAC refuses an application or issues a declaration under paragraph 116E.
  - (2) If the ballot has not been held, the CAC must take steps to cancel it.
  - (3) If the ballot is held, it is to have no effect.
- 119ZB (1) This paragraph applies if—
- (a) the union has (or unions have) been informed of a ballot under paragraph 117(11),
  - (b) a complaint is made under paragraph 116H, and
  - (c) the ballot did not begin before the beginning of the decision period referred to in paragraph 116H(5).
- (2) The CAC may by notice to the parties and the qualified independent person postpone the date on which the ballot is to begin until a date which falls after the end of the decision period.
  - (3) In relation to an application under paragraph 112, "the parties" includes the worker or workers making the application.
- 119ZC (1) This paragraph applies if—
- (a) the union has (or unions have) been informed of a ballot under paragraph 117(11),

- (b) the CAC issues a declaration that a complaint under paragraph 116H is well-founded, and
  - (c) the CAC—
    - (i) makes arrangements under paragraph 116I(5),
    - (ii) refuses under paragraph 116J(4)(a) or (6) an application under paragraph 106, 107 or 112, or
    - (iii) issues a declaration under paragraph 116J(5).
- (2) If the ballot has not been held, the CAC must take steps to cancel it.
- (3) If the ballot is held, it is to have no effect.
- 119ZD (1) This paragraph applies if—
- (a) the CAC makes arrangements under paragraph 116I(5), and
  - (b) the CAC has previously given an order under paragraph 119(1) in relation to a cancelled or ineffective ballot in connection with the application to which the notice relates.
- (2) The order has effect, to the extent that the CAC specifies in a notice to the parties, as if it were made for the purposes of the ballot for which

arrangements are made under paragraph 116I(5).

(3) In relation to an application under paragraph 112, "the parties" includes the worker or workers making the application."

46 Omit paragraphs 119A to 119I (unfair practices during ballot).

47 (1) Paragraph 120 (costs of ballot) is amended as follows.

(2) In sub-paragraph (1), after "paragraph" insert "116I(5) or".

(3) After sub-paragraph (1) insert—

“(1A) If the holding of the ballot is arranged under paragraph 116I(5), the gross costs of the ballot are to be borne by such of the parties and in such proportions as the CAC may determine.

(1B) In relation to an application under paragraph 112, "the parties" includes the worker or workers making the application.”

(4) In sub-paragraph (2), for "The gross costs" substitute "If the holding of the ballot is arranged under paragraph 117(3), the gross costs".

(5) In sub-paragraph (4), for "the employer and the union (or each of the unions)" substitute

“the party or parties required to bear the costs”.

48 In paragraph 121 (result of ballot), for sub-paragraphs (1) and (1A) substitute—

“(1) The CAC must act under this paragraph as soon as reasonably practicable after—

(a) the CAC is informed of the result of a ballot by the person conducting it, and

(b) the complaint period ends.

(1ZA) The complaint period is the period of 5 working days starting with the day after—

(a) the day of the ballot, or

(b) if votes may be cast in the ballot on more than one day, the last of those days.

(1A) The duty in sub-paragraph (1) does not apply—

(a) if a complaint is made under paragraph 116H, on or before the day on which the CAC decides whether the complaint is well-founded;

(b) if the CAC makes arrangements under paragraph 116I(5).”



### *Derecognition where recognition automatic*

- 49 In paragraph 122 (derecognition where recognition automatic on agreed terms), in sub-paragraph (1)(a)—
- (a) after “19F(5),” insert “19K(4), 19P(4),”;
  - (b) for “, 27(2) or 27D(3)” substitute “or 27(2)”.
- 50 In paragraph 123 (derecognition where recognition automatic on specified terms), in sub-paragraph (1)(a)—
- (a) after “19F(5),” insert “19K(4), 19P(4),”;
  - (b) for “, 27(2) or 27D(3)” substitute “or 27(2)”.
- 51 In paragraph 124 (derecognition where recognition automatic following changes to bargaining unit), in sub-paragraph (1), after “paragraph” insert “81E(4), 81J(4) or”.
- 52 After paragraph 132 insert—
- “Access agreements*
- 132A Paragraphs 116A to 116E apply if the CAC accepts an application under paragraph 128 (as well as in the cases mentioned in paragraph 116A(1)), as if—
- (a) the references in paragraphs 116A(1) and (4), 116B(1)(a), 116C(1)(a), 116D(1)(b) and 116E(1)(b) and (3)(b) to paragraph

- 106, 107 or 112 were to paragraph 106, 107, 112 or 128;
- (b) the reference in paragraph 116A(3) to paragraph 111(5) or 115(5) were to paragraph 111(5), 115(5) or 132(5);
  - (c) the references in paragraphs 116A(4)(a) and 116E(4) to paragraph 106 or 107 were to paragraph 106, 107 or 128.”
- 53 After paragraph 132A (inserted by paragraph 52 of this Schedule) insert—
- “Unfair practices*
- 132B Paragraphs 116G to 116K apply if the CAC accepts an application under paragraph 128 (as well as in the cases mentioned in paragraph 116G), as if—
- (a) the references in paragraphs 116G(1) and (4)(a)(ii) and 116J(1)(b) to paragraph 106, 107 or 112 were to paragraph 106, 107, 112 or 128;
  - (b) the reference in paragraph 116G(1) to paragraph 111(5) or 115(5) were to paragraph 111(5), 115(5) or 132(5);
  - (c) the references in paragraphs 116H(2)(a), 116I(6)(a) and 116J(4)(a) to paragraph 106 or 107

were to paragraph 106, 107 or 128.”

54 (1) Paragraph 133 (ballot on derecognition) is amended as follows.

(2) In sub-paragraph (1), for “and (2)” substitute “, (2) and (4)”.

(3) In sub-paragraph (2)—

(a) in paragraph (a), for “references in paragraphs 119(2)(a) and 119D(3)” substitute “reference in paragraph 119(2)(a)”;

(b) in paragraph (b), for “119A(3)(a)(ii), 119E(1)(b)” substitute “119ZC(1)(c)(ii)”.

### *Derecognition where union not independent*

55 After paragraph 146 insert—

#### *“Access agreements*

146A Paragraphs 116A to 116E apply if the CAC accepts an application under paragraph 137 (as well as in the cases mentioned in paragraph 116A(1)), as if—

(a) the references in paragraphs 116A(1) and (4), 116B(1)(a), 116C(1)(a), 116D(1)(b) and 116E(1)(b) and (3)(b) to paragraph 106, 107 or 112 were to paragraph 106, 107, 112 or 137;

- (b) the reference in paragraph 116A(4)(b) to paragraph 112 were to paragraph 112 or 137;
- (c) the reference in paragraph 116A(3) to paragraph 111(5) or 115(5) were to paragraph 111(5), 115(5) or 141(5);
- (d) the reference in paragraph 116A(4)(b) to paragraph 116(1) were to paragraph 116(1), 142(1) or 145(3).”

56 After paragraph 146A (inserted by paragraph 55 of this Schedule) insert—

*“Unfair practices*

146B Paragraphs 116G to 116K apply if the CAC accepts an application under paragraph 137 (as well as in the cases mentioned in paragraph 116G), as if—

- (a) the references in paragraphs 116G(1) and (4)(a)(ii) and 116J(1)(b) to paragraph 106, 107 or 112 were to paragraph 106, 107, 112 or 137;
- (b) the reference in paragraph 116G(1) to paragraph 111(5) or 115(5) were to paragraph 111(5), 115(5) or 141(5);
- (c) the references in paragraphs 116G(5), 116H(2)(b), 116I(6)(b), 116J(1)(b), (4)(b) and (6) and

116K(1) to paragraph 112 were to paragraph 112 or 137;

(d) the references in paragraphs 116H(2)(b) and 116I(6)(b) to paragraph 116(1) were to paragraph 116(1), 142(1) or 145(3).”

57 (1) Paragraph 147 (ballot on derecognition) is amended as follows.

(2) In sub-paragraph (1), for “and (2)” substitute “, (2) and (4)”.

(3) In sub-paragraph (2)—

(a) in paragraph (a), for “references in paragraphs 119H(1) and 119I(1)(a)” substitute “reference in paragraph 119(5)(a)”;

(b) in paragraph (b), for “119A(3)(a)(ii), 119E(1)(b)” substitute “119ZC(1)(c)(ii)”;

(c) after paragraph (c) insert—

“(d) the reference in paragraph 119ZA(1)(b) to the CAC refusing an application included a reference to it being required to give notice under paragraph 146(5).”

## PART 5

### MEANING OF “THE REQUIRED PERCENTAGE”

58 After paragraph 171A insert—

*““The required percentage”*

171B(1) In this Schedule, “the required percentage” means 10%.

(2) The Secretary of State may by regulations amend this paragraph so that the required percentage is a percentage—

- (a) not greater than 10%, and
- (b) not less than 2%.

(3) Regulations under sub-paragraph (2)—

- (a) are to be made by statutory instrument;
- (b) may include supplementary, incidental, saving or transitional provision, including provision amending this Schedule;
- (c) may make different provision for different cases.

(4) A statutory instrument containing regulations under sub-paragraph (2) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

## PART 6

### CONSEQUENTIAL AMENDMENTS

- 59 (1) The Employment Relations Act 2004 is amended as follows.
- (2) In section 9—
    - (a) omit subsections (1) to (4);
    - (b) in subsection (5), for “that Schedule” substitute “Schedule A1 to the 1992 Act”;
    - (c) omit subsections (6) to (9).
  - (3) Omit section 10.
  - (4) Omit section 13.
  - (5) In paragraph 23 of Schedule 1—
    - (a) in sub-paragraph (10), omit paragraph (b) (and the “and” before it);
    - (b) in sub-paragraph (11), omit paragraph (b) (and the “and” before it);
    - (c) in sub-paragraph (13), omit paragraph (b) (and the “and” before it);
    - (d) in sub-paragraph (14), omit paragraph (b) (and the “and” before it);
    - (e) omit sub-paragraph (19);
    - (f) in sub-paragraph (26), omit paragraph (a) (and the “and” after it);
    - (g) in sub-paragraph (27), omit paragraph (a) (and the “and” after it).”

## Member's explanatory statement

This new Schedule would amend Schedule A1 to the Trade Union and Labour Relations (Consolidation) Act 1992 to extend the prohibition on unfair practices to the entirety of a recognition or derecognition process, ensure that the Central Arbitration Committee can make orders in relation to such practices whether or not they have an impact on the process, increase the time limit for making claims in relation to such practices, provide for binding arrangements for access by the union to workers throughout a recognition or derecognition process, prevent workers who joined the bargaining unit after a recognition application from being counted for various purposes, prevent a new recognition agreement with a non-independent union stopping a recognition process, and make the amendments currently in clause 51.

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## Secretary Jonathan Reynolds

Gov **246**

Schedule 5, page 155, line 2, at end insert—

*“Social Security Contributions and Benefits (Northern Ireland) Act 1992*

7A Section 147(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (employer’s liability to pay statutory sick pay).



7B Regulations under section 149(5)(b) of that Act (requirement to provide statement about entitlement).

*Social Security Administration (Northern Ireland) Act 1992*

7C Regulations under section 5 of the Social Security Administration (Northern Ireland) Act 1992 (regulations about claims for and payments of benefit), so far as relating to statutory sick pay.

7D Section 12(3) of that Act (duty of employers to provide certain information to employees in relation to statutory sick pay).

7E Regulations under section 122 of that Act (duties of employers), so far as relating to statutory sick pay.”

### **Member's explanatory statement**

This amendment would enable the Secretary of State to exercise the powers conferred by Part 5 of the Bill to enforce certain obligations relating to statutory sick pay in Northern Ireland.

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**Secretary Jonathan Reynolds**

Gov **247**

Schedule 5, page 155, line 13, leave out paragraph 13 and insert—

“13 Section 17 of that Act (non-compliance: worker entitled to additional remuneration).”

## Member's explanatory statement

This amendment is consequential on amendment 254.

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## Secretary Jonathan Reynolds

Gov **248**

Schedule 5, page 155, line 22, at end insert—

- “(d) regulation 16B(1) (duty to keep records relating to annual leave entitlement);
- (e) regulation 29(1) (offences), so far as relating to regulation 16B(1).”

## Member's explanatory statement

This amendment would enable the Secretary of State to exercise the powers conferred by Part 5 of the Bill to enforce the duty imposed by regulation 16B of the Working Time Regulations 1998 (inserted by NC35).

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## Secretary Jonathan Reynolds

Gov **249**

Schedule 5, page 155, line 32, at end insert—

*“Fraud Act 2006*

21A Section 1 of the Fraud Act 2006, so far as relating to an offence which—

- (a) is committed under the law of England and Wales by virtue of section 4 of that Act (fraud by abuse of position), and

(b) is committed in relation to a worker or a person seeking work.”

### **Member's explanatory statement**

This amendment would enable the Secretary of State to exercise the powers conferred by Part 5 of the Bill to investigate and enforce offences of fraud committed in relation to a worker, or a person seeking work, by a person who dishonestly abuses a position in which the person is expected to safeguard the financial interests of another person.

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### **Secretary Jonathan Reynolds**

Gov **250**

Schedule 5, page 156, line 26, at end insert—

“24A Section 38(2) of this Act (entitlement of social care workers to be paid in accordance with ratified agreements of Negotiating Body).

24B Section 39(5) (entitlement of social care workers to be paid in accordance with regulations made by Secretary of State, etc).”

### **Member's explanatory statement**

The effect of this amendment is that the Secretary of State’s enforcement powers under Part 5 of the Bill (in particular, the new power to give a notice of underpayment conferred by NC44) will be exercisable in relation to the entitlements of social care workers to be paid in accordance with

agreements of a Negotiating Body or regulations made by the appropriate authority. As a result, clause 42, which would have enabled the application of provisions of the National Minimum Wage Act 1998 for the purposes of enforcing those entitlements, is unnecessary.

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## Secretary Jonathan Reynolds

Gov 251

Schedule 5, page 157, line 2, at end insert—

“(2A) Regulations under this paragraph may not add an enactment that deals with a transferred matter, or vary a reference to such an enactment, without the consent of the appropriate Northern Ireland department.

(2B) For the purposes of sub-paragraph (2A)—  
“the appropriate Northern Ireland department”, in relation to an enactment that deals with a transferred matter, means the Northern Ireland department which has responsibility for that matter;  
“deals with” is to be read in accordance with section 98(2) and (3) of the Northern Ireland Act 1998;  
“transferred matter” has the meaning given by section 4(1) of that Act.”

### Member's explanatory statement

This amendment would provide that the Secretary of State may not amend the list of legislation in

Part 1 of Schedule 5 to add an enactment that deals with a transferred matter in Northern Ireland, or vary a reference to such an enactment, without the consent of the appropriate Northern Ireland department. Employment law is generally a transferred matter in relation to Northern Ireland.

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## Secretary Jonathan Reynolds

Gov **252**

Schedule 5, page 157, line 6, at end insert—

“( ) section (*Power to give notice of underpayment*) (power to give notice of underpayment);”

## Member's explanatory statement

This amendment would enable regulations that added an enactment to Part 1 of Schedule 5 (the list of legislation to be enforced by the Secretary of State under Part 5) to make consequential amendments of NC44, for example to exclude a provision from being a “statutory pay provision” for the purposes of giving notices of underpayment.

---

## Secretary Jonathan Reynolds

Gov **253**

Schedule 5, page 157, line 8, at end insert—

“( ) Regulations under this paragraph that add an enactment which—  
(a) confers a right or entitlement to the payment of any sum to an individual, or

(b) prohibits or restricts the withholding of payment of any sum to an individual, may provide that a notice of underpayment relating to sums due under or by virtue of the enactment may relate to sums becoming due before the coming into force of the regulations.”

### **Member's explanatory statement**

This new clause enables regulations that amend Part 1 of Schedule 5 to add an enactment to the list of legislation enforceable by the Secretary of State under Part 5 of the Bill to provide that a notice of underpayment relating to sums due under or by virtue of the enactment may relate to sums becoming due before the coming into force of the regulations. This corresponds to the provision made by subsection (6) of NC46.

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### **Secretary Jonathan Reynolds**

Gov **254**

Schedule 8, page 163, leave out from beginning of line 17 to end of line 3 on page 164 and insert—  
“23 Omit sections 19 to 19H (notices of underpayment).”

### **Member's explanatory statement**

This amendment would provide for the repeal of sections 19 to 19H of the National Minimum Wage Act 1998, which enable notices of underpayment to be given in respect of non-payment of the

national minimum wage. Those provisions will be superseded by the powers in the Bill.

---

## Secretary Jonathan Reynolds

Gov **255**

Schedule 8, page 171, line 6, at end insert—

*“Criminal Justice and Public Order Act 1994*

69A(1) The Criminal Justice and Public Order Act 1994 is amended as follows.

(2) In section 36 (effect of accused’s failure or refusal to account for objects, substances or marks), after subsection (5) insert—

“(5A) This section applies in relation to enforcement officers who—

(a) are appointed by the Secretary of State under section 77 of the Employment Rights Act 2025, and

(b) are acting in the exercise of functions conferred on them by virtue of section 114B of the Police and Criminal Evidence Act 1984, as it applies in relation to constables.”

(3) In section 37 (effect of accused’s failure or refusal to account for presence at a particular place), after subsection (4) insert—

“(4A) This section applies in relation to enforcement officers who—

- (a) are appointed by the Secretary of State under section 77 of the Employment Rights Act 2025, and
- (b) are acting in the exercise of functions conferred on them by virtue of section 114B of the Police and Criminal Evidence Act 1984, as it applies in relation to constables.””

### **Member's explanatory statement**

The effect of this amendment is that, where an individual is arrested for a labour market offence by an enforcement officer who is authorised to exercise police powers, and the individual (when asked) fails or refuses to account for an object, substance or mark on their person, clothing, etc, or to account for their presence in a particular place, a court or jury may draw inferences from that failure or refusal in any criminal proceedings against the individual for the offence.

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### **Secretary Jonathan Reynolds**

Gov **256**

Schedule 8, page 171, line 11, at beginning insert—

- “(1) The Employment Tribunals Act 1996 is amended as follows.
- (2) In section 18 (conciliation: relevant proceedings etc), in subsection (1)(c), omit “, 19D(1)(a)”.”



## Member's explanatory statement

This amendment is consequential on amendment 254.

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## Secretary Jonathan Reynolds

Gov 257

Schedule 8, page 171, line 12, at end insert—

“(4) In section 21 (jurisdiction of Employment Appeal Tribunal), in subsection (1), after paragraph (ge) insert—

“(gf) Part 5 of the Employment Rights Act 2025,”.

## Member's explanatory statement

This amendment provides that appeals in relation to decisions of an employment tribunal under Part 5 of the Bill lie to the Employment Appeal Tribunal.

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## Secretary Jonathan Reynolds

Gov 258

Schedule 8, page 174, line 16, leave out “sections 16 and” and insert “the following—

- (a) section 9(1) and (2);
- (b) section 16;
- (c) section”

## Member's explanatory statement

This amendment is consequential on amendment 254.

---

## Secretary Jonathan Reynolds

Gov 259

Schedule 8, page 175, line 7, leave out paragraph 88 and insert—

“88 In the Small Business, Enterprise and Employment Act 2015, omit the following—  
(a) in section 150, subsections (4) and (7);  
(b) section 152.”

## Member's explanatory statement

This amendment is consequential on amendment 254.

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## Secretary Jonathan Reynolds

Gov 260

Schedule 9, page 183, line 31, at end insert—

*“Notices of underpayment under the National Minimum Wage Act 1998*

17A Except so far as provided for by paragraph 6(1) or (2) of this Schedule, the repeal of sections 19 to 19H of the National Minimum Wage Act 1998 by paragraph 23 of Schedule 8 does not apply in relation to any notice served under any of those sections before the coming into force of that repeal (and

accordingly paragraph 6(3) of this Schedule does not apply in relation to things done, or in the process of being done, under any of those sections).”

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## **Secretary Jonathan Reynolds**

Gov **261**

Schedule 9, page 183, line 33, leave out “28” and insert “23, 71(2), 84(a) and 88(b)”

### **Member's explanatory statement**

This amendment is consequential on amendments 256, 258 and 259.

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## **Rebecca Long Bailey**

**274**

Steve Witherden  
 Brian Leishman  
 Richard Burgon  
 Bell Ribeiro-Addy  
 Liz Saville Roberts

Neil                      Kate Osborne      Ian Byrne  
 Duncan-Jordan      Zarah Sultana      Nadia Whittome  
 Imran Hussain      Jeremy Corbyn  
 Andy McDonald

Schedule 10, page 190, line 36, leave out paragraph 17 and insert—

“(17) In section 123 of the Equality Act 2010 (discrimination etc at work), in subsection (1)(a)—

(a) for “3” substitute “6”; and

(b) at end insert—

“(ab) for cases involving sexual harassment, the period of 12 months starting with the date of the act to which the complaint relates, or””

### **Member's explanatory statement**

This amendment would increase to 12 months the time limit for bringing employment tribunal claims relating to sexual harassment.

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**Chris Law**

**NC77**

To move the following Clause—

#### **“Employment Law: Scotland Act**

- (1) The Scotland Act 1998 is amended as follows.
- (2) In Schedule 5 of the Scotland Act 1998, omit section H1 (Employment and industrial relations).”

### **Member's explanatory statement**

This new clause would remove matters related to employment from the list of the reserved matters that remain the responsibility of the UK Parliament alone and would enable the Scottish Parliament to legislate on those matters.

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**Secretary Jonathan Reynolds**Gov **262**

Title, line 5, after “equality;” insert “to amend the definition of “employment business” in the Employment Agencies Act 1973;”

**Member's explanatory statement**

This amendment is consequential on NC36.

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**Secretary Jonathan Reynolds**Gov **263**

Title, line 6, leave out “the Adult Social Care Negotiating Body” and insert “Social Care Negotiating Bodies”

**Member's explanatory statement**

This amendment is consequential on NC37.

## Order of the House

[21 October 2024]

That the following provisions shall apply to the Employment Rights Bill:

### **Committal**

1. The Bill shall be committed to a Public Bill Committee.

### **Proceedings in Public Bill Committee**

2. Proceedings in the Public Bill Committee shall (so far as not previously concluded) be brought to a conclusion on Tuesday 21 January 2025.
3. Public Bill Committee shall have leave to sit twice on the first day on which it meets.

### **Consideration and Third Reading**

4. Proceedings on Consideration shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which those proceedings are commenced.
5. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.

- 
6. Standing Order No. 83B (Programming committees) shall not apply to proceedings on Consideration and Third Reading.

### **Other proceedings**

7. Any other proceedings on the Bill may be programmed.
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## Order of the House

[11 March 2025]

That the Order of 21 October 2024 (Employment Rights Bill: Programme) be varied as follows:

1. Paragraphs 4 and 5 of the Order shall be omitted.
2. Proceedings on Consideration and Third Reading shall be taken in two days in accordance with the following provisions of this Order.
3. Proceedings on Consideration—
  - (a) shall be taken on each of those days in the order shown in the first column of the following Table, and
  - (b) shall (so far as not previously concluded) be brought to a conclusion at the times specified in the second column of the Table.

*Proceedings**Time for conclusion of proceedings**First day*

New Clauses and new Schedules relating to the subject matter of, and amendments to, Part 1, Part 2 and Part 3.

Six hours after the commencement of proceedings on the motion for this Order.

*Second day*

New Clauses and new Schedules relating to the subject matter of, and amendments to, Part 4, Part 5 and Part 6; remaining new Clauses and new Schedules; remaining proceedings on Consideration.

Five hours after the commencement of proceedings on Consideration on the second day.

4. Proceedings on Third Reading shall be taken on the second day and shall (so far as not previously concluded) be brought to a conclusion six hours after the commencement of proceedings on Consideration on the second day.



## Withdrawn Amendments

The following amendments were withdrawn on 19 February 2025:

NC24 and NC26

The following amendments were withdrawn on 6 March 2025:

268

The following amendments were withdrawn on 10 March 2025:

298