House of Commons

Report Stage: Wednesday 5 March 2025

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 Any withdrawn amendments are listed at the end of the document.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.

★ New Amendments.

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

New Amendments: 8 to 271, NC31 to NC72, NS1 and NS2

Secretary Jonathan Reynolds **Gov NC32**

★ To move the following Clause—

"Agency workers: guaranteed hours and rights relating to shifts

(1) After section 27BU of the Employment Rights Act 1996 (inserted by section 3) insert—

"CHAPTER 4A

AGENCY WORKERS: GUARANTEED HOURS AND RIGHTS RELATING TO SHIFTS

27BUA Agency workers

(1) In this Part, "agency worker" means an individual—

(a) who has a worker's contract or an arrangement with a work-finding agency by virtue of which the individual is (or is to be) supplied to work for and under the supervision and direction of another person,

(b) who does not do (or is not to do) the work under a worker's contract with the other person, and

(c) who is not (or is not to be) a party to a contract under which the individual undertakes to do the work for another party to the contract whose status is, by virtue of the contract, that of a client or customer of any profession or business undertaking carried on by the individual.

(2) In this Part—

(a) references to an agency worker include, where the context requires, a former agency worker, and

(b) where that is the case, references in relation to the agency worker to a work-finding agency, and references (however expressed) to a person for and under the supervision and direction of whom the agency worker works, are to be read accordingly.

(3) An individual is an "agency worker" for the purposes of this Part—

(a) whether the individual is (or is to be) supplied to work for and under the supervision and direction of another person—

(i) by the work-finding agency referred to in subsection (1)(a), or

(ii) by a person other than the work-finding agency;

(b) whether the individual is (or is to be) paid, for work done for and under the supervision and direction of another person—

(i) by the work-finding agency referred to in subsection (1)(a), or

(ii) by a person other than the work-finding agency.

(4) In this Part, "work-finding agency" means a person carrying on the business (whether or not with a view to profit and whether or not in conjunction with any other business) of finding, or seeking to find, work for individuals to do for and under the supervision and direction of other persons (but not in the employment of those other persons).

(5) Part 1 of Schedule A1 contains provision about guaranteed hours and agency workers.

(6) Part 2 of Schedule A1 contains provision about rights of agency workers to reasonable notice in relation to shifts.

(7) Part 3 of Schedule A1 contains provision about rights of agency workers to payment for shifts that are cancelled, moved or curtailed at short notice."

(2) Schedule (*Agency workers: guaranteed hours and rights relating to shifts*) inserts Schedule A1 into the Employment Rights Act 1996."

Member's explanatory statement

This new clause adds a new clause (intended to go after clause 3) which provides a new definition of "agency worker" for the purposes of Part 2A of the Employment Rights Act 1996 and introduces the new Schedule inserted by NS1 which inserts a new Schedule A1 into the 1996 Act. Schedule A1 is to take the place of the regulation-making power in proposed new section 27BW of the 1996 Act which is removed by amendment 48.

Secretary Jonathan Reynolds **Gov NC33**

★ To move the following Clause—

"Collective agreements: contracting out

(1) The Employment Rights Act 1996 is amended as follows.

(2) After section 27BUA (inserted by section (*Agency workers: guaranteed hours and rights relating to shifts*)) insert—

"CHAPTER 4B

COLLECTIVE AGREEMENTS: CONTRACTING OUT

27BUB Zero hours workers, etc

(1) This section applies in relation to—

(a) a duty imposed on an employer in respect of a worker, and

(b) a right conferred on a worker in respect of an employer,

by or under any provision of Chapter 2, 3 or 4.

(2) The duty or right is excluded if—

(a) the worker is employed by the employer under a worker's contract ("the contract"),

(b) a relevant collective agreement contains—

(i) terms that expressly exclude the duty or right, and

(ii) terms that expressly replace the excluded duty or right,

(c) the terms within paragraph (b)(ii) are incorporated into the contract, and

(d) the employer notifies the worker in writing of the incorporation and effect of those terms.

(3) A relevant collective agreement is a collective agreement that is—

(a) in writing, and

(b) made by or on behalf of—

(i) one or more trade unions which each have a certificate of independence, and

(ii) the worker's employer.

27BUC Agency workers

(1) This section applies in relation to—

(a) a duty imposed on a hirer or a work-finding agency in respect of an agency worker, and

(b) a right conferred on an agency worker in respect of a hirer or a work-finding agency,

by or under any provision of Chapter 4A (including Schedule A1).

(2) The duty or right is excluded if—

(a) the agency worker is supplied to work for and under the supervision and direction of the hirer by virtue of a worker's contract ("the contract") that the agency worker has with another person ("the other party"),

(b) a relevant collective agreement contains—

(i) terms that expressly exclude the duty or right, and

(ii) terms that expressly replace the excluded duty or right,

(c) the terms within paragraph (b)(ii) are incorporated into the contract, and

(d) the other party notifies the agency worker in writing of the incorporation and effect of those terms.

(3) A relevant collective agreement is a collective agreement that is—

(a) in writing, and

(b) made by or on behalf of—

(i) one or more trade unions which each have a certificate of independence, and

(ii) the other party.

27BUD Supplementary provision

(1) For the purposes of sections 27BUB and 27BUC, it does not matter whether—

(a) terms in a collective agreement that expressly replace a duty or right relate to the same subject matter as the duty or right, or

(b) a collective agreement ceases to be in force after the terms mentioned in section 27BUB(2)(b)(ii) or 27BUC(2)(b)(ii) are incorporated into the contract (within the meaning of section 27BUB or 27BUC, as the case may be), provided the terms continue to be incorporated.

(2) Where the duty to make a guaranteed hours offer under Chapter 2 or 4A is excluded by virtue of terms that are incorporated into a contract with a worker or, as the case may be, an agency worker, as mentioned in section 27BUB(2)(c) or 27BUC(2)(c), during the offer period, the duty ceases to apply.

(3) Where—

(a) the duty to make a guaranteed hours offer under Chapter 2 or 4A is excluded by virtue of terms that are incorporated into a contract with a worker or, as the case may be, an agency worker, as mentioned in section 27BUB(2)(c) or 27BUC(2)(c),

(b) a guaranteed hours offer has already been made in compliance with the duty, and

(c) the worker or agency worker has not accepted the offer,

the person who made the offer may withdraw it during the response period by giving a notice to the worker or agency worker.

(4) The notice must include a statement to the effect that the offer is withdrawn in consequence of the exclusion of the duty to make a guaranteed hours offer as a result of the incorporation into the worker's or agency worker's contract, as mentioned in section 27BUB(2)(c) or 27BUC(2)(c), of terms contained in a collective agreement that expressly replace that duty.

(5) A worker or an agency worker to whom a notice is given in reliance on subsection (3) may present a complaint to an employment tribunal that subsection (3) did not permit the notice to be given.

(6) Where a complaint is presented under subsection (5)—

(a) by a worker, sections 27BH and 27BI apply in relation to the complaint as they apply in relation to a complaint under section 27BG(5)(b);

(b) by an agency worker, paragraphs 9 and 10 of Schedule A1 apply in relation to the complaint as they apply in relation to a complaint under paragraph 7(7)(b) of that Schedule.

(7) Subsection (8) applies where—

(a) the duty to make a guaranteed hours offer under Chapter 2 or 4A is excluded by virtue of terms that are incorporated into a contract with a worker or, as the case may be, an agency worker, as mentioned in section 27BUB(2)(c) or 27BUC(2)(c), and

(b) the duty ceases to be excluded as a result of the terms ceasing to be incorporated into the contract (including where the contract ceases to be in force).

(8) In applying Chapter 2 or 4A for the purposes of the duty after it has ceased to be excluded—

(a) in any case where there was a reference period in relation to the duty as it had effect before being excluded, that reference period is to be disregarded,

(b) in relation to a worker and the worker's employer, sections 27BA(5) and 27BF(3) have effect as if the first day on which the worker is employed by the employer is the day after the day on which the terms cease to be incorporated, and

(c) in relation to an agency worker and a hirer for and under the supervision and direction of whom the agency worker works, paragraphs 1(5) and 6(3) of Schedule A1 have effect as if the first day on which the agency worker so works is the day after the day on which the terms cease to be incorporated.

27BUE Regulations

(1) The Secretary of State may by regulations make further provision for the purposes of section 27BUB or 27BUC.

(2) The regulations may, in particular, make provision about—

(a) the effect on a duty in Chapters 2 to 4A of terms being or ceasing to be incorporated as mentioned in section 27BUB(2)(c) or 27BUC(2)(c),

(b) the form and manner in which a notice under section 27BUD(3) is to be given, and

(c) when a notice under section 27BUD(3) is to be treated as having been given.

27BUF Interpretation

(1) Terms used in this Chapter that are used in—

(a) Chapters 2 to 4 (rights relating to zero hours workers, etc), or

(b) Chapter 4A (including Schedule A1) (rights relating to agency workers),

have the same meaning as in those Chapters or that Chapter (including that Schedule).

(2) In this Chapter, "certificate of independence" means a certificate issued under section 6 of the Trade Union and Labour Relations (Consolidation) Act 1992."

(3) In section 203 (restrictions on contracting out), in subsection (2), before paragraph (a) insert—

"(za) does not apply to terms of a collective agreement or contract that exclude a duty or right by virtue of provision made by or under Chapter 4B of Part 2A,"."

Member's explanatory statement

This new clause adds a new clause (intended to go after NC32) which provides for the exclusion of duties or rights under new Chapters 2 to 4A of Part 2A of the Employment Rights Act 1996 (inserted by clauses 1 to 3 of the Bill and that new clause) under the terms of collective agreements.

Secretary Jonathan Reynolds **Gov NC34**

★ To move the following Clause—

"Collective redundancy consultation: protected period

(1) Chapter 2 of Part 4 of the Trade Union and Labour Relations (Consolidation) Act 1992 (procedure for handling redundancies) is amended as follows.

(2) In section 189 (duty to consult representatives: complaint and protective award), in subsection (4), in the words after paragraph (b), for "90" substitute "180".

(3) In section 197 (power to vary provisions), in subsection (1)(b), for "periods" substitute "period"."

Member's explanatory statement

This new clause would allow an employment tribunal to impose a higher protective award on an employer who is in breach of the requirements to consult representatives in a collective redundancy.

Secretary Jonathan Reynolds **Gov NC35**

★ To move the following Clause—

"Duty to keep records relating to annual leave

(1) The Working Time Regulations 1998 (S.I. 1998/1833) are amended as follows.

(2) In Part 2 (rights and obligations concerning working time), after regulation 16A insert—

"Records relating to annual leave entitlement

16B.—(1) An employer must—

(a) keep records which are adequate to show whether the employer has complied with the entitlements conferred by regulations 13(1), 13A(1), 15B(2) and 16(1) and the requirements in regulations 14(2) and (6) and 15E(2);

(b) retain such records for six years from the date on which they were made.

(2) The records referred to in paragraph (1)(a) may be created, maintained and kept in such manner and format as the employer reasonably thinks fit."

(3) In regulation 29 (offences), in paragraph (1), after "the relevant requirements" insert "or with regulation 16B(1)".

(4) In regulation 29C (restriction on institution of proceedings in England and Wales)—

(a) the existing provision becomes paragraph (1);

(b) after that paragraph insert—

"(2) But paragraph (1) does not prevent the Secretary of State from instituting proceedings in England and Wales for an offence under regulation 29(1) in respect of a failure to comply with regulation 16B(1) (duty to keep records).""

Member's explanatory statement

This new clause imposes an obligation on employers to keep records to show that they have complied with certain entitlements conferred on workers by the Working Time Regulations 1998 in relation to annual leave. Subsection (3) of the new clause makes it an offence, punishable with a fine, to fail to comply with this duty.

Secretary Jonathan Reynolds **Gov NC36**

★ To move the following Clause—

"Extension of regulation of employment businesses

In section 13 of the Employment Agencies Act 1973 (interpretation), for subsection (3) substitute—

"(3) For the purposes of this Act "employment business" means the business (whether or not carried on with a view to profit and whether or not carried on in conjunction with any other business) of participating in employment arrangements.

(3A) "Employment arrangements" means arrangements under which persons who are, or are intended to be, in the employment of a person are, or are intended to be, supplied to act for, and under the control of, another person in any capacity.

(3B) "Participating in" employment arrangements means doing any of the following in connection with the arrangements—

(a) being an employer of the persons who are, or are intended to be, supplied under the arrangements;

(b) paying for, or receiving or forwarding payment for, the services of those persons, in consideration of directly or indirectly receiving a fee from those persons;

(c) supplying those persons (whether or not under the arrangements);

(d) taking steps with a view to doing anything mentioned in paragraphs (a) to (c).""

Member's explanatory statement

This new clause would expand the scope of the Employment Agencies Act 1973 to cover other types of business that participate in arrangements under which persons are supplied by their employer to work for other persons (such as "umbrella companies").

Secretary Jonathan Reynolds **Gov NC37**

★ To move the following Clause—

"Power to establish Social Care Negotiating Body

(1) For the purposes of this Chapter, the Secretary of State may by regulations provide for there to be a body in England known as the Adult Social Care Negotiating Body for England.

(2) For the purposes of this Chapter, the Welsh Ministers may, with the agreement of the Secretary of State, by regulations provide for there to be a body in Wales known as the Social Care Negotiating Body for Wales.

(3) For the purposes of this Chapter, the Scottish Ministers may, with the agreement of the Secretary of State, by regulations provide for there to be a body in Scotland known as the Social Care Negotiating Body for Scotland.

(4) Any power of the Welsh Ministers or the Scottish Ministers to make regulations under the remaining provisions of this Chapter may not be exercised without the agreement of the Secretary of State.

(5) In this Chapter—

"the appropriate authority"—

(a) in relation to the Adult Social Care Negotiating Body for England, means the Secretary of State;

(b) in relation to the Social Care Negotiating Body for Wales, means the Welsh Ministers;

(c) in relation to the Social Care Negotiating Body for Scotland, means the Scottish Ministers;

"Negotiating Body" means a body established by regulations under this section."

Member's explanatory statement

This new clause would enable the Welsh Ministers and the Scottish Ministers, with the agreement of the Secretary of State, to establish a Social Care Negotiating Body for Wales and for Scotland respectively. As a result, Chapter 2 of Part 3 is amended to enable regulation-making powers conferred on the Secretary of State by Chapter 2 also to be exercisable by the Welsh Ministers and the Scottish Ministers. These powers may not be exercised without the Secretary of State's agreement.

Secretary Jonathan Reynolds **Gov NC38**

★ To move the following Clause—

"Agency workers who are not otherwise "workers"

(1) This section applies in any case where an individual (the "agency worker")—

(a) is supplied by a person (the "agent") to do work for another (the "principal") under a contract or other arrangements made between the agent and the principal,

(b) is not, as respects that work, a worker, because of the absence of a worker's contract between the individual and the agent or the principal, and

(c) is not a party to a contract under which the agency worker undertakes to do the work for another party to the contract whose status is, by virtue of the contract, that of a client or customer of any profession or business undertaking carried on by the individual.

(2) The provisions of this Chapter (other than this section) have effect as if there were a worker's contract for the doing of the work by the agency worker made between the agency worker and—

(a) whichever of the agent and the principal is responsible for paying the agency worker in respect of the work, or

(b) if neither the agent nor the principal is so responsible, whichever of them pays the agency worker in respect of the work.

(3) For the purposes of Part 2 of the Employment Rights Act 1996 (protection of wages), as it applies in relation to the entitlements conferred by sections 38(2) and 39(5)—

(a) if at any time the agency worker and the person who, as a result of this section, is the person's employer for the purposes of this Chapter would not (apart from this subsection) be regarded as the worker and the employer for the purposes of that Part, they are to be so regarded;

(b) it is to be assumed that there was a worker's contract between those persons at that time.

(4) If there would (in the absence of this section) be no worker's contract between the agency worker and the person who, as a result of this section, is the person's employer for the purposes of this Chapter, for the purpose of enforcing any entitlement conferred by section 38(2) or (3) or 39(5) or (6) in civil proceedings on a claim in contract it is to be assumed that there is (or was) such a contract between those persons.

(5) Any reference in this section to doing work includes a reference to performing services, and "work" is to be read accordingly."

Member's explanatory statement

This new clause reproduces the provision previously found in clause 46(2) to (4) that ensures that the provisions of Chapter 2 of Part 3 also apply in relation to agency workers who are not otherwise "workers" as defined by clause 46. It also ensures that, where an agency worker does not have a worker's contract, this does not prevent the agency worker from bringing a claim in an employment tribunal under Part 2 of the Employment Rights Act 1996, or in civil proceedings on a claim in contract, for a failure to pay the remuneration to which the agency worker would be entitled as a result of an agreement or regulations under Chapter 2.

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.

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.

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.

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.

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).

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.

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.

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.

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.

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.

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.

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.

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.

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 ppeal 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.

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.

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.

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.

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.

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.

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.

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.

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.

Apsana Begum **NC1**

Florence Eshalomi
Sarah Dyke
Carla Denyer
Liz Saville Roberts
Sorcha Eastwood

Jess Brown-Fuller
Alex Brewer
Claire Hanna
Mary Kelly Foy
Liz Jarvis
Richard Burgon
Neil Duncan-Jordan
Mrs Emma Lewell-Buck
Steve Witherden
John McDonnell
Brian Leishman
Ellie Chowns
Chris Law
Dr Simon Opher
Jon Trickett
Helen Maguire
Zarah Sultana
Ayoub Khan
Ms Diane Abbott
Adrian Ramsay
Kate Osborne
Siân Berry
Jess Asato
Bell Ribeiro-Addy
Caroline Voaden
Margaret Mullane
Rosie Duffield
Lillian Jones
Kim Johnson
Mr Richard Quigley
Ian Byrne

To move the following Clause—

“Domestic abuse victims’ leave

(1) Within twelve months of the passage of this Act, the Secretary of State must make regulations entitling a worker who is a victim of domestic abuse to be absent from work on leave under this section.

(2) For the purposes of this section, "domestic abuse" is defined in accordance with sections 1 and 2 of the Domestic Abuse Act 2021.

(3) The regulations must include provision for determining—
   (a) the extent of a worker's entitlement to leave under this section; and
   (b) when leave under this section may be taken.

(4) Provision under subsection (3)(a) must secure that, where a worker is entitled to take leave under this section, that worker is entitled to—
   (a) at least ten working days' leave; and
   (b) the benefit of the terms and conditions of employment which would have applied but for the absence.

(5) The regulations may—
   (a) make provision about how leave under this section is to be taken;
   (b) make different provision for different cases or circumstances; and
   (c) make consequential provision."

Member's explanatory statement

This new clause would require the Secretary of State to provide for statutory leave for victims of domestic abuse, with regulations providing for a minimum of ten days' leave.

Apsana Begum **NC2**

Florence Eshalomi
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Sorcha Eastwood

Jess Brown-Fuller
Alex Brewer
Claire Hanna
Mary Kelly Foy
Liz Jarvis
Richard Burgon
Neil Duncan-Jordan
Mrs Emma Lewell-Buck
Steve Witherden
John McDonnell
Brian Leishman
Ellie Chowns
Chris Law
Dr Simon Opher
Jon Trickett
Helen Maguire
Zarah Sultana
Ayoub Khan
Ms Diane Abbott
Adrian Ramsay
Kate Osborne
Siân Berry
Jess Asato
Bell Ribeiro-Addy
Caroline Voaden
Margaret Mullane
Rosie Duffield
Lillian Jones
Kim Johnson
Mr Richard Quigley
Ian Byrne

To move the following Clause—

"Domestic abuse: right not to suffer detriment

In Part V of the Employment Rights Act 1996 (Rights not to suffer detriment), after section 47G, insert new section 47H—

""Domestic abuse

(1) A worker has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by their employer done on the ground that the worker has been, or is suspected to have been—

(a) a victim of domestic abuse; or

(b) affected directly by domestic abuse.

(2) For the purposes of this section, “domestic abuse” is defined in accordance with sections 1 and 2 of the Domestic Abuse Act 2021.””

Member's explanatory statement

This new clause would amend the Employment Rights Act 1996 to protect workers from adverse treatment on the grounds that they are, or are suspected to be, a person affected by domestic abuse.

Apsana Begum **NC3**

Florence Eshalomi
Carla Denyer
Liz Saville Roberts
Sorcha Eastwood
Ellie Chowns

Siân Berry
Claire Hanna
Mary Kelly Foy
Margaret Mullane
Ayoub Khan
Ms Diane Abbott
Adrian Ramsay
Kate Osborne
Chris Law
Dr Simon Opher
Jon Trickett
Rosie Duffield
Lillian Jones
Kim Johnson
Mr Richard Quigley
Ian Byrne
Jess Asato
Bell Ribeiro-Addy
Zarah Sultana
Neil Duncan-Jordan
Mrs Emma Lewell-Buck
Steve Witherden
John McDonnell
Brian Leishman

To move the following Clause—

“Dismissal for reasons related to domestic abuse

In Part 10 of the Employment Rights Act 1996, after section 99, insert—

“99B Domestic abuse

(1) A worker who is dismissed shall be regarded for the purposes of this Part as having been unfairly dismissed if the reason for the dismissal is that the worker has been, or is suspected to have been—

(a) a victim of domestic abuse; or

(b) affected directly by domestic abuse.

(2) For the purposes of this section, “domestic abuse” is defined in accordance with sections 1 and 2 of the Domestic Abuse Act 2021.””

Member's explanatory statement

This new clause would amend the Employment Rights Act 1996 to protect workers from dismissal on the grounds that they are, or are suspected to be, a victim or a person affected by domestic abuse.

Apsana Begum **NC4**

Florence Eshalomi
Carla Denyer
Liz Saville Roberts
Sorcha Eastwood
Ellie Chowns

Siân Berry
Claire Hanna
Mary Kelly Foy
Richard Burgon
Neil Duncan-Jordan
Mrs Emma Lewell-Buck
Steve Witherden
John McDonnell
Brian Leishman
Chris Law
Dr Simon Opher
Jon Trickett
Zarah Sultana
Ayoub Khan
Ms Diane Abbott
Adrian Ramsay
Kate Osborne
Jess Asato
Bell Ribeiro-Addy
Margaret Mullane
Rosie Duffield
Lillian Jones
Kim Johnson
Mr Richard Quigley
Ian Byrne

To move the following Clause—

"Employers to take all reasonable steps to prevent domestic abuse

After section 40A of the Equality Act 2010 (employer duty to prevent sexual harassment of workers), insert—

"40B Employer duty to prevent workers from experiencing domestic abuse

(1) An employer (A) must take all reasonable steps to prevent their workers from experiencing domestic abuse in the course of their employment.

(2) For the purposes of this section, "domestic abuse" is defined in accordance with sections 1 and 2 of the Domestic Abuse Act 2021""

Member's explanatory statement

This new clause would require employers to take all reasonable steps to prevent their workers from experiencing domestic abuse.

Apsana Begum **NC5**

Florence Eshalomi
Carla Denyer
Liz Saville Roberts
Sorcha Eastwood
Ellie Chowns

Siân Berry
Claire Hanna
Mary Kelly Foy
Richard Burgon
Neil Duncan-Jordan
Mrs Emma Lewell-Buck
Steve Witherden
John McDonnell
Brian Leishman
Chris Law
Dr Simon Opher
Jon Trickett
Zarah Sultana
Ayoub Khan
Ms Diane Abbott
Adrian Ramsay
Kate Osborne
Jess Asato
Bell Ribeiro-Addy
Margaret Mullane
Rosie Duffield
Lillian Jones
Kim Johnson
Mr Richard Quigley
Ian Byrne

To move the following Clause—

"Employers to take all reasonable steps to prevent domestic abuse (contract workers)

After section 41 of the Equality Act 2010 (contract workers), insert—

"41A Employer duty to prevent workers from experiencing domestic abuse

(1) An employer (A) must take all reasonable steps to prevent a contract worker working for or on behalf of (A) from experiencing domestic abuse in the course of their engagement.

(2) For the purposes of this section, "domestic abuse" is defined in accordance with sections 1 and 2 of the Domestic Abuse Act 2021.""

Member's explanatory statement

This new clause would require employers to take all reasonable steps to prevent contract workers from experiencing domestic abuse.

Richard Burgon **NC6**

Barry Gardiner
Andy McDonald
Rachael Maskell
Clive Lewis
Nadia Whittome

Jon Trickett
Ian Lavery
Imran Hussain
Ian Byrne
Apsana Begum
Kim Johnson
Siân Berry
Ayoub Khan
Kate Osborne
Bell Ribeiro-Addy
Steve Witherden
Jeremy Corbyn
Brian Leishman
Dr Simon Opher
Ellie Chowns
Iqbal Mohamed
Shockat Adam
Ms Stella Creasy
Grahame Morris
John McDonnell
Rebecca Long Bailey
Zarah Sultana
Neil Duncan-Jordan
Carla Denyer
Karl Turner
Mr Adnan Hussain
Mary Kelly Foy

To move the following Clause—

"Workplace contravention of Equality Act: obtaining information

(1) In this section—

(a) P is a worker who thinks that a contravention of the Equality Act 2010 has occurred in relation to P's employment or working practices;

(b) R is P's employer and P thinks that R is responsible for the contravention mentioned in paragraph (a).

(2) A Minister of the Crown must by order prescribe—

(a) forms by which P may question R on any matter which is or may be relevant to subsection (1);

(b) forms by which R may answer questions by P.

(3) A question by P or an answer by R is admissible as evidence in proceedings under this Act (whether or not the question or answer is contained in a prescribed form).

(4) A court or tribunal may draw an inference from—
 (a) a failure by R to answer a question by P before the end of the period of 8 weeks beginning with the day on which the question is served;
 (b) an evasive or equivocal answer.

(5) Subsection (4) does not apply if—
 (a) R reasonably asserts that to have answered differently or at all might have prejudiced a criminal matter;
 (b) R reasonably asserts that to have answered differently or at all would have revealed the reason for not commencing or not continuing criminal proceedings;
 (c) R's answer is of a kind specified for the purposes of this paragraph by order of a Minister of the Crown;
 (d) R's answer is given in circumstances specified for the purposes of this paragraph by order of a Minister of the Crown;
 (e) R's failure to answer occurs in circumstances specified for the purposes of this paragraph by order of a Minister of the Crown.

(6) The reference to a contravention of the Equality Act 2010 includes a reference to a breach of an equality clause or rule, insofar as it relates to employment or working practices.

(7) A Minister of the Crown may by order—
 (a) prescribe the period within which a question must be served to be admissible under subsection (3);
 (b) prescribe the manner in which a question by P, or an answer by R, may be served.

(8) This section—
 (a) does not affect any other enactment or rule of law relating to interim or preliminary matters in proceedings before a county court, the sheriff or an employment tribunal, and
 (b) has effect subject to any enactment or rule of law regulating the admissibility of evidence in such proceedings.”

Member's explanatory statement

This new clause would reintroduce, for workers in relation to employers, the right to statutory Discrimination Questionnaires pursuant to the Equality Act 2010 regarding age, disability, sex, race, sexual orientation, pregnancy and maternity, gender reassignment, religion or belief and marriage and civil partnership discrimination.

Ms Stella Creasy **NC7**

Charlotte Nichols
Sorcha Eastwood
Christine Jardine
Abtisam Mohamed
Alex Brewer

Peter Lamb
Richard Burgon
Dr Simon Opher
Zarah Sultana
Neil Duncan-Jordan
Olivia Blake
Sarah Hall
Claire Hanna
Helen Hayes
Sarah Smith
Matt Turmaine
Paulette Hamilton
Mrs Sharon Hodgson
Cat Eccles
Darren Paffey
Mary Kelly Foy
Rachael Maskell
Steve Witherden
Catherine Fookes
Amanda Hack
Mike Martin
Wera Hobhouse
Kim Johnson
Sarah Owen
Ellie Chowns
Mrs Elsie Blundell
Fabian Hamilton
Paula Barker
Siân Berry
Natalie Fleet
Chris Webb
Alison Hume
Dr Rosena Allin-Khan
Chris Evans
Tulip Siddiq
Mrs Emma Lewell-Buck
Jon Trickett
Patricia Ferguson
Maya Ellis
Henry Tufnell
Josh Fenton-Glynn
Apsana Begum
Bell Ribeiro-Addy
Carla Denyer
Mr Jonathan Brash
Dr Allison Gardner
Freddie van Mierlo
Sarah Champion
Ian Byrne
Mike Amesbury
John McDonnell
Jess Asato
Clive Lewis
Daniel Francis
Ben Lake
Kirith Entwistle
Mr Luke Charters
Afzal Khan
Anna Sabine
Tracy Gilbert
Kirsteen Sullivan
Emily Darlington

To move the following Clause—

“Protected paternity or parental partner leave

(1) Within six months of the passage of this Act, the Secretary of State must consult on the introduction of protected paternity or parental partner leave for all employees.

(2) A consultation under subsection (1) must consider—

(a) the minimum duration for a period of protected paternity or parental partner leave;

(b) how best to ensure that protected paternity or parental partner leave is protected, non-transferable and does not result in discrimination against the employee taking that leave;

(c) how best to ensure that protected paternity or parental partner leave reduces the risk of employees experiencing discrimination as a result of being eligible for ordinary maternity leave; and

(d) the extent to which the costs to employers of protected paternity or parental partner leave should be reimbursed, in full or in part, and the manner in which this should be achieved.

(3) Following a consultation under subsection (2), within twelve months of commencing the consultation, the Secretary of State must by regulations—

(a) introduce protected paternity or parental partner leave, ensuring that it is paid, protected and non-transferable;

(b) define the length of any period of protected paternity or parental partner leave under subsection (3)(a); and

(c) make provision for any other matters the Secretary of State considers relevant to the matters under subsections (3)(a) and (3)(b).

(4) For the purposes of this section—

(a) "protected" leave means leave during which an employer must not permit an employee who satisfies prescribed conditions to work; and

(b) "parental partner leave" means leave taken for the purposes of caring for a child, with the exception of maternity leave taken under sections 71 to 73 of the Employment Rights Act 1996.

(5) For the purposes of subsections (2)(b) and (2)(c), "discrimination" is defined according to sections 13 to 19 of the Equality Act 2010."

Member's explanatory statement

This new clause would require the Secretary of State to consult on a period of protected paternity or parental partner leave, and require them to introduce protected paternity or parental partner leave by regulations at a subsequent date.

John McDonnell **NC8**

Mary Kelly Foy
Richard Burgon

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.

John McDonnell **NC9**

Mary Kelly Foy

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.

Steve Darling **NC10**

Sarah Gibson
Daisy Cooper
Clive Jones
Munira Wilson
Olly Glover

Claire Hanna Jess Brown-Fuller Liz Jarvis

To move the following Clause—

"Carer's leave: remuneration

(1) In section 80K of the Employment Rights Act 1996, omit subsection (3) and insert—

"(3) In subsection (1)(a), "terms and conditions of employment" includes—

(a) matters connected with an employee's employment whether or not they arise under the contract of employment, and

(b) terms and conditions about remuneration."”

Member's explanatory statement

This new clause would make Carer's Leave a paid entitlement.

Steve Darling **NC11**

Sarah Gibson
Daisy Cooper
Clive Jones
Munira Wilson
Olly Glover

Jess Brown-Fuller

To move the following Clause—

"Caring as a protected characteristic

(1) The Equality Act 2010 is amended as follows.

(2) In section 4, after "sexual orientation" insert "caring".

(3) After section 12, insert—

"12A Caring

(1) Caring means the provision or intention of person (A) to provide care to a person (B) with a long term care need, if person (B)—

(a) is a spouse, civil partner, child or parent of person (A); or

(b) lives in the same household as person (A) or reasonably relies on person (A) to provide or arrange care.

(2) In subsection (1), person (B) has a long-term care need if person (B)—

(a) has an illness or injury (whether physical or mental) that requires, or is likely to require, care for more than three months;

(b) has a disability under this Act; or

(c) requires care for a reason connected with old age.

(3) In subsection (1), the provision of care is regarded as relevant under this section if person (A) provides or intends to provide care—

(a) under or by virtue of a contract, or

(b) as voluntary work.

(4) In relation to the protected characteristic of caring—

(a) a reference to a person who has a particular protected characteristic is a reference to a person who has particular caring responsibilities;

(b) a reference to persons who share a protected characteristic is a reference to persons who are of the same type of caring responsibilities in respect of the relationship to the person being cared for.""

Member's explanatory statement

This new clause would make caring a protected characteristic under the Equality Act 2010.

Steve Darling **NC12**

Munira Wilson
Sarah Gibson
Daisy Cooper
Clive Jones
Wendy Chamberlain

Tim Farron
Jess Brown-Fuller
Olly Glover
Victoria Collins
Pippa Heylings
Caroline Voaden
Mr Lee Dillon
Luke Taylor
John Milne
Anna Sabine
Liz Jarvis
Freddie van Mierlo
Mike Martin
Manuela Perteghella

To move the following Clause—

"Rates of statutory maternity pay, etc

(1) In regulation 6 of the Statutory Maternity Pay (General) Regulations 1986 (prescribed rate of statutory maternity pay) for "£184.03" substitute "£368.06".

(2) In the Statutory Paternity Pay and Statutory Adoption Pay (Weekly Rates) Regulations 2002—

(a) in regulation 2(a) (weekly rate of payment of statutory paternity pay) for "£184.03" substitute "£368.06"; and

(b) in regulation 3(a) (weekly rate of payment of statutory adoption pay) for "£184.03" substitute "£368.06".

(3) In regulation 40(1)(a) of the Statutory Shared Parental Pay (General) Regulations 2014 (weekly rate of payment of statutory shared parental pay) for "£184.03" substitute "£368.06".

(4) In regulation 20(1)(a) of the Statutory Parental Bereavement Pay (General) Regulations 2020 (weekly rate of payment)for "£184.03" substitute "£368.06"."

Member's explanatory statement

This new clause sets out rates of Statutory Maternity Pay, Statutory Paternity Pay, Statutory Adoption Pay, Statutory Shared Parental Pay and Statutory Parental Bereavement Pay.

Steve Darling **NC13**

Munira Wilson
Sarah Gibson
Daisy Cooper
Clive Jones
Wendy Chamberlain

Tim Farron
Jess Brown-Fuller
Olly Glover
Victoria Collins
Pippa Heylings
Caroline Voaden
Mr Lee Dillon
Luke Taylor
John Milne
Anna Sabine
Liz Jarvis
Freddie van Mierlo
Mike Martin
Manuela Perteghella

To move the following Clause—

"Publication of information about parental leave policies: regulations

(1) The Secretary of State must make regulations to require any employer with more than 250 employees to publish information on the internet about the employer's policies on parental leave and pay for parental leave.

(2) Regulations under subsection (1) must be published within one year of this Act being passed.

(3) Regulations under this section are subject to the affirmative regulation procedure."

Member's explanatory statement

This new clause would require companies with more than 250 employees to publish information about their parental leave and pay policies.

Steve Darling **NC14**

Munira Wilson
Sarah Gibson
Daisy Cooper
Clive Jones
Wendy Chamberlain

Tim Farron
Mr Lee Dillon
Olly Glover
Victoria Collins
Pippa Heylings
Caroline Voaden
Freddie van Mierlo
Luke Taylor
John Milne
Anna Sabine
Liz Jarvis
Jess Brown-Fuller
Mike Martin
Manuela Perteghella

To move the following Clause—

"Entitlement to paternity leave

(1) The Employment Rights Act 1996 is amended as follows.

(2) In section 80A (entitlement to paternity leave: birth)—
   (a) in subsection (3), for "two" substitute "six",
   (b) in subsection (4), for "56 days" substitute "52 weeks".

(3) In section 80B (entitlement to paternity leave: adoption)—
   (a) in subsection (3), for "two" substitute "six"
   (b) in subsection (4), for "56 days" substitute "52 weeks"."

Member's explanatory statement

This new clause sets out an entitlement to paternity leave.

Steve Darling **NC15**

Munira Wilson
Sarah Gibson
Daisy Cooper
Clive Jones
Olly Glover

Jess Brown-Fuller

To move the following Clause—

"Whistleblowers: protected disclosures

In Part X of the Employment Rights Act 1996, for section 103A, substitute—

"103A Protected disclosure.

An employee who is dismissed shall be regarded for the purposes of this Part as unfairly dismissed if the reason (or one of the reasons) for the dismissal is that the employee made a protected disclosure.""

Member's explanatory statement

This new clause would slightly extend the circumstances in which an employee is considered as unfairly dismissed after making a protected disclosure.

Steve Darling **NC16**

Munira Wilson
Sarah Gibson
Daisy Cooper
Clive Jones
Olly Glover

Jess Brown-Fuller

To move the following Clause—

"Adoption pay: self-employed persons

(1) Within six months of the passage of this Act, the Secretary of State must by regulations enable statutory adoption pay to be payable to persons who are—

(a) self-employed, or

(b) contractors.

(2) For the purposes of subsection (1), the meaning of "self-employed" and "contractors" shall be set out in regulations under this section."

Member's explanatory statement

This new clause extends statutory adoption pay to the self-employed and contractors.

Steve Darling **NC17**

Munira Wilson
Sarah Gibson
Daisy Cooper
Clive Jones
Olly Glover

Jess Brown-Fuller

To move the following Clause—

"Meaning of "kinship care"

(1) This section defines "kinship care" for the purposes of sections 80EF to 80EI of the Employment Rights Act 1996 (inserted by section (*Kinship care leave*) of this Act).

(2) Kinship care describes an arrangement where a child is raised by a friend, relative or extended family member other than a parent.

(3) Subsections (4) to (9) set out the arrangements that are recognised as being types of kinship care.

(4) An arrangement where a child is adopted (within the meaning of Chapter 4 of the Adoption and Children Act 2002) by a friend, relative or extended family member ("kinship adoption").

(5) An arrangement where—
  (a) a child is looked after by a local authority (within the meaning of section 22 of the Children Act 1989), and
  (b) a friend, relative or extended family member of that child is approved by the local authority to be a foster carer for that child ("kinship foster care").

(6) An arrangement created by a special guardianship order pursuant to section 14A of the Children Act 1989 ("special guardianship").

(7) An arrangement created by a child arrangements order pursuant to section 8 of the Children Act 1989 where the court orders that a child is to live predominantly with a friend, relative or extended family member of that child ("kinship child arrangement").

(8) An arrangement where a child is fostered privately (within the meaning of section 66 of the Children Act 1989) by a friend or extended family member ("private fostering arrangement").

(9) Any other arrangement where a child is cared for, and provided with accommodation in their own home—
  (a) by a relative of the child, other than—
    (i) a parent of the child; or
    (ii) a person who is not a parent of the child but who has parental responsibility for the child; and
  (b) where the arrangement has lasted, or is intended to last, for at least 28 days ("private family arrangement")."

Member's explanatory statement

This new clause is subsequent to the new clause about kinship care leave.

Steve Darling **NC18**

Munira Wilson
Sarah Gibson
Daisy Cooper
Clive Jones
Olly Glover

Jess Brown-Fuller Liz Jarvis

To move the following Clause—

"Kinship care leave

(1) The Employment Rights Act 1996 is amended as follows.

(2) After section 80EE insert—

"CHAPTER 5

KINSHIP CARE LEAVE

80EF Kinship care leave

(1) The Secretary of State must make regulations entitling an employee to be absent from work on leave under this section if the employee satisfies conditions specified in the regulations as to an eligible kinship care arrangement with a child.

(2) The regulations must include provision for determining—
(a) the extent of an employee's entitlement to leave under this section in respect of a child;
(b) when leave under this section may be taken.

(3) Provision under subsection (2)(a) must secure that—
(a) where only one employee is entitled to leave under this section in respect of a given child, the employee is entitled to at least 52 weeks' leave;
(b) where more than one employee is entitled to leave under this section in respect of the same child, those employees are entitled to share at least 52 weeks' leave between them.

(4) An employee is entitled to leave under this section only if the eligible kinship care arrangement is intended to last—
(a) at least one year, and
(b) until the child being cared for attains the age of 18.

(5) For the purposes of this Chapter, "eligible kinship care arrangement" means—
(a) special guardianship,
(b) a kinship child arrangement,
(c) a private fostering arrangement, or
(d) a private family arrangement
within the meaning given by section [*Meaning of 'kinship care'*] of the Employment Rights Act 2024.

(6) The regulations may make provision about how leave under this section is to be taken.

(7) In this section—
(a) "special guardianship", "kinship child arrangement", "private fostering arrangement" and "private family arrangement" have the same meanings as in section [*Meaning of 'kinship care'*] of the Employment Rights Act 2024.
(b) "week" means any period of seven days.

80EG Rights during and after kinship care leave

(1) Regulations under section 80EF must provide—

(a) that an employee who is absent on leave under that section is entitled, for such purposes and to such extent as the regulations may prescribe, to the benefit of the terms and conditions of employment which would have applied but for the absence,

(b) that an employee who is absent on leave under that section is bound, for such purposes and to such extent as the regulations may prescribe, by obligations arising under those terms and conditions (except in so far as they are inconsistent with subsection (1) of that section), and

(c) that an employee who is absent on leave under that section is entitled to return from leave to a job of a kind prescribed by regulations, subject to section 80EH.

(2) The reference in subsection (1)(c) to absence on leave under section 80EF includes, where appropriate, a reference to a continuous period of absence attributable partly to leave under that section and partly to any one or more of the following—

(a) maternity leave,

(b) paternity leave,

(c) adoption leave,

(d) shared parental leave,

(e) parental leave,

(f) parental bereavement leave.

(3) In subsection (1)(a), "terms and conditions of employment"—

(a) includes matters connected with an employee's employment whether or not they arise under the contract of employment, but

(b) does not include terms and conditions about remuneration.

(4) Regulations under section 80EF may specify matters which are, or are not, to be treated as remuneration for the purposes of this section.

(5) Regulations under section 80EF may make provision, in relation to the right to return mentioned in subsection (1)(c), about—

(a) seniority, pension rights and similar rights;

(b) terms and conditions of employment on return.

80EH Special cases

(1) Regulations under section 80EF may make provision about—

(a) redundancy during or after a period of leave under that section, or

(b) dismissal (other than by reason of redundancy) during a period of leave under that section.

(2) Provision by virtue of subsection (1) may include—

(a) provision requiring an employer to offer alternative employment;

(b) provision for the consequences of failure to comply with the regulations (which may include provision for a dismissal to be treated as unfair for the purposes of Part 10).

80EI Chapter 5: supplemental

(1) Regulations under section 80EF may—

(a) make provision about notices to be given, evidence to be produced and other procedures to be followed by employees and employers;

(b) make provision requiring employers or employees to keep records;

(c) make provision for the consequences of failure to give notices, to produce evidence, to keep records or to comply with other procedural requirements;

(d) make provision for the consequences of failure to act in accordance with a notice given by virtue of paragraph (a);

(e) make special provision for cases where an employee has a right which corresponds to a right under section80EF and which arises under the person's contract of employment or otherwise;

(f) make provision modifying the effect of Chapter 2 of Part 14 (calculation of a week's pay) in relation to an employee who is or has been absent from work on leave under section 80EF;

(g) make provision applying, modifying or excluding an enactment, in such circumstances as may be specified and subject to any conditions which may be specified, in relation to a person entitled to take leave under section 80EF;

(h) make different provision for different cases or circumstances;

(i) make consequential provision.

(2) The cases or circumstances mentioned in subsection (1)(h) include—

(a) more than one child being subject to the same eligible kinship care arrangement, and

(b) a child being subject to an eligible kinship care arrangement on two or more separate occasions, and regulations may, in particular, make special provision regarding the applicability and extent of the entitlement to leave in such circumstances.

(3) The Secretary of State may by regulations make provision for some or all of a period of kinship care leave to be paid.""

Member's explanatory statement

This new clause sets out an entitlement to kinship care leave.

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.

Liz Saville Roberts **NC20**

Apsana Begum
Jon Trickett

To move the following Clause—

"Duty to prevent violence and harassment in the workplace

(1) Section 2 of the Health and Safety at Work etc. Act 1974 is amended as follows.

(2) After subsection (2)(e) insert—

"(f) the adoption of proactive and preventative measures to protect all persons working in their workplace from violence and harassment, including—

(i) gender-based violence;

(ii) sexual harassment;

(iii) psychological and emotional abuse;
(iv) physical and sexual abuse;
(v) stalking and harassment, including online harassment;
(vi) threats of violence."

(3) After subsection (3) insert—

"(3A) It shall be the duty of every employer to prepare, and as often as may be appropriate revise, an assessment to identify potential risks of violence and harassment in the workplace and implement policies and procedures to eliminate these risks so far as is reasonably practicable.

(3B) It shall be the duty of every employer to provide training to all employees on recognising and preventing violence and harassment in the workplace, with a focus on gender-responsive approaches.

(3C) In subsection (3B) a "gender-responsive approach" means taking into account the various needs, interests, and experiences of people of different gender identities, including women and girls, when designing and implementing policies and procedures.

(3D) In this section, "persons working in the workplace" includes—
(a) employees;
(b) full-time, part-time, and temporary workers; and
(c) interns and apprentices.

(3E) In subsection (2)(f) and subsections (3A) and (3B), a reference to the workplace includes remote and hybrid work environments.""

Member's explanatory statement

This new clause will amend the Health and Safety at Work etc. Act 1974 to place a duty on employers to protect all those working in their workplace from gender-based violence and harassment.

Liz Saville Roberts **NC21**

Apsana Begum
Jon Trickett

To move the following Clause—

"Expanded duties of the Health and Safety Executive

In the Health and Safety at Work etc. Act 1974, after section 11 (functions of the Executive) insert—

"11ZA Duties of the Executive: health and safety framework on violence and harassment

(1) It shall be the duty of the Executive to develop, publish and as often as may be appropriate revise a health and safety framework on violence and harassment in the workplace.

(2) This framework shall include specific provisions relating to—

(a) the prevention of gender-based violence and harassment of those in the workplace including the prevention of physical, emotional, and psychological abuse;

(b) the duty of employers to create safe and inclusive workplaces and the preventative measures they must adopt; and

(c) the use of monitoring and enforcement mechanisms to ensure compliance with the duty of the employer in relation to violence and harassment (see section 2(2)(f)).

(3) The Executive shall work with other relevant bodies, including the Equality and Human Rights Commission and law enforcement agencies, to develop and revise this framework.

11ZB Duties of the Executive: guidance for employers

The Executive shall, in consultation with such other persons as it considers to be relevant, issue guidance for employers about the protection of those facing violence and harassment on the basis of gender in the workplace by—

(a) implementing workplace policies to prevent violence and harassment;

(b) establishing confidential reporting mechanisms to allow victims to report incidents;

(c) conducting risk assessments and ensuring compliance with the health and safety framework (see section 11ZA);

(d) reporting and addressing incidents of violence and harassment; and

(e) supporting victims of violence and harassment, including making accommodations in the workplace to support such victims.””

Member's explanatory statement

This new clause will create a duty on the Health and Safety Executive to develop a health and safety framework on violence and harassment and to issue guidance for employers about the protection of those facing violence and harassment on the basis of gender in the workplace.

Jess Asato **NC22**

Apsana Begum
Sorcha Eastwood
Sarah Hall
Warinder Juss
Tonia Antoniazzi

Dr Simon Opher
Richard Burgon
Sarah Owen
Ellie Chowns

To move the following Clause—

"Duty of employer to prepare domestic abuse policy

(1) It is the duty of every employer to develop, publish and as often as may be appropriate revise a written statement of its general policy with respect to the support it provides to workers who are victims of domestic abuse.

(2) The Secretary of State must by regulations make provision for determining—

(a) the scope of a domestic abuse policy;

(b) the form and manner in which a domestic abuse policy is to be published;

(c) when and how frequently a domestic abuse policy is to be published or revised;

(d) requirements for senior approval before a domestic abuse policy is published.

(3) The regulations may make provision for a failure to comply with subsection (1)—

(a) to be an offence punishable on summary conviction—

(i) in England and Wales by a fine;

(ii) in Scotland or Northern Ireland by a fine not exceeding level 5 on the standard scale;

(b) to be enforced, otherwise than as an offence, by such means as may be prescribed.

(4) The regulations may not require an employer to revise the policy more frequently than at intervals of 24 months.

(5) For the purposes of this section, "domestic abuse" is defined in accordance with sections 1 and 2 of the Domestic Abuse Act 2021.

(6) This section does not apply to an employer who has fewer than 5 employees.

(7) Regulations under this section must be made no later than twelve months after the passage of this Act."

Member's explanatory statement

This new clause would create a duty on employers with 5 or more employees to have a policy outlining the support they provide to workers who are victims of domestic abuse.

Claire Hanna **NC23**

Richard Burgon
Apsana Begum
Jon Trickett

To move the following Clause—

“Prescribed rate of statutory maternity pay

In regulation 6 of the Statutory Maternity Pay (General) Regulations 1986, delete “is a weekly rate of £184.03” and insert "is a rate of £12.60 per hour in the UK and £13.85 per hour in London”.”

Member's explanatory statement

This new clause would increase the current rate of statutory maternity pay, bringing it in line with the “real Living Wage”.

Peter Dowd **NC25**

Paula Barker
Richard Burgon
Ian Byrne
Ellie Chowns
Neil Duncan-Jordan

Maya Ellis
Imran Hussain
Connor Naismith
Nadia Whittome
Ian Lavery
Zarah Sultana
Mary Kelly Foy
Kim Johnson
Bell Ribeiro-Addy
Apsana Begum
Clive Lewis
James Naish
Patrick Hurley
Rachael Maskell
John McDonnell
Steve Witherden
Jon Trickett

To move the following Clause—

“Working Time Council

(1) The Secretary of State must, within six months of the passage of this Act, establish a Working Time Council ("the Council") to provide advice and make recommendations to the Secretary of State on the matters specified in subsection (4).

(2) The members of the Council—
 (a) are to be appointed by the Secretary of State, and
 (b) must include representatives of—
  (i) trade unions;
  (ii) businesses;
  (iii) government departments; and
  (iv) experts on matters relating to employment.

(3) Each member of the Council must hold and vacate office in accordance with the terms and conditions of the member’s appointment.

(4) The Council must provide advice and make recommendations on how a transition could be made from a five-day working week to a four-day working week with no impact on pay, including—
 (a) how such a transition would affect employers and employees, and
 (b) how businesses, public bodies and other organisations should approach such a transition.

(5) The Secretary of State may pay such remuneration or allowances to members of the Council as the Secretary of State may determine.”

Member's explanatory statement

This new clause would require the Secretary of State to establish a Working Time Council to provide advice andrecommendations on the transition from a five-day working week to a four-day working week.

Daisy Cooper **NC27**

To move the following Clause—

“Flexible working duties: reports on compliance

(1) The Secretary of State must, once every six months, report on compliance with the duties under section 80G of the Employment Rights Act 1996 (employer’s duties in relation to application for change to working hours, etc).

(2) The first report must be published and laid before Parliament within six months of this Act being passed.

(3) Each further report must be published and laid before Parliament within six months of the last such report being published.”

Member's explanatory statement

This new clause would require the Government to report on employers’ compliance with the flexible working duties set out in this Bill.

Rebecca Long Bailey **NC28**

Jon Trickett
Apsana Begum

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.

Rebecca Long Bailey **NC29**

Jon Trickett
Apsana Begum

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.

Sir Ashley Fox **NC30**

Mr Peter Bedford
Jim Allister
Ellie Chowns
Robin Swann
Nick Timothy

☆ To move the following Clause—

“Special constables: right to time off for public duties

(1) The Employment Rights Act 1996 is amended is follows.

(2) In section 50 (Right to time off for public duties), after subsection (1) insert—

“(1A) An employer shall permit an employee who is a special constable, appointed in accordance with section 27 of the Police Act 1996, section 9 of the Police and Fire Reform (Scotland) Act 2012 or section 25 of the Railways and Transport Safety Act 2003, to take time off during the employee’s working hours for the purpose of performing their duties.

(1B) In section (1A), “duties” means any activity under the direction of a chief officer of police.””

Member's explanatory statement

This new clause gives employees who are special constables the right to time off to carry out their police duties.

Zarah Sultana **NC31**

★ 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)."

Andy McDonald **NC61**

★ To move the following Clause—

"Status of Workers

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

(2) Omit section 145F(3).

(3) Omit section 151(1B).

(4) Omit sections 295 (meaning of employee and related expressions) and 296 (meaning of worker and related expressions) and insert—

"295 Meaning of worker and related expressions

(1) In this Act—

(a) "worker" and "employee" both mean an individual who—

(i) seeks to be engaged by another to provide labour,

(ii) is engaged by another to provide labour, or

(iii) where the employment has ceased, was engaged by another to provide labour, and is not, in the provision of that labour, operating a business on the employee or worker's own account;

(b) an "employer" in relation to a worker or employee is—

(i) every person or entity who engages or engaged the worker or employee, and

(ii) every person or entity who substantially determines terms on which the worker or employee is engaged at any material time;

(c) "employed" and "employment mean engaged as an "employee" or as a "worker" under subsection (1)(a);

(d) "contract of employment" means a contract or employment relationship, however described, whereby an individual undertakes to do or perform any labour, work or services for another party to the contract or employment relationship whose status is not by virtue of the contract or employment relationship that of a client or customer of any profession or business undertaking carried on by the individual, and any reference to

the contract or employment relationship of an employee or a worker shall be construed accordingly;

(e) The ascertainment of the existence of a contract of employment or employment relationship shall be guided primarily by the facts relating to the performance of work, irrespective of how the contract or employment relationship is designated in any contractual or other arrangement by one or more of the parties involved;

(f) In ascertaining the existence of a contract of employment or employment relationship, all relevant facts may be taken into consideration but the following facts, if found, may be considered indicative of the existence of a contract of employment and the presence of any such fact shall raise the rebuttable presumption that the arrangement is a contract of employment—

(i) the use, by a person other than the putative worker, of automated monitoring systems or automated decision-making systems in the organisation of work;

(ii) the work is carried out according to the instructions and under the control of another entity;

(iii) the work involves the integration of the worker in the organisation of another entity;

(iv) the work is performed solely or mainly for the benefit of another entity;

(v) the work is to be done, or is in fact done, predominantly by the worker personally;

(vi) the work involves the provision of tools, materials and equipment by an entity other than the worker;

(vii) the worker is to a significant extent subordinated to and economically dependent on the entity for which the work is done;

(viii) the determination of the worker’s rate of remuneration and other significant terms and conditions is wholly or mainly that of an entity other than the worker and, in any event, significantly outweighs the power of the worker to determine his or her rate of remuneration and other significant terms and conditions;

(ix) the worker’s remuneration and other terms and conditions are not determined by collective bargaining;

(x) the financial risks of the entity for which the work is done are not to any significant extent those of the worker beyond his or her interest in securing further remunerated work;

(xi) the worker has no significant capital investment in the entity for which the work is done beyond the provision of tools and equipment necessary for the worker to perform the work;

(xii) the remuneration for the work done constitutes the worker's sole or one of their principal sources of income;

(xiii) part of the remuneration is in kind, such as food, lodging or transport.

(2) It is for a person who is claimed to be the employer and contests that claim to demonstrate in any legal proceedings that—

(a) they are not the employer, or

(b) the person providing the work is not an employee or a worker.

(3) Subsections (1) and (2) apply to all employment of a government department, except for members of the armed forces.

(4) A person undertaking the work of a foster carer shall be treated as a ‘worker’ for the purposes of this Act.

(5) An entitlement on the part of a person to substitute the labour of another for his or her own labour shall be ignored in determining whether he or she is a worker or employee.

(6) Where a worker or employee provides labour through a personal service company the employer is the third party for whom the labour is performed.

(7) A “personal service company” means a company—

(a) in which the worker or employee is a director, or a substantial shareholding is held by the worker or employee, by themself or by or with a member of the family of the worker or employee, or by or with a third party for whom the labour is or was performed, or a nominee or nominees of such a third party; and

(b) which has contracted with the worker or employee to provide their labour to a third party or parties nominated by the company; and

(c) in relation to which the terms and conditions on which the worker or employee is or was engaged to perform the labour are or were substantially determined by any third party for whom the labour is or was to be performed, by itself or jointly with another person or entity; and

(d) in which the status of any third party for whom the labour is or was to be performed is not in practice that of a client or customer of the profession or business undertaking carried on by the worker or employee.

(8) An employer that employs, or proposes to engage, an individual to carry out work must not represent to the individual that the contract under which the individual is, or would be, engaged by the employer is a contract for services under which the individual performs, or would perform, work as an independent contractor if that is not the case.

(9) Subsection (8) does not apply if the employer demonstrates that, when the representation was made, the employer reasonably believed that the contract was a contract for services.

(10) In determining, for the purpose of subsection (9), whether the employer's belief was reasonable, regard must be had to all relevant circumstances including the size and nature of the employer's enterprise.

(11) The Secretary of State may by regulations designate as “workers” other persons engaged in work, and designate as “employers” other entities engaged in the provision of work, after consultation with organisations which appear to the Secretary of State to represent such persons and entities and any such regulations must be made by statutory instrument,

(12) A statutory instrument containing regulations under sub-paragraph (11) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.(12) This section has effect subject to sections 68(4), 116B(10) and 235.””

Andy McDonald **NC62**

★ To move the following Clause—

“Procedure for handling dismissal and re-engagement

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

(2) After Chapter I (collective bargaining), insert—

“CHAPTER 1A

PROCEDURE FOR HANDLING DISMISSAL AND RE-ENGAGEMENT

187A Duty of employer to consult representatives

(1) This section applies to an employer where, in an undertaking or establishment with 50 or more employees, in the light of recent events or information and the economic situation affecting the employer, there is a threat to continued employment within the undertaking, and one or both of the following matters apply—

(a) decisions may have to be taken to terminate the contracts of or more employees for reasons other than conduct or capability, or

(b) anticipatory measures are envisaged which are likely to lead to substantial changes in work organisation or in contractual relations affecting or more employees.

(2) The employer shall consult with a view to reaching an agreement to avoid decisions being taken to terminate contracts of employment, or to introduce changes in work organisation or in contractual relations.

(3) The consultations under subsection (2) shall take place with all the persons who are appropriate representatives of any of the employees who are or may be affected by those matters that apply.

(4) The consultation shall begin as soon as is reasonably practicable and in good time for any agreement to be reached so as to avoid decisions being taken to terminate contracts of employment or introduce changes in work organisation or in contractual relations.

(5) The employer shall allow the appropriate representatives access to the affected employees and shall afford to those representatives such accommodation and other facilities as may be appropriate.

(6) In this section, "appropriate representatives" has the same meaning as in section 188(1B) (and the requirements for the election of employee representatives in section 188A apply).

(7) If there are special circumstances which render it not reasonably practicable for the employer to comply with a requirement of this section, the employer shall take all such steps towards compliance with that requirement as are reasonably practicable in those circumstances.

(8) Where the threat to continued employment emanates from a person controlling the employer (directly or indirectly), or a decision leading to the termination of the contract of an employee for reasons other than conduct or capability or a decision leading to substantial changes in work organisation or in contractual relations is that of a person controlling the employer (directly or indirectly), a failure on the part of that person to provide information to the employer shall not constitute special circumstances rendering it not reasonably practicable for the employer to comply with such a requirement.

187B Duty of employers to disclose information

(1) An employer to which section 187A applies shall, for the purposes of the consultation provided for in section 187A, disclose to the appropriate representatives, on request, the information required by this section.

(2) The information to be disclosed is all information relating to the employer's undertaking (including information relating to use of agency workers in that undertaking) which is in the employer's possession, or that of an associated employer, and is information—

(a) without which the appropriate representatives would be to a material extent impeded in carrying on consultation with the employer, and

(b) which it would be in accordance with good industrial relations practice that the employer should disclose for the purposes of the consultation.

(3) A request by appropriate representatives for information under this section shall, if the employer so requests, be in writing or be confirmed in writing.

(4) In determining what would be in accordance with good industrial relations practice, regard shall be had to the relevant provisions of any Code of Practice issued by ACAS, but not so as to exclude any other evidence of what that practice is.

(5) Information which an employer is required by virtue of this section to disclose to appropriate representatives shall, if they so request, be disclosed or confirmed in writing.

(6) The employer is not required to disclose any information or document to a person for the purposes of this section where the nature of the information or document is such that, according to objective criteria, the disclosure of the information or document would seriously harm the functioning of, or would be prejudicial to, the undertaking.

(7) If there is a dispute between the employer and an employee or an appropriate representative as to whether the nature of the information or document which the employer has failed to provide is such as is described in subsection (6), the employer, employee or appropriate representative may apply to the Central Arbitration Committee for a declaration as to whether the information or document is of such a nature.

(8) If the Committee makes a declaration that the disclosure of the information or document in question would not, according to objective criteria, be seriously harmful or prejudicial as mentioned in subsection (5) the Committee shall order the employer to disclose the information or document.

(9) An order under subsection (8) shall specify—

(a) the information or document to be disclosed;

(b) the person or persons to whom the information or document is to be disclosed;

(c) any terms on which the information or document is to be disclosed; and

(d) the date before which the information or document is to be disclosed.

187C Complaint to Central Arbitration Committee

(1) An appropriate representative may present a complaint to the Central Arbitration Committee that an employer has failed to comply with a requirement of section 187A or section 187B. The complaint must be in writing and in such form as the Committee may require.

(2) If on receipt of a complaint the Committee is of the opinion that it is reasonably likely to be settled by conciliation, it shall refer the complaint to ACAS and shall notify the appropriate representative and employer accordingly, whereupon ACAS shall seek to promote a settlement of the matter. If a complaint so referred is not settled or withdrawn and ACAS is of the opinion that further attempts at conciliation are unlikely to result in a settlement, it shall inform the Committee of its opinion.

(3) If the complaint is not referred to ACAS or, if it is so referred, on ACAS informing the Committee of its opinion that further attempts at conciliation are unlikely to result in a settlement, the Committee shall proceed to hear and determine the complaint and shall make a

declaration stating whether it finds the complaint well-founded, wholly or in part, and stating the reasons for its findings.

(4) On the hearing of a complaint any person who the Committee considers has an interest in the complaint may be heard by the Committee, but a failure to accord a hearing to a person other than the appropriate representative and employer directly concerned does not affect the validity of any decision of the Committee in those proceedings.

(5) If the Committee finds the complaint wholly or partly well-founded, the declaration shall specify—

(a) each failure in respect of which the Committee finds that the complaint is well-founded

(b) the steps that should be taken by the employer to rectify each such failure, and

(c) a period or periods (not being less than one week from the date of the declaration) within which the employer ought to take those steps.

(6) On a hearing of a complaint under this section a certificate signed by or on behalf of a Minister of the Crown and certifying that particular information could not be provided except by disclosing information the disclosure of which would have been against the interests of national security shall be conclusive evidence of that fact. A document which purports to be such a certificate shall be taken to be such a certificate unless the contrary is proved.

187D Application for injunction pending rectification of failure

(1) This section applies if a declaration of the Central Arbitration Committee under section 187C finds a complaint wholly or partly well-founded.

(2) An appropriate representative may apply to the Court for an injunction to subsist until the employer can satisfy the Committee that the steps under section 187C(5)(b) have been completed within the specified period or periods under section 187C(5)(c)—

(a) to compel the employer to take those steps within the period or periods, or

(b) to render void any dismissal or changes in work organisation or in contractual relations.

187E Complaint to employment tribunal

(1) This section applies where an employer—

(a) offers or proposes to offer re-engagement on different terms to an employee—

(i) it has dismissed or proposes to dismiss for reasons other than conduct or capability, or

(ii) in relation to whom it has made or proposes to make substantial changes in work organisation or in contractual relations; or

(b) has failed to comply with any of the obligations set out in sections 187A or 187B.

(2) Any affected employee or their appropriate representative may make a complaint to the employment tribunal.

(3) If the tribunal finds the complaint well-founded it shall make a declaration to that effect.

187F Award of compensation

(1) An employee, or the appropriate representative of an employee, whose complaint under section 187E has been declared to be well-founded may make an application to an employment tribunal for an award of compensation to be paid by the employer.

(2) The amount of compensation awarded shall, subject to the following provisions, be such as the employment tribunal considers just and equitable in all the circumstances having regard any loss sustained by the complainant which is attributable to the dismissal or substantial changes in work organisation or in contractual relations to which the complaint related.

187G Duty of employer to notify Secretary of State in certain circumstances

(1) This section applies to an employer to which section 187A applies in relation to 50 or more employees at one establishment or undertaking.

(2) The employer shall notify the Secretary of State, in writing, of the matters under section 187A(1) that apply and any related proposals not later than the end of whichever is the longer of—

(a) 45 days, or

(b) the notice period necessary to terminate lawfully the employment of all those employees who may be affected by any such matter before any decision to put into effect that matter is reached.

(3) A notice under this section shall—

(a) be given to the Secretary of State by delivery or by sending it by post, at such address as the Secretary of State may direct in relation to the establishment where employees who may be affected are employed,

(b) where there are representatives to be consulted under section 187A(2), identify them and state the date when consultation with them under that section began or will begin, and

(c) be in such form and contain such particulars, in addition to those required by paragraph (b), as the Secretary of State may direct.

(4) After receiving a notice under this section from an employer the Secretary of State may by written notice require the employer to give them such further information as may be specified in the notice.

(5) Where there are representatives to be consulted under section 187A(2) the employer shall give to each of them a copy of any notice given under subsection (3). The copy shall be delivered to them or sent by post to an address notified by them to the employer, or (in the case of representatives of a trade union) sent by post to the union at the address of its head or main office.

(6) If in any case there are special circumstances rendering it not reasonably practicable for the employer to comply with any of the requirements of subsections (1) to (5), the employer shall take all such steps towards compliance with that requirement as are reasonably practicable in the circumstances. Where the decision regarding the matters is that of a person controlling the employer (directly or indirectly), a failure on the part of that person to provide information to the employer shall not constitute special circumstances rendering it not reasonably practicable for the employer to comply with any of those requirements.

187H Failure to notify

(1) An employer who fails to give notice to the Secretary of State in accordance with section 187G commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Proceedings in England or Wales for such an offence shall be instituted only by or with the consent of the Secretary of State or by an officer authorised for that purpose by special or general directions of the Secretary of State. An officer so authorised may prosecute or conduct proceedings for such an offence before a magistrates' court.

(3) Where an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, that person as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(4) Where the affairs of a body corporate are managed by its members, subsection (3) applies in relation to the acts and defaults of a member in connection with their functions of management as if they were a director of the body corporate."

Andy McDonald **NC63**

★ To move the following Clause—

"Protection of contracts of employment

(1) The Employment Rights Act 1996 is amended as follows.

(2) After Part IIA (zero hours workers) insert—

"PART 2AA

PROTECTION OF CONTRACTS OF EMPLOYMENT

27BA

(1) Any variation to an employment contract is void if it—

(a) was obtained under the threat of dismissal, and

(b) is less favourable to the employee than the pre-existing provision, unless the employer has complied with all its obligations under, and arising from, sections 187A to 187G of the Trade Union and Labour Relations (Consolidation) Act 1992 in relation to any person employed under the contract.

(2) In subsection (1)(b), the definition of "less favourable" shall be determined by the perception of a reasonable employee in the position of the affected employee.

27BB Unilateral variation of employment contracts

(1) Any provision in an agreement (whether an employment contract or not) is void in so far as it purports to permit the employer to vary unilaterally one or more terms within an employment contract where the variation is less favourable to the employee that the pre-existing provision.

(2) In subsection (1), the definition of "less favourable" shall be determined by the perception of a reasonable employee in the position of the affected employee.

(3) In Chapter I (right not to be unfairly dismissed), after section 104G insert—

(3) In Chapter I (right not to be unfairly dismissed), after section 104G insert—

"104H Refusal of variation of contractual terms

(1) In relation to an employee who claims to have been unfairly dismissed in circumstances in which the reason (or, if more than one, the principal reason) for the dismissal is that the employee has refused to agree to a variation of contractual terms—

(a) section 98(1)(b) shall not apply save that it shall be for the employer to show that the reason for the dismissal fell within section 98(2);

(b) section 108(1) shall not apply.

104I Matters for consultation under section 187C of the Trade Union and Labour Relations (Consolidation) Act 1992

(2) An employee who is dismissed shall be regarded for the purposes of this Part as unfairly dismissed if—

(a) the Central Arbitration Committee has made a declaration under section 187C of the Trade Union and Labour Relations (Consolidation) Act 1992 in respect of the employer and employee, and the employer has not complied with the steps in that declaration, or

(b) the employer has failed, in respect of the employee, to comply with a provision of a collective agreement applicable to a matter for consultation under section 187A of the Trade Union and Labour Relations (Consolidation) Act 1992."

(4) In section 116 (unfair dismissal: choice of order and its terms), after subsection (3) insert—

"(3A) If an employee has been unfairly dismissed and the reason (or, if more than one, the principal reason) the dismissal is unfair is one specified under section 104H or 104I, the tribunal may only find that it is not practicable for—

(a) the employer to comply with an order for reinstatement under subsection (1)(b), or

(b) the employer (or a successor or an associated employer) to comply with an order for re-engagement if the employer (or if appropriate a successor or an associated employer) would be likely to become insolvent within three months if such an order was made."

(5) In section 128(1)(a)(i) (interim relief pending determination of complaint), for "or 103A" substitute "103A, 104H or 104I".

(6) In section 129(1)(a)(i) (procedure on hearing of application and making of order), for "or 103A" substitute "103A, 104H or 104I"."

Andy McDonald **NC64**

★ 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.""

Andy McDonald **NC65**

★ 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."

Andy McDonald **NC66**

★ 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)."

Andy McDonald **NC67**

★ 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."

Andy McDonald **NC68**

★ 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."

Andy McDonald **NC69**

★ 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."

Andy McDonald **NC70**

★ 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.”

Steve Darling **NC71**

Daisy Cooper

★ To move the following Clause—

"Review of Statutory Sick Pay costs

(1) Within three months of the passage of this Act, the Secretary of State must consult on how the Government can best support small employers with Statutory Sick Pay costs.

(2) The consultation under subsection (1) must consider the economic effects of increasing Statutory Sick Pay for small employers with 250 employees or less, including the effects on—

(a) productivity;

(b) long-term illness;

(c) benefit spending; and

(d) economic growth & tax revenue.

(3) Following a consultation under subsection (2), within twelve months of commencing the consultation, the Secretary of State must report to Parliament on actions taken to implement the findings of the report of the consultation."

Member's explanatory statement

This new clause would require the Government to consult on how best to support small employers with statutory sick pay costs while taking into account the wider economic effects of increasing it.

Alex Sobel **NC72**

★ To move the following Clause—

"Duty on employers to investigate protected disclosures

(1) Part 4A of the Employment Rights Act 1996 (protected disclosures) is amended in accordance with subsections (2) to (4).

(2) In section 43C (Disclosure to employer or other responsible person), after subsection (2) insert—

"(3) Employers must take reasonable steps to investigate any disclosure made to them under this section.

(4) Employers with—

(a) 50 or more employees;

(b) an annual business turnover or annual balance sheet total of £10 million or more;

(c) operations in financial services; or

(d) vulnerabilities in other respects to money laundering or terrorist financing,

must establish internal channels and procedures for reporting and managing qualifying disclosures.

(5) The calculation of the number of employees under subsection (4)(a) includes employees of all franchises, subsidiaries and associated employers as defined under section 231 of this Act.

(6) The Secretary of State must, within six months of the commencement of this provision, set out in statutory guidance what "reasonable steps" under subsection (3) should include."

(3) In section 48 (Complaints to employment tribunals), after subsection (1B), insert—

"(1C) A worker may present a complaint to an employment tribunal that the worker's employer has failed to comply with the duty in section 43C (Duty to investigate protected disclosures)."

(4) In section 49 (Remedies), after subsection (1A), insert—

"(1B) Where an employment tribunal is satisfied that an employer has contravened the duty set out in section 43C (duty to investigate), the tribunal—

(a) shall make a declaration to that effect, and

(b) may make an award of compensation to be paid by the employer to the complainant in respect of the failure and may increase any award payable to the complainant by no more than 25%.""

Member's explanatory statement

This new clause would create a duty on employers to investigate whistleblowing concerns, to establish internal channels for reporting and managing whistleblower disclosures, and enable tribunal claims with respect to contravention of those duties.

Secretary Jonathan Reynolds **Gov 8**

★ Clause 1, page 3, line 5, leave out "section 27BW for power to make provision about" and insert "Part 1 of Schedule A1 for provision about guaranteed hours and"

Member's explanatory statement

This amendment is consequential on NC32 and NS1.

Secretary Jonathan Reynolds **Gov 9**

★ Clause 1, page 3, line 30, at end insert—

"(7A) If, during a reference period—

(a) a worker was employed by an employer under one or more worker's contracts of the type described in subsection (3)(a)(i) and one or more worker's contracts of the type described in subsection (3)(a)(ii), and

(b) the hours that the worker worked under the worker's contract, or the worker's contracts, that are of the type described in subsection (3)(a)(ii) did not exceed the minimum number of hours,

the worker's contract, or the worker's contracts, that are of the type described in subsection (3)(a)(ii) are to be disregarded in the application of this Chapter (other than this subsection) in relation to the worker and the reference period

(and accordingly that worker's contract, or those worker's contracts, are to be treated as not existing)."

Member's explanatory statement

This amendment deals with the possibility of a worker being employed by an employer during a reference period under a zero hours contract or zero hours arrangement and under another type of contract where the requirement on the employer to make work available is limited to a number of hours not exceeding a number specified in regulations.

Andy McDonald **264**

★ Clause 1, page 3, line 39, at end insert—

"(11) In this section an agency worker is a qualifying worker"

Secretary Jonathan Reynolds **Gov 10**

★ Clause 1, page 4, line 8, leave out "make work available to the qualifying worker" and insert "provide the qualifying worker with work, and the qualifying worker to do work,"

Member's explanatory statement

This amendment confirms that the number of hours in a guaranteed hours offer are hours that the employer will be required to provide and the qualifying worker will be required to work.

Secretary Jonathan Reynolds **Gov 11**

★ Clause 1, page 4, line 18, leave out from "the" to "or" in line 20 and insert "offered number of hours are to be provided and worked,"

Member's explanatory statement

This amendment is consequential on amendment 10.

Secretary Jonathan Reynolds **Gov 12**

★ Clause 1, page 4, line 22, leave out from "the" to "and" in line 24 and insert "offered number of hours are to be provided and worked,"

Member's explanatory statement

This amendment is consequential on amendment 10.

Secretary Jonathan Reynolds **Gov 13**

★ Clause 1, page 4, line 27, at end insert—

"(3A) Where no regulations are in force under subsection (2) that apply in relation to an offer by an employer to a qualifying worker, the offer is a guaranteed hours offer for the purposes of this Chapter only if it also proposes terms and conditions relating to when the offered number of hours are to be provided and worked (which need not be on particular days of the week, or at particular times on those days, or by reference to a particular working pattern of days or times of day)."

Member's explanatory statement

This amendment caters for the scenario where there are no regulations in force under proposed section 27BB(2) of the Employment Rights Act 1996 or none that apply to the offer in question. In this scenario, a guaranteed hours offer will still have to propose terms and conditions relating to when the worker will work the guaranteed hours even though it will not have to set out particular days and times, or a particular working pattern.

Secretary Jonathan Reynolds **Gov 14**

★ Clause 1, page 4, line 32, leave out ", whether an" and insert "that apply in relation to an offer, whether the"

Member's explanatory statement

This amendment makes a minor drafting change because regulations under proposed section 27BB(2) of the Employment Rights Act 1996 may make provision subject to exceptions (see proposed section 27BX of that Act inserted by clause 4).

Secretary Jonathan Reynolds **Gov 15**

★ Clause 1, page 4, line 42, at end insert ", and

(c) the qualifying worker did not work for the employer under any other worker's contract during the period beginning with the first day of the relevant reference period and ending with the day the offer is made."

Member's explanatory statement

This amendment adds a further condition that must be satisfied if a guaranteed hours offer is to take the form of an offer to vary a worker's terms and conditions of employment as opposed to an offer to enter into a new worker's contract.

Andy McDonald **265**

★ Clause 1, page 5, line 4, leave out from "event" to the end of line 7

Secretary Jonathan Reynolds **Gov 16**

★ Clause 1, page 5, line 10, after "(2)" insert "or subsections (1) and (3A)"

Member's explanatory statement

This amendment is consequential on amendment 13.

Andy McDonald **268**

★ Clause 1, page 5, line 11, leave out lines 11 to 12

Andy McDonald **266**

★ Clause 1, page 5, line 14, leave out from "contract" to line 15 ", and"

Secretary Jonathan Reynolds **Gov 17**

★ Clause 1, page 5, line 17, after "(2)" insert "or subsections (1) and (3A)"

Member's explanatory statement

This amendment is consequential on amendment 13.

Andy McDonald **267**

★ Clause 1, page 5, line 25, leave out subsection (8)

Secretary Jonathan Reynolds **Gov 18**

★ Clause 1, page 6, line 27, after "(2)" insert "or section 27BB(1) and (3A)"

Member's explanatory statement

This amendment is consequential on amendment 13.

Andy McDonald **269**

★ Clause 1, page 11, line 24, at end insert—

"(c) the length of the response period which shall not be less than one week."

Secretary Jonathan Reynolds **Gov 19**

★ Clause 1, page 11, line 26, at end insert—

"( ) Where—

(a) an employer is permitted by section 27BUD(3) to withdraw a guaranteed hours offer (withdrawal of offer following incorporation of terms of collective agreement), and

(b) the employer withdraws the offer by giving notice under that section,

subsection (1) of this section ceases to apply in relation to the offer when the notice is given."

Member's explanatory statement

This amendment clarifies that where an offer is withdrawn as a result of the duty to make the offer being excluded by terms of a collective agreement that are incorporated into a worker's contract the worker cannot accept the offer.

Secretary Jonathan Reynolds **Gov 20**

★ Clause 1, page 12, line 39, leave out from beginning to end of line 2 on page 13 and insert—

"(i) where regulations are in force under subsection (2) of section 27BB that apply in relation to the offer, subsections (1) and (3) of that section (read with any regulations in force under subsection (4)(a) or (b) of that section), or

(ii) where no regulations are in force under subsection (2) of section 27BB that apply in relation to the offer, subsections (1) and (3A) of that section (read with any regulations in force under subsection (4)(a) of that section)."

Member's explanatory statement

This amendment is consequential on amendment 13. It also makes a minor drafting change (see the explanatory statement for amendment 14).

Secretary Jonathan Reynolds **Gov 21**

★ Clause 1, page 13, line 13, at end insert—

"(3A) A worker may present a complaint to an employment tribunal that—

(a) the duty imposed by section 27BA(1) applies to the worker's employer in relation to the worker and a particular reference period, but

(b) the guaranteed hours offer that the employer has made to the worker in relation to that reference period is on terms requiring the employer to provide, and the worker to do, less work than would have been the case if the employer had not, during that reference period—

(i) limited (by whatever means, including termination of a worker's contract or an arrangement) the number of hours of work made available to the worker, or

(ii) decided to make work available to the worker in the way that the employer did,

for the sole or main purpose of being able to comply with the duty by making such a reduced offer.

(3B) A worker may present a complaint to an employment tribunal that the duty imposed by section 27BA(1) would have applied to the worker's employer in relation to the worker and a particular reference period if the employer had not, during that reference period—

(a) limited (by whatever means, including termination of a worker's contract or an arrangement) the number of hours of work made available to the worker, or

(b) decided to make work available to the worker in the way that the employer did,

for the sole or main purpose of preventing the worker from satisfying, in relation to that reference period, one or more of the conditions in section 27BA(3)(b) to (d)."

Member's explanatory statement

This amendment adds additional grounds of complaint to the ones listed in proposed section 27BG of the Employment Rights Act 1996 to cater for cases where an employer has sought to manipulate or avoid their obligations to make a guaranteed hours offer.

Secretary Jonathan Reynolds **Gov 22**

★ Clause 1, page 13, line 14, leave out "or (3)" and insert ", (3) or (3A)"

Member's explanatory statement

This amendment is consequential on amendment 21.

Secretary Jonathan Reynolds **Gov 23**

★ Clause 1, page 13, line 17, leave out from "is" to end of line 19 and insert "—

(i) treated as having been withdrawn by virtue of section 27BD(2) or regulations under section 27BD(6), or

(ii) withdrawn in accordance with section 27BUD(3) (withdrawal of offer following incorporation of terms of collective agreement)."

Member's explanatory statement

This amendment is consequential on NC33.

Secretary Jonathan Reynolds **Gov 24**

★ Clause 1, page 14, line 6, after "27BG(3)" insert "or (3A)"

Member's explanatory statement

This amendment is consequential on amendment 21. It has the effect of providing for a six month time limit (from the making of the guaranteed hours offer) to apply in relation to complaints under the subsection (3A) inserted by that amendment.

Secretary Jonathan Reynolds **Gov 25**

★ Clause 1, page 14, line 8, at end insert—

"(3A) An employment tribunal must not consider a complaint under section 27BG(3B) unless it is presented before the end of the period of six months beginning with the day after what would have been the last day of the offer period (as defined in section 27BG(7)) if the duty imposed by section 27BA(1) had applied."

Member's explanatory statement

This amendment is consequential on amendment 21.

Secretary Jonathan Reynolds **Gov 26**

★ Clause 1, page 15, line 8, leave out from "is" to end of line 10 and insert "—

(a) where the complaint is under section 27BG(1), (2), (3), (5) or (6), such number of weeks' pay as the Secretary of State may specify in regulations;

(b) where the complaint is under section 27BG(3A) or (3B), such amount as the Secretary of State may specify in regulations."

Member's explanatory statement

This amendment is consequential on amendment 21.

Secretary Jonathan Reynolds **Gov 27**

★ Clause 2, page 15, line 39, at end insert—

"and the shift is to be worked under the contract referred to in paragraph (a) or (b)."

Member's explanatory statement

This amendment clarifies that a shift of which reasonable notice must be given under proposed new section 27BJ(1) of the Employment Rights Act 1996 is one that is to be worked under a contract referred to in that provision.

Secretary Jonathan Reynolds **Gov 28**

★ Clause 2, page 16, leave out lines 9 to 12 and insert—

"(c) the shift is to be worked under that contract but no part of it corresponds to the time of a shift provided for by the contract as described in paragraph (b)."

Member's explanatory statement

Proposed new section 27BJ(2) of the Employment Rights Act 1996 is about employers giving reasonable notice of shifts to workers who have contracts of a specified description that guarantee some work and provide when some or all of that work will be done. This amendment limits the notice requirement to shifts that are to happen at times that do not overlap with the times provided for by the contract. But see also amendment 29.

Secretary Jonathan Reynolds **Gov 29**

★ Clause 2, page 16, line 30, at end insert—

"(5A) Where—

(a) the conditions in subsection (2)(a) and (b) are met in relation to a worker and a worker's contract,

(b) the worker is to work (or is working) a shift under that contract all or part of which corresponds to the time of a shift (a "guaranteed shift") provided for by the contract as described in subsection (2)(b),

(c) the employer requests or requires the worker to start earlier, or end later, than is provided for by the contract (as described in subsection (2)(b)) in relation to the guaranteed shift, and

(d) the earlier start or later end is to result in an additional number of hours being worked above the number of hours to be worked in the guaranteed shift,

the additional hours are to be treated for the purposes of this Chapter as a separate shift (and accordingly as one that meets the condition in subsection (2)(c))."

Member's explanatory statement

This amendment will produce the result that workers who have contracts of a specified description that guarantee some work and provide when some or all of that work will be done will be entitled to reasonable notice of extensions of their guaranteed shifts.

Secretary Jonathan Reynolds **Gov 30**

★ Clause 2, page 17, line 35, leave out from "see" to end of line 36 and insert "Part 2 of Schedule A1 for provision about rights of agency workers to reasonable notice in relation to shifts)."

Member's explanatory statement

This amendment is consequential on NC32 and NS1.

Secretary Jonathan Reynolds **Gov 31**

★ Clause 2, page 17, line 37, leave out ", or a longer shift,"

Member's explanatory statement

This amendment is consequential on amendments 29 and 33.

Secretary Jonathan Reynolds **Gov 32**

★ Clause 2, page 17, line 41, leave out from "applies" to end of line 42 and insert "(even though the conditions in section 27BK(1) have not been met)."

Member's explanatory statement

This amendment clarifies the effect of proposed section 27BL(2) of the Employment Rights Act 1996.

Secretary Jonathan Reynolds **Gov 33**

★ Clause 2, page 17, line 42, at end insert—

"(2A) Section 27BJ(5A) applies for the purposes of subsection (2) of this section as if section 27BJ(5A)(c) referred to what the worker suggests rather than what the employer requests or requires."

Member's explanatory statement

This amendment is consequential on amendment 29.

Secretary Jonathan Reynolds **Gov 34**

★ Clause 2, page 18, line 2, after "request" insert "(a "multi-worker request")"

Member's explanatory statement

This amendment is consequential on amendment 35.

Secretary Jonathan Reynolds **Gov 35**

★ Clause 2, page 18, line 5, at end insert—

"(3A) For the purposes of section 27BK, where an employer has made a multi-worker request to a worker in relation to a shift, references to the cancellation of the shift include the worker not being needed to work the shift because one or more others have agreed to work it."

Member's explanatory statement

This amendment clarifies how the provision in proposed section 27BK of the Employment Rights Act 1996 about cancellation of a shift is to operate where the request to work the shift was made to more workers than were needed to work it.

Secretary Jonathan Reynolds **Gov 36**

★ Clause 2, page 18, leave out lines 6 to 17

Member's explanatory statement

This amendment removes proposed section 27BL(4) of the Employment Rights Act 1996 from the Bill. This provision is no longer considered necessary; where appropriate, a request will in any event be treated as a request to work a new shift.

Secretary Jonathan Reynolds **Gov 37**

★ Clause 3, page 20, leave out lines 28 to 40 and insert—

"(3) A shift is also a "qualifying shift", in relation to a worker and an employer, if—

(a) it would be (or would have been) worked, or is being worked, by the worker for the employer under a worker's contract of a specified description,

(b) the contract provides on what days and at what times, or in accordance with what pattern of days and times, that work, or some of that work, is to be done by the worker, and

(c) no part of the shift corresponds to the time of a shift provided for by the contract as described in paragraph (b).

(4) Where—

(a) the conditions in subsection (3)(a) and (b) are met in relation to a shift,

(b) all or part of the shift corresponds to the time of a shift (a "guaranteed shift") provided for by the contract as described in subsection (3)(b),

(c) the employer requests or requires, or the worker suggests, that the worker starts earlier, or ends later, than is provided for by the contract (as described in subsection (3)(b)) in relation to the guaranteed shift, and

(d) the earlier start or later end is to result in an additional number of hours being worked above the number of hours to be worked in the guaranteed shift,

the additional hours are to be treated for the purposes of this Chapter as a separate shift (and accordingly as a "qualifying shift")."

Member's explanatory statement

This amendment is the equivalent for clause 3 of amendments 28, 29 and 33 to clause 2.

Secretary Jonathan Reynolds **Gov 38**

★ Clause 3, page 21, leave out lines 41 to 44 and insert—

"(10) In this Chapter, references to a request to work a shift made by an employer to a worker include a request (a "multi-worker request") made by the employer

to the worker and one or more others in circumstances where the employer does not need the shift to be worked by all of those to whom the request is made."

Member's explanatory statement

This amendment is partly consequential on amendments 39 and 41. It is also being made for reasons of consistency with the equivalent provision in clause 2.

Secretary Jonathan Reynolds **Gov 39**

★ Clause 3, page 21, line 44, at end insert—

"(11) For the purposes of this Chapter, where an employer has made a multi-worker request to a worker in relation to a shift, references to the cancellation of the shift (however expressed) include the worker not being needed to work the shift because one or more others have agreed to work it."

Member's explanatory statement

This amendment clarifies how the provision in proposed section 27BP of the Employment Rights Act 1996 about cancellation of a shift is to operate where the request to work the shift was made to more workers than were needed to work it.

Secretary Jonathan Reynolds **Gov 40**

★ Clause 3, page 23, line 7, leave out from "see" to end of line 8 and insert "Part 3 of Schedule A1 for provision about rights of agency workers to payment for cancelled, moved and curtailed shifts);"

Member's explanatory statement

This amendment is consequential on NC32 and NS1.

Secretary Jonathan Reynolds **Gov 41**

★ Clause 3, page 23, line 8, at end insert—

"(aa) in relation to the cancellation, movement or curtailment of a shift that an employer has requested a worker to work, unless the worker reasonably believed, whether on agreeing to work the shift or at some later time before the cancellation, movement or curtailment, that they would be needed to work the shift;"

Member's explanatory statement

This amendment produces the result that, in cases within proposed section 27BP(1)(b) of the Employment Rights Act 1996, a worker will not be entitled to a payment for a short notice cancellation, movement or curtailment of a shift unless at some point prior to that they reasonably believed they would be needed to work the shift.

Secretary Jonathan Reynolds **Gov 42**

★ Clause 3, page 23, line 14, leave out from "regulations" to "the" in line 15 and insert "has produced the effect that the employer is not required to make"

Member's explanatory statement

This amendment makes a drafting change to proposed section 27BR(2)(a) of the Employment Rights Act 1996 for reasons of consistency.

Secretary Jonathan Reynolds **Gov 43**

★ Clause 3, page 23, leave out lines 19 and 20 and insert—

"(a) any information the disclosure of which by the employer would contravene the data protection legislation (but in determining whether a disclosure would do so, the duty imposed by that subsection is to be taken into account);"

Member's explanatory statement

This amendment has the effect that personal data may be included in a notice given by an employer under proposed section 27BR(2) of the Employment Rights Act 1996 but only in so far as the disclosure of the information would not contravene data protection legislation.

Secretary Jonathan Reynolds **Gov 44**

★ Clause 3, page 23, line 24, at end insert—

"(3A) In subsection (3)(a) "the data protection legislation" has the same meaning as in the Data Protection Act 2018 (see section 3(9) of that Act)."

Member's explanatory statement

This amendment is consequential on amendment 43.

Secretary Jonathan Reynolds **Gov 45**

★ Clause 3, page 25, line 2, leave out "is inadequate or untrue" and insert "—

(i) does not refer to any provision of the regulations;

(ii) does not contain an explanation or contains an explanation that is inadequate or untrue."

Member's explanatory statement

This amendment sets out what a worker can present a complaint about in relation to a notice under proposed section 27BR(2) of the Employment Rights Act 1996.

Secretary Jonathan Reynolds **Gov 46**

★ Clause 3, page 25, leave out lines 25 to 29

Member's explanatory statement

This amendment removes proposed section 27BT(7) of the Employment Rights Act 1996 from the Bill. This provision is no longer considered necessary and, depending on how the power in proposed section 27BR(1)(b) was exercised, it might not have produced an appropriate outcome in some cases.

Secretary Jonathan Reynolds **Gov 47**

★ Clause 4, page 26, line 17, leave out from first "the" to end of line 19 and insert "meaning given by section 27BUA;"

Member's explanatory statement

This amendment is consequential on NC32.

Secretary Jonathan Reynolds **Gov 48**

★ Clause 4, page 27, leave out lines 9 to 14

Member's explanatory statement

See the explanatory statement for NC32.

Secretary Jonathan Reynolds **Gov 49**

★ Clause 4, page 27, line 22, after "3" insert "and (*Agency workers: guaranteed hours and rights relating to shifts*)"

Member's explanatory statement

This amendment is consequential on NC32.

Secretary Jonathan Reynolds **Gov 50**

★ Clause 4, page 27, line 22, after "3" insert "and (*Collective agreements: contracting out*)"

Member's explanatory statement

This amendment is consequential on NC33.

Secretary Jonathan Reynolds **Gov 79**

★ Clause 7, page 29, line 12, at end insert—

"(7) In section 202 of the Employment Rights Act 1996 (national security), in subsection (2), after paragraph (e) insert—

"(eza) Part 8A,"."

Member's explanatory statement

Clause 7 of the Bill amends Part 8A of the Employment Rights Act 1996 to require an employer who refuses an employee's application for flexible working to explain why the employer considers it is reasonable to refuse the application. This amendment would enable the disclosure of information under Part 8A to be restricted where it would be contrary to the interests of national security.

Imran Hussain **7**

Ms Diane Abbott
Apsana Begum
Richard Burgon
Dawn Butler
Ian Byrne

Mary Kelly Foy
Kim Johnson
Ian Lavery
Brian Leishman
Clive Lewis
John McDonnell
Andy McDonald
Grahame Morris
Kate Osborne
Bell Ribeiro-Addy
Zarah Sultana
Jon Trickett
Nadia Whittome
Steve Witherden
Neil Duncan-Jordan
Siân Berry
Claire Hanna
Carla Denyer

Clause 9, page 29, leave out from line 34 to line 3 on page 30 and insert—

"(1) The weekly rate of statutory sick pay that an employer must pay to an employee is the higher of—

(a) the National Living Wage; or

(b) the prescribed percentage of the employee's normal weekly earnings.

(1A) For the purposes of subsection (1)(a), the "National Living Wage" is defined in accordance with regulation 4 of the National Minimum Wage Regulations 2015."

Member's explanatory statement

This amendment brings the rate of Statutory Sick Pay into line with the National Living Wage.

Secretary Jonathan Reynolds **Gov 80**

★ Clause 9, page 30, line 1, leave out "£116.75" and insert "£118.75"

Member's explanatory statement

Clause 9 in its current form amends section 157(1) of the Social Security Contributions and Benefits Act 1992 so that the weekly rate of statutory sick pay in Great Britain would be the lower of £116.75 and a percentage of an employee's normal earnings to be set out in regulations. This amendment,

together with the Minister’s other amendments to clause 9, would mean that the weekly rate of statutory sick pay in Great Britain would be the lower of £118.75 and 80% of an employee’s weekly earnings. The change from £116.75 to £118.75 is to account for annual uprating that is expected to come into effect on 6 April 2025.

Secretary Jonathan Reynolds **Gov 81**

★ Clause 9, page 30, line 2, leave out “the prescribed percentage” and insert “80%”

Member's explanatory statement

See the explanatory statement for Amendment 80.

Secretary Jonathan Reynolds **Gov 82**

★ Clause 9, page 30, line 4, leave out paragraph (b)

Member's explanatory statement

See the explanatory statement for Amendment 80.

Secretary Jonathan Reynolds **Gov 83**

★ Clause 11, page 30, line 34, leave out “£116.75” and insert “£118.75”

Member's explanatory statement

Clause 11 in its current form amends section 153(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 so that the weekly rate of statutory sick pay in Northern Ireland would be the lower of £116.75 and a percentage of an employee’s normal earnings to be set out in regulations. This amendment, together with the Minister’s other amendments to clause 11, would mean that the weekly rate of statutory sick pay in Northern Ireland would be the lower of £118.75 and 80% of an employee’s weekly earnings. The change from £116.75 to £118.75 is to account for annual uprating that is expected to come into effect on 6 April 2025.

Secretary Jonathan Reynolds **Gov 84**

★ Clause 11, page 30, line 35, leave out “the prescribed percentage” and insert “80%”

Member's explanatory statement

See the explanatory statement for Amendment 83.

Secretary Jonathan Reynolds **Gov 85**

★ Clause 11, page 30, line 37, leave out paragraph (b)

Member's explanatory statement

See the explanatory statement for Amendment 83.

Sarah Owen **1**

Alex Brewer
Rachel Taylor
Rosie Duffield
Carla Denyer
Liz Saville Roberts

Rachel Gilmour
Robin Swann
Andy McDonald
Neil Duncan-Jordan
Henry Tufnell
Ben Lake
Lee Anderson
Paula Barker
John McDonnell
Zarah Sultana
Irene Campbell
Will Stone
Dr Marie Tidball
Lillian Jones
Wendy Chamberlain
Naz Shah
Kirsteen Sullivan
David Burton-Sampson
Catherine Fookes
Jess Asato
Anna Dixon
Jim Shannon
Helen Hayes
Brian Mathew
Chris Law
Jayne Kirkham
Sarah Hall
Sorcha Eastwood
Chris Webb
Charlotte Nichols
Tony Vaughan
Llinos Medi
Chris Hinchliff
Abtisam Mohamed
Iqbal Mohamed
Jon Trickett
Ellie Chowns
Mr James Frith
Shockat Adam
Susan Murray
Steve Witherden
Daisy Cooper
Nadia Whittome
Christine Jardine
Alice Macdonald
Bell Ribeiro-Addy
Natalie Fleet
Mr Toby Perkins
Cat Eccles
Mrs Sharon Hodgson
Richard Burgon
Adam Dance
Rachael Maskell
Mrs Elsie Blundell
Paul Davies
Kate Osborne
Anna Sabine
Ann Davies
Kim Johnson
Olivia Blake
Tahir Ali
Lorraine Beavers
Siân Berry
Ms Stella Creasy
Adrian Ramsay
Liz Jarvis
Wera Hobhouse
Alison Hume
Kirith Entwistle
Samantha Niblett
Claire Hanna
Mary Kelly Foy
James Naish
Ian Byrne
Andy MacNae
Dawn Butler
Apsana Begum
Dr Simon Opher

Clause 16, page 33, line 8, at end insert—

“( ) after subsection (2) insert—

“(2A) The conditions specified under subsection (2) must be framed so as to ensure that a “bereaved person” includes those bereaved by pregnancy loss.

(2B) In subsection (2A) “pregnancy loss” includes—

(a) a pregnancy that that ends as a result of—

(i) a miscarriage;

(ii) an ectopic pregnancy;

(iii) a molar pregnancy;

(iv) a medical termination conducted in accordance with section 1 of the Abortion Act 1967;

(b) an unsuccessful attempt at in vitro fertilisation due to embryo transfer loss.””

Member's explanatory statement

This amendment requires that any regulations made under section 80EA of the Employment Rights Act 1996 (as amended by the Bill) must include conditions framed by reference to those bereaved by pregnancy loss.

Sarah Owen **2**

Alex Brewer
Rachel Taylor
Rosie Duffield
Carla Denyer
Liz Saville Roberts

Rachel Gilmour
Robin Swann
Andy McDonald
Neil Duncan-Jordan
Henry Tufnell
Ben Lake
Lee Anderson
Paula Barker
John McDonnell
Zarah Sultana
Irene Campbell
Will Stone
Dr Marie Tidball
Lillian Jones
Wendy Chamberlain
Naz Shah
Kirsteen Sullivan
David Burton-Sampson
Catherine Fookes
Jess Asato
Anna Dixon
Jim Shannon
Helen Hayes
Brian Mathew
Chris Law
Jayne Kirkham
Sarah Hall
Sorcha Eastwood
Chris Webb
Charlotte Nichols
Tony Vaughan
Llinos Medi
Chris Hinchliff
Abtisam Mohamed
Iqbal Mohamed
Jon Trickett
Ellie Chowns
Mr James Frith
Shockat Adam
Susan Murray
Steve Witherden
Daisy Cooper
Nadia Whittome
Christine Jardine
Alice Macdonald
Bell Ribeiro-Addy
Natalie Fleet
Mr Toby Perkins
Cat Eccles
Mrs Sharon Hodgson
Richard Burgon
Adam Dance
Rachael Maskell
Mrs Elsie Blundell
Paul Davies
Kate Osborne
Anna Sabine
Ann Davies
Kim Johnson
Olivia Blake
Tahir Ali
Lorraine Beavers
Siân Berry
Ms Stella Creasy
Adrian Ramsay
Liz Jarvis
Wera Hobhouse
Alison Hume
Kirith Entwistle
Samantha Niblett
Claire Hanna
Mary Kelly Foy
James Naish
Ian Byrne
Andy MacNae
Dawn Butler
Apsana Begum
Dr Simon Opher

Clause 16, page 33, line 11, at end insert—

"( ) in subsection (5), after "child" insert "or as a result of pregnancy loss.""

Member's explanatory statement

This amendment amends section 80EA(5) of the Employment Rights Act 1996 to ensure that the two week leave period is made available to those bereaved as a result of pregnancy loss.

Sarah Owen **3**

Alex Brewer
Rachel Taylor
Rosie Duffield
Carla Denyer
Liz Saville Roberts

Rachel Gilmour
Robin Swann
Andy McDonald
Neil Duncan-Jordan
Henry Tufnell
Ben Lake
Lee Anderson
Paula Barker
John McDonnell
Zarah Sultana
Irene Campbell
Will Stone
Dr Marie Tidball
Lillian Jones
Wendy Chamberlain
Naz Shah
Kirsteen Sullivan
David Burton-Sampson
Catherine Fookes
Jess Asato
Anna Dixon
Jim Shannon
Helen Hayes
Brian Mathew
Chris Law
Jayne Kirkham
Sarah Hall
Sorcha Eastwood
Chris Webb
Charlotte Nichols
Tony Vaughan
Llinos Medi
Chris Hinchliff
Abtisam Mohamed
Iqbal Mohamed
Jon Trickett
Ellie Chowns
Mr James Frith
Shockat Adam
Susan Murray
Steve Witherden
Daisy Cooper
Nadia Whittome
Christine Jardine
Alice Macdonald
Bell Ribeiro-Addy
Natalie Fleet
Mr Toby Perkins
Cat Eccles
Mrs Sharon Hodgson
Richard Burgon
Adam Dance
Rachael Maskell
Mrs Elsie Blundell
Paul Davies
Kate Osborne
Anna Sabine
Ann Davies
Kim Johnson
Olivia Blake
Tahir Ali
Lorraine Beavers
Siân Berry
Ms Stella Creasy
Adrian Ramsay
Liz Jarvis
Wera Hobhouse
Alison Hume
Kirith Entwistle
Samantha Niblett
Claire Hanna
Mary Kelly Foy
James Naish
Ian Byrne
Andy MacNae
Dawn Butler
Apsana Begum
Dr Simon Opher

Clause 16, page 34, line 8, at end insert—

“( ) In section 171ZZ6 of the Social Security Contributions and Benefits Act 1992 (entitlement to statutory pregnancy loss pay), after subsection (3) insert—

“(3A) The conditions specified under subsection (2) must be framed so as to ensure that a “bereaved parent” includes those bereaved by pregnancy loss.

(3B) In subsection (3A) “pregnancy loss” includes—

(a) a pregnancy that that ends as a result of—

(i) a miscarriage;

(ii) an ectopic pregnancy;

(iii) a molar pregnancy;

(iv) a medical termination conducted in accordance with section 1 of the Abortion Act 1967;

(b) an unsuccessful attempt at in vitro fertilisation due to embryo transfer loss.””

Member's explanatory statement

This amendment amends the Social Security Contributions and Benefits Act 1992 to ensure that the entitlement to statutory pregnancy loss pay extends to those bereaved by pregnancy loss.

Secretary Jonathan Reynolds **Gov 86**

★ Clause 22, page 36, line 15, at end insert—

"( ) Part 5B of the Employment Rights Act 1996 (redundancy during a protected period of pregnancy) is amended as follows."

Member's explanatory statement

This amendment is consequential on amendment 87.

Secretary Jonathan Reynolds **Gov 87**

★ Clause 22, page 36, line 24, at end insert—

"( ) After section 49D insert—

"49E Section 49D: supplemental

Regulations under section 49D may—

(a) make provision about notices to be given, evidence to be produced and other procedures to be followed by employees and employers;

(b) make provision for the consequences of failure to give notices, to produce evidence or to comply with other procedural requirements;

(c) make provision for the consequences of failure to act in accordance with a notice given by virtue of paragraph (a);

(d) make special provision for cases where an employee has a right which corresponds to a right under section 49D and which arises under a contract of employment or otherwise;

(e) make provision modifying the effect of Chapter 2 of Part 14 (calculation of a week's pay) in relation to an employee who is or has been absent from work during, or after, a protected period of pregnancy;

(f) make provision applying, modifying or excluding an enactment, in such circumstances as may be specified and subject to any conditions specified, in relation to a person during, or after, a protected period of pregnancy;

(g) make different provision for different cases or circumstances.""

Member's explanatory statement

Section 49D of the Employment Rights Act 1996, as amended by clause 22, enables the Secretary of State to make regulations about redundancy or dismissal during, or after, a protected period of pregnancy. This amendment would enable the regulations to make supplementary provision in

connection with that, such as procedures to be followed by employers and the consequences of failing to follow those procedures. These powers mirror supplementary powers conferred by Part 8 of the 1996 Act in relation to types of family leave such as maternity and paternity leave.

Secretary Jonathan Reynolds **Gov 88**

★ Clause 22, page 36, line 25, leave out from beginning to "after" and insert "In the heading of Part 5B,"

Member's explanatory statement

This amendment is consequential on amendment 87.

Secretary Jonathan Reynolds **Gov 89**

★ Clause 24, page 37, line 29, leave out "substantially the same duties" and insert "the same duties, or substantially the same duties,"

Member's explanatory statement

This amendment makes a minor drafting change.

Secretary Jonathan Reynolds **Gov 90**

★ Clause 25, page 39, line 8, leave out paragraphs (a) and (b) and insert—

"(a) before subsection (1) insert—

"(A1) Subsection (1) applies where an employer is proposing to dismiss as redundant within a period of 90 days or less—

(a) at least the threshold number of employees (see section 195A), or

(b) 20 or more employees at one establishment.";

(b) in subsection (1), for the words from "Where" to "the employer" substitute "The employer";

(c) in subsection (1A), for "(1)" substitute "(A1)";

(d) after subsection (2) insert—

"(2A) This section does not require the employer to—

(a) consult all of the appropriate representatives together, or

(b) undertake the consultation with a view to reaching the same agreement with all of the appropriate representatives.";

(e) in subsection (4)—

(i) in paragraph (c), at the beginning insert "where the employees whom it is proposed to dismiss as redundant are at only one establishment,";

(ii) after paragraph (c) insert—

"(ca) where the employees whom it is proposed to dismiss as redundant are at more than one establishment—

(i) the total number of employees of any such description employed by the employer, and

(ii) details of the establishments at which those employees are employed,"."

Member's explanatory statement

This amendment and other amendments to this clause would mean that the Secretary of State can by regulations, in a case where employees are being made redundant at more than one establishment, prescribe a higher number than 20 of those employees for the purposes of determining when the obligations in sections 188 and 193 of the Trade Union and Labour Relations (Consolidation) Act 1992 apply in relation to those employees. The number may be determined by reference to criteria set out in the regulations (for example, by reference to a particular percentage of total employees). This amendment also clarifies that, although consultation under section 188 must be carried out with all appropriate representatives, it need not be carried out with all appropriate representatives together or with a view to reaching the same agreement with all appropriate representatives.

Secretary Jonathan Reynolds **Gov 91**

★ Clause 25, page 39, line 12, leave out paragraphs (a) and (b) and insert—

"(a) omit subsection (1);

(b) before subsection (2) insert—

"(1A) Subsection (2) applies where an employer is proposing to dismiss as redundant within a period of 90 days or less—

(a) at least the threshold number of employees (see section 195A), or

(b) 20 or more employees at one establishment.";

(ba) in subsection (2)—

(i) for the words from "An employer" to "period" substitute "The employer";

(ii) omit paragraphs (a) and (b);

(bb) after subsection (2) insert—

"(2A) The notice must be given—

(a) before the employer gives notice to terminate an employee's contract of employment in respect of any of the dismissals;

(b) at least 30 days before the first of the dismissals takes effect, or, where the employer is proposing to dismiss 100 or more employees as mentioned in subsection (1A), at least 45 days before the first of the dismissals takes effect.";

(bc) in subsection (3), for "(1) or (2)" substitute "(1A)";"

Member's explanatory statement

See the explanatory statement for amendment 90.

Secretary Jonathan Reynolds **Gov 92**

★ Clause 25, page 39, line 15, at end insert—

"(d) in subsection (6), omit "(1) or";

(e) in subsection (7), for "(1)" substitute "(2)"."

Member's explanatory statement

See the explanatory statement for amendment 90.

Secretary Jonathan Reynolds **Gov 94**

★ Clause 25, page 39, line 15, at end insert—

"( ) In section 193A (redundancies of ships' crew)—

(a) in subsection (1)(a), omit "193(1) or";

(b) in subsection (2), for "section 193(1) or (2)" substitute "section 193(2)"."

Member's explanatory statement

See the explanatory statement for amendment 90.

Secretary Jonathan Reynolds **Gov 93**

★ Clause 25, page 39, line 15, at end insert—

"( ) After section 195 insert—

"195A Construction of references to threshold number of employees

(1) In this Chapter references to the threshold number of employees are references to the number of employees determined in accordance with regulations made by the Secretary of State under this section.

(2) Regulations under this section may (among other things) provide that the number is—

(a) a specified number;

(b) a number determined by reference to a specified percentage of employees;

(c) a number that is the highest or lowest of two or more numbers, whether those numbers are specified numbers, determined by reference to a specified percentage of employees, or determined in another way specified in the regulations.

(3) But the regulations may not provide in any case for the threshold number of employees to be lower than 20.

(4) For the purposes of determining a number by reference to a specified percentage of employees, the regulations may make provision for determining how many employees an employer has, including (among other things)—
   (a) provision about the time by reference to which that determination is to be made;
   (b) provision excluding employees of a specified description from being taken into account in that determination.

(5) Regulations under this section may make different provision for different purposes, including (among other things)—
   (a) different provision in respect of different provisions of this Chapter;
   (b) different provision in respect of different descriptions of employer.

(6) Regulations under this section may contain such incidental, supplementary or transitional provision as appears to the Secretary of State to be necessary or expedient.

(7) Regulations under this section are to be made by statutory instrument.

(8) A statutory instrument containing regulations under this section (whether alone or with other provision) may not be made unless a draft of the instrument is laid before and approved by a resolution of each House of Parliament.

(9) In this section "specified" means specified in the regulations.""

Member's explanatory statement

See the explanatory statement for amendment 90.

Secretary Jonathan Reynolds **Gov 95**

★ Clause 25, page 39, line 17, leave out paragraphs (a) and (b) and insert—

"(a) in paragraph (a), for "188(2) and 193(1)" substitute "188(1A) and 193(2A)(b)";
(b) in the words after paragraph (b), for "188(2) and 193(1)" substitute "188(1A) and 193(2A)(b)"."

Member's explanatory statement

See the explanatory statement for amendment 90.

Secretary Jonathan Reynolds **Gov 96**

★ Clause 25, page 39, line 21, leave out paragraphs (a) and (b) and insert—

"(a) in subsection (1)(b), for the words from "20 or more employees" to "or less," substitute "within a period of 90 days or less—

(i) at least the threshold number of employees (see section 195A), or

(ii) 20 or more employees at one establishment,";

(b) in subsection (4)(a)—

(i) for "and as if" substitute "and, where relevant, as if";

(ii) for "(1)(b)" substitute "(1)(b)(ii)"."

Member's explanatory statement

See the explanatory statement for amendment 90.

Secretary Jonathan Reynolds **Gov 97**

★ Clause 26, page 40, line 1, leave out "after "or (2)"" and insert "before "to the competent authority""

Member's explanatory statement

This amendment is consequential on amendment 94.

Steve Darling **4**

Sarah Gibson
Daisy Cooper
Clive Jones
Munira Wilson
Jess Brown-Fuller

Clause 28, page 47, line 3, at end insert—

"(c) supporting employees who provide or arrange care for a dependant with a long-term care need, as defined by the Carer's Leave Act 2023."

Secretary Jonathan Reynolds **Gov 98**

★ Clause 31, page 48, line 32, leave out subsection (1) and insert—

"(1) Where the appropriate authority provides for there to be a Negotiating Body under section (*Power to establish Social Care Negotiating Body*), the authority may by regulations make further provision about the Negotiating Body."

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 99**

★ Clause 31, page 49, line 16, leave out "Secretary of State" and insert "appropriate authority"

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 100**

★ Clause 31, page 49, line 19, leave out "Secretary of State" and insert "appropriate authority"

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 101**

★ Clause 32, page 49, line 39, leave out third "the" and insert "a"

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 102**

★ Clause 32, page 49, line 41, before first "social" insert "relevant"

Member's explanatory statement

This amendment is consequential on amendment 108.

Secretary Jonathan Reynolds **Gov 103**

★ Clause 32, page 49, line 41, before second "social" insert "relevant"

Member's explanatory statement

This amendment is consequential on amendment 108.

Secretary Jonathan Reynolds **Gov 104**

★ Clause 32, page 50, line 1, before "social" insert "relevant"

Member's explanatory statement

This amendment is consequential on amendment 108.

Secretary Jonathan Reynolds **Gov 105**

★ Clause 32, page 50, line 2, before “social” insert “relevant”

Member's explanatory statement

This amendment is consequential on amendment 108.

Secretary Jonathan Reynolds **Gov 106**

★ Clause 32, page 50, line 3, before “social” insert “relevant”

Member's explanatory statement

This amendment is consequential on amendment 108.

Secretary Jonathan Reynolds **Gov 107**

★ Clause 32, page 50, line 4, before “social” insert “relevant”

Member's explanatory statement

This amendment is consequential on amendment 108.

Secretary Jonathan Reynolds **Gov 108**

★ Clause 32, page 50, line 5, after “(1)” insert “—

“relevant social care worker”, in relation to a Negotiating Body, means a social care worker employed in, or in connection with, the provision of social care in the area for which the Negotiating Body is established;”

Member's explanatory statement

This amendment is consequential on NC37. It ensures that the matters within each Negotiating Body’s remit must relate to social care workers employed in, or in connection with, the provision of social care in England, Wales or Scotland as applicable.

Secretary Jonathan Reynolds **Gov 109**

★ Clause 32, page 50, line 6, leave out “Secretary of State” and insert “appropriate authority”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 110**

★ Clause 33, page 50, line 8, leave out from “means” to end of line 10 and insert “—

(a) in relation to England, a person who is employed wholly or mainly in, or in connection with, the provision of social care to individuals aged 18 or over;

(b) in relation to Wales or Scotland, a person who is employed wholly or mainly in, or in connection with, the provision of social care to any individual.”

Member's explanatory statement

The effect of this amendment is that a Negotiating Body established for Wales or Scotland may consider matters relating to people working in adult or children’s social care.

Secretary Jonathan Reynolds **Gov 111**

★ Clause 33, page 50, line 11, leave out “adult”

Member's explanatory statement

This amendment is consequential on amendment 110.

Secretary Jonathan Reynolds **Gov 112**

★ Clause 33, page 50, line 13, leave out “aged 18 or over”

Member's explanatory statement

This amendment is consequential on amendment 110.

Secretary Jonathan Reynolds **Gov 113**

★ Clause 33, page 50, line 16, leave out from “assistance,” to end of line 20

Member's explanatory statement

This amendment is consequential on amendment 110.

Secretary Jonathan Reynolds **Gov 114**

★ Clause 34, page 50, line 23, leave out “Secretary of State” and insert “appropriate authority”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 115**

★ Clause 34, page 50, line 24, leave out “the” and insert “a”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 116**

★ Clause 34, page 50, line 30, leave out “Secretary of State” and insert “appropriate authority”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 117**

★ Clause 34, page 50, line 31, leave out “Secretary of State” and insert “appropriate authority”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 118**

★ Clause 34, page 50, line 34, leave out “Secretary of State” and insert “appropriate authority”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 119**

★ Clause 34, page 51, line 4, leave out “Secretary of State” and insert “appropriate authority”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 120**

★ Clause 34, page 51, line 6, leave out “Secretary of State” and insert “appropriate authority”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 121**

★ Clause 35, page 51, line 9, leave out “Secretary of State” and insert “appropriate authority”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 122**

★ Clause 35, page 51, line 9, leave out “the” and insert “a”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 123**

★ Clause 35, page 51, line 10, leave out “Secretary of State, the Secretary of State” and insert “appropriate authority, the authority”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 124**

★ Clause 35, page 51, line 13, leave out “Secretary of State” and insert “appropriate authority”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 125**

★ Clause 35, page 51, line 14, leave out “the” and insert “a”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 126**

★ Clause 35, page 51, line 19, leave out “Secretary of State” and insert “appropriate authority”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 127**

★ Clause 35, page 51, line 22, leave out “Secretary of State” and insert “appropriate authority”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 128**

★ Clause 35, page 51, line 32, leave out “Secretary of State” and insert “appropriate authority”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 129**

★ Clause 35, page 51, line 34, leave out “Secretary of State” and insert “appropriate authority”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 130**

★ Clause 36, page 51, line 37, leave out “Secretary of State” and insert “appropriate authority”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 131**

★ Clause 36, page 51, line 38, leave out “the” and insert “a”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 132**

★ Clause 36, page 52, line 2, leave out “Secretary of State” and insert “appropriate authority”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 133**

★ Clause 36, page 52, line 5, leave out “Secretary of State” and insert “appropriate authority”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 134**

★ Clause 37, page 52, line 9, leave out first “the” and insert “a”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 135**

★ Clause 37, page 52, line 10, leave out “Secretary of State” and insert “appropriate authority”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 136**

★ Clause 37, page 52, line 11, leave out “Secretary of State” and insert “appropriate authority”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 137**

★ Clause 38, page 52, line 15, leave out “Secretary of State” and insert “appropriate authority”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 138**

★ Clause 38, page 52, line 16, leave out “the” and insert “a”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 139**

★ Clause 38, page 52, line 17, after second “the” insert “social care”

Member's explanatory statement

This amendment makes a minor drafting change.

Secretary Jonathan Reynolds **Gov 140**

★ Clause 38, page 52, line 20, after “the” insert “social care”

Member's explanatory statement

This amendment makes a minor drafting change.

Secretary Jonathan Reynolds **Gov 141**

★ Clause 39, page 52, line 27, leave out first “the” and insert “a”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 142**

★ Clause 39, page 52, line 27, leave out “Secretary of State” and insert “appropriate authority”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 143**

★ Clause 39, page 52, line 31, leave out “Secretary of State” and insert “appropriate authority”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 144**

★ Clause 39, page 52, line 32, leave out “Secretary of State” and insert “appropriate authority”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 145**

★ Clause 39, page 53, line 3, after second “the” insert “social care”

Member's explanatory statement

This amendment makes a minor drafting change.

Secretary Jonathan Reynolds **Gov 146**

★ Clause 39, page 53, line 6, after “the” insert “social care”

Member's explanatory statement

This amendment makes a minor drafting change.

Secretary Jonathan Reynolds **Gov 147**

★ Clause 40, page 53, line 12, leave out “Secretary of State” and insert “appropriate authority”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 148**

★ Clause 40, page 53, line 13, leave out “Secretary of State” and insert “authority”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 149**

★ Clause 40, page 53, line 14, leave out “the” and insert “a”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 150**

★ Clause 40, page 53, line 16, after “made” insert “by the authority”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 151**

★ Clause 41, page 54, line 6, at end insert—

"(2A) Regulations under this section that provide for any of those provisions of that Act to apply in relation to such records may provide for section 49 of that Act (restrictions on contracting out) to apply, with or without modifications, in relation to the application of those provisions by the regulations."

Member's explanatory statement

Clause 41 enables the Secretary of State to make regulations requiring employers to keep records for the purposes of Chapter 2 of Part 3. The regulations may also provide for provisions of the National Minimum Wage Act 1998 relating to the keeping of records, for example section 10, which confers a right to access records, to apply in relation to records kept for the purposes of Chapter 2. The amendment would enable section 49 of that Act also to be applied by the regulations. Section 49 operates to prevent an agreement from seeking to limit or exclude the operation of the 1998 Act or prevent a person from bringing proceedings under that Act in an employment tribunal. Any provision of a social care worker's contract that sought to prevent the worker from, say, accessing records kept by virtue of clause 41 would therefore be void.

Secretary Jonathan Reynolds **Gov 152**

★ Page 54, line 8, leave out Clause 42

Member's explanatory statement

See the explanatory statement for amendment 250.

Secretary Jonathan Reynolds **Gov 153**

★ Clause 43, page 55, line 4, leave out from "submitted" to "or" in line 5 and insert "by a Negotiating Body to the appropriate authority,"

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 154**

★ Clause 45, page 55, line 18, leave out first "the" and insert "a"

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 155**

★ Clause 45, page 55, line 18, leave out second "the" and insert "a"

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 156**

★ Clause 45, page 55, line 23, leave out “the” and insert “a”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 157**

★ Clause 46, page 55, line 25, at end insert—

> ““the appropriate authority” has the meaning given by section (*Power to establish Social Care Negotiating Body*)(5);”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 158**

★ Clause 46, page 55, line 32, at end insert—

> ““enactment” means—
> (a) an Act of Parliament,
> (b) a Measure or Act of the National Assembly for Wales or an Act of Senedd Cymru, or
> (c) an Act of the Scottish Parliament;”

Member's explanatory statement

This amendment is consequential on NC37. It would enable, for example, regulations made by the Scottish Ministers setting up a Negotiating Body to make consequential amendments of Acts of the Scottish Parliament.

Secretary Jonathan Reynolds **Gov 159**

★ Clause 46, page 55, leave out line 33 and insert—

> ““Negotiating Body” has the meaning given by section (*Power to establish Social Care Negotiating Body*)(5);”

Member's explanatory statement

This amendment is consequential on NC37.

Secretary Jonathan Reynolds **Gov 160**

★ Clause 46, page 56, line 1, after ““agency worker”” insert “, “relevant social care worker””

Member's explanatory statement

This amendment is consequential on amendment 108.

Secretary Jonathan Reynolds **Gov 161**

★ Clause 46, page 56, line 12, leave out subsections (2) to (4)

Member's explanatory statement

This amendment is consequential on NC38.

Andy McDonald **270**

★ Page 61, line 14 leave out Clause 50

Member's explanatory statement

New clause 70 is intended to replace Clause 50.

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.

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).

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.

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.

Secretary Jonathan Reynolds **Gov 166**

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

"(5A) 166A 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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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).

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.

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.

Andy McDonald **271**

★ 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.

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.

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.

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.

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.

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.

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.

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).

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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).

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

Peter Dowd **6**

Paula Barker
Richard Burgon
Ian Byrne
Ellie Chowns
Neil Duncan-Jordan

Maya Ellis
Imran Hussain
Connor Naismith
Mary Kelly Foy
Kim Johnson
Bell Ribeiro-Addy
Patrick Hurley
Rachael Maskell
Jon Trickett

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

"(aa) section [*Working Time Council*];"

Member's explanatory statement

This amendment is consequential on NC25.

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.

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.

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.

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.

Secretary Jonathan Reynolds **Gov NS1**

★ To move the following Schedule—

“SCHEDULE

AGENCY WORKERS: GUARANTEED HOURS AND RIGHTS RELATING TO SHIFTS

Before Schedule 1 to the Employment Rights Act 1996 insert—

“SCHEDULE A1 Section 27BUA

AGENCY WORKERS: GUARANTEED HOURS AND RIGHTS RELATING TO SHIFTS

PART 1

RIGHT TO GUARANTEED HOURS

Right for qualifying agency workers to be offered guaranteed hours

1 (1) A hirer must make a guaranteed hours offer to an agency worker in accordance with paragraph 2 after the end of every period—

(a) that is a reference period in relation to that agency worker and that hirer, and

(b) in relation to which the agency worker is a qualifying agency worker of the hirer.

(2) Paragraph 4 makes provision for exceptions to this duty, including in certain cases where the agency worker stops working for and under the supervision and direction of the hirer.

(3) An agency worker is a qualifying agency worker of a hirer in relation to a reference period if—

(a) during the reference period the agency worker worked for and under the supervision and direction of the hirer for a number of hours (the “reference period hours”),

(b) the reference period hours satisfy such conditions as to number, regularity or otherwise as are specified, and

(c) when the agency worker worked the reference period hours, it was not as an excluded agency worker.

(4) In relation to an agency worker and a hirer for and under the supervision and direction of whom the agency worker works, each of the following is a “reference period”—

(a) the initial reference period, and

(b) each subsequent reference period.

(5) “The initial reference period”, in relation to an agency worker and a hirer for and under the supervision and direction of whom the agency worker works, means the period—

(a) beginning with—

(i) where the agency worker is working for and under the supervision and direction of the hirer on the day on which sub-paragraph (1) comes into force (“the commencement day”), the commencement day, or

(ii) where the agency worker is not so working, the first day after the commencement day on which the agency worker is working for and under the supervision and direction of the hirer, and

(b) ending with the specified day.

(6) A “subsequent reference period”, in relation to an agency worker and a hirer for and under the supervision and direction of whom the agency worker works, means a period beginning and ending with the specified days.

(7) For the purposes of this Part of this Schedule—

(a) references to a “hirer” are to a person for and under the supervision and direction of whom agency workers are supplied to work;

(b) references to a “qualifying agency worker” are to an agency worker who is a qualifying agency worker of a hirer in relation to a reference period by virtue of sub-paragraph (3), and

(c) the reference period in relation to which the agency worker is a qualifying agency worker of the hirer is referred to as “the relevant reference period”.

(8) Nothing in this Part of this Schedule prevents a hirer from making one or more other offers to a qualifying agency worker to enter into a worker’s contract, at the same time as making a guaranteed hours offer.

(9) Regulations made under sub-paragraph (3)(b), (5) or (6) may, in particular, include provision to take account of time when an agency worker does not work for a specified reason.

(10) In this paragraph, “excluded agency worker” means an agency worker who is of a specified description.

Requirements relating to a guaranteed hours offer

2 (1) An offer by a hirer to a qualifying agency worker is a guaranteed hours offer for the purposes of this Part of this Schedule if it is an offer to enter into a worker’s contract and the worker’s contract will require the hirer to provide the qualifying agency worker with work, and the qualifying agency worker to do work, for a number of hours that reflects the reference period hours in the relevant reference period.

(2) The Secretary of State may by regulations provide that an offer by a hirer to a qualifying agency worker is a guaranteed hours offer for the purposes of this Part of this Schedule only if it also satisfies the condition in sub-paragraph (3).

(3) The condition referred to in sub-paragraph (2) is that—

(a) the offer sets out—

(i) the days of the week, and the times on those days, when the offered number of hours are to be provided and worked, or

(ii) a working pattern of days, and times of day, by reference to which the offered number of hours are to be provided and worked, and

(b) those days and times reflect, or that pattern reflects, when the qualifying agency worker worked the reference period hours in the relevant reference period.

(4) Where no regulations are in force under sub-paragraph (2) that apply in relation to an offer by a hirer to a qualifying agency worker, the offer is a guaranteed hours offer for the purposes of this Part of this Schedule only if it also proposes terms and conditions relating to when the offered number of hours are to be provided and worked (which need not be on particular days of the week, or at particular times on those days, or by reference to a particular working pattern of days or times of day).

(5) The Secretary of State may by regulations make provision about how it is to be determined—

(a) whether an offer reflects the number of hours worked by a qualifying agency worker during a reference period;

(b) where regulations are in force under sub-paragraph (2) that apply in relation to an offer, whether the offer reflects when hours were worked by a qualifying agency worker during a reference period.

(6) A guaranteed hours offer—

(a) must not propose a worker's contract that is a limited-term contract unless it is reasonable for it to be entered into as such a contract, and

(b) must (in addition to what is required by or under sub-paragraphs (1) and (2) or sub-paragraphs (1) and (4)) propose terms and conditions of employment—

(i) that, taken as a whole, are no less favourable than the terms and conditions relating to matters other than working hours and length of employment under which the qualifying agency worker worked for and under the supervision and direction of the hirer during the relevant reference period, or

(ii) where paragraph 3 applies, that comply with sub-paragraph (2) of that paragraph.

(7) For the purposes of sub-paragraph (6)(a) it is reasonable for a worker's contract to be entered into, between a hirer and a qualifying agency worker, as a limited-term contract only if—

(a) it is reasonable for the hirer to consider that the qualifying agency worker is only needed to perform a specific task and the worker's contract provides for termination when the task has been performed,

(b) it is reasonable for the hirer to consider that the qualifying agency worker is only needed until the occurrence of an event (or the failure of an event to occur) and the worker's contract provides for termination on the occurrence of the event (or the failure of the event to occur), or

(c) it is reasonable for the hirer to consider that there is only a temporary need of a specified description (not falling within paragraph (a) or (b)) for the qualifying agency worker to do work under the worker's

contract and the worker's contract is to expire at a time when it is reasonable for the hirer to consider that the temporary need will come to an end.

(8) A guaranteed hours offer—
(a) must be made by no later than the specified day,
(b) must be made in the specified form and manner, and
(c) must be accompanied by specified information relating to the offer.

(9) The Secretary of State may by regulations make provision about when a guaranteed hours offer is to be treated as having been made.

(10) In this paragraph, "reference period hours", in relation to a qualifying agency worker and a relevant reference period, has the same meaning as in paragraph 1(3).

Requirements relating to a guaranteed hours offer: supplementary

3 (1) This paragraph applies where, during the relevant reference period, the terms and conditions relating to matters other than working hours and length of employment under which the qualifying agency worker worked for and under the supervision and direction of the hirer were not the same throughout the relevant reference period.

(2) Where this paragraph applies, the guaranteed hours offer may propose terms and conditions of employment (in addition to what is required by or under paragraph 2(1) and (2) or paragraph 2(1) and (4)) that, taken as a whole, are less favourable than the most favourable terms and conditions relating to matters other than working hours and length of employment that the qualifying agency worker had when working for and under the supervision and direction of the hirer during the relevant reference period, but only if—
(a) those proposed terms and conditions, taken as a whole, are no less favourable than the least favourable terms and conditions relating to matters other than working hours and length of employment that the qualifying agency worker had when working for and under the supervision and direction of the hirer during the relevant reference period, and
(b) the proposal of those terms by the hirer constitutes a proportionate means of achieving a legitimate aim.

(3) If a hirer relies on sub-paragraph (2) when making a guaranteed hours offer to a qualifying agency worker, the hirer must give to the qualifying agency worker a notice that—
(a) states that the hirer has done so, and
(b) explains how the proposed terms and conditions constitute a proportionate means of achieving a legitimate aim.

(4) A notice under sub-paragraph (3) must be given by no later than the same day, and in the same form and manner, as the guaranteed hours offer (see paragraph 2(8)).

Guaranteed hours offer: exceptions to duty to make offer and withdrawal of offer

4 (1) The duty imposed by paragraph 1(1) on a hirer in relation to a qualifying agency worker does not apply if, during the relevant reference period or the offer period, the qualifying agency worker stops working for and under the supervision and direction of the hirer in relevant circumstances.

(2) A guaranteed hours offer made by a hirer to a qualifying agency worker is to be treated as having been withdrawn if, during the response period, the qualifying agency worker stops working for and under the supervision and direction of the hirer in relevant circumstances.

(3) Relevant circumstances occur where—

(a) the qualifying agency worker declines to continue working under the supervision and direction of the hirer other than in circumstances in which the qualifying agency worker is entitled to do so without notice by reason of the hirer's conduct;

(b) the hirer tells the work-finding agency, or other person, that has been supplying the qualifying agency worker to the hirer to stop supplying the qualifying agency worker and—

(i) the hirer's reason for doing so (or, if more than one, the hirer's principal reason for doing so) is a qualifying reason, and

(ii) in the circumstances (including the size and administrative resources of the hirer's undertaking) the hirer has acted reasonably in treating the reason (or the principal reason) as a sufficient reason for telling the work-finding agency, or other person, to stop supplying the qualifying agency worker.

(4) In sub-paragraph (3)(b), "qualifying reason", in relation to a qualifying agency worker, means a reason falling within sub-paragraph (5) or some other substantial reason of a kind such as to justify telling a work-finding agency, or other person, to stop supplying an agency worker doing work of the kind which the qualifying agency worker was supplied to the hirer to do.

(5) A reason falls within this sub-paragraph if it—

(a) relates to the capability or qualifications of the qualifying agency worker to do work of the kind which the qualifying agency worker was supplied to the hirer to do,

(b) relates to the conduct of the qualifying agency worker, or

(c) is that the qualifying agency worker could not continue to do work of the kind which the qualifying agency worker was supplied to the hirer to do without contravention (whether on the part of the qualifying agency worker, on the part of the hirer or on the part of the work-finding agency or other person that supplied the qualifying agency worker) of a duty or restriction imposed by or under any legislation.

(6) The Secretary of State may by regulations make provision for the duty imposed by paragraph 1(1) not to apply, or for a guaranteed hours offer that has been made to be treated as having been withdrawn, in other specified circumstances.

(7) Where, by virtue of sub-paragraph (2), a guaranteed hours offer made by a hirer to a qualifying agency worker is treated as having been withdrawn, the hirer must, by no later than the end of the response period, give a notice to the qualifying agency worker stating this to be the case.

(8) Where, by virtue of regulations under sub-paragraph (6)—

(a) a hirer who would otherwise have been subject to the duty imposed by paragraph 1(1) in relation to a qualifying agency worker and a particular reference period is not required to make a guaranteed hours offer to the qualifying agency worker, or

(b) a guaranteed hours offer made by a hirer to a qualifying agency worker is treated as having been withdrawn,

the hirer must give a notice to the qualifying agency worker that states which provision of the regulations has produced the effect referred to in paragraph (a) or (b) (as the case may be).

(9) A notice under sub-paragraph (8) must be given by a hirer to a qualifying agency worker—

(a) where it is required to be given by virtue of paragraph (a) of that sub-paragraph, by no later than the end of the offer period;

(b) where it is required to be given by virtue of paragraph (b) of that sub-paragraph, by no later than the end of the response period.

(10) The Secretary of State may by regulations make provision about—

(a) the form and manner in which a notice under sub-paragraph (7) or (8) must be given;

(b) when a notice under sub-paragraph (7) or (8) is to be treated as having been given.

(11) In this paragraph—

"capability", in relation to a qualifying agency worker, means the qualifying agency worker's capability assessed by reference to skill, aptitude, health or any other physical or mental quality;

"the offer period", in relation to a qualifying agency worker and the hirer for and under the supervision and direction of whom the agency worker worked, means the period beginning with the day after the day on which the relevant reference period ends and ending with—

(a) the day on which a guaranteed hours offer is made to the qualifying agency worker by the hirer, or

(b) if no guaranteed hours offer is made before the day specified under paragraph 2(8)(a) as the last day on which the hirer may make such an offer to the qualifying agency worker, that last day;

"qualifications", in relation to a qualifying agency worker, means any degree, diploma or other academic, technical or professional qualification relevant to the work which the qualifying agency worker is supplied to the hirer to do;

"the response period", in relation to a guaranteed hours offer made to a qualifying agency worker, means the period—

(a) beginning with the day after the day on which the offer is made, and

(b) ending with the specified day.

Acceptance or rejection of a guaranteed hours offer

5 (1) Where a hirer makes a guaranteed hours offer to a qualifying agency worker and the offer is not treated as having been withdrawn by virtue of paragraph 4(2) or regulations under paragraph 4(6), the qualifying agency worker may, by giving notice to the hirer before the end of the response period, accept or reject the offer.

(2) Where a qualifying agency worker gives notice under sub-paragraph (1) accepting an offer, the qualifying agency worker and the hirer that made the offer are to be treated as entering into a worker's contract in the terms of the offer on the day after the day on which notice is given.

(3) But a qualifying agency worker and a hirer may agree, for the purposes of sub-paragraph (2), that the worker's contract is to be treated as being entered into on a later day than the day mentioned in that sub-paragraph.

(4) If a qualifying agency worker to whom a guaranteed hours offer has been made does not give notice under sub-paragraph (1) before the end of the response period, the qualifying agency worker is to be treated as having rejected the offer.

(5) The Secretary of State may by regulations make provision about—

(a) the form and manner in which notice under sub-paragraph (1) must be given by a qualifying agency worker to a hirer;

(b) when notice given by a qualifying agency worker to a hirer under sub-paragraph (1) is to be treated as having been given.

(6) In this paragraph, "the response period" has the same meaning as in paragraph 4.

(7) Where—

(a) a hirer is permitted by section 27BUD(3) to withdraw a guaranteed hours offer (withdrawal of offer following incorporation of terms of collective agreement), and

(b) the hirer withdraws the offer by giving notice under that section,

sub-paragraph (1) of this paragraph ceases to apply in relation to the offer when the notice is given.

Information about rights conferred by Part 1 of Schedule A1

6 (1) Where—

(a) a work-finding agency has a worker's contract or an arrangement with an agency worker by virtue of which the agency worker is (or is to be) supplied to work for and under the supervision and direction of a hirer, and

(b) it is reasonable to consider that the agency worker might become a qualifying agency worker of a hirer in relation to a reference period

(whether the initial reference period, or a subsequent reference period, as defined in paragraph 1),

the work-finding agency must take reasonable steps, within the initial information period, to ensure that the agency worker is aware of specified information relating to the rights conferred on agency workers by this Part of this Schedule.

(2) A work-finding agency that is subject to the duty in sub-paragraph (1) in relation to an agency worker must take reasonable steps to ensure that, after the end of the initial information period, the agency worker continues to have access to the specified information referred to in that sub-paragraph at all times when—

(a) the worker’s contract or (as the case may be) the arrangement so referred to continues to be in force, and

(b) it is reasonable to consider that the agency worker might become (or might again become) a qualifying agency worker of a hirer in relation to a reference period.

(3) “The initial information period”, in relation to an agency worker and the work-finding agency with which the agency worker has a worker’s contract or an arrangement by virtue of which the agency worker is (or is to be) supplied to work for and under the supervision and direction of a hirer, means the period of two weeks beginning with—

(a) where the worker’s contract or arrangement is in force on the day on which paragraph 1(1) comes into force (“the commencement day”), the commencement day, or

(b) where it is not in force on that day, the first day after the commencement day on which it is in force.

(4) But where, on the day referred to in sub-paragraph (3)(a) or (b), it was not reasonable to consider that the agency worker might become a qualifying agency worker of a hirer in relation to any reference period, sub-paragraph (3) is to be read as if it provided for “the initial information period” to mean the period of two weeks beginning with the day on which it becomes reasonable so to consider.

Complaints to employment tribunals against a hirer: grounds

7 (1) An agency worker may present a complaint to an employment tribunal that—

(a) the duty imposed by paragraph 1(1) applies to a hirer in relation to the agency worker and a particular reference period, but

(b) by the end of the last day of the offer period, the hirer has not made an offer to enter into a worker’s contract in compliance (or purported compliance) with that duty (whether because the hirer does not consider that the agency worker is a qualifying agency worker in relation to the reference period or for any other reason).

(2) An agency worker may present a complaint to an employment tribunal that—

(a) the duty imposed by paragraph 1(1) applies to a hirer in relation to the agency worker and a particular reference period, but

(b) the offer that the hirer has made to the agency worker in relation to that reference period to enter into a worker's contract is not a guaranteed hours offer as described in—

(i) where regulations are in force under sub-paragraph (2) of paragraph 2 that apply in relation to the offer, sub-paragraphs (1) and (3) of that paragraph (read with any regulations in force under sub-paragraph (5)(a) or (b) of that paragraph), or

(ii) where no regulations are in force under sub-paragraph (2) of paragraph 2 that apply in relation to the offer, sub-paragraphs (1) and (4) of that paragraph (read with any regulations in force under sub-paragraph (5)(a) of that paragraph).

(3) An agency worker may present a complaint to an employment tribunal that—

(a) the duty imposed by paragraph 1(1) applies to a hirer in relation to the agency worker and a particular reference period, but

(b) the guaranteed hours offer that the hirer has made to the agency worker in relation to that reference period does not comply with paragraph 2(6).

(4) An agency worker may present a complaint to an employment tribunal that—

(a) the duty imposed by paragraph 1(1) applies to a hirer in relation to the agency worker and a particular reference period, but

(b) the guaranteed hours offer that the hirer has made to the agency worker in relation to that reference period is on terms requiring the hirer to provide, and the agency worker to do, less work than would have been the case if the hirer had not, during that reference period—

(i) limited (by whatever means) the number of hours of work that the agency worker was requested or required, by virtue of a worker's contract or arrangement between the agency worker and a work-finding agency, to work for and under the supervision and direction of the hirer, or

(ii) caused the agency worker to be requested or required, by virtue of a worker's contract or arrangement between the agency worker and a work-finding agency, to work for and under the supervision and direction of the hirer in the way that the agency worker was,

for the sole or main purpose of the hirer being able to comply with the duty by making such a reduced offer.

(5) An agency worker may present a complaint to an employment tribunal that the duty imposed by paragraph 1(1) would have applied to a hirer in relation to the agency worker and a particular reference period if the hirer had not, during that reference period—

(a) limited (by whatever means) the number of hours of work that the agency worker was requested or required, by virtue of a worker's contract or arrangement between the agency worker and a

work-finding agency, to work for and under the supervision and direction of the hirer, or

(b) caused the agency worker to be requested or required, by virtue of a worker's contract or arrangement between the agency worker and a work-finding agency, to work for and under the supervision and direction of the hirer in the way that the agency worker was,

for the sole or main purpose of preventing the agency worker from satisfying, in relation to that reference period, the condition in paragraph 1(3)(a) or (b).

(6) A complaint under sub-paragraph (2), (3) or (4)—

(a) may be presented whether or not the offer in question has been accepted by the agency worker, but

(b) may not be presented in relation to an offer that is—

(i) treated as having been withdrawn by virtue of paragraph 4(2) or regulations under paragraph 4(6), or

(ii) withdrawn in accordance with section 27BUD(3) (withdrawal of offer following incorporation of terms of collective agreement).

(7) An agency worker may present a complaint to an employment tribunal that a hirer—

(a) has failed to give to the agency worker a notice under paragraph 4(7) or (8);

(b) has given to the agency worker a notice under paragraph 4(7) or (8)(b) in circumstances in which the hirer should not have done so;

(c) has given to the agency worker a notice in purported compliance with paragraph 4(8) that does not refer to any provision of the regulations or refers to the wrong provision.

(8) In this paragraph, "the last day of the offer period", in relation to a reference period, means the day specified under paragraph 2(8)(a) as the last day on which a guaranteed hours offer may be made in relation to that reference period.

Complaints to employment tribunals against a work-finding agency: grounds

8 (1) An agency worker may present a complaint to an employment tribunal, against a relevant work-finding agency, that—

(a) the duty imposed by paragraph 1(1) applies to a hirer in relation to the agency worker and a particular reference period, but

(b) during that reference period the relevant work-finding agency—

(i) limited (by whatever means, including termination of a worker's contract or an arrangement) the number of hours of work that the agency worker was requested or required, by virtue of a worker's contract or arrangement between the agency worker and the relevant work-finding agency, to work for and under the supervision and direction of the hirer, or

(ii) caused the agency worker to be requested or required, by virtue of a worker's contract or arrangement between the

agency worker and the relevant work-finding agency, to work for and under the supervision and direction of the hirer in the way that the agency worker was,

for the sole or main purpose of enabling the hirer to comply with the duty by making an offer to the agency worker on terms requiring the hirer to provide, and the agency worker to do, less work than would otherwise have been the case.

(2) An agency worker may present a complaint to an employment tribunal, against a relevant work-finding agency, that the duty imposed by paragraph 1(1) would have applied to a hirer in relation to the agency worker and a particular reference period if the relevant work-finding agency had not, during that reference period—

(a) limited (by whatever means, including termination of a worker's contract or an arrangement) the number of hours of work that the agency worker was requested or required, by virtue of a worker's contract or arrangement between the agency worker and the relevant work-finding agency, to work for and under the supervision and direction of the hirer, or

(b) caused the agency worker to be requested or required, by virtue of a worker's contract or arrangement between the agency worker and the relevant work-finding agency, to work for and under the supervision and direction of the hirer in the way that the agency worker was,

for the sole or main purpose of preventing the agency worker from satisfying, in relation to that reference period, the condition in paragraph 1(3)(a) or (b).

(3) A complaint under sub-paragraph (1)—

(a) may be presented whether or not an offer has been made by the hirer to the agency worker and, if it has, whether or not the offer has been accepted by the agency worker, but

(b) where an offer has been made, may not be presented where the offer is—

(i) treated as having been withdrawn by virtue of paragraph 4(2) or regulations under paragraph 4(6), or

(ii) withdrawn in accordance with section 27BUD(3) (withdrawal of offer following incorporation of terms of collective agreement).

(4) For the purposes of sub-paragraphs (1) and (2), references to a "relevant work-finding agency", in relation to an agency worker, a hirer and a reference period, are to a work-finding agency with which the agency worker had a worker's contract or arrangement by virtue of which the agency worker was (or could have been) supplied to work for and under the supervision and direction of the hirer during the reference period in question.

(5) An agency worker may present a complaint to an employment tribunal that a work-finding agency has failed to comply with—

(a) the duty imposed by paragraph 6(1);

(b) the duty imposed by paragraph 6(2).

Complaints to employment tribunals: time limits

9 (1) An employment tribunal must not consider a complaint under paragraph 7(1) unless it is presented before the end of the period of six months beginning with the day after the last day of the offer period (as defined in paragraph 7(8)).

(2) An employment tribunal must not consider a complaint under paragraph 7(2) unless it is presented before the end of the period of six months beginning with the day after the day when the offer referred to in that provision is made.

(3) An employment tribunal must not consider a complaint under paragraph 7(3) or (4) unless it is presented before the end of the period of six months beginning with the day after the day when the guaranteed hours offer referred to in that provision is made.

(4) An employment tribunal must not consider a complaint under paragraph 7(5) or 8(2) unless it is presented before the end of the period of six months beginning with the day after what would have been the last day of the offer period (as defined in paragraph 7(8)) if the duty in paragraph 1(1) had applied.

(5) An employment tribunal must not consider a complaint under paragraph 7(7)(a) relating to a notice unless it is presented before the end of the period of six months beginning with the day after the day on or before which the notice should have been given (see paragraph 4(7) and (9)).

(6) An employment tribunal must not consider a complaint under paragraph 7(7)(b) or (c) relating to a notice unless it is presented before the end of the period of six months beginning with the day after the day on which the notice is given.

(7) An employment tribunal must not consider a complaint under paragraph 8(1) unless it is presented before the end of the period of six months beginning with the day after the last day of the offer period (as defined in paragraph 7(8)).

(8) An employment tribunal must not consider a complaint under paragraph 8(5)(a) unless it is presented before the end of the period of six months beginning with the day after the last day of the initial information period (see paragraph 6(3) and (4)).

(9) An employment tribunal must not consider a complaint under paragraph 8(5)(b) unless it is presented before the end of the period of six months beginning with the day on which the agency worker first becomes aware of the failure to which the complaint relates.

(10) But, if the employment tribunal is satisfied that it was not reasonably practicable for a complaint under paragraph 7 or 8 to be presented before the end of the relevant period of six months, the tribunal may consider the complaint if it is presented within such further period as the tribunal considers reasonable.

(11) Section 207B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of sub-paragraphs (1) to (9).

Remedies

10 (1) Where an employment tribunal finds a complaint under paragraph 7 or 8 well-founded, the tribunal—

(a) must make a declaration to that effect, and

(b) may make an award of compensation to be paid by the respondent to the agency worker.

(2) The amount of compensation under sub-paragraph (1)(b) is to be such amount, not exceeding the permitted maximum, as the tribunal considers just and equitable in all the circumstances to compensate the agency worker for any financial loss sustained by the agency worker which is attributable to the matter complained of.

(3) In ascertaining the financial loss sustained, the tribunal must apply the same rule concerning the duty of a person to mitigate their loss as applies to damages recoverable under the common law of England and Wales or (as the case may be) Scotland.

(4) For the purposes of sub-paragraph (2), “the permitted maximum” is—

(a) where the complaint is under paragraph 7(1), (2), (3) or (7) or 8(5), such number of weeks’ pay as the Secretary of State may specify in regulations;

(b) where the complaint is under paragraph 7(4) or (5) or 8(1) or (2), such amount as the Secretary of State may specify in regulations.

(5) For the purposes of determining the permitted maximum for an award of compensation to be paid by a hirer (where the complaint is under paragraph 7(1), (2), (3) or (7))—

(a) the amount of a week’s pay is (subject to paragraph (b)) the amount of average weekly remuneration received by the agency worker for working for and under the supervision and direction of the hirer in the reference period in question;

(b) the amount of a week’s pay is not to exceed the amount specified in section 227(1) (as amended from time to time).

(6) For the purposes of determining the permitted maximum for an award of compensation to be paid by a work-finding agency (where the complaint is under paragraph 8(5))—

(a) the amount of a week’s pay is (subject to paragraph (b)) the amount of average weekly remuneration received by the agency worker, in the relevant period, for working for and under the supervision and direction of a hirer (or, if more than one, all of the hirers taken together) by virtue of the worker’s contract or arrangement between the work-finding agency and the agency worker;

(b) the amount of a week’s pay is not to exceed the amount specified in section 227(1) (as amended from time to time);

(c) “the relevant period” means—

(i) where the worker's contract or arrangement between the agency worker and the work-finding agency ceased to be in force on or before the date the complaint was presented to the employment tribunal, the period of 12 weeks (or, if it was not in force for 12 weeks, the shorter period for which it was in force) ending with the latest day before the last day on which it was in force on which the agency worker worked for and under the supervision and direction of the hirer, or (if more than one) one of the hirers, referred to in paragraph (a);

(ii) where the worker's contract or arrangement between the agency worker and the work-finding agency did not so cease to be in force, the period of 12 weeks (or, if it had not then been in force for 12 weeks, the shorter period for which it had been in force) ending with the latest day before the date on which the complaint was presented to the employment tribunal on which the agency worker worked for and under the supervision and direction of the hirer, or (if more than one) one of the hirers, referred to in paragraph (a);

(d) Chapter 2 of Part 14 does not apply (and this paragraph applies instead), where the agency worker to whom compensation is to be paid is an employee of the work-finding agency.

Power to change the effect of Part 1 of Schedule A1

11 (1) The Secretary of State may by regulations make provision that, in relation to specified descriptions of agency workers, has the effect that—

(a) a hirer is not required by this Part of this Schedule to make a guaranteed hours offer, and

(b) a work-finding agency, or another person involved in the supply or payment of an agency worker, is instead required to make a corresponding or similar offer (and is liable to have a complaint against them presented to an employment tribunal on grounds corresponding or similar to those in paragraph 7).

(2) The provision referred to in sub-paragraph (1) may be made by amending this Act (or otherwise).

(3) Regulations under sub-paragraph (1) may make consequential provision, including provision amending—

(a) an Act of Parliament (including this Act);

(b) a Measure or Act of the National Assembly for Wales or an Act of Senedd Cymru;

(c) an Act of the Scottish Parliament.

PART 2

SHIFTS: RIGHTS TO REASONABLE NOTICE

Application of Part 2 of Schedule A1

12 (1) This Part of this Schedule applies in relation to a shift that would be (or would have been) worked, or is being worked, by an individual as an agency worker.

(2) But nothing in this Part of this Schedule applies in relation to a shift that would be (or would have been) worked, or is being worked, by an individual as an agency worker if, in relation to the agency worker, the shift is an excluded shift.

(3) For the purposes of this Part of this Schedule, "excluded shift", in relation to an agency worker, means a shift of a specified description.

(4) Regulations under sub-paragraph (3) may, in particular, specify a description of shift by reference to—

(a) the amount payable for working the shift being more than a specified amount;

(b) the number of hours to be worked during the shift, whether alone or taken together with other shifts of a specified description, being more than a specified number;

(c) the shift corresponding to the time of a shift provided for by a worker's contract between the agency worker and a work-finding agency or another person involved in the supply or payment of the agency worker (and where the regulations so specify a description of shift, the regulations may include provision similar or corresponding to section 27BJ(5A)).

(5) In the application of this Part of this Schedule in relation to an agency worker and a shift, references to—

(a) "the work-finding agency" are to the work-finding agency with which the agency worker has a worker's contract or an arrangement and by virtue of which the agency worker would work (or would have worked) or is working the shift;

(b) "the hirer" are to the person for and under the supervision and direction of whom the agency worker would work (or would have worked) or is working the shift.

Right to reasonable notice of a shift

13 (1) An agency worker is entitled to be given, by the work-finding agency or the hirer, reasonable notice of a shift that the agency worker is requested or required to work by virtue of the worker's contract or arrangement that the agency worker has with the work-finding agency.

(2) It is to be presumed, unless the contrary is shown, that notice of a shift is not reasonable notice if it is given less than a specified amount of time before the shift is due to start.

(3) In this paragraph and paragraphs 14 and 15, "notice of a shift" means notice of how many hours are to be worked during the shift and when the shift is to start and end.

Right to reasonable notice of cancellation of or change to a shift

14 (1) Sub-paragraph (2) applies in relation to an agency worker where—

(a) the agency worker has been given notice of a shift by the work-finding agency or the hirer, and

(b) where the shift is one that the agency worker has been requested (rather than required) to work, the agency worker has agreed to work it.

(2) The agency worker is entitled to be given, by the work-finding agency or the hirer, reasonable notice of—

(a) the cancellation of the shift;

(b) any change requested or required by virtue of the worker's contract or arrangement that the agency worker has with the work-finding agency consisting of—

(i) a change to when the shift is to start or end;

(ii) a reduction in the number of hours to be worked during the shift because of a break in the shift;

(but this is subject to paragraph 17).

(3) It is to be presumed, unless the contrary is shown, that—

(a) notice of the cancellation of a shift is not reasonable notice for the purposes of sub-paragraph (2) if it is given less than a specified amount of time before the shift would have started (if the shift had not been cancelled);

(b) notice of a change to when a shift is to start is not reasonable notice for the purposes of sub-paragraph (2) if it is given less than a specified amount of time before the earlier of—

(i) when the shift would have started (if the shift had not been changed), and

(ii) when the shift is due to start (having been changed);

(c) notice of any other change to a shift is not reasonable notice for the purposes of sub-paragraph (2) if it is given—

(i) less than a specified amount of time before the shift is due to start;

(ii) on or after the start of the shift.

Paragraphs 13 and 14: liability of work-finding agency and hirer

15 (1) The work-finding agency is liable for a breach of paragraph 13 or 14, in relation to an agency worker and a shift, to the extent that it is responsible for the breach.

(2) The hirer is liable for a breach of paragraph 13 or 14, in relation to an agency worker and a shift, to the extent that it is responsible for the breach.

(3) For the purposes of this Part of this Schedule, the hirer is not responsible for a breach of paragraph 13 or 14 in relation to an agency worker and a shift (and accordingly is not liable for the breach) if—

(a) the hirer gives notice to the work-finding agency of the shift or (as the case may be) of the cancellation of, or change to, the shift, and

(b) that notice is such as to enable the work-finding agency to give reasonable notice to the agency worker under paragraph 13 or 14.

(4) The Secretary of State may by regulations provide, in relation to an agency worker and a shift, that the work-finding agency is solely responsible for a breach of paragraph 13 or 14 (and accordingly is solely liable for the breach) where the hirer is a person of a specified description.

Paragraphs 13 to 15: supplementary

16 (1) Where an agency worker suggests working a shift and the work-finding agency or the hirer agrees to the suggestion—

(a) nothing in paragraph 13 applies in relation to the shift as suggested by the agency worker, but

(b) paragraph 14(2) applies (even though the conditions in paragraph 14(1) have not been met).

(2) In paragraphs 13 and 14, references to a request made to an agency worker to work a shift include a request (a "multi-worker request") made to the agency worker and one or more others in circumstances where not all of those to whom the request is made are needed to work the shift.

(3) For the purposes of paragraph 14, where a multi-worker request has been made to an agency worker in relation to a shift, references to the cancellation of the shift include the agency worker not being needed to work the shift because one or more others have agreed to work it.

(4) The Secretary of State may by regulations make provision about—

(a) the form and manner in which notices under paragraphs 13 to 15 must be given;

(b) when notice under those paragraphs is to be treated as having been given.

Interaction with Part 3 of Schedule A1

17 (1) Where a work-finding agency—

(a) is required to make a payment to an agency worker under paragraph 21(1) in relation to a shift that is cancelled, moved or curtailed at short notice, or

(b) would have been required to make such a payment in relation to the shift but for provision made under paragraph 23(1)(c),

nothing in paragraph 14(2) is to be taken to have applied in relation to the cancellation, movement or curtailment of the shift that gave rise to, or would have given rise to, the requirement to make the payment.

(2) Terms used in this paragraph have the same meaning as in paragraph 21.

Complaints to employment tribunals

18 (1) An agency worker may present a complaint to an employment tribunal that the work-finding agency or the hirer is liable for a breach of paragraph 13 or 14 in relation to the agency worker and a shift.

(2) Where, in determining whether a complaint under this paragraph is well-founded, the tribunal must determine whether reasonable notice has been given, the tribunal must have regard, in particular, to such of the specified matters as are appropriate in the circumstances.

(3) An employment tribunal must not consider a complaint under this paragraph unless it is presented before the end of the period of six months beginning with—

(a) where the complaint is that the work-finding agency or the hirer is liable for a breach of paragraph 13 in relation to the agency worker and a shift, the day on which the shift was due to start;

(b) where the complaint is that the work-finding agency or the hirer is liable for a breach of paragraph 14(2) in relation to the agency worker and the cancellation of a shift, the day on which the shift would have started (if the shift had not been cancelled);

(c) where the complaint is that the work-finding agency or the hirer is liable for a breach of paragraph 14(2) in relation to the agency worker and a change to a shift, the day on which the shift as changed was due to start or, where the shift was changed on or after its start, the day on which the shift started.

(4) But, if the employment tribunal is satisfied that it was not reasonably practicable for a complaint to be presented before the end of the relevant period of six months, the tribunal may consider the complaint if it is presented within such further period as the tribunal considers reasonable.

(5) Section 207B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of sub-paragraph (3).

Remedies

19 (1) Where an employment tribunal finds a complaint under paragraph 18 well-founded, the tribunal—

(a) must make a declaration to that effect, and

(b) may make an award of compensation to be paid by the respondent to the agency worker.

(2) The amount of compensation under sub-paragraph (1)(b) in relation to a complaint is to be such amount, not exceeding the specified amount, as the tribunal considers just and equitable in all the circumstances to compensate the agency worker for any financial loss sustained by the agency worker which is attributable to the matter complained of.

(3) In ascertaining the financial loss sustained, the tribunal must apply the same rule concerning the duty of a person to mitigate their loss as applies to damages recoverable under the common law of England and Wales or (as the case may be) Scotland.

(4) Where an employment tribunal makes an award of compensation under sub-paragraph (1)(b) to an agency worker in relation to a shift and both the work-finding agency and the hirer are respondents, the amount of compensation payable by each respondent is to be such amount (if any) as the tribunal considers just and equitable having regard to the extent of each respondent's responsibility for the breach to which the complaint relates.

PART 3

RIGHT TO PAYMENT FOR CANCELLED, MOVED AND CURTAILED SHIFTS

Application of Part 3 of Schedule A1

20 (1) This Part of this Schedule applies in relation to a shift that would be (or would have been) worked, or is being worked, by an individual as an agency worker.

(2) In the application of this Part of this Schedule in relation to an agency worker and a shift, references to—

(a) "the work-finding agency" are to the work-finding agency with which the agency worker has a worker's contract or an arrangement and by virtue of which the agency worker would work (or would have worked) or is working the shift;

(b) "the hirer" are to the person for and under the supervision and direction of whom the agency worker would work (or would have worked) or is working the shift.

Right to payment for a cancelled, moved or curtailed shift

21 (1) A work-finding agency must make a payment of a specified amount to an agency worker each time that, by virtue of the worker's contract or arrangement that the agency worker has with the work-finding agency, there is a cancellation, movement or curtailment at short notice of a shift—

(a) that the agency worker has been informed they are required to work for the hirer (by virtue of that worker's contract or arrangement),

(b) that the agency worker has been requested to work for the hirer (by virtue of that worker's contract or arrangement) and the agency worker has agreed to work, or

(c) that the agency worker has suggested working for the hirer and it has been agreed (by virtue of that worker's contract or arrangement) that the agency worker is to work,

(but see paragraph 23 for exceptions to this duty).

(2) A payment that a work-finding agency is required to make under sub-paragraph (1) must be made by no later than the specified day.

(3) For the purposes of this Part of this Schedule, "short notice" means—

(a) in relation to the cancellation of a shift, notice given less than a specified amount of time before the shift would have started (if the shift had not been cancelled);

(b) in relation to the movement of a shift, or the movement and curtailment (at the same time) of a shift, notice given less than a specified amount of time before the earlier of—

(i) when the shift would have started (if the shift had not been moved, or moved and curtailed), and

(ii) when the shift is due to start (having been moved, or moved and curtailed);

(c) in relation to the curtailment of a shift where there is a change to when the shift is to start (but there is no movement of the shift), notice given less than a specified amount of time before the earlier of—

(i) when the shift would have started (if there had not been the change), and

(ii) when the shift is due to start (the change having been made);

(d) in relation to the curtailment of a shift where there is no change to when the shift is to start, notice given—

(i) less than a specified amount of time before the shift is due to start;

(ii) on or after the start of the shift.

(4) The Secretary of State may by regulations make provision about when notice of the cancellation, movement or curtailment of a shift is to be treated as having been given to an agency worker for the purposes of this Part of this Schedule.

(5) In this Part of this Schedule, references to the "movement" of a shift (however expressed) are to any change to the day on which or the time at which the shift is to start that is a change of more than a specified amount of time.

(6) In this Part of this Schedule, references to a request made to an agency worker to work a shift include a request (a "multi-worker request") made to the agency worker and one or more others in circumstances where not all of those to whom the request is made are needed to work the shift.

(7) For the purposes of this Part of this Schedule, where a multi-worker request has been made to an agency worker in relation to a shift, references to the cancellation of the shift include the agency worker not being needed to work the shift because one or more others have agreed to work it.

Regulations under paragraph 21: supplementary

22 (1) Regulations under paragraph 21(1) may not specify an amount to be paid to an agency worker in relation to the cancellation, movement or curtailment of a shift that exceeds—

(a) where the shift is cancelled, the amount of remuneration to which the agency worker would have been entitled had they worked the hours that will not be worked because of the cancellation;

(b) where the shift is moved, or moved and curtailed (at the same time), and no part of the shift as moved, or as moved and curtailed, corresponds to the time of the shift ("the original shift") before it

was moved, or moved and curtailed, the amount of remuneration to which the agency worker would have been entitled had they worked the original shift;

(c) where the shift is moved, or moved and curtailed (at the same time), and part of the shift as moved, or as moved and curtailed, corresponds to the time of the original shift (but part does not), the amount of remuneration to which the agency worker would have been entitled had they worked the part of the original shift that does not correspond to the shift as moved, or as moved and curtailed;

(d) where the shift is—

(i) curtailed but not moved, or

(ii) moved and curtailed (at the same time) and the shift as moved and curtailed is to start and end within the time of the original shift,

the amount of remuneration to which the agency worker would have been entitled had they worked the hours that will not be worked because of the curtailment, or the movement and curtailment.

(2) Regulations under paragraph 21(1) may, in particular, include provision specifying different amounts depending on the amount of notice that was given of the cancellation, movement or curtailment.

(3) Regulations under paragraph 21(3) may not specify an amount of time that exceeds 7 days.

Exceptions to duty to make payment for a cancelled, moved or curtailed shift

23 (1) The requirement to make a payment under paragraph 21(1) does not apply—

(a) in relation to the cancellation, movement or curtailment of a shift if, in relation to the agency worker, the shift is an excluded shift;

(b) in relation to the cancellation, movement or curtailment of a shift that an agency worker has been requested to work, unless the agency worker reasonably believed, whether on agreeing to work the shift or at some later time before the cancellation, movement or curtailment, that they would be needed to work the shift;

(c) in other specified circumstances (whether circumstances relating to the work-finding agency, the hirer or otherwise).

(2) In sub-paragraph (1)(a), "excluded shift", in relation to an agency worker, means a shift of a specified description.

(3) Regulations under sub-paragraph (2) may, in particular, specify a description of shift by reference to—

(a) the amount payable for working the shift being more than a specified amount;

(b) the number of hours to be worked during the shift, whether alone or taken together with other shifts of a specified description, being more than a specified number;

(c) the shift corresponding to the time of a shift provided for by a worker's contract between the agency worker and a work-finding agency or another person involved in the supply or payment of the

agency worker (and where the regulations so specify a description of shift, the regulations may include provision similar or corresponding to section 27BP(4)).

(4) Where, by virtue of regulations made under sub-paragraph (1)(c), a work-finding agency is not required to make a payment to an agency worker in relation to a shift under paragraph 21(1), the work-finding agency must give a notice to the agency worker that—

(a) states which provision of the regulations has produced the effect that the work-finding agency is not required to make the payment, and

(b) explains why the work-finding agency was entitled to rely on that provision so as not to make the payment to the agency worker under paragraph 21(1).

(5) But sub-paragraph (4) does not require a work-finding agency to disclose—

(a) any information the disclosure of which by the work-finding agency would contravene the data protection legislation (but in determining whether a disclosure would do so, the duty imposed by that sub-paragraph is to be taken into account);

(b) any information that is commercially sensitive;

(c) any information the disclosure of which by the work-finding agency would constitute a breach of a duty of confidentiality owed by the work-finding agency to any other person.

(6) In sub-paragraph (5)(a) "the data protection legislation" has the same meaning as in the Data Protection Act 2018 (see section 3(9) of that Act).

(7) The Secretary of State may by regulations make provision about—

(a) the form and manner in which a notice under this paragraph must be given;

(b) the day on or before which it must be given;

(c) when a notice under this paragraph is to be treated as having been given.

(8) The duty in sub-paragraph (4) does not apply if, before the day on or before which the notice must be given, the work-finding agency or another person has paid to the agency worker an amount in relation to a number of hours that is at least equal to the amount of the payment that the work-finding agency would have been required to make to the agency worker under paragraph 21(1) in relation to the same number of hours but for regulations made under sub-paragraph (1)(c).

(9) Sub-paragraph (4) of paragraph 24 applies for the purposes of sub-paragraph (8) of this paragraph as it applies for the purposes of sub-paragraphs (2) and (3) of that paragraph.

Contractual remuneration

24 (1) The right of an agency worker to receive a payment from a work-finding agency under paragraph 21(1) does not affect any right of the agency worker

in relation to remuneration under a worker's contract (whether with the work-finding agency or another person) ("contractual remuneration").

(2) Any contractual remuneration paid to an agency worker in relation to a number of hours goes towards discharging any liability of the work-finding agency to make a payment to the agency worker under paragraph 21(1) in relation to the same hours.

(3) Any payment made by a work-finding agency to an agency worker under paragraph 21(1) in relation to a number of hours goes towards discharging any liability to pay contractual remuneration to the agency worker in relation to the same hours.

(4) For the purposes of sub-paragraphs (2) and (3), the hours to which a payment under paragraph 21(1) relates are—

(a) where a shift has been cancelled, the hours that would have been worked (by virtue of the worker's contract or arrangement between the work-finding agency and the agency worker) if the shift had not been cancelled;

(b) where a shift has been moved, or moved and curtailed (at the same time), and no part of the shift as moved, or as moved and curtailed, corresponds to the time of the shift ("the original shift") before it was moved, or moved and curtailed, the hours that would have been worked (by virtue of the worker's contract or arrangement between the work-finding agency and the agency worker) during the original shift;

(c) where a shift has been moved, or moved and curtailed (at the same time), and part of the shift as moved, or as moved and curtailed, corresponds to the time of the original shift (but part does not), the hours that would have been worked (by virtue of the worker's contract or arrangement between the work-finding agency and the agency worker) during the part of the original shift that does not correspond to the shift as moved, or as moved and curtailed;

(d) where a shift has been—

(i) curtailed but not moved, or

(ii) moved and curtailed (at the same time) and the shift as moved and curtailed is to start and end within the time of the original shift,

the hours that would have been worked (by virtue of the worker's contract or arrangement between the work-finding agency and the agency worker) if the shift had not been curtailed, or moved and curtailed.

Complaints to employment tribunal

25 (1) An agency worker may present a complaint to an employment tribunal that, in relation to a shift, the work-finding agency—

(a) has failed to make the whole or any part of a payment that the work-finding agency is liable to make to the agency worker under paragraph 21(1);

(b) has unreasonably failed to give to the agency worker a notice under paragraph 23(4);

(c) has given to the agency worker a notice in purported compliance with paragraph 23(4) that—

(i) does not refer to any provision of the regulations or refers to the wrong provision;

(ii) does not contain an explanation or contains an explanation that is inadequate or untrue.

(2) An employment tribunal must not consider a complaint under sub-paragraph (1)(a) relating to a payment unless it is presented before the end of the period of six months beginning with the day after the day on or before which the payment should have been made (see paragraph 21(2)).

(3) An employment tribunal must not consider a complaint under sub-paragraph (1)(b) relating to a notice unless it is presented before the end of the period of six months beginning with the day after the day on or before which the notice should have been given (see paragraph 23(7)(b)).

(4) An employment tribunal must not consider a complaint under sub-paragraph (1)(c) relating to a notice unless it is presented before the end of the period of six months beginning with the day after the day on which the notice is given.

(5) But, if the employment tribunal is satisfied that it was not reasonably practicable for a complaint under this paragraph to be presented before the end of the relevant period of six months, the tribunal may consider the complaint if it is presented within such further period as the tribunal considers reasonable.

(6) Section 207B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of sub-paragraphs (2) to (4).

(7) Where—

(a) an agency worker presents a complaint to an employment tribunal under sub-paragraph (1)(c) that, in relation to a shift, the work-finding agency has given to the agency worker a notice in purported compliance with paragraph 23(4) that refers to the wrong provision of the regulations or contains an explanation that is inadequate or untrue, and

(b) the work-finding agency claims that it was provided by the hirer with information for the purposes of the notice that was wrong, inadequate or untrue,

the work-finding agency may request the employment tribunal to direct that the hirer be added as a party to the proceedings.

(8) A request under sub-paragraph (7) must be granted if it is made before the hearing of the complaint begins, but may be refused if it is made after that time; and no such request may be made after the tribunal has made its decision as to whether the complaint is well-founded.

(9) The Secretary of State may by regulations provide that sub-paragraph (7) does not apply in relation to a hirer of a specified description.

Remedies

26 (1) Where an employment tribunal finds a complaint under paragraph 25(1)(a) well-founded, the tribunal must—
(a) make a declaration to that effect, and
(b) order the work-finding agency to pay to the agency worker the amount of the payment under paragraph 21(1) which it finds is due to the agency worker.

(2) Where an employment tribunal finds a complaint under paragraph 25(1)(b) or (c) well-founded, the tribunal—
(a) must make a declaration to that effect, and
(b) may order the work-finding agency to make a payment to the agency worker of such amount, not exceeding the specified amount, as the tribunal considers just and equitable in all the circumstances.

(3) But an employment tribunal may not make an order under sub-paragraph (2)(b) relating to a notice given in purported compliance with paragraph 23(4) if the tribunal makes an order under sub-paragraph (1)(b) relating to the same payment to which the notice related.

(4) In determining—-
(a) whether to make an order under sub-paragraph (2)(b), and
(b) if so, how much to order the work-finding agency to pay,

an employment tribunal must have regard, in particular, to the seriousness of the matter complained of.

(5) If, following the making of a request under paragraph 25(7), an employment tribunal has added the hirer as a party to the proceedings and the tribunal—
(a) finds the complaint under paragraph 25(1)(c) well-founded (so far as relating to the notice referring to the wrong provision of the regulations or containing an explanation that is inadequate or untrue),
(b) makes an award of compensation under sub-paragraph (2)(b), and
(c) also finds that the hirer did provide the work-finding agency with information for the purposes of the notice that was wrong, inadequate or untrue,

it may order that the compensation is to be paid by the hirer instead of by the work-finding agency, or partly by the hirer and partly by the work-finding agency (with the amount of the compensation payable by each being such amount as the tribunal considers just and equitable in the circumstances).

Recovery of payment by work-finding agency from hirer: pre-existing arrangements

27 (1) Where, in compliance with paragraph 21(1), a work-finding agency makes a payment to an agency worker in relation to a shift that the agency worker was to be, or was, supplied to work by virtue of a pre-existing arrangement involving the work-finding agency and the hirer, the work-finding agency

is entitled to recover from the hirer the proportion of the payment (up to the full amount of it) that reflects the hirer's responsibility for the shift having been cancelled, moved or curtailed at short notice.

(2) The Secretary of State may by regulations provide that sub-paragraph (1) does not apply in relation to a hirer of a specified description.

(3) A "pre-existing arrangement" means an arrangement—

(a) that was entered into on or before the last day of the period of two months beginning with the day on which the Employment Rights Act 2025 was passed, and

(b) that has not been modified by the work-finding agency and the hirer after the last day of that period.

(4) The reference in sub-paragraph (1) to a payment made in compliance with paragraph 21(1) includes a payment made by virtue of an order under paragraph 26(1)(b).

(5) Sub-paragraph (1) applies whether the agency worker was to be, or was, supplied to work for and under the supervision and direction of the hirer by the work-finding agency or by another person."”

Member's explanatory statement

This new schedule inserts new Schedule A1 into the Employment Rights Act 1996 which makes provision for agency workers which is similar to the provision made in relation to certain non-agency workers by clauses 1 to 3.

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 116I(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.

Secretary Jonathan Reynolds **Gov 51**

★ Schedule 1, page 121, line 6, after "27BT," insert "27BUD(5),"

Member's explanatory statement

This amendment is consequential on NC33.

Secretary Jonathan Reynolds **Gov 52**

★ Schedule 1, page 121, line 6, at end insert—

"(b) after "177 of" insert ", or paragraph 7, 8, 18 or 25 of Schedule A1 to,"."

Member's explanatory statement

This amendment is consequential on NS1.

Secretary Jonathan Reynolds **Gov 53**

★ Schedule 1, page 121, line 14, at end insert—

"(aa) after paragraph (cf) (inserted by sub-paragraph (a)) insert—

"(cg) a payment under paragraph 21(1) of Schedule A1 to this Act (agency workers: payment for a cancelled, moved or curtailed shift),";"

Member's explanatory statement

This amendment is consequential on NS1.

Secretary Jonathan Reynolds **Gov 54**

★ Schedule 1, page 121, line 16, leave out “(cg)” and insert “(ch)”

Member's explanatory statement

This amendment is consequential on amendment 53.

Secretary Jonathan Reynolds **Gov 55**

★ Schedule 1, page 122, line 9, at end insert—

“(iv) section 27BUD(5), or”

Member's explanatory statement

This amendment clarifies that the right not to be subjected to any detriment applies where a worker brings a complaint under section 27BUD(5).

Secretary Jonathan Reynolds **Gov 56**

★ Schedule 1, page 122, line 17, leave out from “has” to end of line 21 and insert “(as the case may be)—

(a) failed to comply with the duty imposed by section 27BA(1), 27BD(7) or (8) or 27BF(1) or (2), a duty imposed by section 27BJ or 27BK or the duty imposed by section 27BP(1) or 27BR(2), or

(b) behaved as described in section 27BG(3A) or (3B),

but, for subsection (1)(d) or (e) to apply, the claim must be made in good faith.”

Member's explanatory statement

This amendment is consequential on amendment 21. It restructures and restates what is in the existing provision and adds the provision in paragraph (b).

Secretary Jonathan Reynolds **Gov 57**

★ Schedule 1, page 122, line 23, after “non-compliance” insert “, or (as the case may be) alleged behaviour,”

Member's explanatory statement

This amendment is consequential on amendment 21.

Secretary Jonathan Reynolds **Gov 58**

★ Schedule 1, page 123, line 6, at end insert—

"6A After section 47H (inserted by paragraph 6) insert—

"47I Agency workers and Schedule A1 rights

(1) An agency worker has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by a relevant person done on the ground that the agency worker—

(a) accepted, or proposed to accept, an offer to enter into a worker's contract made in compliance (or purported compliance) with the duty imposed by paragraph 1(1) of Schedule A1,

(b) rejected, or proposed to reject, an offer to enter into a worker's contract made in compliance (or purported compliance) with the duty imposed by paragraph 1(1) of Schedule A1,

(c) declined to work a shift (or part of a shift) on the basis of a reasonable belief that there had been a failure to comply with a duty imposed by paragraph 13 or 14 of Schedule A1 in relation to the shift,

(d) brought proceedings under—

(i) paragraph 7 or 8 of Schedule A1,

(ii) paragraph 18 of Schedule A1,

(iii) paragraph 25 of Schedule A1, or

(iv) section 27BUD(5), or

(e) alleged the existence of any circumstance which would constitute a ground for bringing any proceedings within paragraph (d).

(2) The reference in subsection (1)(b) to an agency worker who rejected an offer includes a reference to an agency worker who is to be treated as having rejected an offer (see paragraph 5(4) of Schedule A1).

(3) It is immaterial for the purposes of subsection (1)(d) or (e) whether or not there has been (as the case may be)—

(a) a failure to comply with the duty imposed by paragraph 1(1), 4(7) or (8) or 6(1) or (2) of Schedule A1, a duty imposed by paragraph 13 or 14 of Schedule A1 or the duty imposed by paragraph 21(1) or 23(4) of Schedule A1, or

(b) behaviour of the type described in paragraph 7(4) or (5) or 8(1) or (2) of Schedule A1,

but, for subsection (1)(d) or (e) to apply, the claim must be made in good faith.

(4) It is sufficient for subsection (1)(e) to apply that the agency worker made the nature of the alleged non-compliance, or (as the case may be) the alleged behaviour, reasonably clear to either the relevant

person or (if different) the person against whom proceedings could be brought.

(5) An agency worker has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by a relevant person done on the ground that—

(a) the duty imposed by paragraph 1(1) of Schedule A1 applies in relation to the agency worker and a particular reference period, or

(b) the relevant person believes that that duty so applies.

(6) This section does not apply where—

(a) the worker is an employee of the relevant person, and

(b) the detriment in question amounts to dismissal within the meaning of Part 10.

(7) For the purposes of this section, a person is a "relevant person", in relation to an agency worker, if the person is (or has been)—

(a) a work-finding agency with which the agency worker has a worker's contract or an arrangement by virtue of which the agency worker is (or is to be) supplied to work for and under the supervision and direction of another person;

(b) a person for and under the supervision and direction of whom the agency worker is (or is to be) supplied to work;

(c) a person who is (or is to be) involved in the supply of the agency worker to a person falling within paragraph (b) or the payment of the agency worker for work done for such a person.

(8) In this section—

"agency worker" has the same meaning as in Part 2A (see section 27BUA);

"reference period" has the same meaning as in Part 1 of Schedule A1 (see paragraph 1(4));

"work-finding agency" has the same meaning as in Part 2A (see section 27BUA).""

Member's explanatory statement

This amendment is consequential on NS1.

Secretary Jonathan Reynolds **Gov 59**

★ Schedule 1, page 123, line 10, at end insert—

"(2A) After subsection (1BA) (inserted by sub-paragraph (2)) insert—

"(1BB) An agency worker (within the meaning of Part 2A) may present a complaint to an employment tribunal that the agency worker has been subjected to a detriment in contravention of section 47I.""

Member's explanatory statement

This amendment is consequential on amendment 58.

Secretary Jonathan Reynolds **Gov 60**

★ Schedule 1, page 123, line 11, at end insert—

"(4) After subsection (2A) insert—

"(2B) On a complaint under subsection (1BB) it is for the relevant person (within the meaning of section 47I) to show the ground on which any act, or deliberate failure to act, was done."

(5) In subsection (4), in the words after paragraph (b), after "hirer" insert ", or a relevant person (within the meaning of section 47I),".

(6) In subsection (6), after "49" insert ", except so far as relating to an alleged detriment in contravention of section 47I,"."

Member's explanatory statement

This amendment is consequential on amendment 58.

Secretary Jonathan Reynolds **Gov 61**

★ Schedule 1, page 123, line 13, at end insert—

"(2A) After subsection (1A) insert—

"(1B) Where an employment tribunal finds a complaint under section 48(1BB) well-founded, the tribunal—

(a) must make a declaration to that effect, and

(b) may make an award of compensation to be paid by the relevant person (within the meaning of section 47I) to the complainant in respect of the act or failure to act to which the complaint relates.""

Member's explanatory statement

This amendment is consequential on amendment 58.

Secretary Jonathan Reynolds **Gov 62**

★ Schedule 1, page 123, line 14, at end insert—

"(3A) In that subsection, after "(7A)" insert "and (7B)"."

Member's explanatory statement

This amendment is consequential on amendment 58.

Secretary Jonathan Reynolds **Gov 63**

★ Schedule 1, page 123, line 24, at end insert—

"(5) After subsection (7A) (inserted by sub-paragraph (4)) insert—

"(7B) Where—

(a) the complaint is made under section 48(1BB),

(b) the detriment to which the agency worker is subjected is the termination of a worker's contract between the agency worker and the relevant person, and

(c) that contract is not a contract of employment,

any compensation must not exceed the compensation that would be payable under Chapter 2 of Part 10 if the agency worker had been an employee and had been dismissed for a reason specified in section 104BB (and "agency worker" and "relevant person" have the same meaning in this subsection as in section 47I).""

Member's explanatory statement

This amendment is consequential on amendment 58.

Secretary Jonathan Reynolds **Gov 64**

★ Schedule 1, page 124, line 3, at end insert—

"(2A) An employee who is dismissed is also to be regarded for the purposes of this Part as unfairly dismissed if the reason (or, if more than one, the principal reason) for the dismissal is that the employee—

(a) brought proceedings against the employer under section 27BG(3A) or (3B), or

(b) alleged the existence of any circumstance which would constitute a ground for bringing such proceedings.

(In relation to other proceedings under section 27BG, see section 104.)

(2B) It is immaterial for the purposes of subsection (2A) whether or not the employer has behaved as described in section 27BG(3A) or (3B) but, for subsection (2A) to apply, the claim must be made in good faith.

(2C) It is sufficient for subsection (2A)(b) to apply that the employee made the nature of the employer's alleged behaviour reasonably clear to the employer."

Member's explanatory statement

This amendment is consequential on amendment 21.

Secretary Jonathan Reynolds **Gov 65**

★ Schedule 1, page 124, line 15, at end insert—

"9A After section 104BA (inserted by paragraph 9) insert—

"104BB Guaranteed hours: agency workers

(1) An employee who is dismissed by a relevant person (who is their employer) is to be regarded for the purposes of this Part as unfairly dismissed if the reason (or, if more than one, the principal reason) for the dismissal is that the employee—

(a) accepted, or proposed to accept, an offer to enter into a worker's contract made in compliance (or purported compliance) with the duty imposed by paragraph 1(1) of Schedule A1, or

(b) rejected, or proposed to reject, an offer to enter into a worker's contract made in compliance (or purported compliance) with the duty imposed by paragraph 1(1) of Schedule A1.

(2) The reference in subsection (1)(b) to an employee who rejected an offer includes a reference to an employee who is to be treated as having rejected an offer (see paragraph 5(4) of Schedule A1).

(3) An employee who is dismissed by a relevant person (who is their employer) is also to be regarded for the purposes of this Part as unfairly dismissed if the reason (or, if more than one, the principal reason) for the dismissal is that the employee—

(a) brought proceedings against the employer under paragraph 8(1) or (2), or

(b) alleged the existence of any circumstance which would constitute a ground for bringing such proceedings.

(In relation to other proceedings under paragraph 8, see section 104.)

(4) It is immaterial for the purposes of subsection (3) whether or not the employer has behaved as described in paragraph 8(1) or (2) but, for subsection (3) to apply, the claim must be made in good faith.

(5) It is sufficient for subsection (3)(b) to apply that the employee made the nature of the employer's alleged behaviour reasonably clear to the employer.

(6) An employee who is dismissed by a relevant person (who is their employer) is also to be regarded for the purposes of this Part as unfairly dismissed if—

(a) the duty imposed by paragraph 1(1) of Schedule A1 applies in relation to the employee and a particular reference period, or the employer believes that that duty so applies, and

(b) the reason (or, if more than one, the principal reason) for the dismissal is that the employer sought to avoid the necessity

of that duty having to be complied with in relation to the employee and the reference period.

(7) In this section—-

"reference period" has the same meaning as in Part 1 of Schedule A1 (see paragraph 1(4));

"relevant person" means a person falling within subsection (7)(a) or (c) of section 47I.""

Member's explanatory statement

This amendment is consequential on NS1.

Secretary Jonathan Reynolds **Gov 66**

★ Schedule 1, page 124, line 23, at end insert ", or

(c) the reason specified in subsection (2A) of that section (read with subsections (2B) and (2C) of that section)."

Member's explanatory statement

This amendment is consequential on amendment 64.

Secretary Jonathan Reynolds **Gov 67**

★ Schedule 1, page 124, line 23, at end insert—

"(b) after subsection (7BZA) (inserted by paragraph (a)) insert—

"(7BZB) This subsection applies if the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal was—

(a) the reason specified in subsection (1)(a) or (6) of section 104BB,

(b) the reason specified in subsection (1)(b) of that section (read with subsection (2) of that section), or

(c) the reason specified in subsection (3) of that section (read with subsections (4) and (5) of that section).""

Member's explanatory statement

This amendment is consequential on amendment 65.

Secretary Jonathan Reynolds **Gov 68**

★ Schedule 1, page 124, leave out lines 26 to 28 and insert—

"(gha) any of the following provisions of section 104BA applies—

(i) subsection (1)(a) or (3),

(ii) subsection (1)(b) (read with subsection (2) of that section), or
(iii) subsection (2A) (read with subsections (2B) and (2C) of that section),"

Member's explanatory statement

This amendment is consequential on amendment 64.

Secretary Jonathan Reynolds **Gov 69**

★ Schedule 1, page 124, line 28, at end insert—

"(b) after paragraph (gha) (inserted by paragraph (a)) insert—

"(ghb) any of the following provisions of section 104BB applies—
(i) subsection (1)(a) or (6),
(ii) subsection (1)(b) (read with subsection (2) of that section), or
(iii) subsection (3) (read with subsections (4) and (5) of that section),"."

Member's explanatory statement

This amendment is consequential on amendment 65.

Secretary Jonathan Reynolds **Gov 70**

★ Schedule 1, page 124, line 38, at end insert—

"(4) After subsection (2) insert—

"(3) The remedy of an agency worker (within the meaning of Part 2A) for infringement of any of the rights conferred by Parts 1 to 3 of Schedule A1 and section 47I is, where provision is made for a complaint to an employment tribunal, by way of such a complaint and not otherwise.""

Member's explanatory statement

This amendment is consequential on NS1 and amendment 58.

Secretary Jonathan Reynolds **Gov 71**

★ Schedule 1, page 125, line 4, leave out from "is" to end of line 6 and insert "—

(a) where the complaint is under section 27BG(1), (2), (3) or (5), the latest day of the reference period to which the complaint relates on which the worker was employed by the employer under a worker's contract;
(b) where the complaint is under section 27BG(6)—
(i) the date on which the complaint was presented to the employment tribunal, or

(ii) if the worker was not employed by the employer under a worker's contract on that date, the latest day before that date on which the worker was so employed.""

Member's explanatory statement

This amendment supplements the amendment of section 225 of the Employment Rights Act 1996 by adding a calculation date for determining the permitted maximum for an award of compensation where an employer breaches an information duty imposed by proposed section 27BF of that Act (resulting in a complaint under proposed section 27BG(6)).

Secretary Jonathan Reynolds **Gov 72**

★ Schedule 1, page 125, line 6, at end insert—

"(A2) Where the calculation is for the purposes of section 27BI as applied by section 27BUD(6)(a) in relation to a complaint under section 27BUD(5), the calculation date is the latest day of the reference period to which the complaint relates on which the worker was employed by the employer under a worker's contract.""

Member's explanatory statement

This amendment is consequential on NC33.

Secretary Jonathan Reynolds **Gov 73**

★ Schedule 1, page 125, line 10, at end insert—

"( ) in subsection (1), in paragraph (b) of the definition of "week", after "86" insert "and paragraph 10 of Schedule A1""

Member's explanatory statement

This amendment is consequential on NS1.

Secretary Jonathan Reynolds **Gov 74**

★ Schedule 1, page 125, line 19, after "27BU(2)," insert "27BUE,"

Member's explanatory statement

This amendment will make regulations under section 27BUE (see NC33) subject to the affirmative procedure.

Secretary Jonathan Reynolds **Gov 75**

★ Schedule 1, page 125, line 19, leave out "27BW,"

Member's explanatory statement

This amendment is consequential on amendment 48.

Secretary Jonathan Reynolds **Gov 76**

★ Schedule 1, page 125, line 19, at end insert—

> "(b) after "209," insert "or under paragraph 1(3)(b), (6) or (10), 2(2), (5) or (7)(c), 4(6), 11(1), 12(3), 13(2), 14(3), 15(4), 21(1), (3) or (5), 23(1)(c) or (2), 25(9), 26(2) or 27(2) of Schedule A1,"."

Member's explanatory statement

This amendment is consequential on NS1. The regulation-making powers referred to in this amendment are the ones that will be subject to affirmative parliamentary procedure.

Secretary Jonathan Reynolds **Gov 77**

★ Schedule 2, page 126, line 15, at end insert "or subsection (2A) of that section (read with subsections (2B) and (2C) of that section)"

Member's explanatory statement

This amendment is consequential on amendment 64.

Secretary Jonathan Reynolds **Gov 78**

★ Schedule 2, page 126, line 15, at end insert—

> "(ja) subsection (1)(a) or (6) of section 104BB, subsection (1)(b) of that section (read with subsection (2) of that section) or subsection (3) of that section (read with subsections (4) and (5) of that section);"

Member's explanatory statement

This amendment is consequential on amendment 65.

Secretary Jonathan Reynolds **Gov 240**

★ Schedule 2, page 126, leave out lines 23 and 24

Member's explanatory statement

This amendment ensures that, when section 108A of the Employment Rights Act 1996 (inserted by paragraph 2 of Schedule 2 to the Bill) comes into force, section 104I of that Act (inserted by clause 24 of the Bill) will not apply to the dismissal of an employee if, at the time of dismissal, the employee has not yet started work.

Steve Darling **5**

Munira Wilson
Sarah Gibson
Daisy Cooper
Clive Jones
Jess Brown-Fuller

Schedule 2, page 127, line 37, leave out from "period" to the end of line 38 and insert "of not less than 3 months and not more than 9 months from the day on which the employee starts work."

Member's explanatory statement

This amendment will ensure that the initial period of employment is between 3 and 9 months.

Secretary Jonathan Reynolds **Gov 241**

★ Schedule 2, page 128, line 39, at end insert—

"( ) in paragraph 160 (right not to be subjected to detriment: compensation), in sub-paragraph (2)(b)—

(i) for "124(1)" substitute "124";

(ii) at the end insert "(ignoring any different sum specified as the limit for a dismissal that meets the conditions in section 98ZZA(2) and (3) of that Act).";"

Member's explanatory statement

Paragraph 156 of Schedule A1 to the Trade Union and Labour Relations (Consolidation) Act 1992 provides that a worker has the right not to be subjected to any detriment by the worker's employer resulting from, among other things, the worker supporting recognition of a trade union. Paragraph 160 of that Schedule provides that the compensation payable where such detriment consists of the termination of the worker's contract is subject to a limit calculated by reference to the maximum amount of a compensatory award for an employee who has been unfairly dismissed. This amendment would make it clear that the relevant figure for this calculation remains the standard maximum, not any different amount specified for cases where an employee is dismissed during the initial period of employment.

Secretary Jonathan Reynolds **Gov 242**

★ Schedule 2, page 130, line 5, at beginning insert—

"(1) The National Minimum Wage Act 1998 is amended as follows.

(2) In section 24 (enforcement of right not to be subjected to detriment), in subsection (4)(b)—

(a) for "124(1)" substitute "124";

(b) after "section 123 of that Act" insert "(ignoring any different sum specified as the limit for a dismissal that meets the conditions in section 98ZZA(2) and (3) of that Act)"."

Member's explanatory statement

Section 23 of the National Minimum Wage Act 1998 provides that a worker has the right not to be subjected to any detriment by the worker's employer resulting from, among other things, the worker seeking to enforce the right to the minimum wage. Section 24(3) and (4) of that Act provides that the compensation payable where such detriment consists of the termination of the worker's contract is subject to a limit calculated by reference to the maximum amount of a compensatory award for an employee who has been unfairly dismissed. This amendment would make it clear that the relevant figure for this calculation remains the standard maximum, not any different amount specified for cases where an employee is dismissed during the initial period of employment.

Secretary Jonathan Reynolds **Gov 243**

★ Schedule 2, page 130, line 28, at beginning insert—

"(1) In Part 1 of the Pensions Act 2008 (pension scheme membership for jobholders), Chapter 3 (safeguards: employment and pre-employment) is amended as follows.

(2) In section 56 (enforcement of right not to be subjected to detriment), in subsection (4)(b)—

(a) for "124(1)" substitute "124";

(b) at the end insert "(ignoring any different sum specified as the limit for a dismissal that meets the conditions in section 98ZZA(2) and (3) of that Act).""

Member's explanatory statement

Section 55 of the Pensions Act 2008 provides that a worker has the right not to be subjected to any detriment by the worker's employer resulting from, among other things, the worker seeking to enforce the duties imposed by that Act in relation to pension enrolment. Section 56(3) and (4) of that Act provides that the compensation payable where such detriment consists of the termination of the worker's contract is subject to a limit calculated by reference to the maximum amount of a compensatory award for an employee who has been unfairly dismissed. This amendment would make it clear that the relevant figure for this calculation remains the standard maximum, not any different amount specified for cases where an employee is dismissed during the initial period of employment.

Secretary Jonathan Reynolds **Gov 244**

★ Schedule 3, page 138, line 8, leave out "(6)" and insert "(7)"

Member's explanatory statement

This amendment corrects an incorrect cross-reference.

Secretary Jonathan Reynolds **Gov 245**

★ Schedule 3, page 138, line 39, leave out "(6)" and insert "(7)"

Member's explanatory statement

This amendment corrects an incorrect cross-reference.

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.

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 254.

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).

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.

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.

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.

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.

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.

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.

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.

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.

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)."

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.

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.

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.

Withdrawn Amendments

The following amendments were withdrawn on 19 February 2025:

NC24 and NC26