

Employment Retention Bill

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B I L L

TO

Make provision for a statutory right to rehabilitation leave for newly disabled people and people whose existing impairments change; and for connected purposes.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Rehabilitation leave

- (1) The Employment Rights Act 1996 (c. 18) is amended as follows.
- (2) After Part 8A there is inserted—

“PART 8B

REHABILITATION LEAVE

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80J Entitlement to rehabilitation leave

- (1) The Secretary of State shall make regulations entitling a disabled employee who satisfies specified conditions to be absent from work on leave under this section for the purpose of—
 - (a) employment assessment; 10
 - (b) rehabilitation;
 - (c) re-training; and
 - (d) enabling his employer to make reasonable adjustments to working conditions and arrangements.
- (2) Regulations under subsection (1) shall include provision for determining—
 - (a) the extent of a disabled employee's entitlement to leave under this section; 15
 - (b) when leave under this section may be taken; and
 - (c) the conditions material in subsection (1). 20

80K Rights during and after rehabilitation leave

An employee who exercises his right under section 80J –

- (a) is entitled, for such purposes and to such extent as may be prescribed, to the benefits of the terms and conditions which would have been applied, if he had not been absent; 5
- (b) is bound, for such purposes and to such extent as may be prescribed, by obligations arising under those terms and conditions (except in so far as they are inconsistent with section 80J); and
- (c) is entitled to return from leave to a job of a kind prescribed by regulations. 10

80L Complaint to employment tribunal

- (1) A disabled employee may present a complaint to an employment tribunal that his employer –
 - (a) has unreasonably postponed a period of rehabilitation leave requested by the employee; or 15
 - (b) has prevented or attempted to prevent the employee from taking rehabilitation leave.
- (2) An employment tribunal shall not consider a complaint under this section unless it is presented – 20
 - (a) before the end of the period of three months beginning with the date (or last date) of the matters complained of; or
 - (b) within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented before the end of that period of three months. 25
- (3) Where an employment tribunal finds a complaint under this section well founded it –
 - (a) shall make a declaration to that effect; and
 - (b) may make an award of compensation to be paid by the employer to the employee. 30
- (4) The amount of compensation shall be such as the tribunal considers just and equitable in all the circumstances having regard to –
 - (a) the employer’s behaviour; and
 - (b) any loss sustained by the employee which is attributable to the matters complained of. 35

80M Interpretation

For the purpose of this Part –

- “disabled” has the same meaning as in the Disability Discrimination Act 1995 (c. 50); 40
- “employment assessment” has the same meaning as “work-focused health-related assessment” in the Welfare Reform Act 2007 (c. 5).

- (3) In section 236(3), after “79(3),” insert “80J(1), 80K”.

2 Short title and commencement

- (1) This Act may be cited as the Employment Retention Act 2007.
- (2) This Act (apart from this section) comes into force on such day as the Secretary of State may appoint by order made by statutory instrument, and different days may be appointed for different provisions or for different purposes.
- (3) An order under subsection (2) may contain transitional provisions and savings relating to the provisions being brought into force by the order.

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To make provision for a statutory right to rehabilitation leave for newly disabled people and people whose existing impairments change; and for connected purposes.

*Ordered to be brought in by John Robertson
supported by
Jim Sheridan, Miss Anne Begg,
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John Bercow, Dr Alasdair McDonnell,
Julie Morgan, Danny Alexander,
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*Ordered, by The House of Commons,
to be Printed, 13th March 2007.*

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LONDON – THE STATIONERY OFFICE LIMITED
Printed in the United Kingdom by
The Stationery Office Limited
£x.xx