

Employment Rights Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Department for Business and Trade, are published separately as Bill 11—EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Secretary Jonathan Reynolds has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Employment Rights Bill are compatible with the Convention rights.

Employment Rights Bill

[AS INTRODUCED]

CONTENTS

PART 1

EMPLOYMENT RIGHTS

Zero hours workers, etc

- 1 Right to guaranteed hours
- 2 Shifts: rights to reasonable notice
- 3 Right to payment for cancelled, moved and curtailed shifts
- 4 Amendments relating to sections 1 to 3
- 5 Repeal of Workers (Predictable Terms and Conditions) Act 2023
- 6 Exclusivity terms in zero hours arrangements

Flexible working

- 7 Right to request flexible working

Statutory sick pay

- 8 Statutory sick pay: removal of waiting period
- 9 Statutory sick pay: lower earnings limit etc

Tips and gratuities, etc

- 10 Policy about allocating tips etc: consultation and review

Entitlements to leave

- 11 Parental leave: removal of qualifying period of employment
- 12 Paternity leave: removal of qualifying period of employment
- 13 Ability to take paternity leave following shared parental leave
- 14 Bereavement leave

Protection from harassment

- 15 Employers to take all reasonable steps to prevent sexual harassment
- 16 Harassment by third parties
- 17 Sexual harassment: power to make provision about “reasonable steps”
- 18 Protection of disclosures relating to sexual harassment

Dismissal

- 19 Right not to be unfairly dismissed: removal of qualifying period, etc
- 20 Dismissal during pregnancy
- 21 Dismissal following period of statutory family leave
- 22 Dismissal for failing to agree to variation of contract, etc

PART 2

OTHER MATTERS RELATING TO EMPLOYMENT

Procedure for handling redundancies

- 23 Collective redundancy: extended application of requirements
- 24 Collective redundancy notifications: ships' crew

Public sector outsourcing: protection of workers

- 25 Public sector outsourcing: protection of workers

Duties of employers relating to equality

- 26 Equality action plans
- 27 Provision of information relating to outsourced workers

PART 3

PAY AND CONDITIONS IN PARTICULAR SECTORS

CHAPTER 1

SCHOOL SUPPORT STAFF

- 28 Pay and conditions of school support staff in England

CHAPTER 2

ADULT SOCIAL CARE

The Adult Social Care Negotiating Body

- 29 Power to establish the Adult Social Care Negotiating Body
- 30 Matters within the Negotiating Body's remit
- 31 Meaning of "social care worker"

Consideration of matters by the Negotiating Body

- 32 Consideration of matters by the Negotiating Body
- 33 Reconsideration by the Negotiating Body
- 34 Failure to reach an agreement

Giving effect to agreements of the Negotiating Body

- 35 Power to ratify agreements
- 36 Effect of regulations ratifying agreement

Power of Secretary of State to deal with matters

- 37 Power of Secretary of State to deal with matters

Guidance etc

- 38 Guidance and codes of practice

Enforcement

- 39 Duty of employers to keep records
- 40 Enforcement of matters relating to pay

Supplementary and general

- 41 Regulations under section 35 or 37: supplementary
- 42 Regulations under this Chapter
- 43 Status of agreements, etc
- 44 Interpretation of this Chapter

PART 4

TRADE UNIONS AND INDUSTRIAL ACTION, ETC

Right to statement of trade union rights

- 45 Right to statement of trade union rights

Right of trade unions to access workplaces

- 46 Right of trade unions to access workplaces

Trade union recognition

- 47 Conditions for trade union recognition

Trade union finances

- 48 Requirement to contribute to political fund
- 49 Deduction of trade union subscriptions from wages in public sector

Facilities provided to trade union representatives and members

- 50 Facilities provided to trade union officials and learning representatives
- 51 Facilities for equality representatives
- 52 Facility time: publication requirements and reserve powers

Blacklists

- 53 Blacklists: additional powers

Industrial action: ballots

- 54 Industrial action ballots: turnout and support thresholds
 55 Industrial action ballots: provision of information to members
 56 Electronic balloting

Industrial action: provision of information to employer

- 57 Industrial action: provision of information to employer

Industrial action: picketing

- 58 Union supervision of picketing

Protection for taking industrial action

- 59 Protection against detriment for taking industrial action
 60 Protection against dismissal for taking industrial action

Strikes: minimum service levels

- 61 Repeal of provision about minimum service levels

Certification Officer

- 62 Annual returns: removal of provision about industrial action
 63 Annual returns: removal of provision about political expenditure
 64 Removal of powers to enforce requirements relating to annual returns
 65 Removal of investigatory powers
 66 Powers to be exercised only on application
 67 Removal of power to impose financial penalties
 68 Removal of power to impose levy
 69 Appeals to the Employment Appeal Tribunal

General

- 70 Regulations subject to affirmative resolution procedure
 71 Devolved Welsh authorities

PART 5

ENFORCEMENT OF LABOUR MARKET LEGISLATION

General

- 72 Enforcement of labour market legislation by Secretary of State
 73 Enforcement functions of Secretary of State
 74 Delegation of functions

Advisory Board

75 Advisory Board

Strategies and reports

76 Labour market enforcement strategy

77 Annual reports

Powers to obtain documents or information

78 Power to obtain documents or information

79 Power to enter business premises in order to obtain documents, etc

80 Supplementary powers in relation to documents

81 Retention of documents

Other powers to investigate non-compliance

82 Powers of enforcement officers under Police and Criminal Evidence Act 1984

83 Offences relating to gangmasters: power to enter premises with warrant

Labour market enforcement undertakings

84 Power to request LME undertaking

85 Measures in LME undertakings

86 Duration of LME undertakings

87 Means of giving notice under section 84

Labour market enforcement orders

88 Power to make LME order on application

89 Applications for LME orders

90 Power to make LME order on conviction

91 Measures in LME orders

92 Further provision about LME orders

93 Variation and discharge of LME orders

94 LME orders: appeals

Safeguards

95 Evidence of authority

96 Items subject to legal privilege

97 Privilege against self-incrimination

Disclosure of information

98 Disclosure of information

99 Disclosure of information: supplementary provision

100 Restriction on disclosure of HMRC information

101 Restriction on disclosure of intelligence service information

Offences

- 102 Offence of failing to comply with LME order
- 103 Offence of providing false information or documents
- 104 Offence of obstruction

Supplementary

- 105 Offences by bodies corporate
- 106 Application of this Part to partnerships
- 107 Application of this Part to unincorporated associations
- 108 Application of this Part to the Crown
- 109 Abolition of existing enforcement authorities
- 110 Consequential and transitional provision

Interpretation of this Part

- 111 Meaning of “non-compliance with relevant labour market legislation”
- 112 Interpretation: general

PART 6

GENERAL

- 113 Power to make consequential amendments
- 114 Power to make transitional or saving provision
- 115 Regulations
- 116 Financial provision
- 117 Extent
- 118 Commencement
- 119 Short title

-
- Schedule 1 – Consequential amendments relating to sections 1 to 3
 - Schedule 2 – Right not to be unfairly dismissed: removal of qualifying period, etc
 - Schedule 3 – Pay and conditions of school support staff in England
 - Schedule 4 – Legislation subject to enforcement under Part 5
 - Part 1 – Relevant labour market legislation
 - Part 2 – Power to amend Part 1
 - Schedule 5 – Persons to whom information may be disclosed under section 98
 - Schedule 6 – Consequential amendments relating to Part 5
 - Part 1 – Existing powers under relevant labour market legislation
 - Part 2 – Other consequential amendments
 - Schedule 7 – Transitional and saving provision relating to Part 5
 - Part 1 – Abolition of existing enforcement authorities: transfer schemes
 - Part 2 – Other transitional and saving provision

[AS INTRODUCED]

A

B I L L

TO

Make provision to amend the law relating to employment rights; to make provision about procedure for handling redundancies; to make provision about the treatment of workers involved in the supply of services under certain public contracts; to provide for duties to be imposed on employers in relation to equality; to provide for the establishment of the School Support Staff Negotiating Body and the Adult Social Care Negotiating Body; to make provision about trade unions, industrial action, employers' associations and the functions of the Certification Officer; to make provision about the enforcement of legislation relating to the labour market; and for connected purposes.

BE IT ENACTED by the King'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:—

PART 1

EMPLOYMENT RIGHTS

Zero hours workers, etc

1 Right to guaranteed hours

- (1) Part 2A of the Employment Rights Act 1996 (zero hours workers) is amended as follows.
- (2) In the Part heading, at the end insert “and similar”.

5

- (3) Before section 27A insert—

“CHAPTER 1

EXCLUSIVITY TERMS AND OTHER RESTRICTIONS”.

- (4) After section 27B insert—

“CHAPTER 2

5

RIGHT TO GUARANTEED HOURS

27BA Right for qualifying workers to be offered guaranteed hours

- (1) An employer must make a guaranteed hours offer to a worker in accordance with section 27BB after the end of every period—
- (a) that is a reference period in relation to that worker and that employer, and 10
 - (b) in relation to which the worker is a qualifying worker of the employer.
- (2) Section 27BD makes provision for exceptions to this duty, including in certain cases where the worker ceases to be employed by the employer. 15
- (3) A worker is a qualifying worker of an employer in relation to a reference period if—
- (a) during the reference period the worker was employed by the employer under one or more worker’s contracts (whether or not continuously) and either— 20
 - (i) the worker’s contract was, or the worker’s contracts were, a zero hours contract or entered into in accordance with a zero hours arrangement, or
 - (ii) the worker’s contract, or the worker’s contracts (taken together), required the employer, or were entered into in accordance with an arrangement that required the employer, to make work available to the worker during the reference period for a number of hours (“the minimum number of hours”) not exceeding a specified number of hours, 25
 - (b) during the reference period the worker worked under the worker’s contract or the worker’s contracts (taken together) for a number of hours (the “reference period hours”),
 - (c) where paragraph (a)(ii) applies, the reference period hours exceeded the minimum number of hours, 30
 - (d) the reference period hours satisfy such conditions (or, where paragraph (a)(ii) applies, such further conditions) as to number, regularity or otherwise as are specified, and 35

- (e) when the worker worked the reference period hours, it was not as an excluded worker or an agency worker (but see section 27BV for power to make provision about agency workers).
- (4) In relation to a worker and the worker’s employer, each of the following is a “reference period” – 5
 - (a) the initial reference period, and
 - (b) each subsequent reference period.
- (5) “The initial reference period”, in relation to a worker and the worker’s employer, means the period – 10
 - (a) beginning with –
 - (i) where the worker is employed by the employer on the day on which subsection (1) comes into force (“the commencement day”), the commencement day, or
 - (ii) where the worker is not so employed, the first day after the commencement day on which the worker is employed by the employer, and 15
 - (b) ending with the specified day.
- (6) A “subsequent reference period”, in relation to a worker and the worker’s employer, means a period beginning and ending with the specified days. 20
- (7) For the purposes of this Chapter –
 - (a) references to a “qualifying worker” are to a worker who is a qualifying worker of an employer in relation to a reference period by virtue of subsection (3), and
 - (b) the reference period in relation to which the worker is a qualifying worker of the employer is referred to as “the relevant reference period”. 25
- (8) Nothing in this Chapter prevents an employer from making one or more other offers to a qualifying worker, to vary the worker’s terms and conditions of employment or enter into a new worker’s contract, at the same time as making a guaranteed hours offer. 30
- (9) Regulations made under subsection (3)(d), (5) or (6) may, in particular, include provision to take account of time when a worker does not work for a specified reason.
- (10) In this section, “excluded worker” means a worker who is of a specified description. 35

27BB Requirements relating to a guaranteed hours offer

- (1) An offer by an employer to a qualifying worker is a guaranteed hours offer for the purposes of this Chapter if it is an offer –
 - (a) to vary the worker’s terms and conditions of employment (but see subsection (5)), or 40

- (b) to enter into a new worker’s contract,
and the terms and conditions as varied or (as the case may be) the
new worker’s contract will require the employer to make work
available to the qualifying worker for a number of hours that reflects
the reference period hours in the relevant reference period. 5
- (2) The Secretary of State may by regulations provide that an offer by an
employer to a qualifying worker is a guaranteed hours offer for the
purposes of this Chapter only if it also satisfies the condition in
subsection (3).
- (3) The condition referred to in subsection (2) is that— 10
- (a) the offer sets out—
- (i) the days of the week, and the times on those days, when
the employer is to be required to make work available
to the qualifying worker for the offered number of
hours, or 15
- (ii) a working pattern of days, and times of day, by
reference to which the employer is to be required to
make work available to the qualifying worker for the
offered number of hours, and
- (b) those days and times reflect, or that pattern reflects, when the
qualifying worker worked the reference period hours in the
relevant reference period. 20
- (4) 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 25
qualifying worker during a reference period;
- (b) where regulations are in force under subsection (2), whether
an offer reflects when hours were worked by a qualifying
worker during a reference period.
- (5) A guaranteed hours offer may take the form of an offer to vary a 30
qualifying worker’s terms and conditions of employment (as opposed
to an offer to enter into a new worker’s contract) only if—
- (a) the qualifying worker worked for the employer under a
worker’s contract at the beginning of the relevant reference
period, and 35
- (b) the qualifying worker is still working for the employer under
that worker’s contract on the day the offer is made.
- (6) A guaranteed hours offer that takes the form of an offer to vary a
qualifying worker’s terms and conditions of employment—
- (a) must propose the removal of any term that provides for the 40
contract to terminate by virtue of a limiting event unless, if the
contract were entered into on the day the offer is made, it
would be reasonable for it to be entered into as a limited-term
contract;

- (b) may not propose any other variation of the worker’s terms and conditions of employment (other than what is required by or under subsections (1) and (2)).
- (7) A guaranteed hours offer that takes the form of an offer to enter into a new worker’s contract – 5
 - (a) must not propose a new 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 subsections (1) and (2)) propose terms and conditions of employment – 10
 - (i) that, taken as a whole, are no less favourable than the terms and conditions of employment relating to matters other than working hours and length of employment that the qualifying worker had when working for the employer during the relevant reference period, or 15
 - (ii) where section 27BC applies, that comply with subsection (2) of that section.
- (8) For the purposes of this section it is reasonable for a worker’s contract of a qualifying worker to be entered into as a limited-term contract only if – 20
 - (a) it is reasonable for the qualifying worker’s employer to consider that the worker is only needed to perform a specific task and the contract provides for termination when the task has been performed,
 - (b) it is reasonable for the qualifying worker’s employer to consider 25 that the worker is only needed until the occurrence of an event (or the failure of an event to occur) and the 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 qualifying worker’s employer to consider 30 that there is only a temporary need of a specified description (not falling within paragraph (a) or (b)) for the qualifying worker to do work under the contract and the contract is to expire at a time when it is reasonable for the employer to consider that the temporary need will come to an end. 35
- (9) 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. 40
- (10) The Secretary of State may by regulations make provision about when a guaranteed hours offer is to be treated as having been made.

- (11) In this section, “reference period hours”, in relation to a qualifying worker and a relevant reference period, has the same meaning as in section 27BA(3).

27BC Requirements relating to a guaranteed hours offer: supplementary

- (1) This section applies where— 5
- (a) a guaranteed hours offer made by an employer to a qualifying worker takes the form of an offer to enter into a new worker’s contract, and
 - (b) during the relevant reference period—
 - (i) the qualifying worker worked for the employer under more than one worker’s contract and did not have the same terms and conditions of employment relating to matters other than working hours and length of employment under those worker’s contracts, or 10
 - (ii) the qualifying worker worked for the employer under only one worker’s contract but there was a variation during the relevant reference period of the qualifying worker’s terms and conditions of employment relating to matters other than working hours and length of employment. 15
- (2) Where this section applies, the guaranteed hours offer may propose terms and conditions of employment (in addition to what is required by or under section 27BB(1) and (2)) that, taken as a whole, are less favourable than the most favourable terms and conditions of employment relating to matters other than working hours and length of employment that the qualifying worker had when working for the employer during the relevant reference period, but only if— 20
- (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 worker had when working for the employer during the relevant reference period, and 25
 - (b) the proposal of those terms by the employer constitutes a proportionate means of achieving a legitimate aim. 30
- (3) If an employer relies on subsection (2) when making a guaranteed hours offer to a qualifying worker, the employer must give to the qualifying worker a notice that— 35
- (a) states that the employer has done so, and
 - (b) explains how the proposed terms and conditions constitute a proportionate means of achieving a legitimate aim. 40
- (4) A notice under subsection (3) must be given by no later than the same day, and in the same form and manner, as the guaranteed hours offer (see section 27BB(9)).

27BD Guaranteed hours offer: exceptions to duty to make offer and withdrawal of offer

- (1) The duty imposed by section 27BA(1) on an employer in relation to a qualifying worker does not apply if during the relevant reference period or the offer period there is a relevant termination of— 5
- (a) the worker’s contract under which the qualifying worker has been working (or has most recently been working) for the employer, or
 - (b) the arrangement in accordance with the terms of which the qualifying worker has been working (or has most recently been working) for the employer. 10
- (2) A guaranteed hours offer made by an employer to a qualifying worker is to be treated as having been withdrawn if during the response period there is a relevant termination of— 15
- (a) the worker’s contract under which the qualifying worker has been working (or has most recently been working) for the employer, or
 - (b) the arrangement in accordance with the terms of which the qualifying worker has been working (or has most recently been working) for the employer. 20
- (3) There is a relevant termination of a worker’s contract entered into between a qualifying worker and an employer if—
- (a) the qualifying worker terminates (with or without notice) the worker’s contract otherwise than in circumstances in which the worker is entitled to terminate it without notice by reason of the employer’s conduct, 25
 - (b) the employer terminates (with or without notice) the worker’s contract and—
 - (i) the employer’s reason for doing so (or, if more than one, the employer’s principal reason for doing so) is a qualifying reason, and 30
 - (ii) in the circumstances (including the size and administrative resources of the employer’s undertaking) the employer acts reasonably in treating the reason (or the principal reason) as a sufficient reason for terminating the contract, or 35
 - (c) the worker’s contract terminates by virtue of a limiting event and it was reasonable for the contract to have been entered into as a limited-term contract.
- (4) There is a relevant termination of an arrangement entered into between a qualifying worker and an employer if— 40
- (a) the qualifying worker or the employer terminates the arrangement and the termination is equivalent to a termination falling within subsection (3)(a) or (b), or

- (b) the arrangement was not intended to be permanent and the termination of it is equivalent to a termination falling within subsection (3)(c).
- (5) The Secretary of State may by regulations make provision for the duty imposed by section 27BA(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. 5
- (6) Subsection (8) of section 27BB applies for the purposes of subsection (3)(c) as it applies for the purposes of that section.
- (7) In this section – 10
- “the offer period”, in relation to a qualifying worker and the qualifying worker’s employer, 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 worker by the employer, or 15
- (b) if no guaranteed hours offer is made before the day specified under section 27BB(9)(a) as the last day on which the employer may make such an offer to the qualifying worker, that last day; 20
- “qualifying reason” means –
- (a) a reason of the type mentioned in section 98(1)(b), or
- (b) in relation to a worker who was not an employee immediately before ceasing to be employed, a reason that would be of the type mentioned in section 98(1)(b) if references in that provision and in section 98(2) and (3) to an employee were references to a worker; 25
- “the response period”, in relation to a guaranteed hours offer made to a qualifying worker, means the period –
- (a) beginning with the day after the day on which the offer is made, and 30
- (b) ending with the specified day.

27BE Acceptance or rejection of a guaranteed hours offer

- (1) Where an employer makes a guaranteed hours offer to a qualifying worker and the offer is not treated as having been withdrawn by virtue of section 27BD(2) or regulations under section 27BD(5), the qualifying worker may, by giving notice to the employer before the end of the response period, accept or reject the offer. 35
- (2) Where the guaranteed hours offer takes the form of an offer to vary the qualifying worker’s terms and conditions of employment and the qualifying worker gives notice under subsection (1) accepting the offer, the variation (assuming the worker’s contract that was in force when the guaranteed hours offer was made is still in force) is to be treated 40

as taking effect on the day after the day on which notice is given (but this is subject to subsection (6)).

- (3) If the guaranteed hours offer takes the form of an offer to vary the qualifying worker’s terms and conditions of employment but the worker’s contract that was in force when the guaranteed hours offer was made ceases to be in force during the response period – 5
- (a) the qualifying worker may (if the offer is not treated as having been withdrawn by virtue of section 27BD(2) or regulations under section 27BD(5)) still give notice under subsection (1) accepting the offer, and 10
 - (b) if the qualifying worker does so –
 - (i) the qualifying worker and the employer are to be treated as entering into a worker’s contract on the day after the day on which notice is given (but this is subject to subsection (6)), and 15
 - (ii) the terms of the contract are to be treated as being the terms of the worker’s contract that was in force when the guaranteed hours offer was made as varied in accordance with the terms of the offer.
- (4) Where the guaranteed hours offer takes the form of an offer to enter into a new worker’s contract and the qualifying worker gives notice under subsection (1) accepting the offer – 20
- (a) the qualifying worker and the employer 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 (but this is subject to subsection (6)), and 25
 - (b) that worker’s contract is to be treated as replacing any other worker’s contract entered into between the qualifying worker and the employer that is in force on that day.
- (5) But where, by virtue of subsection (4)(b), a new worker’s contract replaces another worker’s contract of a qualifying worker who is an employee – 30
- (a) that is not to be treated for the purposes of this Act as breaking the continuity of a period of employment of the qualifying worker; 35
 - (b) the worker’s contract that is replaced is not to be treated for the purposes of Part 10 as having terminated.
- (6) A qualifying worker and an employer may agree, for the purposes of subsection (2), (3) or (4), that the variation of the qualifying worker’s terms and conditions of employment is to be treated as taking effect, or (as the case may be) the new worker’s contract is to be treated as being entered into, on a later day than the day mentioned in the subsection (and, in subsection (4)(b), the reference to “that day” is then to be read as a reference to the later agreed day). 40

- (7) If a qualifying worker to whom a guaranteed hours offer has been made does not give notice under subsection (1) before the end of the response period, the qualifying worker is to be treated as having rejected the offer.
- (8) The Secretary of State may by regulations make provision about— 5
- (a) the form and manner in which notice under subsection (1) must be given by a qualifying worker to an employer;
 - (b) when notice given by a qualifying worker to an employer under subsection (1) is to be treated as having been given.
- (9) In this section, “the response period” has the same meaning as in section 27BD. 10

27BF Complaints to employment tribunals: grounds

- (1) 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 15
 - (b) by the end of the last day of the offer period, the employer has not made an offer to vary the worker’s terms and conditions of employment or to enter into a new worker’s contract in compliance (or purported compliance) with that duty (whether because the employer does not consider that the worker is a qualifying worker in relation to the reference period or for any other reason). 20
- (2) 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 25
 - (b) the offer that the employer has made to the worker in relation to that reference period to vary the worker’s terms and conditions of employment or to enter into a new worker’s contract is not a guaranteed hours offer as described in— 30
 - (i) subsection (1) of section 27BB (read with any regulations in force under subsection (4)(a) of that section), or
 - (ii) where regulations are in force under subsection (2) of section 27BB, subsections (1) and (3) of that section (read with any regulations in force under subsection (4)(a) or (b) of that section). 35
- (3) 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 40
 - (b) the guaranteed hours offer that the employer has made to the worker in relation to that reference period—

- (i) takes the form of an offer to vary the worker’s terms and conditions of employment where that is prohibited by section 27BB(5),
 - (ii) does not comply with section 27BB(6), or
 - (iii) does not comply with section 27BB(7). 5
- (4) A complaint under subsection (2) or (3)–
 - (a) may be presented whether or not the offer in question has been accepted by the worker, but
 - (b) may not be presented in relation to an offer that is treated as having been withdrawn by virtue of section 27BD(2) or regulations under section 27BD(5). 10
- (5) In this section “the last day of the offer period”, in relation to a reference period, means the day specified under section 27BB(9)(a) as the last day on which a guaranteed hours offer may be made in relation to that reference period. 15

27BG Complaints to employment tribunals: time limits

- (1) An employment tribunal must not consider a complaint under section 27BF(1) unless it is presented before the end of the period of three months beginning with the day after the last day of the offer period (as defined in section 27BF(5)). 20
- (2) An employment tribunal must not consider a complaint under section 27BF(2) unless it is presented before the end of the period of three 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 section 27BF(3) unless it is presented before the end of the period of three months beginning with the day after the day when the guaranteed hours offer referred to in that provision is made. 25
- (4) But, if the employment tribunal is satisfied that it was not reasonably practicable for a complaint under this section to be presented before the end of the relevant period of three months, the tribunal may consider the complaint if it is presented within such further period as the tribunal considers reasonable. 30
- (5) Section 207B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsections (1) to (3). 35

27BH Remedies

- (1) Where an employment tribunal finds a complaint under section 27BF well-founded, the tribunal–
 - (a) must make a declaration to that effect, and 40

- (b) may make an award of compensation to be paid by the employer to the worker.
- (2) The amount of compensation under subsection (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 worker for any financial loss sustained by the worker which is attributable to the matter complained of. 5
- (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. 10
- (4) For the purposes of subsection (2), “the permitted maximum” is such number of weeks’ pay as the Secretary of State may specify in regulations.
- (5) In calculating a week’s pay for the purposes of determining the permitted maximum for an award of compensation to a worker who is not an employee, Chapter 2 of Part 14 is to apply as if— 15
- (a) references in that Chapter and in section 234 (normal working hours) to an employee were references to a worker;
 - (b) references in that Chapter and in section 234 to a contract of employment were references to a worker’s contract; 20
 - (c) “week” meant—
 - (i) in relation to a worker whose remuneration is calculated weekly by a week ending with a day other than a Saturday, a week ending with that other day, and 25
 - (ii) in relation to any other worker, a day ending with Saturday.”

2 Shifts: rights to reasonable notice

After section 27BH of the Employment Rights Act 1996 (inserted by section 1) insert— 30

“CHAPTER 3

SHIFTS: RIGHTS TO REASONABLE NOTICE

27BI Right to reasonable notice of a shift

- (1) An employer must give to a worker reasonable notice of a shift that the employer requests or requires the worker to work if— 35
- (a) the worker is (or is to be) employed by the employer under a zero hours contract, or
 - (b) the worker is (or is to be) employed by the employer under a worker’s contract of a specified description that requires the employer to make some work available to the worker but does 40

not provide on what days and at what times, or in accordance with what pattern of days and times, that work is to be done by the worker.

- (2) An employer must give to a worker reasonable notice of a shift that the employer requests or requires the worker to work if— 5
- (a) the worker is (or is to be) employed by the employer under a worker’s contract of a specified description that requires the employer to make some work available to the worker,
 - (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 10
 - (c) the shift is to start or end on a day, or at a time, other than a day or time that is provided for by the contract as mentioned in paragraph (b) (including where part of the shift is to be worked on a day or at a time provided for by the contract). 15
- (3) An employer must give to an individual reasonable notice of a shift that the employer requests the individual to work if—
- (a) the individual would, if they worked the shift, be employed by the employer under a worker’s contract, and
 - (b) the worker’s contract would be entered into in accordance with a zero hours arrangement that is in place between the employer and the individual. 20
- (4) It is to be presumed, unless the contrary is shown, that notice of a shift is not reasonable notice for the purposes of subsections (1) to (3) if it is given less than a specified amount of time before the shift is due to start. 25
- (5) Regulations under subsection (1)(b) or (2)(a) may, in particular, specify a description of worker’s contract by reference to—
- (a) it being a worker’s contract that entitles a worker to be paid no more than a specified amount; 30
 - (b) it being a worker’s contract that requires an employer to make work available to a worker for no more than a specified number of hours.
- (6) For the purposes of this Chapter—
- “employer”, in relation to an individual and a shift, includes a person by whom the individual would be (or would have been) employed if the individual worked the shift; 35
 - “worker”, in relation to a shift, includes an individual who would be (or would have been) a worker if the individual worked the shift. 40
- (7) In this section, “notice of a shift” means notice of how many hours are to be worked and from what time on which day.

27BJ Right to reasonable notice of cancellation of or change to a shift

- (1) Subsection (2) applies in relation to an employer and a worker where—
- (a) the employer has given notice of a shift to the worker,
 - (b) the shift is one that the worker was entitled to reasonable notice of under section 27BI(1), (2) or (3), and 5
 - (c) where the shift is one that the employer has requested (rather than required) the worker to work, the worker has agreed to work it.
- (2) The employer must give reasonable notice to the worker of—
- (a) the cancellation of the shift by the employer; 10
 - (b) any change requested or required by the employer to one or more of the day on which or the time at which the shift is to start or end;
- (but this is subject to section 27BL).
- (3) It is to be presumed, unless the contrary is shown, that— 15
- (a) notice of the cancellation of a shift is not reasonable notice for the purposes of subsection (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 subsection (2) if it is given less than a specified amount of time before the earlier of— 20
 - (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); 25
 - (c) notice of a change to when a shift is to end is not reasonable notice for the purposes of subsection (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. 30
- (4) In this section, “notice of a shift” has the same meaning as in section 27BI.

27BK Sections 27BI and 27BJ: supplementary

- (1) None of the duties imposed by sections 27BI and 27BJ applies in relation to a shift that would be (or would have been) worked, or is being worked, by a worker as an agency worker (but see section 27BV for power to make provision about agency workers). 35
- (2) Where a worker suggests working a shift, or a longer shift, and the employer agrees to the suggestion—
- (a) the duties imposed by section 27BI(1), (2) and (3) do not apply in relation to the shift as suggested by the worker, but 40

- (b) the duty imposed by section 27BJ(2) applies as if notice of the shift had been given by the employer to the worker.
- (3) In sections 27BI and 27BJ, references to a request to work a shift made by an employer to a worker include a 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. 5
- (4) Where—
 - (a) an employer has made a request (“the initial request”) to work a shift of the type referred to in subsection (3), 10
 - (b) no worker to whom the initial request was made has agreed to work the shift, and
 - (c) the employer wishes to request a change to one or more of the day on which or the time at which the shift is to start or end, sections 27BI and 27BJ are to apply as if the initial request had not been made (and accordingly the request of a change is to be treated as a request to work a new shift). 15
- (5) The Secretary of State may by regulations make provision about—
 - (a) the form and manner in which notice under sections 27BI and 27BJ must be given; 20
 - (b) when notice under those sections is to be treated as having been given.

27BL Interaction with Chapter 4

- (1) Where an employer—
 - (a) is required to make a payment to a worker under section 27BO in relation to a shift that the employer cancels, moves or curtails at short notice, or 25
 - (b) would have been required to make such a payment in relation to the shift but for provision made under section 27BQ(1)(b), nothing in section 27BJ(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. 30
- (2) Terms used in this section have the same meaning as in section 27BO.

27BM Complaints to employment tribunals

- (1) A worker may present a complaint to an employment tribunal that the worker’s employer has failed to comply with a duty imposed by section 27BI or 27BJ. 35
- (2) Where, in determining whether a complaint under this section 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 section unless it is presented before the end of the period of three months beginning with—
- (a) where the complaint is that the employer failed to comply with a duty imposed by section 27BI(1), (2) or (3) in relation to a shift, the day on which the shift was due to start; 5
 - (b) where the complaint is that the employer failed to comply with the duty imposed by section 27BJ(2) in relation to the cancellation of a shift, the day on which the shift would have started (if the shift had not been cancelled); 10
 - (c) where the complaint is that the employer failed to comply with the duty imposed by section 27BJ(2) in relation to 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. 15
- (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 three months, the tribunal may consider the complaint if it is presented within such further period as the tribunal considers reasonable. 20
- (5) Section 207B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsection (3).

27BN Remedies 25

- (1) Where an employment tribunal finds a complaint under section 27BM 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 employer to the worker. 30
- (2) The amount of compensation under subsection (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 worker for any financial loss sustained by the worker which is attributable to the matter complained of. 35
- (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.”

3 Right to payment for cancelled, moved and curtailed shifts

After section 27BN of the Employment Rights Act 1996 (inserted by section 2) insert—

“CHAPTER 4

RIGHT TO PAYMENT FOR CANCELLED, MOVED AND CURTAILED SHIFTS

5

27BO Right to payment for a cancelled, moved or curtailed shift

- (1) An employer must make a payment of a specified amount to a worker each time that the employer cancels, moves or curtails at short notice a qualifying shift—
 - (a) that the employer has informed the worker they are required to work, 10
 - (b) that the employer has requested the worker to work and the worker has agreed to work, or
 - (c) that the worker has suggested working and the employer has agreed to the worker working, 15(but see section 27BQ for exceptions to this duty).
- (2) A shift is a “qualifying shift”, in relation to a worker and an employer, if it would be (or would have been) worked, or is being worked, by the worker for the employer under—
 - (a) a zero hours contract, 20
 - (b) a worker’s contract entered into in accordance with a zero hours arrangement, or
 - (c) a worker’s contract of a specified description that requires the employer to make some work available to the worker but does not provide on what days and at what times, or in accordance with what pattern of days and times, that work is to be done by the worker. 25
- (3) A shift is also a “qualifying shift”, in relation to a worker and an employer, if it is an irregular shift that 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 that requires the employer to make some work available to the worker and that 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. 30 35
- (4) An “irregular shift”, for the purposes of subsection (3), is a shift starting or ending on a day, or at a time, other than a day or time that is provided for by the contract as mentioned in that subsection (including where part of the shift corresponds to what is provided for by the contract). 40

-
- (5) A payment that an employer is required to make under subsection (1) must be made by no later than the specified day.
- (6) For the purposes of this Chapter, “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); 5
 - (b) in relation to the movement 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), and 10
 - (ii) when the shift is due to start (having been moved);
 - (c) in relation to the curtailment of a shift where the curtailment involves 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— 15
 - (i) when the shift would have started (if the shift had not been so curtailed), and
 - (ii) when the shift is due to start (having been so curtailed);
 - (d) in relation to any other curtailment of the shift, notice given— 20
 - (i) less than a specified amount of time before the shift is due to start;
 - (ii) on or after the start of the shift.
- (7) 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 by an employer to a worker. 25
- (8) For the purposes of this Chapter—
- “employer”, in relation to an individual and a shift, includes a person by whom the individual would be (or would have been) employed if the individual worked the shift;
 - “worker”, in relation to a shift, includes an individual who would be (or would have been) a worker if the individual worked the shift. 30
- (9) In this Chapter, 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. 35
- (10) In this section, “request”, in relation to an employer and a worker, includes a request that is made by the employer to the worker and one or more others in circumstances where the employer does not need work to be done by all of those to whom the request is made. 40

27BP Regulations under section 27BO: supplementary

- (1) Regulations under section 27BO(1) may not specify an amount to be paid to a worker in relation to the cancellation, movement or curtailment of a shift that exceeds –
 - (a) where the shift is cancelled or curtailed, the amount of remuneration to which the worker would have been entitled had they worked the hours that will not be worked because of the cancellation or curtailment; 5
 - (b) where the shift is moved and no part of the shift as moved corresponds to the time of the shift before it was moved (“the original shift”), the amount of remuneration to which the worker would have been entitled had they worked the original shift; 10
 - (c) where the shift is moved and part of the shift as moved corresponds to the time of the original shift, the amount of remuneration to which the worker would have been entitled had they worked the part of the original shift that does not correspond to the shift as moved. 15
- (2) Regulations under section 27BO(1) may, in particular, include provision specifying different amounts depending on the amount of notice that was given of the cancellation, movement or curtailment. 20
- (3) Regulations under section 27BO(2)(c) or (3) may, in particular, specify a description of worker’s contract by reference to –
 - (a) it being a worker’s contract that entitles a worker to be paid no more than a specified amount; 25
 - (b) it being a worker’s contract that requires an employer to make work available to a worker for no more than a specified number of hours.
- (4) Regulations under section 27BO(6) may not specify an amount of time that exceeds 7 days. 30

27BQ Exceptions to duty to make payment for a cancelled, moved or curtailed shift

- (1) The requirement to make a payment under section 27BO(1) does not apply –
 - (a) in relation to a shift that would be (or would have been) worked, or is being worked, by a worker as an agency worker (but see section 27BV for power to make provision about agency workers); 35
 - (b) in other specified circumstances.
- (2) Where, by virtue of regulations made under subsection (1)(b), an employer is not required to make a payment to a worker in relation 40

- to a shift under section 27BO(1), the employer must give a notice to the worker that—
- (a) states which provision of the regulations the employer has relied on in not making the payment, and
 - (b) explains why the employer was entitled to rely on that provision. 5
- (3) But subsection (2)(b) does not require an employer to disclose—
- (a) any personal data (within the meaning of Parts 5 to 7 of the Data Protection Act 2018 (see section 3(2) and (14) of that Act));
 - (b) any information that is commercially sensitive; 10
 - (c) any information the disclosure of which by the employer would constitute a breach of a duty of confidentiality owed by the employer to any other person.
- (4) The Secretary of State may by regulations make provision about—
- (a) the form and manner in which a notice under this section must be given; 15
 - (b) the day on or before which it must be given;
 - (c) when a notice under this section is to be treated as having been given.
- (5) The duty in subsection (2) does not apply if, before the day on or before which the notice must be given, the employer has paid to the worker an amount in relation to a number of hours that is at least equal to the amount of the payment that the employer would have been required to make to the worker under section 27BO(1) in relation to the same number of hours but for regulations made under subsection (1)(b). 20
- (6) Subsection (4) of section 27BR applies for the purposes of subsection (5) of this section as it applies for the purposes of subsections (2) and (3) of that section. 25

27BR Contractual remuneration 30

- (1) The right of a worker to receive a payment from an employer under section 27BO(1) does not affect any right of the worker in relation to remuneration under a worker’s contract entered into between the worker and the employer (“contractual remuneration”).
- (2) Any contractual remuneration paid to a worker by an employer in relation to a number of hours goes towards discharging any liability of the employer to make a payment to the worker under section 27BO(1) in relation to the same hours. 35
- (3) Any payment made by an employer to a worker under section 27BO(1) in relation to a number of hours goes towards discharging any liability of the employer to pay contractual remuneration to the worker in relation to the same hours. 40

- (4) For the purposes of subsections (2) and (3), the hours to which a payment under section 27BO(1) relates are –
- (a) where a shift has been cancelled or curtailed, the hours that would have been worked if the shift had not been cancelled or curtailed; 5
 - (b) where a shift has been moved and no part of the shift as moved corresponds to the time of the shift before it was moved (“the original shift”), the hours that would have been worked during the original shift;
 - (c) where a shift has been moved and part of the shift as moved corresponds to the time of the original shift, the hours that would have been worked during the part of the original shift that does not correspond to the shift as moved. 10

27BS Complaints to employment tribunal

- (1) A worker may present a complaint to an employment tribunal that the worker’s employer – 15
- (a) has failed to make the whole or any part of a payment that the employer is liable to make to the worker under section 27BO(1);
 - (b) has unreasonably failed to give to the worker a notice under section 27BQ(2); 20
 - (c) has given to the worker a notice in purported compliance with section 27BQ(2) that is inadequate or untrue.
- (2) An employment tribunal must not consider a complaint under subsection (1)(a) relating to a payment unless it is presented before the end of the period of three months beginning with the day after the day on or before which the payment should have been made (see section 27BO(5)). 25
- (3) An employment tribunal must not consider a complaint under subsection (1)(b) relating to a notice unless it is presented before the end of the period of three months beginning with the day after the day on or before which the notice should have been given (see section 27BQ(4)(b)). 30
- (4) An employment tribunal must not consider a complaint under subsection (1)(c) relating to a notice unless it is presented before the end of the period of three months beginning with the day after the day on which the notice was given. 35
- (5) But, if the employment tribunal is satisfied that it was not reasonably practicable for a complaint under this section to be presented before the end of the relevant period of three months, the tribunal may consider the complaint if it is presented within such further period as the tribunal considers reasonable. 40

- (6) Section 207B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsections (2) to (4).
- (7) Where a worker presents a complaint against an employer under subsection (1)(c) alleging that a notice given in purported compliance with section 27BQ(2) is untrue, it is for the employer to show why the employer was entitled to rely on the provision of regulations under section 27BQ(1)(b) that was included in the notice. 5

27BT Remedies

- (1) Where an employment tribunal finds a complaint under section 27BS(1)(a) well-founded, the tribunal must order the employer to pay to the worker the amount of the payment under section 27BO(1) which it finds is due to the worker. 10
- (2) Where an employment tribunal finds a complaint under section 27BS(1)(b) or (c) well-founded, the tribunal may order the employer to make a payment of a specified amount to the worker. 15
- (3) But an employment tribunal may not make an order under subsection (2) if the tribunal makes an order under subsection (1) relating to the same payment to which the notice related or would have related (if the notice had been given).” 20

4 Amendments relating to sections 1 to 3

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

“CHAPTER 5

GENERAL

25

27BU Interpretation

- (1) In this Part—
- “agency worker” has the same meaning as in the Agency Workers Regulations 2010 (S.I. 2010/93) (see regulation 3 of the Regulations); 30
- “arrangement” (when used by itself and not as part of the expression “zero hours arrangement”) means an arrangement (whether contractual or non-contractual) other than a worker’s contract;
- “specified” means specified in, or determined in accordance with, regulations made by the Secretary of State; 35
- “zero hours arrangement” means an arrangement under which—
- (a) an employer and an individual agree terms on which the individual will do any work where the employer

- makes it available to the individual and the individual agrees to do it, but
- (b) the employer is not required to make any work available to the individual, nor the individual required to accept it, 5
- and in this Part “employer”, in relation to a zero hours arrangement, is to be read accordingly;
- “zero hours contract” means a contract of employment or other worker’s contract under which—
- (a) the undertaking to do work is an undertaking to do so conditionally on the employer making work available to the worker, and 10
- (b) there is no certainty that any such work will be made available to the worker.
- (2) For the purposes of this Part— 15
- (a) a person who is, or is treated as, an employer makes work available to a worker or other individual if they request or require the individual to do it;
- (b) references to work and doing work include references to services and performing them. 20

27BV Agency workers

- (1) The Secretary of State may by regulations make provision in relation to agency workers that corresponds or is similar to the provision made by or under Chapter 2, 3 or 4.
- (2) Regulations under this section may amend or repeal provision made by this or any other Act. 25

27BW Regulations

- (1) Regulations under this Part may—
- (a) make different provision for different purposes;
- (b) make provision subject to exceptions. 30
- (2) Regulations under this Part may provide that a reference in the regulations to a provision of legislation is to be read as a reference to that provision as amended from time to time.
- (3) A statutory instrument containing regulations under this Part to which section 236(3) applies (regulations required to be laid in draft and approved by a resolution of each House of Parliament) may include regulations under this Part to which section 236(3) would not otherwise apply (and, in consequence, the procedure in section 236(2) does not apply to the instrument).” 35
- (2) Schedule 1 contains consequential amendments relating to sections 1 to 3. 40

5 Repeal of Workers (Predictable Terms and Conditions) Act 2023

The Workers (Predictable Terms and Conditions) Act 2023 is repealed.

6 Exclusivity terms in zero hours arrangements

- (1) Section 27B of the Employment Rights Act 1996 (power to make further provision in relation to zero hours workers) is amended as follows. 5
- (2) In subsection (1), for “their contracts or arrangements” substitute “their worker’s contracts or their arrangements”.
- (3) In subsection (2)(b), omit “non-contractual”.
- (4) In subsection (4)–
 - (a) in the words before paragraph (a)– 10
 - (i) omit “non-contractual”;
 - (ii) after “arrangement”, in the second place it occurs, insert “(whether contractual or non-contractual)”;
 - (b) in the words after paragraph (b), omit “non-contractual”.
- (5) In subsection (5)(a)(ii), omit “non-contractual”. 15
- (6) In subsection (6)–
 - (a) after “provision for” insert “–
(a)”;
 - (b) after “does not apply” insert–
 - “(b) exclusivity terms in prescribed categories of zero hours 20
arrangements that are contractual arrangements to be unenforceable”;
 - (c) at the end of the subsection insert “or (as the case may be) an individual is restricted from doing any work otherwise than under a worker’s contract entered into in accordance with the zero hours 25
arrangement.”

*Flexible working***7 Right to request flexible working**

- (1) Part 8A of the Employment Rights Act 1996 (flexible working) is amended as follows. 30
- (2) Section 80G (employer’s duties in relation to application for change to working hours, etc) is amended in accordance with subsections (3) to (5).
- (3) In subsection (1), for paragraph (b) substitute–
 - “(b) may refuse the application only if–

- (i) the employer considers that the application should be refused on a ground or grounds listed in subsection (1ZA), and
 - (ii) it is reasonable for the employer to refuse the application on that ground or those grounds. 5
- (1ZA) The grounds mentioned in subsection (1)(b) are –
 - (a) the burden of additional costs;
 - (b) detrimental effect on ability to meet customer demand;
 - (c) inability to re-organise work among existing staff;
 - (d) inability to recruit additional staff; 10
 - (e) detrimental impact on quality;
 - (f) detrimental impact on performance;
 - (g) insufficiency of work during the periods the employee proposes to work;
 - (h) planned structural changes; 15
 - (i) any other grounds specified by the Secretary of State in regulations.”
- (4) After subsection (1ZA) insert –
 - “(1ZB) If an employer refuses an application under section 80F, the notification under subsection (1)(aa) must – 20
 - (a) state the ground or grounds for refusing the application, and
 - (b) explain why the employer considers that it is reasonable to refuse the application on that ground or those grounds.”
- (5) After subsection (1D) insert –
 - “(1E) The steps which an employer must take in order to comply with subsection (1)(aza) include, among others, any steps specified in regulations made by the Secretary of State.” 25
- (6) In section 80H (complaints to employment tribunals), in subsection (1)(a), for “comply with” substitute “act in accordance with”.

Statutory sick pay 30

8 Statutory sick pay: removal of waiting period

- (1) Part 11 of the Social Security Contributions and Benefits Act 1992 (statutory sick pay) is amended as follows.
- (2) In section 151(1) (employer’s liability), for “sections 152 to 154” substitute “sections 153 and 154”. 35
- (3) In section 152 (period of incapacity for work) –
 - (a) omit subsection (1);

- (b) in subsection (2), for the words from “any” to “is” substitute “a period of one day which is, or of two or more consecutive days each of which is,”.
- (4) In section 153(1) (period of entitlement), for “second” substitute “first”.
- (5) In section 154(1) (qualifying days), for “third” substitute “second”. 5
- (6) In section 155 (limitations on entitlement), omit subsection (1).
- (7) In section 156(2) (notification of incapacity for work), omit paragraph (b) (and the “or” at the end of paragraph (a)).
- 9 Statutory sick pay: lower earnings limit etc**
- (1) Part 11 of the Social Security Contributions and Benefits Act 1992 (statutory sick pay) is amended as follows. 10
- (2) In section 157 (rates of payment) –
- (a) for subsection (1) substitute –
- “(1) The weekly rate of statutory sick pay that an employer must pay to an employee is the lower of – 15
- (a) £116.75, and
- (b) the prescribed percentage of the employee’s normal weekly earnings.”;
- (b) in subsection (2) –
- (i) omit the “and” at the end of paragraph (a); 20
- (ii) after paragraph (a) insert –
- “(aa) prescribe a percentage, or percentages, for the purposes of subsection (1)(b);”.
- (3) In Schedule 11 (circumstances in which periods of entitlement to statutory sick pay do not arise), in paragraph 2, omit sub-paragraph (c) (lower earnings limit). 25

Tips and gratuities, etc

10 Policy about allocating tips etc: consultation and review

- (1) Section 27I of the Employment Rights Act 1996 (written policy about allocation of tips etc) is amended as follows. 30
- (2) After subsection (2) insert –
- “(2A) Before producing the first version of the written policy for a place of business, an employer must consult –
- (a) representatives of an independent trade union recognised by the employer in respect of workers who are likely to be affected by the policy, or representatives appointed or elected by those 35

- workers and having authority to receive information and to be consulted about the policy on behalf of those workers, or
- (b) if there are no such trade union or worker representatives, workers who are likely to be affected by the policy.”
- (3) After subsection (3) insert – 5
- “(3A) Where an employer makes a written policy available to workers at a place of business under this section, the employer must review the policy from time to time.
- (3B) A review must be carried out – 10
- (a) at least once during the period of three years beginning with the first day on which the first version of the policy is made available (including where that day precedes the coming into force of this subsection), and
- (b) after that, no more than three years after the completion of the previous review. 15
- (3C) An employer must consult persons as described in subsection (2A) as part of every review of the written policy.”
- (4) After subsection (6) insert –
- “(7) An employer who has carried out a consultation required by this section in relation to a written policy for a place of business must make a summary of the views expressed in the consultation available in anonymised form to all workers of the employer at the place of business. 20
- (8) In this section “recognised”, in relation to a trade union, has the same meaning as in the Trade Union and Labour Relations (Consolidation) Act 1992 (see section 178 of that Act).” 25

Entitlements to leave

11 Parental leave: removal of qualifying period of employment

In section 76 of the Employment Rights Act 1996 (entitlement to parental leave), in subsection (1), omit paragraph (a) (and the “and” after it). 30

12 Paternity leave: removal of qualifying period of employment

- (1) In section 80A of the Employment Rights Act 1996 (entitlement to paternity leave: birth) –
- (a) in subsection (1), omit paragraph (a);
- (b) in subsection (6A), omit paragraph (a). 35
- (2) In section 80B of that Act (entitlement to paternity leave: adoption) –
- (a) in subsection (1), omit paragraph (a);
- (b) in subsection (6C), omit paragraph (a).

13 Ability to take paternity leave following shared parental leave

- (1) In section 80A of the Employment Rights Act 1996 (entitlement to paternity leave: birth) –
- (a) omit subsection (4A);
 - (b) in subsection (6A), omit paragraph (c). 5
- (2) In section 80B of that Act (entitlement to paternity leave: adoption) –
- (a) omit subsection (4A);
 - (b) in subsection (6C), omit paragraph (c).
- (3) In section 171ZE of the Social Security Contributions and Benefits Act 1992 (rate and period of statutory paternity pay), in subsection (3A), omit paragraph (b) (and the “or” before it). 10
- (4) In consequence of the amendments made by subsections (1)(a) and (2)(a), in section 118 of the Children and Families Act 2014, omit subsections (6) and (7).

14 Bereavement leave

15

- (1) The Employment Rights Act 1996 is amended in accordance with subsections (2) to (11).
- (2) In Chapter 4 of Part 8, in the heading, for “Parental bereavement leave” substitute “Bereavement leave”.
- (3) In section 80EA (parental bereavement leave) – 20
- (a) in subsection (1), for “bereaved parent” substitute “bereaved person”;
 - (b) for subsection (2) substitute –
 - “(2) For the purposes of subsection (1) an employee is a “bereaved person” if the employee satisfies conditions specified in the regulations as to relationship with a person who has died.”; 25
 - (c) in subsection (3), for “The conditions” substitute “In a case where the person who has died is a child, the conditions”;
 - (d) in subsection (4)(a), for “child” substitute “person”;
 - (e) after subsection (5) insert –
 - “(5A) Provision under subsection (4)(a) must secure that, where an employee is entitled to leave under this section in respect of a person other than a child, the employee is entitled to at least one week’s leave.”; 30
 - (f) in subsection (6), for “child’s” substitute “person’s”;
 - (g) for subsection (7) substitute – 35
 - “(7) The regulations must secure that, where an employee is eligible under subsection (1) as the result of the death of more than one person, the employee is entitled to leave in respect of each person.”;

- (h) in the heading, for “Parental bereavement” substitute “Bereavement”.
- (4) In section 47C (rights not to suffer detriment: leave for family and domestic reasons), in subsection (2)(cb), omit “parental”.
- (5) In section 75I (rights during and after shared parental leave), in subsection (3)(f), omit “parental”. 5
- (6) In section 80C (rights during and after paternity leave), in subsections (2)(bb) and (4)(bb), omit “parental”.
- (7) In section 80EG (rights during and after neonatal care leave), in subsection (2)(f), omit “parental”.
- (8) In section 88 (termination of employment: employments with normal working hours) – 10
 - (a) in subsection (1)(c), for “parental bereavement leave,” substitute “bereavement leave,”;
 - (b) in subsection (2), for “parental bereavement pay”, in the first place it occurs, substitute “bereavement pay”. 15
- (9) In section 89 (termination of employment: employments without normal working hours) –
 - (a) in subsection (3)(b), for “parental bereavement leave,” substitute “bereavement leave,”;
 - (b) in subsection (4), for “parental bereavement pay”, in the first place it occurs, substitute “bereavement pay”. 20
- (10) In section 99 (unfair dismissal: leave for family reasons), in subsection (3)(cb), omit “parental”.
- (11) In section 235(1) (other definitions) – 25
 - (a) before the definition of “business” insert –
 - ““bereavement leave” means leave under section 80EA;”;
 - (b) omit the definition of “parental bereavement leave”.
- (12) In Schedule 5 to the Income Tax (Earnings and Pensions) Act 2003 (enterprise management initiatives), in paragraph 26(3)(b), for “parental bereavement leave” substitute “bereavement leave”. 30
- (13) In the Income Tax Act 2007 –
 - (a) in section 186A (enterprise investment schemes: the number of employees requirement), in subsection (4)(b)(i), for “parental bereavement” substitute “bereavement”;
 - (b) in section 257DJ (seed enterprise investment schemes: the number of employees requirement), in subsection (4)(b)(i), for “parental bereavement” substitute “bereavement”; 35
 - (c) in section 257MH (tax relief for social investments: the number of employees requirement), in subsection (4)(b)(i), for “parental bereavement” substitute “bereavement”; 40

(d) in section 297A (venture capital trusts: the number of employees requirement), in subsection (4)(b)(i), for “parental bereavement” substitute “bereavement”.

- (14) In the Schedule to the Parental Bereavement (Leave and Pay) Act 2018, omit paragraphs 25(2), 26(2) and 28(a).

5

Protection from harassment

15 Employers to take all reasonable steps to prevent sexual harassment

In section 40A of the Equality Act 2010 (employer duty to prevent sexual harassment of employees), in subsection (1), before “reasonable steps” insert “all”.

10

16 Harassment by third parties

In section 40 of the Equality Act 2010 (employees and applicants: harassment), after subsection (1) insert –

“(1A) An employer (A) must not permit a third party to harass a person (B) who is an employee of A.

15

(1B) For the purposes of subsection (1A), A permits a third party to harass B only if –

- (a) the third party harasses B in the course of B’s employment by A, and
- (b) A failed to take all reasonable steps to prevent the third party from doing so.

20

(1C) In this section “third party” means a person other than –

- (a) A, or
- (b) an employee of A.”

17 Sexual harassment: power to make provision about “reasonable steps”

25

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

(2) In Part 5 (work), in Chapter 1 (employment, etc), after section 40A insert –

“40B Prevention of sexual harassment: power to specify “reasonable steps”

(1) Regulations may specify steps that are to be regarded as “reasonable” for the purpose of determining whether, for the purposes of this Act, an employer (A) has taken, or failed to take, all reasonable steps to prevent sexual harassment of an employee of A (see, in particular, sections 40 and 40A and section 109).

30

(2) The steps that may be specified in regulations under this section include, among others –

35

- (a) carrying out assessments of a specified description;

- (b) publishing plans or policies of a specified description;
 - (c) steps relating to the reporting of sexual harassment;
 - (d) steps relating to the handling of complaints.
 - (3) Regulations under this section that specify any steps may require an employer to have regard to specified matters when taking those steps. 5
 - (4) In this section –
 - “sexual harassment” means harassment of the kind described in section 26(2) (unwanted conduct of a sexual nature);
 - “specified” means specified in the regulations.”
 - (3) In Part 16 (general and miscellaneous), in section 208(5) (regulations subject to affirmative procedure), after paragraph (a) insert – 10
 - “(aa) regulations under section 40B (prevention of sexual harassment: power to specify “reasonable steps”);”.
- 18 Protection of disclosures relating to sexual harassment**
- (1) Part 4A of the Employment Rights Act 1996 (protected disclosures) is amended as follows. 15
 - (2) In section 43B (disclosures qualifying for protection), in subsection (1), after paragraph (d) insert –
 - “(da) that sexual harassment has occurred, is occurring or is likely to occur;”. 20
 - (3) In section 43L(1) (other interpretative provisions), after the definition of “the relevant failure” insert –
 - ““sexual harassment” means harassment of the kind described in section 26(2) of the Equality Act 2010 (unwanted conduct of a sexual nature).”
- Dismissal* 25
- 19 Right not to be unfairly dismissed: removal of qualifying period, etc**
- Schedule 2 contains provision –
- (a) repealing section 108 of the Employment Rights Act 1996 (unfair dismissal: qualifying period of employment), and
 - (b) making further amendments of that Act in connection with that repeal. 30
- 20 Dismissal during pregnancy**
- (1) Section 49D of the Employment Rights Act 1996 (redundancy during a protected period of pregnancy) is amended in accordance with subsections (2) to (4).
 - (2) In the heading, after “Redundancy” insert “or dismissal”. 35

- (3) After subsection (1) insert—
- “(1A) The Secretary of State may, by regulations, make provision about dismissal (other than by reason of redundancy) during, or after, a protected period of pregnancy.”
- (4) In subsection (3), after “subsection (1)” insert “or (1A)”. 5
- (5) Accordingly, in the heading of Part 5B of that Act, after “Redundancy” insert “or dismissal”.

21 Dismissal following period of statutory family leave

- (1) Part 8 of the Employment Rights Act 1996 (leave for family reasons) is amended as follows. 10
- (2) In section 74 (maternity leave: redundancy and dismissal), in subsection (2), after “during” insert “, or after,”.
- (3) In section 75C (adoption leave: redundancy and dismissal), in subsection (1)(b), after “during” insert “, or after,”.
- (4) In section 75J (shared parental leave: redundancy and dismissal), in subsection (1)(b), after “during” insert “, or after,”. 15
- (5) In section 80D (paternity leave: special cases)—
- (a) in subsection (1A)(b), after “bereaved employee” insert “, or dismissal of a bereaved employee (other than by reason of redundancy),”;
- (b) in subsection (3)(b), for the words from “where” to the end substitute “where the relevant person dies. 20
- In paragraph (b) “the relevant person” means the person by reference to whom the employee satisfied the conditions specified by virtue of subsection (1)(c) of that section so as to entitle the employee to that leave.” 25
- (6) In section 80EH (neonatal care leave: special cases), in subsection (1)(b), after “during” insert “or after”.

22 Dismissal for failing to agree to variation of contract, etc

- (1) The Employment Rights Act 1996 is amended as follows.
- (2) Part 10 (unfair dismissal) is amended as set out in subsections (3) and (4). 30
- (3) Before section 105 insert—

“104I Variation of contract of employment

- (1) An employee who is dismissed is to be regarded for the purposes of this Part as unfairly dismissed if—
- (a) the employee was employed for the purposes of a business carried on by the employer, and 35

- (b) the reason (or, if more than one, the principal reason) for the dismissal is a reason within subsection (2) or (3).
- (2) The reason within this subsection is that—
 - (a) the employer sought to vary the employee’s contract of employment, and 5
 - (b) the employee did not agree to the variation.
- (3) The reason within this subsection is to enable the employer to employ another person, or to re-engage the employee, under a varied contract of employment to carry out substantially the same duties as the employee carried out before being dismissed. 10
- (4) Subsection (1) does not apply in relation to an employee if the employer shows that—
 - (a) the reason for the variation was to eliminate, prevent or significantly reduce, or significantly mitigate the effect of, any financial difficulties which at the time of the dismissal were affecting, or were likely in the immediate future to affect, the employer’s ability to carry on the business as a going concern or otherwise to carry on the activities constituting the business, and 15
 - (b) in all the circumstances the employer could not reasonably have avoided the need to make the variation. 20
- (5) Where the employer shows that the conditions in paragraphs (a) and (b) of subsection (4) are met, the matters that must be considered in determining the question whether the dismissal is fair or unfair include the following— 25
 - (a) any consultation carried out by the employer with the employee about varying the employee’s contract of employment;
 - (b) if the employee is of a description in respect of which an independent trade union is recognised by the employer, any consultation carried out by the employer with that trade union; 30
 - (c) if the employee is not of a description in respect of which an independent trade union is recognised by the employer, any consultation carried out by the employer with any other person representing the interests of the employee that, at the time of the dismissal, had authority to receive information and to be consulted about the dismissal on the employee’s behalf; 35
 - (d) anything offered to the employee by the employer in return for agreeing to the variation;
 - (e) any matters specified for the purposes of this subsection in regulations made by the Secretary of State. 40
- (6) In this section—
 - (a) “recognised”, in relation to a trade union, has the same meaning as in the Trade Union and Labour Relations (Consolidation) Act 1992 (see section 178 of that Act);

- (b) a reference to a “varied” contract of employment is to a contract of employment the terms of which are not the same as the terms of the contract of employment under which the employee worked before being dismissed, and, in a case where subsection (3) applies, any reference in this section to “the variation” is to be read accordingly.” 5
- (4) In section 108 (qualifying period of employment), in subsection (3), after paragraph (gm) insert—
- “(gn) subsection (1) of section 104I (read with subsection (4) of that section) applies,”. 10
- (5) In section 236 (orders and regulations), in subsection (3) (regulations subject to affirmative procedure), after “99,” insert “104I(5)(e),”.

PART 2

OTHER MATTERS RELATING TO EMPLOYMENT

Procedure for handling redundancies 15

23 Collective redundancy: extended application of requirements

- (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 188 (duty of employer to consult representatives)—
- (a) in subsection (1), omit “at one establishment”; 20
- (b) in subsection (4)(c), omit “at the establishment in question”.
- (3) In section 193 (duty of employer to notify Secretary of State of certain redundancies)—
- (a) in subsection (1), omit “at one establishment”; 25
- (b) in subsection (2), omit “at one establishment”; 25
- (c) in subsection (4)(a), omit the words from “in relation to the establishment” to the end.
- (4) In section 198A (employees being transferred to the employer from another undertaking)—
- (a) in subsection (1)(b), omit “at one establishment”; 30
- (b) in subsection (4)(a), omit the words from “and as if” to “subsection (1)(b)”.

24 Collective redundancy notifications: ships’ crew

- (1) In the Trade Union and Labour Relations (Consolidation) Act 1992, section 193A is amended in accordance with subsections (2) to (5). 35

- (2) For the heading substitute “Application of section 193 in certain cases involving redundancies of ships’ crew”.
- (3) In subsection (1)–
- (a) in the words before paragraph (a), for “has effect subject to this section” substitute “applies with the modifications set out in subsections (2) and (3)”; 5
 - (b) in paragraph (b)–
 - (i) at the beginning insert “some or all of”;
 - (ii) for “vessel” substitute “ship”.
- (4) In subsection (2)– 10
- (a) after “or (2)” insert “, so far as relating to the members of crew of a ship within subsection (1)(b),”;
 - (b) for “vessel” substitute “ship”;
 - (c) for “instead of” substitute “as well as”.
- (5) After subsection (2) insert– 15
- “(3) Where this subsection applies, section 193 is to be read as if references in subsections (4) and (6) to a notice were to the notice that is required to be given to the Secretary of State.
- (4) In this section “ship” includes–
- (a) any kind of vessel used in navigation, and 20
 - (b) hovercraft.”
- (6) In section 285 of the Trade Union and Labour Relations (Consolidation) Act 1992 (employment outside Great Britain)–
- (a) in subsection (1B), after “United Kingdom” insert “or a GB-linked ship”; 25
 - (b) after subsection (2) insert–
- “(3) In this section, “GB-linked ship” means a ship providing a service–
- (a) for the carriage of persons or goods, with or without vehicles, and 30
 - (b) that is within subsection (4) or (5).
- (4) A service is within this subsection if it is operated between a place in Great Britain and another place in the United Kingdom.
- (5) A service is within this subsection if–
- (a) ships providing the service entered a harbour in Great Britain on at least 120 occasions in the period of 12 months ending with the day when the redundancy proposal in question is settled by the employer, or 35
 - (b) if the service has been provided for less than 12 months before that day, ships providing the service entered a 40

harbour in Great Britain on at least 10 occasions in each month for which the service has been provided.

- (6) But a service is not within subsection (5) if the service –
- (a) is for the purpose of leisure or recreation, or
 - (b) is provided by a fishing vessel. 5
- (7) In this section –
- “harbour” has the same meaning as in the Harbours Act 1964;
 - “ship” has the same meaning as in section 193A (see subsection (4) of that section).” 10

Public sector outsourcing: protection of workers

25 Public sector outsourcing: protection of workers

- (1) The Procurement Act 2023 is amended as follows.
- (2) In Part 2 (principles and objectives), after section 14 insert –
- “14A Protection of transferring workers in outsourcing contracts” 15**
- (1) In this section, “relevant outsourcing contract” means a public contract in relation to which conditions A and B are met.
- (2) Condition A is met where the contract –
- (a) is a contract for the supply of services that include the performance of functions that are or have previously been performed by the contracting authority, or 20
 - (b) is a framework for the future award of such a contract.
- (3) Condition B is met where the functions are, or are expected to be, performed by individuals (“transferring workers”) who –
- (a) in performing the functions, are employed by the supplier or a sub-contractor under a worker’s contract, and 25
 - (b) were employed by the contracting authority under a worker’s contract in performing functions of the same kind.
- (4) A Minister of the Crown may by regulations specify provision to be included in a relevant outsourcing contract for the purpose of ensuring that – 30
- (a) transferring workers of a specified description are treated no less favourably as workers of the supplier than they were as workers of the contracting authority, and
 - (b) workers of the supplier who are not transferring workers and are of a specified description are treated no less favourably than those transferring workers. 35
- (5) A Minister of the Crown –

- (a) must, for that purpose, produce and publish a code of practice containing guidance to contracting authorities in relation to relevant outsourcing contracts;
 - (b) may amend or replace such a code, and must publish any amended or replacement code; 5
 - (c) must lay a code published under this subsection before Parliament.
- (6) In carrying out the procurement of a relevant outsourcing contract, the contracting authority must –
 - (a) take all reasonable steps to ensure that provision specified under subsection (4) is included in the contract; 10
 - (b) where provision specified under subsection (4) is included in the contract, take all reasonable steps to secure that such provision is complied with;
 - (c) have regard to the code of practice for the time being published under subsection (5). 15
- (7) Subsection (6)(a) and (b) do not apply –
 - (a) where the contracting authority or the relevant outsourcing contract is of a specified description, or
 - (b) in specified circumstances. 20
- (8) Subsection (6) does not apply –
 - (a) to private utilities;
 - (b) in relation to procurement under a devolved Welsh procurement arrangement or transferred Northern Ireland procurement arrangement; 25
 - (c) to a devolved Welsh authority or transferred Northern Ireland authority, except in relation to procurement under a reserved procurement arrangement.
- (9) In this section –
 - “specified” means specified in regulations made by a Minister of the Crown; 30
 - “worker” and “worker’s contract” have the same meaning as in the Employment Rights Act 1996 (see section 230 of that Act).”
- (3) In section 100 (duties enforceable in civil proceedings), for subsection (5) substitute – 35
 - “(5) An excluded duty is not enforceable in civil proceedings under this Part.
- (5A) An “excluded duty” is a contracting authority’s duty to comply with –
 - (a) section 12(4) (requirement to have regard to barriers facing SMEs); 40
 - (b) section 13(9) or 14(8) (requirement to have regard to procurement policy statements);

- (c) section 14A(6) (requirements in relation to relevant outsourcing contracts).”
- (4) In section 122(4) (regulations subject to affirmative procedure), after paragraph (c) insert—
- “(ca) section 14A (protection of transferring workers in outsourcing contracts);”.
- (5) In Schedule 9A (procurement by devolved Scottish authorities), at the appropriate place insert—
- “Section 14A (protection of transferring workers in outsourcing contracts)”.

Duties of employers relating to equality

26 Equality action plans

- (1) The Equality Act 2010 is amended as follows.
- (2) In Part 5 (work), in Chapter 3 (equality of terms), after section 78 insert—
- “Equality action plans*

78A Equality action plans

- (1) Regulations may require employers to—
- (a) develop and publish a plan (an “equality action plan”) showing the steps that the employers are taking in relation to their employees with regard to prescribed matters related to gender equality, and
- (b) publish prescribed information relating to the plan.
- (2) This section does not apply to—
- (a) an employer with fewer than 250 employees;
- (b) a public authority, other than—
- (i) a public authority specified in Part 1 of Schedule 19, or
- (ii) a public authority specified in Part 4 of Schedule 19 with the letter “D” included after the entry.
- (3) For the purposes of subsection (1), a matter is related to gender equality if it is related to advancing equality of opportunity between male and female employees.
- (4) Accordingly, matters related to gender equality include—
- (a) addressing the gender pay gap, and
- (b) supporting employees going through the menopause.

- (5) The regulations may, among other things, make provision about—
- (a) the content of a plan;
 - (b) the form and manner in which a plan or information is to be published;
 - (c) when and how frequently a plan or information is to be published or revised; 5
 - (d) requirements for senior approval before a plan or information is published;
 - (e) descriptions of employers;
 - (f) descriptions of employee; 10
 - (g) descriptions of information.
- (6) The regulations may not require an employer, after the first publication of information, to publish information more frequently than at intervals of 12 months.
- (7) The regulations may make provision for a failure to comply with the regulations to be enforced, otherwise than as an offence, by such means as are prescribed. 15
- (8) The reference to a failure to comply with the regulations includes a reference to a failure by a person acting on behalf of an employer.
- (9) A Minister of the Crown must consult— 20
- (a) the Commission, before making regulations under this section that apply to a public authority, and
 - (b) the Welsh Ministers, before making regulations under this section that apply to a public authority specified in Part 4 of Schedule 19 with the letter “D” included after the entry.” 25
- (3) In Part 16 (general and miscellaneous), in section 208(5) (regulations subject to affirmative procedure), after paragraph (b) insert—
- “(ba) regulations under section 78A (equality action plans);”.

27 Provision of information relating to outsourced workers

- (1) The Equality Act 2010 is amended as follows. 30
- (2) In section 78 (gender pay gap information), after subsection (3) insert—
- “(3A) Regulations under subsection (3)(d) may, among other things, make provision, in a case where an employer is a principal in relation to an individual who is a contract worker, requiring publication of the identity of the person who has contracted with the principal for the supply of the individual. 35
- (3B) In subsection (3A), “principal” and “contract worker” have the meaning that they have in section 41 (see section 41(5) and (7)).”

- (3) In section 153 (power to impose specific duties on public authorities), after subsection (1) insert—
- “(1A) Regulations under subsection (1) may, among other things, make provision, in a case where an employer is a principal in relation to an individual who is a contract worker, requiring publication of the identity of the person who has contracted with the principal for the supply of the individual. 5
- (1B) In subsection (1A), “principal” and “contract worker” have the meaning that they have in section 41 (see section 41(5) and (7)).”
- (4) In section 154 (power to impose specific duties: cross-border public authorities), after subsection (3) insert— 10
- “(3A) Regulations under this section made by a Minister of the Crown may, among other things, make provision, in a case where an employer is a principal in relation to an individual who is a contract worker, requiring publication of the identity of the person who has contracted with the principal for the supply of the individual. 15
- (3B) In subsection (3A), “principal” and “contract worker” have the meaning that they have in section 41 (see section 41(5) and (7)).”

PART 3

PAY AND CONDITIONS IN PARTICULAR SECTORS 20

CHAPTER 1

SCHOOL SUPPORT STAFF

28 Pay and conditions of school support staff in England

Schedule 3 contains provision establishing the School Support Staff Negotiating Body. 25

CHAPTER 2

ADULT SOCIAL CARE

The Adult Social Care Negotiating Body

29 Power to establish the Adult 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 known as the Adult Social Care Negotiating Body (“the Negotiating Body”). 30
- (2) The provision that may be made by regulations under this section includes, among other things—

- (a) provision about membership of the Negotiating Body, including (among other things) –
 - (i) provision about the appointment of members;
 - (ii) provision about the number of members, or the number of members of a specified description, which the Negotiating Body is to have (see also subsection (3));
 - (iii) provision about the termination of appointments;
 - (b) provision for the appointment of a person to chair the Negotiating Body, including (among other things) provision for that person to be, or not to be, a person of a specified description;
 - (c) provision about how the Negotiating Body makes its decisions;
 - (d) provision for the Negotiating Body to keep records of a specified description;
 - (e) provision for the payment of fees or expenses by the Secretary of State to members of the Negotiating Body;
 - (f) provision for staff or facilities to be provided to the Negotiating Body by the Secretary of State;
 - (g) provision about reports, including (among other things) provision requiring the Negotiating Body to publish reports at specified times or about specified matters.
- (3) Regulations under this section –
- (a) must provide that the persons appointed as members of the Negotiating Body include –
 - (i) officials of one or more trade unions that represent the interests of social care workers;
 - (ii) persons representing the interests of employers of social care workers;
 - (b) may provide for other descriptions of person to be appointed as members of the Negotiating Body.
- (4) Regulations under this section may provide that the validity of anything done by the Negotiating Body is not affected by a vacancy or a defective appointment.
- (5) Regulations under this section may amend any enactment in consequence of the establishment of the Negotiating Body.
- (6) In this section “specified” means specified in the regulations.

30 Matters within the Negotiating Body’s remit

- (1) For the purposes of this Chapter, the matters within the Negotiating Body’s remit are matters that relate to any of the following –
- (a) the remuneration of social care workers, or of social care workers of a specified description;
 - (b) terms and conditions of employment of social care workers, or of social care workers of a specified description;

(c) any other specified matters relating to employment as a social care worker, or as a social care worker of a specified description.

(2) In subsection (1) “specified” means specified in regulations made by the Secretary of State.

31 Meaning of “social care worker” 5

(1) In this Chapter “social care worker” means a person who is employed wholly or mainly in, or in connection with, the provision of adult social care in England.

(2) For the purposes of subsection (1), “adult social care” –

(a) includes any form of personal care or other practical assistance provided for individuals aged 18 or over who, by reason of age, illness, disability, pregnancy, childbirth, dependence on alcohol or drugs, or any other similar circumstances, are in need of such care or other assistance, but 10

(b) does not include anything provided by an establishment or agency for which His Majesty’s Chief Inspector of Education, Children’s Services and Skills is the registration authority under section 5 of the Care Standards Act 2000. 15

Consideration of matters by the Negotiating Body

32 Consideration of matters by the Negotiating Body 20

(1) The Secretary of State may by regulations make provision about the consideration by the Negotiating Body of matters within its remit.

(2) The provision that may be made by regulations under this section includes, among other things –

(a) provision about the circumstances in which the Negotiating Body may, or must, consider a matter within its remit, including (among other things) provision requiring it to consider any matter referred to it by the Secretary of State; 25

(b) provision specifying, or enabling the Secretary of State to specify, factors to which the Negotiating Body may, or must, have regard when considering a matter; 30

(c) provision specifying, or enabling the Secretary of State to specify, conditions that must be met in relation to any agreement reached by the Negotiating Body about a matter, including (among others) conditions relating to funding; 35

(d) provision requiring members of the Negotiating Body to provide the Negotiating Body with information, or information of a specified description, for the purposes of enabling it to consider, or reach an agreement about, a matter;

- (e) provision requiring the Negotiating Body, if it reaches an agreement about a matter, to submit the agreement to the Secretary of State;
 - (f) provision requiring the Negotiating Body to take any specified steps before a date notified to it by the Secretary of State.
- (3) In this section “specified” means specified in the regulations. 5

33 Reconsideration by the Negotiating Body

- (1) The Secretary of State may by regulations provide that, in a case where the Negotiating Body submits an agreement to the Secretary of State, the Secretary of State may refer the agreement back to the Negotiating Body for reconsideration, or may do so in specified circumstances. 10
- (2) The Secretary of State may by regulations make provision about what happens where an agreement is referred back to the Negotiating Body as mentioned in subsection (1).
- (3) The provision that may be made by regulations under subsection (2) includes, among other things – 15
- (a) provision requiring the Negotiating Body to reconsider the agreement;
 - (b) provision specifying, or enabling the Secretary of State to specify, factors to which the Negotiating Body may, or must, have regard when reconsidering the agreement;
 - (c) provision specifying, or enabling the Secretary of State to specify, conditions that must be met in relation to any revised agreement reached by the Negotiating Body about a matter, including (among others) conditions relating to funding; 20
 - (d) provision requiring members of the Negotiating Body to provide the Negotiating Body with information, or information of a specified description, for the purposes of enabling it to reconsider the agreement; 25
 - (e) provision specifying steps which the Negotiating Body may or must take after reconsidering the agreement, including, in particular, submitting the original agreement, or a revised agreement, to the Secretary of State; 30
 - (f) provision requiring the Negotiating Body to take any specified steps before a date notified to it by the Secretary of State.
- (4) In this section “specified” means specified in the regulations.

34 Failure to reach an agreement

- (1) The Secretary of State may by regulations make provision about cases where the Negotiating Body is unable to reach an agreement about a matter. 35
- (2) The provision that may be made by regulations under this section includes, among other things –
- (a) provision for resolving disagreements about any matter;

- (b) provision conferring functions on the Secretary of State or a person specified in the regulations;
- (c) provision requiring the Negotiating Body to act in accordance with a decision of the Secretary of State or a person specified in the regulations.

5

Giving effect to agreements of the Negotiating Body

35 Power to ratify agreements

- (1) This section applies if the Negotiating Body submits an agreement to the Secretary of State in accordance with regulations under section 32 or 33.
- (2) The Secretary of State may make regulations ratifying the agreement – 10
 - (a) in full, or
 - (b) to the extent specified in the regulations.

36 Effect of regulations ratifying agreement

- (1) This section applies if the Secretary of State makes regulations under section 35 ratifying (to any extent) an agreement submitted by the Negotiating Body. 15
- (2) If the agreement relates to a social care worker’s remuneration, the worker’s remuneration is to be determined and paid in accordance with the agreement.
- (3) A provision of the agreement that relates to any other term or condition of a social care worker’s employment has effect as a term of the worker’s contract. 20
- (4) A term of that contract has no effect to the extent that it makes provision that is prohibited by, or is otherwise inconsistent with, the agreement.

Power of Secretary of State to deal with matters

37 Power of Secretary of State to deal with matters

- (1) This section applies where – 25
 - (a) the Negotiating Body notifies the Secretary of State that it has been unable to reach an agreement on a matter referred to it, and
 - (b) any other specified conditions are met.

In paragraph (b) “specified” means specified in regulations made by the Secretary of State. 30
- (2) The Secretary of State may by regulations make provision about the matter.
- (3) Regulations under subsection (2) may provide that the regulations are to have effect for determining the terms and conditions of employment of social care workers to whom the regulations apply.

- (4) If the regulations make provision within subsection (3), subsections (5) to (7) apply.
- (5) If the regulations relate to a social care worker’s remuneration, the worker’s remuneration is to be determined and paid in accordance with the regulations.
- (6) A provision of the regulations that relates to any other term or condition of a social care worker’s employment has effect as a term of the worker’s contract. 5
- (7) A term of that contract has no effect to the extent that it makes provision that is prohibited by, or is otherwise inconsistent with, the regulations.

Guidance etc 10

38 Guidance and codes of practice

- (1) The Secretary of State may by regulations make provision about the issuing of guidance or codes of practice by the Secretary of State in relation to –
 - (a) agreements submitted by the Negotiating Body in accordance with regulations under section 32 or 33; 15
 - (b) regulations made under section 37.
- (2) Regulations under this section may, among other things –
 - (a) impose duties on specified persons, or persons of a specified description, in relation to any provision of guidance or a code of practice; 20
 - (b) make provision about the consequences of a failure to comply with any duty imposed by virtue of paragraph (a).
- (3) The provision that may be made by virtue of subsection (2)(b) includes, among other things, provision for the failure to be taken into account in any proceedings before a court or tribunal, including (among other things) for the purpose of determining the amount of any financial award. 25
- (4) In this section “specified” means specified in the regulations.

Enforcement

39 Duty of employers to keep records

- (1) For the purposes of this Chapter, the Secretary of State may by regulations make provision requiring employers – 30
 - (a) to keep, in a specified form and manner, records of a specified description;
 - (b) to preserve those records for a specified period.
- (2) Regulations under this section may provide for the following provisions of the National Minimum Wage Act 1998 to apply, with or without modifications, 35

in relation to records which an employer is required to keep and preserve by virtue of the regulations –

- (a) section 10 (worker’s right of access to records);
- (b) section 11 (failure of employer to allow access to records);
- (c) section 11A (extension of time limit to facilitate conciliation before institution of proceedings). 5

(3) In this section “specified” means specified in the regulations.

40 Enforcement of matters relating to pay

- (1) Regulations made by the Secretary of State may provide for any provision of the National Minimum Wage Act 1998 within subsection (2) to apply, with any modifications specified in the regulations, for the purposes of enforcing – 10
 - (a) any provision of an agreement ratified under section 35 that relates to remuneration, or
 - (b) any provision of regulations under section 37 that relates to remuneration. 15
- (2) The provisions referred to in subsection (1) are –
 - (a) section 17 (non-compliance: worker entitled to additional remuneration);
 - (b) sections 19 to 19H (notices of underpayment);
 - (c) section 28 (evidence: reversal of burden of proof in civil proceedings); 20
 - (d) section 48 (superior employers);
 - (e) section 49 (restriction on contracting out).
- (3) Regulations under this section must provide that no amount is recoverable both – 25
 - (a) under or by virtue of the National Minimum Wage Act 1998 in its application for the purposes mentioned in subsection (1), and
 - (b) under or by virtue of that Act in its application otherwise than for those purposes,

in respect of the same work.

Supplementary and general 30

41 Regulations under section 35 or 37: supplementary

- (1) Regulations under section 35 or 37 may make provision that has retrospective effect.
This is subject to subsection (2).
- (2) Regulations under section 35 or 37 may not make provision the effect of which is to – 35
 - (a) reduce remuneration in respect of a period wholly or partly before the day on which the regulations are made, or

- (b) alter a condition of a person’s employment to the person’s detriment in respect of such a period.
 - (3) Regulations under section 35 or 37 may make provision by reference to—
 - (a) an agreement submitted to the Secretary of State by the Negotiating Body, or
 - (b) any other document.
 - (4) If regulations under section 35 or 37 make provision by virtue of subsection (3), they must include provision about the publication of the agreement or other document.
- 42 Regulations under this Chapter**
- (1) Regulations under this Chapter may confer a discretion on a person when dealing with any matter.
 - (2) Regulations under section 35 are subject to the negative resolution procedure.
 - (3) Regulations under any other provision of this Chapter are subject to the affirmative resolution procedure.
- 43 Status of agreements, etc**
- The Secretary of State may by regulations provide that—
- (a) nothing done by the Negotiating Body, or by members of the Negotiating Body acting in that capacity, is to be regarded as collective bargaining for the purposes of section 178 of the Trade Union and Labour Relations (Consolidation) Act 1992;
 - (b) any reference to a collective agreement within the meaning of that Act does not include an agreement reached by the Negotiating Body.
- 44 Interpretation of this Chapter**
- (1) In this Chapter—
 - “contract of employment” means a contract of service or apprenticeship, whether express or implied, and (if it is express) whether oral or in writing;
 - “employer”, in relation to a worker, means the person by whom the worker is (or, where the employment has ceased, was) employed;
 - “employment” means employment under a worker’s contract; and “employed” is to be read accordingly;
 - “the Negotiating Body” means the Adult Social Care Negotiating Body;
 - “official”, in relation to a trade union, has the meaning given by section 119 of the Trade Union and Labour Relations (Consolidation) Act 1992;
 - “social care worker” has the meaning given by section 31;
 - “trade union” has the meaning given by section 1 of the Trade Union and Labour Relations (Consolidation) Act 1992;

“worker” (except in the phrases “agency worker” and “social care worker”) means an individual who has entered into or works under (or, where the employment has ceased, worked under)–

- (a) a contract of employment, or
- (b) any other contract, whether express or implied and (if it is express) whether oral or in writing, whereby the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual;

and any reference to a worker’s contract is to be read accordingly.

- (2) Subsection (3) 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.
- (3) Where this subsection applies, the provisions of this Chapter (other than subsection (2) and this subsection) 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.
- (4) Any reference in subsections (2) and (3) to doing work includes a reference to performing services, and “work” is to be read accordingly.
- (5) Any reference in this Chapter to an agreement that has been ratified is, in a case where the agreement is ratified in part, a reference to so much of the agreement as has been ratified.

PART 4

TRADE UNIONS AND INDUSTRIAL ACTION, ETC

Right to statement of trade union rights

45 Right to statement of trade union rights

- (1) The Trade Union and Labour Relations (Consolidation) Act 1992 is amended in accordance with subsections (2) to (6). 5
- (2) In Part 3 (rights in relation to trade union membership and activities), before section 137 (and the italic heading before it) insert—

“Statement of trade union rights

136A Right to statement of trade union rights

10

- (1) A worker’s employer must give the worker a written statement that the worker has the right to join a trade union.
 - (2) The statement must be given—
 - (a) at the same time as the employer gives the worker a statement under section 1 of the 1996 Act (statement of employment particulars); 15
 - (b) at other prescribed times.
 - (3) The Secretary of State may prescribe—
 - (a) information that must be included in the statement;
 - (b) the form which the statement must take; 20
 - (c) the manner in which the statement must be given.
 - (4) The information prescribed may include that the worker has rights conferred by this Part.
 - (5) For the purposes of this section—
 - (a) “worker” and “employer” have the same meaning as in the 1996 Act (see section 230 of that Act); 25
 - (b) in a case where an employer gives a worker a statement under section 1 of the 1996 Act in instalments (see section 2(4) of that Act), that statement is to be treated as given when the first instalment is given; 30
 - (c) “the 1996 Act” means the Employment Rights Act 1996.
 - (6) Regulations prescribing anything for the purposes of this section (see section 293(1)) may make different provision for different purposes.
 - (7) See section 38 of the Employment Act 2002 for the effect of failing to give a statement in accordance with this section.” 35
- (3) In section 284 (exceptions for share fishermen)—

- (a) after “in the case of” insert “section 136A and”;
 - (b) before “sections 137 to 143” insert –
“section 136A (right to statement of trade union rights),”.
- (4) In section 285 (exceptions for employment outside Great Britain) –
- (a) in subsection (1), before “sections 137 to 143” insert – 5
“section 136A (right to statement of trade union rights),”;
 - (b) in subsection (1A), for “Sections 145A to 151” substitute “Section 136A, and sections 145A to 151,”.
- (5) In section 286 (power to provide for other exceptions), before “sections 145A to 151” insert “section 136A (right to statement of trade union rights) and”. 10
- (6) In section 296 (meaning of “worker”), in subsection (3), after “68(4),” insert “136A(5)”. 10
- (7) In section 38 of the Employment Act 2002 (failure to give statement of employment particulars etc) –
- (a) in subsection (2)(b), after “duty to the worker” insert “under section 136A of the Trade Union and Labour Relations (Consolidation) Act 1992 (duty to give a written statement of trade union rights),”; 15
 - (b) in subsection (3)(b), after “duty to the worker” insert “under section 136A of the Trade Union and Labour Relations (Consolidation) Act 1992,”. 20

Right of trade unions to access workplaces

46 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 25

RIGHT OF TRADE UNIONS TO ACCESS WORKPLACES

Access agreements: general

70ZA Access agreements

- (1) This section applies for the purposes of this Chapter.
- (2) An “access agreement” is an agreement between a listed trade union and an employer that – 30
 - (a) provides for access to a workplace by one or more officials of the union for any of the access purposes, and
 - (b) is entered into under section 70ZD or is treated as having been entered into under section 70ZE. 35

- (3) A “listed trade union” is a trade union whose name is entered in the list kept under section 2.
- (4) “Access”, in relation to a workplace, means physical entry into the workplace.
- (5) The “access purposes” are – 5
 - (a) to meet, represent, recruit or organise workers (whether or not they are members of a trade union);
 - (b) to facilitate collective bargaining.
- (6) But the access purposes do not include organising industrial action.
- (7) Sections 70ZB to 70ZF contain provision about entering into access agreements. 10
- (8) Section 70ZG contains provision about the variation or revocation of access agreements.
- (9) Sections 70ZH to 70ZJ contain provision about the enforcement of access agreements. 15

Entering into access agreements

70ZB Access requests and response notices

- (1) A listed trade union may give an employer a request for access to a workplace by one or more officials of the union for any of the access purposes. 20
- (2) A request under subsection (1) –
 - (a) may request access on one or more occasions;
 - (b) may include the terms on which access is requested (including as to what (if any) assistance the employer is requested to provide in relation to the access). 25
- (3) A request under subsection (1) must –
 - (a) be in the prescribed form;
 - (b) include the prescribed information;
 - (c) be given in the prescribed manner.
- (4) An employer that has been given a request under subsection (1) may give the union a notice agreeing with the request or disagreeing with the request (in whole or in part). 30
- (5) A notice under subsection (4) must –
 - (a) be in the prescribed form;
 - (b) include the prescribed information; 35
 - (c) be given in the prescribed manner.
- (6) In this Chapter –

“access request” means a request under subsection (1) given in accordance with subsection (3);

“response notice” means a notice under subsection (4) given in accordance with subsection (5).

70ZC Response period and negotiation period 5

In sections 70ZD and 70ZE –

- (a) “the response period” means a prescribed period beginning with the day on which an access request is given;
- (b) “the negotiation period” means a prescribed period beginning with the day on which a response notice is given. 10

70ZD Entering into access agreement by negotiation

- (1) An access agreement is entered into under this section if –
 - (a) a listed trade union gives an access request to an employer,
 - (b) the employer gives the union a response notice before the end of the response period, 15
 - (c) before the end of the negotiation period, the union and the employer agree in writing terms on which officials of the union are to have access, and
 - (d) the union and the employer jointly notify the Central Arbitration Committee of those terms in the prescribed form and manner. 20
- (2) See section 70ZE for the case where an access agreement is treated as being entered into by virtue of a determination of the Central Arbitration Committee.

70ZE Determinations by the Central Arbitration Committee 25

- (1) This section applies if a listed trade union has given an access request to an employer and either –
 - (a) the employer has not given a response notice to the union before the end of the response period, or
 - (b) the employer has given a response notice before the end of the response period and the negotiation period has ended without the union and the employer agreeing in writing terms on which officials of the union are to have access to the workplace. 30
- (2) The Central Arbitration Committee may, on an application under this section, make a determination that officials of the union are or are not to have access to the workplace. 35
- (3) If the Central Arbitration Committee makes a determination that officials of the union are to have access –

- (a) the determination must specify the terms on which officials of the union are to have access (including as to what (if any) assistance the employer must provide in relation to the access), and
 - (b) an access agreement containing those terms (and no others) is treated as having been entered into between the union and the employer. 5
 - (4) An application for a determination under this section may be made—
 - (a) by the union, in the case referred to in subsection (1)(a);
 - (b) by the union or the employer, in the case referred to in subsection (1)(b). 10
 - (5) An application for a determination under this section—
 - (a) must be in writing and in such form as the Central Arbitration Committee may require;
 - (b) may not be made after the end of a prescribed period beginning with the day on which the access request is given. 15
 - (6) In considering an application for a determination under this section, the Central Arbitration Committee—
 - (a) may make such enquiries as it sees fit;
 - (b) may make reasonable requests to provide information or documents relevant to the application; 20
 - (c) so far as reasonably practicable, must give any person who it considers has a proper interest in the application an opportunity to be heard.
 - (7) A determination under this section must— 25
 - (a) be in writing, and
 - (b) state the reasons for the determination.
 - (8) Section 70ZF makes further provision about determinations under this section.
- 70ZF Determinations by the Central Arbitration Committee: further provision 30**
- (1) Subject to regulations under this section, a determination by the Central Arbitration Committee under section 70ZE must be consistent with the access principles.
 - (2) The access principles are— 35
 - (a) officials of a listed trade union should be able to access a workplace for any of the access purposes in any manner that does not unreasonably interfere with the employer’s business;
 - (b) an employer should take reasonable steps to facilitate access by officials of a listed trade union to a workplace; 40

- (c) access should be refused entirely only where it is reasonable in all the circumstances to do so.
- (3) The Secretary of State may prescribe terms of an access agreement that the Central Arbitration Committee must consider to be terms that – 5
- (a) would not unreasonably interfere with an employer’s business;
 - (b) would constitute reasonable steps that an employer should take to facilitate access;
 - (c) would be reasonable for a union to comply with.
- (4) The Secretary of State may prescribe – 10
- (a) circumstances which, for the purposes of subsection (2)(c), the Central Arbitration Committee must take as reasonable for the purposes of making a determination that officials of a union that has given an access request to an employer are not to have access to a workplace; 15
 - (b) circumstances in which the Central Arbitration Committee must make such a determination.
- (5) The circumstances referred to in subsection (4) may be prescribed by reference to (among other matters) – 20
- (a) the number of workers in the workplace that are members of the union;
 - (b) the description of business carried on by the employer;
 - (c) the number of workers employed by the employer;
 - (d) the description of workplace;
 - (e) the ability of the employer to facilitate access to the workplace; 25
 - (f) avoiding prejudice to the prevention or detection of offences;
 - (g) national security.

Variation and revocation of access agreements

70ZG Variation and revocation of access agreements

- (1) The parties to an access agreement may at any time vary or revoke the agreement. 30
- (2) A variation or revocation of an access agreement must be in writing.
- (3) An access agreement that is varied under this section continues to have effect as an access agreement for the purposes of this Chapter.
- (4) The effect of an access agreement being revoked is that it ceases to be an access agreement for the purposes of this Chapter. 35
- (5) A variation or revocation of an access agreement takes effect –

- (a) only if the parties jointly notify the Central Arbitration Committee of the variation or revocation in the prescribed form and manner;
- (b) only in respect of times after the day on which the Central Arbitration Committee is so notified.

5

Enforcement of access agreements

70ZH Enforcement of access agreements: initial complaint

- (1) A party to an access agreement may make a complaint to the Central Arbitration Committee on the ground that—
 - (a) the other party has breached the agreement; 10
 - (b) a person that is not a party to the agreement has taken or is taking steps to prevent access, or has prevented access, from taking place in accordance with the agreement.
- (2) A complaint under subsection (1) must be made before the end of the period of three months beginning with the day on which the matter complained of is alleged to have occurred. 15
- (3) On a complaint under subsection (1), the Central Arbitration Committee may—
 - (a) vary the agreement;
 - (b) make a declaration that the complaint is or is not well-founded; 20
 - (c) if it makes a declaration that the complaint is well-founded, make an order requiring a person to take any steps specified in the order for the purposes of ensuring that access takes place in accordance with the agreement.
- (4) An access agreement that is varied under subsection (3)(a) continues to have effect as an access agreement for the purposes of this Chapter. 25
- (5) An order under subsection (3)(c) may, where it appears to the Central Arbitration Committee necessary or appropriate to do so, make provision different from that made in the agreement.
- (6) A declaration or order made by the Central Arbitration Committee under this section must—
 - (a) be in writing, and
 - (b) state the reasons for the declaration or order. 30
- (7) For the purposes of this section, a reference to a person taking steps includes a reference to a person not doing something. 35

70ZI Enforcement of access agreements: subsequent complaint

- (1) This section applies where the Central Arbitration Committee has made a declaration under section 70ZH(3) that a complaint about a person is well-founded.
- (2) A party to an access agreement may make a complaint to the Central Arbitration Committee on any of the following grounds— 5
- (a) that the person has, before the end of the relevant period, carried out the conduct complained of under section 70ZH again;
 - (b) where the complaint under section 70ZH was that the person breached the agreement, that the person has, before the end of the relevant period, breached the agreement again (whether or not in the way complained of under section 70ZH); 10
 - (c) that the person has breached an order under section 70ZH(3)(c).
- (3) In subsection (2), “the relevant period” means the period of 12 months beginning with the date of the declaration. 15
- (4) A complaint under subsection (2) must be made before the end of the period of three months beginning with the day on which the alleged conduct occurs.
- (5) On a complaint about a person under subsection (2), the Central Arbitration Committee may— 20
- (a) make a declaration that the complaint is or is not well-founded;
 - (b) if it makes a declaration that the complaint is well-founded, make an order requiring the person to pay an amount to the Central Arbitration Committee. 25
- (6) An amount payable under subsection (5)(b) may not exceed a prescribed amount.
- (7) A declaration or order made by the Central Arbitration Committee under this section must— 30
- (a) be in writing, and
 - (b) state the reasons for the declaration or order.
- (8) A declaration or order made by the Central Arbitration Committee under subsection (5) may be relied on (and enforced by the Central Arbitration Committee or a party to the access agreement) as if it were a declaration or order made by the court. 35
- (9) *The Central Arbitration Committee must pay into the Consolidated Fund any amounts received under subsection (5)(b).*
- (10) For the purposes of this section, a reference to conduct includes a reference to a person not doing something.

70ZJ Enforcement of access agreements: supplementary provision

- (1) An access agreement –
 - (a) is enforceable only by means of a complaint under section 70ZH or 70ZI, and not by any other means;
 - (b) in particular, is to be conclusively presumed not to have been intended by the parties to be a legally enforceable contract. 5
- (2) 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.
- (3) A complaint under section 70ZH or 70ZI must be in writing and in such form as the Central Arbitration Committee may require. 10
- (4) In its consideration of a complaint under section 70ZH or 70ZI, the Central Arbitration Committee –
 - (a) may make such enquiries as it sees fit;
 - (b) may make reasonable requests to provide information or documents relevant to the complaint; 15
 - (c) so far as reasonably practicable, must give any person who it considers has a proper interest in the complaint an opportunity to be heard.
- (5) The Central Arbitration Committee may draw an adverse inference from a person’s failure to comply with any reasonable request to provide information or documents relevant to a complaint under section 70ZH or 70ZI. 20

Appeals to the Employment Appeal Tribunal

70ZK Appeals to the Employment Appeal Tribunal 25

- (1) An appeal lies to the Employment Appeal Tribunal on any question of law arising from any determination, declaration or order of, or arising in any proceedings before, the Central Arbitration Committee under this Chapter.
- (2) Where the Central Arbitration Committee makes an order under section 70ZI(5)(b) for a person to pay an amount to the Central Arbitration Committee, the person may appeal against the order. 30
- (3) On an appeal under subsection (2), the Employment Appeal Tribunal may –
 - (a) quash the order; 35
 - (b) make an order requiring the person to pay a reduced amount to the Central Arbitration Committee.
- (4) *The Central Arbitration Committee must pay into the Consolidated Fund any amounts received under subsection (3)(b).*

*Regulations***70ZL Regulations under this Chapter**

Regulations prescribing anything for the purposes of this Chapter (see section 293(1)) may make different provision for different purposes.”

Trade union recognition

5

47 Conditions for trade union recognition

- (1) Schedule A1 to the Trade Union and Labour Relations (Consolidation) Act 1992 (collective bargaining: recognition) is amended as follows.
- (2) In paragraph 14 (acceptance of applications)–
 - (a) in sub-paragraph (4), for “10 per cent test” substitute “required percentage test”; 10
 - (b) in sub-paragraph (5)–
 - (i) for “10 per cent test” substitute “required percentage test”;
 - (ii) for “at least 10 per cent” substitute “at least the required percentage (see paragraph 171B)”; 15
 - (c) in sub-paragraph (7)–
 - (i) in paragraph (a), for “10 per cent test” substitute “required percentage test”;
 - (ii) in paragraph (b), for “10 per cent test” substitute “required percentage test”; 20
 - (d) in sub-paragraph (8), for “10 per cent test” substitute “required percentage test”.
- (3) In paragraph 29 (result of ballot)–
 - (a) 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.”; 25
 - (b) omit sub-paragraphs (5) to (7). 30
- (4) In paragraph 36 (admissibility of applications), 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.” 35

- (5) For paragraph 45 (validity of applications) substitute –
- “45 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.” 5
- (6) In paragraph 51 (competing applications), in sub-paragraph (2)(c), for “10 per cent test” substitute “required percentage test”.
- (7) In paragraph 86 (new bargaining unit: assessment of support) –
- (a) 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.”; 10
- (b) 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”. 15
- (8) In paragraph 87 (new bargaining unit: majority of workers union members), 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).” 20
- (9) In paragraph 88 (new bargaining unit: majority of workers not union members), 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 25
- (b) the CAC is not satisfied that a majority of workers constituting the new unit are members of the union (or unions).” 30
- (10) 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 – 35
- (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.” 5

Trade union finances

48 Requirement to contribute to political fund

- (1) The Trade Union and Labour Relations (Consolidation) Act 1992 is amended in accordance with subsections (2) to (7). 10
- (2) In section 82 (rules as to political fund), in subsection (1)(ca)(i), for “opt to be” substitute “opt out of being”.
- (3) For section 84 (contributions to political fund from members of a union) substitute—

“84 Contributors to political fund” 15

- (1) For the purposes of this Act, a member of a trade union is a “contributor” to the political fund of the union unless an opt-out notice given by the member to the union has effect (see subsection (6)).
- (2) An “opt-out notice” is a notice that the member opts out of being a contributor. 20
- (3) If a political resolution is passed by the members of a trade union under section 73, the union must give notice to each member of the union that—
 - (a) a member has the right not to be a contributor to the political fund of the union, and 25
 - (b) a member may exercise that right by giving an opt-out notice.
- (4) Notice under subsection (3) must be given in accordance with rules of the union approved for the purpose by the Certification Officer.
- (5) 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. 30
- (6) An opt-out notice has effect on and after the relevant day unless the member withdraws the notice.
- (7) In subsection (6), “the relevant day” means—
 - (a) in a case where— 35
 - (i) a political resolution is passed on a ballot held at a time when no such resolution is in effect, and

- (ii) the opt-out notice is given before the end of the period of one month beginning with the day on which notice is given to members under subsection (3),
the day on which the opt-out notice is given;
 - (b) in any other case, 1 January in the year following the year in which the opt-out notice is given. 5
- (8) A member of a trade union withdraws an opt-out notice by giving the union notice of the withdrawal (a “withdrawal notice”).
- (9) A member of a trade union may give an opt-out notice or a withdrawal notice – 10
 - (a) by delivering it (either personally or by an authorised agent or by post) at the head office or a branch office of the union;
 - (b) by sending it by email to an address that the union has told its members can be used for sending such notices;
 - (c) by completing an electronic form provided by the union which sets out the notice, and sending it to the union by electronic means in accordance with instructions given by the union; 15
 - (d) by such other electronic means as may be prescribed.”
- (4) Omit section 84A (information to members about contributing to political fund). 20
- (5) In section 86 (employer not to deduct contributions where member gives certificate), in subsection (1), for “, he is not a contributor to the fund,” substitute “ –
 - (a) the member is not a contributor to the fund, or
 - (b) the member has given the union an opt-out notice but it does not yet have effect,”. 25
- (6) In section 94 (overseas members of trade union) –
 - (a) in subsection (1), at the end of paragraph (a) insert “, and
 - (b) rules made by the union for the purpose of complying with section 84 (notice of right to opt out of contributing to political fund to be given where resolution passed) may provide for notice not to be given by the union to its overseas members.”; 30
 - (b) in subsection (2), after “rules” insert “; and where provision is made in accordance with subsection (1)(b), section 84(3) (duty to give notice) is not to be taken to require notice to be given to overseas members.” 35
- (7) In section 299 (index of defined expressions), in the entry for “contributor”, for “84(5)” substitute “84(1)”.
- (8) In consequence of the amendments made by subsections (2) to (7), in the Trade Union Act 2016 – 40
 - (a) in section 11, omit subsections (1), (2) and (5) to (8);
 - (b) in Schedule 4 –

- (i) in paragraph 7, omit sub-paragraph (3);
- (ii) omit paragraph 9.

49 Deduction of trade union subscriptions from wages in public sector

- (1) In the Trade Union and Labour Relations (Consolidation) Act 1992—
 - (a) omit section 116B (restriction on deduction of union subscriptions from wages in public sector) and the italic heading before it; 5
 - (b) in section 296 (meaning of “worker” and related expressions), in subsection (3), omit “116B(10),”.
- (2) In consequence of the amendments made by subsection (1), omit section 15 of the Trade Union Act 2016. 10

Facilities provided to trade union representatives and members

50 Facilities provided to trade union officials and learning representatives

- (1) The Trade Union and Labour Relations (Consolidation) Act 1992 is amended in accordance with subsections (2) to (6).
- (2) In section 168 (time off for carrying out trade union duties)— 15
 - (a) after subsection (3) insert—
 - “(3A) An employer that permits an employee to take time off as required by this section must, where requested by the employee, provide the employee with such accommodation and other facilities for carrying out the duties or undergoing the training for which the employee takes time off as is reasonable in all the circumstances, having regard to any relevant provisions of a Code of Practice issued by ACAS.”; 20
 - (b) for subsection (4) substitute—
 - “(4) An employee may present a complaint to an employment tribunal that the employer has failed— 25
 - (a) to permit the employee to take time off, or
 - (b) to provide the employee with facilities, as required by this section.
 - (5) On a complaint under subsection (4)(a), it is for the employer to show that the amount of time off which the employee proposed to take was not a reasonable amount of time off.” 30
- (3) In section 168A (time off for union learning representatives)—
 - (a) after subsection (8) insert—
 - “(8A) An employer that permits an employee to take time off as required by this section must, where requested by the employee, provide the employee with such accommodation and other facilities for the purposes for which the employee 35

- takes time off as is reasonable in all the circumstances, having regard to any relevant provisions of a Code of Practice issued by ACAS.”;
- (b) for subsection (9) substitute –
- “(9) An employee may present a complaint to an employment tribunal that the employer has failed –
- (a) to permit the employee to take time off, or
- (b) to provide the employee with facilities, as required by this section.
- (9A) On a complaint under subsection (9)(a), it is for the employer to show that the amount of time off which the employee proposed to take was not a reasonable amount of time off.”
- (4) In section 172 (remedies), in subsection (2), omit “in failing to permit time off to be taken by the employee”.
- (5) In section 199 (issue of Codes of Practice by ACAS), in subsection (2)(a), after “time off” insert “and facilities”.
- (6) In section 200 (procedure for issue of Code by ACAS), in subsection (3)(a), after “time off” insert “and facilities”.
- (7) In section 10 of the Employment Relations Act 1999 (right to be accompanied), in subsection (7), for “and (4)” substitute “, (4) and (5)”.

51 Facilities for equality representatives

- (1) The Trade Union and Labour Relations (Consolidation) Act 1992 is amended in accordance with subsections (2) to (10).
- (2) After section 168A insert –
- “168B Time off for union equality representatives**
- (1) An employer must permit an employee who is –
- (a) a member of an independent trade union recognised by the employer, and
- (b) an equality representative of the trade union, to take time off during the employee’s working hours for any of the following purposes.
- (2) The purposes are –
- (a) carrying out activities for the purpose of promoting the value of equality in the workplace;
- (b) arranging learning or training on matters relating to equality in the workplace;
- (c) providing information, advice or support to qualifying members of the trade union in relation to matters relating to equality in the workplace;

-
- (d) consulting with the employer on matters relating to equality in the workplace;
 - (e) obtaining and analysing information relating to equality in the workplace;
 - (f) preparing for any of the things mentioned in paragraphs (a) to (e). 5
- (3) Subsection (1) applies only if –
- (a) the trade union has given the employer notice in writing that the employee is an equality representative of the union, and
 - (b) the training condition is met in relation to the employee. 10
- (4) The training condition is met if –
- (a) the employee has undergone sufficient training to enable the employee to carry on activities mentioned in subsection (2), and the trade union has given the employer notice in writing of that fact, 15
 - (b) the trade union has in the last six months given the employer notice in writing that the employee will be undergoing such training, or
 - (c) within six months of the trade union giving the employer notice in writing that the employee will be undergoing such training, the employee has done so, and the trade union has given the employer notice of that fact. 20
- (5) Only one notice under subsection (4)(b) may be given in respect of any one employee.
- (6) References in subsection (4) to sufficient training to carry out activities mentioned in subsection (2) are to training that is sufficient for those purposes having regard to any relevant provision of a Code of Practice issued by ACAS or the Secretary of State. 25
- (7) If an employer is required to permit an employee to take time off under subsection (1), the employer must also permit the employee to take time off during the employee’s working hours for the following purposes – 30
- (a) undergoing training which is relevant to the employee’s functions as an equality representative, and
 - (b) where the trade union has in the last six months given the employer notice under subsection (4)(b) in relation to the employee, undergoing such training as is mentioned in subsection (4)(a). 35
- (8) The amount of time off which an employee is to be permitted to take under this section and the purposes for which, the occasions on which and any conditions subject to which time off may be so taken are those that are reasonable in all the circumstances, having regard to any 40

relevant provision of a Code of Practice issued by ACAS or the Secretary of State.

- (9) An employer that permits an employee to take time off as required by this section must, where requested by the employee, provide the employee with such accommodation and other facilities in relation to the purposes for which the employee takes time off as is reasonable in all the circumstances, having regard to any relevant provisions of a Code of Practice issued by ACAS. 5
- (10) An employee may present a complaint to an employment tribunal that the employer has failed – 10
- (a) to permit the employee to take time off, or
 - (b) to provide the employee with facilities,
- as required by this section.
- (11) On a complaint under subsection (10)(a), it is for the employer to show that the amount of time off which the employee proposed to take was not a reasonable amount of time off. 15
- (12) For the purposes of this section –
- (a) a person is an equality representative of a trade union if the person is appointed or elected as such in accordance with its rules; 20
 - (b) “equality”, in relation to a workplace, means –
 - (i) the elimination of discrimination, harassment and victimisation, each of which is to be read in accordance with the Equality Act 2010, and of any other conduct that is prohibited by or under that Act; 25
 - (ii) the advancement of equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (iii) the fostering of good relations between persons who share a relevant protected characteristic and persons who do not share it; 30
 - (c) “relevant protected characteristic” means age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex or sexual orientation, each of which is to be read in accordance with the Equality Act 2010; 35
 - (d) a reference to qualifying members of the trade union is a reference to members of the trade union –
 - (i) who are employees of the employer of a description in respect of which the union is recognised by the employer, and 40
 - (ii) in relation to whom it is the function of the equality representative to act as such.”
- (3) In section 169 (payment for time off) –

- (a) in the heading, for “section 168” substitute “sections 168 to 168B”;
- (b) in subsection (1), for “or 168A” substitute “, 168A or 168B”.
- (4) In section 170 (time off for trade union activities)–
- (a) in subsection (2A), after “learning representative” insert “or an equality representative”; 5
- (b) in subsection (2B), after “learning representative” insert “or an equality representative”;
- (c) in subsection (2C)–
- (i) after “applies” insert “–
- (a) in relation to a learning representative;” 10
- (ii) at the end insert–
- “(b) in relation to an equality representative, if the equality representative would be entitled to time off under subsection (1) of section 168B for the purpose of carrying on in relation to the employee activities of the kind mentioned in subsection (2) of that section.”; 15
- (d) in subsection (5)–
- (i) in paragraph (a), after “learning representative” insert “or an equality representative”; 20
- (ii) omit the “and” at the end of paragraph (a);
- (iii) after paragraph (b) insert “, and
- (c) a person who is an equality representative of a trade union acts as such if the person carries on the activities mentioned in section 168B(2) in that capacity.” 25
- (5) In section 171 (time off: time limit for proceedings), in subsection (1), after “168A,” insert “168B,”.
- (6) In section 172 (time off: remedies), in subsection (1), after “168A” insert “, 168B”. 30
- (7) In section 173 (interpretation and other supplementary provisions)–
- (a) in subsection (1), after “168A” insert “, 168B”;
- (b) in subsection (2), after “168A,” insert “168B,”;
- (c) in subsection (3), after “168A” insert “or 168B”.
- (8) In section 199 (issue of Codes of Practice by ACAS), in subsection (1), after “learning representatives” insert “or equality representatives”. 35
- (9) In section 200 (procedure for issue of Code by ACAS), in subsection (3)–
- (a) omit the “or” at the end of paragraph (b);

- (b) after paragraph (b) insert—
- “(ba) on the time off and facilities to be permitted to a trade union equality representative in accordance with section 168B (time off for training and carrying out functions as an equality representative), 5
 - (bb) on the training that is sufficient to enable a trade union equality representative to carry on the activities mentioned in section 168B(2) (activities for which time off is to be permitted), or”.
- (10) In section 203 (issue of Codes of Practice by Secretary of State), in subsection (1)(b), after “learning representatives” insert “or equality representatives”. 10
- (11) In section 18 of the Employment Tribunals Act 1996 (conciliation: relevant proceedings), in subsection (1)(a), after “168A,” insert “168B,”.
- (12) In section 104 of the Employment Rights Act 1996 (unfair dismissal for assertion of statutory rights), in subsection (4)(c), after “168A,” insert “168B,”. 15

52 Facility time: publication requirements and reserve powers

- (1) In the Trade Union and Labour Relations (Consolidation) Act 1992—
- (a) omit section 172A (publication requirements in relation to facility time);
 - (b) omit section 172B (reserve powers in relation to facility time).
- (2) In consequence of the amendments made by subsection (1), omit sections 13 and 14 of the Trade Union Act 2016. 20

Blacklists

53 Blacklists: additional powers

- (1) Section 3 of the Employment Relations Act 1999 (blacklists) is amended as follows. 25
- (2) In subsection (1)(b), omit “by employers or employment agencies”.
- (3) After subsection (2) insert—
- “(2A) The Secretary of State may make regulations prohibiting—
- (a) the use of lists which contain details of members of trade unions, or persons who have taken part in the activities of trade unions, for the purposes of discrimination in relation to recruitment or in relation to the treatment of workers; 30
 - (b) the sale or supply of such lists with a view to being used for those purposes.”
- (4) In subsection (3)— 35

- (a) before paragraph (a) insert—
 - “(za) make provision for a person who causes another person to do something to be treated as doing that thing;”;
- (b) in paragraph (e), after “subsection (1)” insert “or (2A)”.

Industrial action: ballots

5

54 Industrial action ballots: turnout and support thresholds

- (1) The Trade Union and Labour Relations (Consolidation) Act 1992 is amended in accordance with subsections (2) to (4).
- (2) In section 226 (requirement of ballot before action by trade union)—
 - (a) in subsection (2)(a)—
 - (i) insert “and” at the end of sub-paragraph (ii);
 - (ii) omit sub-paragraph (iia) (and the “and” after it);
 - (iii) in sub-paragraph (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) Omit section 297A (meaning of “voting”).
- (4) In section 299 (index of defined expressions), omit the entry for “voting”.
- (5) In consequence of the amendments made by subsections (2) to (4), in the Trade Union Act 2016—
 - (a) omit sections 2 and 3;
 - (b) in Schedule 4, omit paragraphs 12 and 17.

55 Industrial action ballots: provision of information to members

- (1) The Trade Union and Labour Relations (Consolidation) Act 1992 is amended in accordance with subsections (2) and (3).
- (2) In section 229 (information to be included on voting paper), omit subsections (2B) to (2D).
- (3) In section 231 (information as to result of ballot), for the words from “are told” to the end substitute “are informed of the number of—
 - (a) votes cast in the ballot;
 - (b) individuals answering “Yes” to the question, or, as the case may be, to each question;
 - (c) individuals answering “No” to the question, or, as the case may be, to each question;
 - (d) spoiled voting papers.”

- (4) In consequence of the amendments made by subsections (2) and (3), omit sections 5 and 6 of the Trade Union Act 2016.

56 Electronic balloting

- (1) In the Trade Union Act 2016, omit section 4 (provision for electronic balloting for industrial action: review and piloting scheme). 5
- (2) Subsection (1) does not affect the power of the Secretary of State to make an order under section 54 of the Employment Relations Act 2004 (permissible means of balloting) in relation to ballots for the purposes of section 226 of the Trade Union and Labour Relations (Consolidation) Act 1992 (ballots on industrial action). 10

Industrial action: provision of information to employer

57 Industrial action: provision of information to employer

- (1) In section 234A of the Trade Union and Labour Relations (Consolidation) Act 1992 (notice to employers of industrial action), in subsection (4), for paragraph (b) and the words after paragraph (b) substitute— 15
- “(b) ending with the seventh day before the day, or before the first of the days, specified in the relevant notice.”
- (2) In consequence of the amendment made by subsection (1), omit section 8 of the Trade Union Act 2016.

Industrial action: picketing 20

58 Union supervision of picketing

- (1) In the Trade Union and Labour Relations (Consolidation) Act 1992—
- (a) in section 219 (protection from certain tort liabilities), in subsection (3), for the words from “unless” to the end substitute “unless it is done in the course of attendance declared lawful by section 220 (peaceful picketing)”; 25
- (b) omit section 220A (union supervision of picketing).
- (2) In consequence of the amendments made by subsection (1), omit section 10 of the Trade Union Act 2016.

Protection for taking industrial action 30

59 Protection against detriment for taking industrial action

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

- (2) In Part 5 (industrial action), after section 236 insert—

“Protection against detriment

236A Detriment on grounds of industrial action

- (1) A worker has the right not to be subjected as an individual to detriment of a prescribed description by any act, or any deliberate failure to act, by the worker’s employer, if the act or failure takes place for the sole or main purpose of preventing or deterring the worker from taking protected industrial action, or penalising the worker for doing so. 5
- (2) For that purpose, a worker takes protected industrial action if the worker commits an act which, or a series of acts each of which, the worker is induced to commit by an act which by virtue of section 219 is not actionable in tort. 10
- (3) But no account may be taken of the repudiation of any act by a trade union as mentioned in section 21 in relation to anything which occurs before the end of the next working day after the day on which the repudiation takes place. 15
- (4) Regulations under subsection (1) may prescribe detriment of any description (instead of detriment of a specific description).
- (5) Subsection (1) does not apply where the worker is an employee and the detriment in question amounts to dismissal (but see sections 237 to 239). 20
- (6) A worker or former worker may present a complaint to an employment tribunal on the ground that the worker or former worker has been subjected to a detriment by an employer in contravention of this section. 25
- (7) A worker or former worker has no other remedy for infringement of the right conferred by this section.
- (8) In this section and sections 236B to 236D— 30
- “employer” means—
- (a) in relation to a worker, the person for whom the worker works;
- (b) in relation to a former worker, the person for whom the former worker worked;
- “worker” means an individual who works, or normally works, as mentioned in paragraphs (a) to (c) of section 296(1); 35
- “working day” means any day which is not a Saturday or Sunday, Christmas Day, Good Friday or a bank holiday under the Banking and Financial Dealings Act 1971.

236B Time limit for proceedings

- (1) An employment tribunal may not consider a complaint under section 236A unless it is presented –
 - (a) before the end of the period of three months beginning with the date of the act or failure to which the complaint relates or, where that act or failure is part of a series of similar acts or failures (or both), the last of them, or 5
 - (b) where the tribunal is satisfied that it was not reasonably practicable for the complaint to be presented before the end of that period, within such further period as it considers reasonable. 10
- (2) For the purposes of subsection (1) –
 - (a) where an act extends over a period, the reference to the date of the act is a reference to the last day of that period;
 - (b) a failure to act is to be treated as done when it was decided on. 15
- (3) For the purposes of subsection (2), in the absence of evidence establishing the contrary, an employer is to be taken to decide on a failure to act –
 - (a) when the employer does an act inconsistent with doing the failed act, or 20
 - (b) if the employer has done no such inconsistent act, when the period expires within which the employer might reasonably have been expected to do the failed act if it was to be done.
- (4) Section 292A (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsection (1)(a). 25

236C Consideration of complaint

On a complaint under section 236A it is for the employer to show what was the sole or main purpose for which the employer acted or failed to act. 30

236D Remedies

- (1) Where the employment tribunal finds that a complaint under section 236A is 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 employer to the complainant in respect of the act or failure complained of. 35
- (2) The amount of the compensation awarded is to be an amount which the tribunal considers just and equitable in all the circumstances having

regard to the infringement complained of and to any loss sustained by the complainant which is attributable to the act or failure.

- (3) The loss is to be taken to include—
 - (a) any expenses reasonably incurred by the complainant in consequence of the act or failure, and 5
 - (b) loss of any benefit which the complainant might reasonably be expected to have had but for the act or failure.
- (4) In ascertaining the loss, the tribunal must apply the same rule concerning the duty of a person to mitigate loss as applies to damages recoverable under the common law of England and Wales or Scotland. 10
- (5) Where the tribunal finds that the act or failure complained of was to any extent caused or contributed to by action of the complainant, it must reduce the amount of the compensation by such proportion as it considers just and equitable having regard to that finding.”
- (3) In section 296 (meaning of “worker”), in subsection (3), for “and 151(1B)” substitute “, 151(1B) and 236A(8)”. 15
- (4) In section 18 of the Employment Tribunals Act 1996 (conciliation: relevant proceedings), in subsection (1)(a), for “or 192” substitute “, 192 or 236A”.
- (5) In section 104 of the Employment Rights Act 1996 (unfair dismissal for assertion of statutory rights), in subsection (4)(c), for “and 170” substitute “, 170 and 236A”. 20

60 Protection against dismissal for taking industrial action

- (1) The Trade Union and Labour Relations (Consolidation) Act 1992 is amended in accordance with subsections (2) to (4).
- (2) In section 229 (industrial action ballots: voting paper), in subsection (4), omit the words from “if it takes place fewer than” to the end. 25
- (3) In section 238A (protection for employees taking part in official industrial action)—
 - (a) in subsection (2), omit paragraph (b) (and the “and” before it);
 - (b) omit subsections (3) to (7D); 30
 - (c) omit subsection (9);
- (4) Omit section 238B (conciliation and mediation: supplementary provisions).
- (5) In consequence of the amendments made by subsections (2) to (4), in the Employment Relations Act 2004—
 - (a) omit section 26 (dismissal where employees locked out); 35
 - (b) omit section 27 (date of dismissal);
 - (c) omit section 28 (dismissal after end of protected period);
 - (d) in Schedule 1 (minor and consequential amendments), omit paragraph 13.

Strikes: minimum service levels

61 Repeal of provision about minimum service levels

- (1) In the Trade Union and Labour Relations (Consolidation) Act 1992, omit sections 234B to 234G (minimum service levels for certain services).
- (2) Accordingly, in that Act—
 - (a) in section 219 (protection from tort liabilities), in subsection (4), for the words from “to”, in the first place it occurs, to “steps);” substitute “to—
 - (a) sections 222 to 225 (action excluded from protection),
 - (b) section 226 (requirement of ballot before action by trade union), and
 - (c) section 234A (requirement of notice to employer of industrial action);”;
 - (b) in section 234A (notice to employers of industrial action), in subsection (3)—
 - (i) at the end of paragraph (a), insert “and”;
 - (ii) omit paragraph (ba) and the “and” before it;
 - (c) omit the italic heading before section 234B;
 - (d) for the italic heading before section 235 substitute “*Sections 226 to 234A: meaning of “contract of employment”*”;
 - (e) in section 235 (construction of references to contract of employment)—
 - (i) in the heading, at the end insert “in sections 226 to 234A”;
 - (ii) for “to 234G” substitute “to 234A”;
 - (f) in section 238A (unfair dismissal: participation in official industrial action)—
 - (i) in subsection (2), insert “and” at the end of paragraph (a) and omit paragraph (aa) (including the “and” after it);
 - (ii) for subsection (9) substitute—
 - “(9) In this section “date of dismissal” has the meaning given by section 238(5).”;
 - (g) in section 246 (minor definitions), for “where section 229(2A) applies (see that section and 234G(2))” substitute “for the purposes of section 229(2) (see section 229(2A))”;
 - (h) in section 299 (index of defined expressions)—
 - (i) in the entry for “contract of employment”, for “234G” substitute “234A”;
 - (ii) in the entry for “not protected”, for “, 234A and 234E” substitute “and 234A”;
 - (iii) omit the entries for “minimum service regulations (in Part 5)”, “relevant service (in Part 5)” and “work notice” (in Part 5)”.
 - (3) The Strikes (Minimum Service Levels) Act 2023 is repealed.

*Certification Officer***62 Annual returns: removal of provision about industrial action**

- (1) In the Trade Union and Labour Relations (Consolidation) Act 1992, omit section 32ZA (details of industrial action etc to be included in annual return).
- (2) In consequence of the amendment made by subsection (1), omit section 7 of the Trade Union Act 2016. 5

63 Annual returns: removal of provision about political expenditure

- (1) The Trade Union and Labour Relations (Consolidation) Act 1992 is amended in accordance with subsections (2) to (6).
- (2) Omit section 32ZB (details of political expenditure to be included in annual return). 10
- (3) In section 32ZC (enforcement) –
 - (a) in the heading, for “sections 32ZA and 32ZB” substitute “section 32ZA”;
 - (b) in subsection (1), omit “or 32ZB”.
- (4) In section 45 (rights of union members: offences), in subsection (1), for “sections 32ZA and 32ZB” substitute “section 32ZA”. 15
- (5) In section 131 (administrative provisions applying to employers’ associations), in subsection (1), omit “, section 32ZB”.
- (6) In section 135 (federated employers’ associations), in subsection (3), omit “, section 32ZB”. 20
- (7) In consequence of the amendments made by subsections (2) to (6), omit section 12 of the Trade Union Act 2016.

64 Removal of powers to enforce requirements relating to annual returns

- (1) The Trade Union and Labour Relations (Consolidation) Act 1992 is amended in accordance with subsections (2) to (5). 25
- (2) Omit section 32ZC (enforcement of sections 32ZA and 32ZB).
- (3) In section 45 (rights of union members: offences), in subsection (1), for the words from “section 32” to “sections 32A” substitute “sections 32”.
- (4) In section 45D (appeals from Certification Officer on question arising in proceedings etc under Chapters 1, 2 and 3 of Part 1), omit “, 32ZC”. 30
- (5) In section 256 (procedure before the Certification Officer), in subsection (1)(c), omit “, 32ZC”.
- (6) In consequence of the amendments made by subsections (2) to (5) –
 - (a) omit section 18 of the Trade Union Act 2016;
 - (b) in section 63 of this Act, omit subsections (3) and (4). 35

65 Removal of investigatory powers

- (1) The Trade Union and Labour Relations (Consolidation) Act 1992 is amended in accordance with subsections (2) to (6).
- (2) In section 25 (duties with respect to register of members' names and addresses: remedies), omit subsection (6A). 5
- (3) In section 45D (appeals from Certification Officer on question arising in proceedings etc under Chapters 1, 2 and 3 of Part 1), omit "or paragraph 5 of Schedule A3".
- (4) In section 256 (procedure before the Certification Officer), in subsection (1)(c), omit "or under paragraph 5 of Schedule A3". 10
- (5) Omit section 256C (investigatory powers).
- (6) Omit Schedule A3 (Certification Officer: investigatory powers).
- (7) In consequence of the amendments made by subsections (2) to (6) –
 - (a) in section 43 of the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014, omit subsection (4); 15
 - (b) in the Trade Union Act 2016 –
 - (i) in section 17, omit subsections (1) and (2);
 - (ii) omit Schedule 1;
 - (iii) in Schedule 4, omit paragraphs 2 and 3(b).

66 Powers to be exercised only on application

- (1) The Trade Union and Labour Relations (Consolidation) Act 1992 is amended in accordance with subsections (2) to (9). 20
- (2) In section 45C (duty to secure union positions not held by certain offenders: remedies and enforcement) –
 - (a) in subsection (1), omit the words from "; but the Certification Officer" to the end; 25
 - (b) in subsection (2A) –
 - (i) in paragraph (b), omit "(if any)";
 - (ii) in paragraph (c), omit "(if any)".
- (3) In section 54 (elections for union positions: remedies), in subsection (1), omit the words after paragraph (b). 30
- (4) In section 55 (elections for union positions: powers of Certification Officer) –
 - (a) in the heading, for "Powers of" substitute "Application to";
 - (b) in subsection (1) –
 - (i) omit ", either"; 35
 - (ii) omit paragraph (b) and the "or" before it;
 - (c) in subsection (2) –
 - (i) in paragraph (b), omit "(if any)";

- (ii) in paragraph (c), omit “(if any)”.
- (5) In section 72A (application of funds in breach of section 71: remedies) –
- (a) in subsection (1), omit the words from “; but the Certification Officer” to the end;
- (b) in subsection (2A) – 5
- (i) in paragraph (b), omit “(if any)”;
- (ii) in paragraph (c), omit “(if any)”.
- (6) In section 79 (remedy for failure to comply with political ballot rules), in subsection (1), omit the words from “; but the Certification Officer” to the end. 10
- (7) In section 80 (remedy for failure to comply with political ballot rules: powers of Certification Officer) –
- (a) in the heading, for “Powers of” substitute “Application to”;
- (b) in subsection (1) –
- (i) omit “either”;
- (ii) omit “or without any such application having been made”;
- (c) in subsection (2) –
- (i) in paragraph (b), omit “(if any)”;
- (ii) in paragraph (c), omit “(if any)”.
- (8) In section 82 (rules as to political fund) – 20
- (a) in subsection (2), omit the words from “; but the Officer” to the end;
- (b) in subsection (3) –
- (i) in paragraph (b), omit “(if any)”;
- (ii) in paragraph (c), omit “(if any)”.
- (9) In section 103 (passing of amalgamation or transfer resolution: powers of Certification Officer) – 25
- (a) in the heading, for “Powers of” substitute “Complaint to”;
- (b) in subsection (1), omit the words from “; but the Officer” to the end;
- (c) in subsection (3A) –
- (i) in paragraph (b), omit “(if any)”;
- (ii) in paragraph (c), omit “(if any)”.
- (10) In consequence of the amendments made by subsections (2) to (9), in the Trade Union Act 2016 –
- (a) in section 17(3), for the words from “to enable the Certification Officer” to “the Officer” substitute “in relation to the powers of the Certification Officer”;
- (b) in Schedule 2 –
- (i) in the heading of the Schedule, omit “without application”;
- (ii) in paragraph 3, omit sub-paragraph (2);
- (iii) in paragraph 6, omit sub-paragraph (2). 40

67 Removal of power to impose financial penalties

- (1) The Trade Union and Labour Relations (Consolidation) Act 1992 is amended in accordance with subsections (2) and (3).
- (2) Omit section 256D (power to impose financial penalties).
- (3) Omit Schedule A4 (Certification Officer: power to impose financial penalties). 5
- (4) In consequence of the amendments made by subsections (2) and (3), in the Trade Union Act 2016—
 - (a) in section 19, omit subsections (1) to (3);
 - (b) omit Schedule 3.

68 Removal of power to impose levy 10

- (1) The Trade Union and Labour Relations (Consolidation) Act 1992 is amended in accordance with subsections (2) and (3).
- (2) Omit section 257A (levy payable to Certification Officer).
- (3) In section 258 (Certification Officer: annual reports and account), omit subsection (1A). 15
- (4) In consequence of the amendments made by subsections (2) and (3), omit section 20 of the Trade Union Act 2016.

69 Appeals to the Employment Appeal Tribunal

- (1) The Trade Union and Labour Relations (Consolidation) Act 1992 is amended as follows. 20
- (2) In section 45D (appeals from Certification Officer on question arising in proceedings etc under Chapters 1, 2 and 3 of Part 1), after “question” insert “of law”.
- (3) In section 56A (appeal from Certification Officer on question arising in proceedings etc under section 55), after “question” insert “of law”. 25
- (4) In section 95 (appeal from Certification Officer on question arising in proceedings etc under Chapter 6 of Part 1), after “question” insert “of law”.
- (5) In section 104 (appeal from Certification Officer on question arising in proceedings etc under section 103), after “question” insert “of law”.
- (6) In section 108C (appeal from Certification Officer on question arising in proceedings etc under Chapter 7A of Part 1), after “question” insert “of law”. 30

*General***70 Regulations subject to affirmative resolution procedure**

In section 293 of the Trade Union and Labour Relations (Consolidation) Act 1992 (regulations), for subsection (3) substitute—

- “(3) Regulations under this section are to be made by statutory instrument. 5
- (4) A statutory instrument containing regulations to which subsection (5) applies (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.
- (5) This subsection applies to regulations prescribing anything for the purposes of— 10
- (a) section 70ZC (access agreements: response period and negotiation period);
 - (b) section 70ZE (access agreements: period to make application to Central Arbitration Committee); 15
 - (c) section 70ZF (access agreements: determinations by Central Arbitration Committee);
 - (d) section 70ZI (enforcement of access agreements: maximum penalty);
 - (e) section 236A (detriment for taking industrial action). 20
- (6) Any other statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.”

71 Devolved Welsh authorities

- In consequence of provision made by this Part— 25
- (a) in the Trade Union and Labour Relations (Consolidation) Act 1992—
 - (i) omit section 297B (devolved Welsh authorities);
 - (ii) in section 299 (index of defined expressions), omit the entry for “devolved Welsh authority”;
 - (b) in the Trade Union (Wales) Act 2017 (anaw 4), omit section 1 30
(amendments to the Trade Union and Labour Relations (Consolidation) Act 1992).

PART 5

ENFORCEMENT OF LABOUR MARKET LEGISLATION

General

72 Enforcement of labour market legislation by Secretary of State

- (1) The Secretary of State has the function of enforcing the labour market legislation listed in Part 1 of Schedule 4 (but see also section 74). 5
- (2) For the purposes of enabling the Secretary of State to perform that function, this Part confers powers on—
 - (a) the Secretary of State, and
 - (b) enforcement officers. 10
- (3) In this Part “enforcement officer” means a person appointed by the Secretary of State under this section.
- (4) The powers of an enforcement officer include power to exercise any of the Secretary of State’s enforcement functions, other than the function under subsection (1). 15
- (5) A person appointed under this section may exercise any powers of an enforcement officer to the extent specified in the appointment.
- (6) Nothing in this section authorises the Secretary of State to bring proceedings in Scotland for an offence.

73 Enforcement functions of Secretary of State 20

- (1) Any reference in this Part to an enforcement function of the Secretary of State is a reference to—
 - (a) any function of the Secretary of State under this Part,
 - (b) any function of the Secretary of State under any provision of relevant labour market legislation, or 25
 - (c) any other function of the Secretary of State that is exercisable for the purposes of enforcing any relevant labour market legislation.
- (2) But the following functions are not enforcement functions of the Secretary of State for the purposes of this Part—
 - (a) the power to appoint enforcement officers under section 72; 30
 - (b) any function under section 74 (delegation of functions);
 - (c) any function under section 75 (Advisory Board);
 - (d) any function under section 76 or 77 (strategies and reports);
 - (e) any function under Part 1 of Schedule 7 (transfer schemes);
 - (f) any power to give directions or make subordinate legislation. 35

74 Delegation of functions

- (1) The Secretary of State may make arrangements with a public authority –
- (a) for the authority to exercise any delegable function of the Secretary of State to the extent specified in the arrangements;
 - (b) for officers or other staff of the authority to be appointed as enforcement officers. 5
- (2) The following functions are “delegable functions” –
- (a) any enforcement function of the Secretary of State;
 - (b) any function of the Secretary of State under section 7 or 11 of the Gangmasters (Licensing) Act 2004 (powers relating to licensing of gangmasters). 10
- (3) Accordingly, in the case of the exercise of a function by a public authority in accordance with arrangements under this section, any reference in an enactment to the Secretary of State in connection with that function is to be read as a reference to that authority. 15
- (4) Arrangements under this section may provide for payments to be made by the Secretary of State in respect of the performance of any function to which the arrangements relate.
- (5) Arrangements under this section do not prevent the Secretary of State from performing a function to which the arrangements relate. 20
- (6) In this section “public authority” means a person certain of whose functions are functions of a public nature.

*Advisory Board***75 Advisory Board**

- (1) The Secretary of State must establish an Advisory Board (“the Board”) for the purposes of providing advice to the Secretary of State about such matters as the Secretary of State may specify relating to the Secretary of State’s function under section 72(1). 25
- (2) The Board is to consist of not fewer than nine members appointed by the Secretary of State. 30
- (3) Each member of the Board is to hold and vacate office in accordance with the terms and conditions of the member’s appointment.
- (4) The members of the Board must include an equal number of each of the following –
- (a) persons appearing to the Secretary of State to represent the interests of trade unions; 35
 - (b) persons appearing to the Secretary of State to represent the interests of employers;
 - (c) persons appearing to the Secretary of State to be independent experts.

- (5) For the purposes of subsection (4)(c) an “independent expert” is a person who –
- (a) is not a person falling within paragraph (a) or (b) of subsection (4), and
 - (b) has expertise that is relevant to the Secretary of State’s function under section 72(1). 5
- (6) The Secretary of State may pay such remuneration or allowances to members of the Board as the Secretary of State may determine.

Strategies and reports

76 Labour market enforcement strategy 10

- (1) The Secretary of State must, before the beginning of each relevant three-year period (see subsection (6)), prepare and publish a labour market enforcement strategy for that period.
- (2) A labour market enforcement strategy is a document that –
- (a) sets out the Secretary of State’s assessment of – 15
 - (i) the scale and nature of non-compliance with relevant labour market legislation during the period of three years ending immediately before the strategy period, and
 - (ii) the likely scale and nature of such non-compliance during the strategy period, 20
 - (b) contains a proposal for the strategy period setting out how enforcement functions of the Secretary of State are to be exercised, and
 - (c) deals with any other matters which the Secretary of State considers appropriate.
- (3) The Secretary of State – 25
- (a) may, at any time during the strategy period, revise the labour market enforcement strategy, and
 - (b) must publish any revised labour market enforcement strategy.
- (4) In preparing or revising a labour market enforcement strategy, the Secretary of State must consult the Advisory Board. 30
- (5) The Secretary of State must lay before Parliament a copy of any strategy published under this section.
- (6) In this section –
- “relevant three-year period” means – 35
 - (a) the period of three years beginning with the next 1 April after the day on which this section comes into force;
 - (b) each successive period of three years;
 - “strategy period”, in relation to a labour market enforcement strategy, means the period to which the strategy relates.

77 Annual reports

- (1) As soon as reasonably practicable after the end of each financial year, the Secretary of State must prepare and publish an annual report for that year.
- (2) The annual report must include the following—
- (a) an assessment of the extent to which enforcement functions of the Secretary of State were exercised in accordance with the applicable strategy during the year; 5
 - (b) an assessment of the extent to which the applicable strategy had an effect on the scale and nature of non-compliance with relevant labour market legislation during the year. 10
- (3) Before publishing an annual report under this section, the Secretary of State must consult the Advisory Board.
- (4) The Secretary of State must lay before Parliament a copy of every annual report published under this section.
- (5) In this section— 15
- “the applicable strategy”, in relation to a financial year, means any labour market enforcement strategy published under section 76 that has effect for that year;
 - “financial year” means—
 - (a) the period beginning with the day on which this section comes into force and ending with the following 31 March, and 20
 - (b) each successive period of 12 months.

*Powers to obtain documents or information***78 Power to obtain documents or information**

- (1) The Secretary of State may by notice require a person— 25
- (a) to attend at a specified time and place and to provide information by answering questions;
 - (b) to provide specified information, or information of a specified description, by a specified date;
 - (c) to provide specified documents, or documents of a specified description, by a specified date. 30
- In this subsection “specified” means specified in the notice.
- (2) The Secretary of State may give a notice under this section to a person only if the Secretary of State has reasonable grounds to believe that—
- (a) in the case of a requirement under subsection (1)(a), the person is able to provide information which is necessary for any enforcement purpose; 35
 - (b) in the case of a requirement under subsection (1)(b) or (c)—
 - (i) it is necessary to obtain the information or document (as the case may be) for any enforcement purpose, and
 - (ii) the person is able to provide it. 40

- (3) In this section “enforcement purpose” means—
- (a) the purpose of enabling the Secretary of State to determine whether to exercise any enforcement function;
 - (b) the purpose of determining whether there has been any non-compliance with relevant labour market legislation; 5
 - (c) in the case of a requirement under subsection (1)(c), to ascertain whether the documents may be required as evidence in proceedings for any non-compliance with relevant labour market legislation.

79 Power to enter business premises in order to obtain documents, etc

- (1) An enforcement officer may, for any enforcement purpose— 10
- (a) enter any business premises, and
 - (b) exercise any powers within subsection (2).
- (2) The powers referred to in subsection (1)(b) are—
- (a) to inspect or examine any documents on the premises;
 - (b) to require any person on the premises to produce any documents 15 which the officer has reasonable grounds to believe are on the premises and within the person’s possession or control;
 - (c) to have access to, and check the operation of, any computer or other equipment used in connection with the processing or storage of any information or documents. 20
- (3) The officer may only exercise a power conferred by this section at a reasonable time, unless it appears to the officer that there are grounds for suspecting that the purpose of entering the premises may be frustrated if the officer seeks to enter at a reasonable time.
- (4) An enforcement officer may seize any document produced, inspected or 25 examined under this section.
- (5) In this section—
- “business premises” means premises (or any part of premises) not used as a dwelling;
 - “enforcement purpose” has the same meaning as in section 78; 30
 - “equipment” includes software.

80 Supplementary powers in relation to documents

- (1) A power conferred by section 78 or 79 to require the production or provision of any document includes, in the case of a document stored in an electronic form, power to require the document to be produced or provided in a form— 35
- (a) in which it can be taken away, and
 - (b) in which it is visible and legible or from which it can readily be produced in a visible and legible form.
- (2) The Secretary of State may inspect or examine any document provided under section 78. 40

- (3) The Secretary of State or an enforcement officer may take copies of any document—
- (a) provided in response to a requirement under section 78, or
 - (b) inspected, examined or produced under section 79.

81 Retention of documents 5

- (1) This section applies to any document which—
- (a) is provided in response to a requirement under section 78, or
 - (b) is seized under section 79.
- (2) The document may be retained so long as is necessary in all the circumstances and in particular— 10
- (a) for use as evidence at a trial for a labour market offence, or
 - (b) for forensic examination or for investigation in connection with a labour market offence.
- (3) No document may be retained for either of the purposes mentioned in subsection (2) if a photograph or a copy would be sufficient for that purpose. 15

Other powers to investigate non-compliance

82 Powers of enforcement officers under Police and Criminal Evidence Act 1984

For provision enabling enforcement officers in England and Wales to exercise powers under the Police and Criminal Evidence Act 1984 in relation to the investigation of labour market offences, see section 114B of that Act. 20

83 Offences relating to gangmasters: power to enter premises with warrant

- (1) In this section—
- (a) “relevant contravention” means a contravention of section 6 of the Gangmasters (Licensing) Act 2004 (prohibition of unlicensed activities), so far as it applies in relation to England and Wales and Scotland; 25
 - (b) references to an enforcement officer do not include an enforcement officer who is authorised by virtue of section 114B of the Police and Criminal Evidence Act 1984 to exercise any power under Part 2 of that Act in relation to a relevant contravention.
- (2) If a justice is satisfied that there are reasonable grounds for an enforcement officer to enter relevant premises for the purpose of determining whether there has been a relevant contravention, and is also satisfied— 30
- (a) that admission to the premises has been refused, or that a refusal is expected, and (in either case) that notice of the intention to apply for a warrant has been given to the occupier, 35
 - (b) that an application for admission, or the giving of such a notice, would defeat the object of the entry,
 - (c) that the case is one of extreme urgency, or

- (d) that the premises are unoccupied or the occupier is temporarily absent, the justice may issue a warrant authorising the enforcement officer to enter the premises, if necessary using reasonable force.
- (3) The reference in subsection (2) to being satisfied that there are reasonable grounds as mentioned in that subsection is, in relation to England and Wales, a reference to being satisfied by written information on oath. 5
- (4) An enforcement officer entering any premises by virtue of a warrant under this section may –
- (a) when entering the premises, bring any persons or equipment which the officer considers necessary, 10
 - (b) carry out on the premises any inspections and examinations which the officer considers necessary for the purpose of determining whether there has been a relevant contravention, and
 - (c) seize any item which is on the premises.
- (5) On leaving any premises which an enforcement officer is authorised to enter by a warrant under this section, the officer must, if the premises are unoccupied or the occupier is temporarily absent, leave the premises as effectively secured against trespassers as the officer found them. 15
- (6) Where by virtue of subsection (4)(c) an enforcement officer seizes any item, the officer must leave on the premises from which the item was removed a statement giving details of what was seized and stating that the officer has seized it. 20
- (7) Any item seized by an enforcement officer by virtue of subsection (4)(c) –
- (a) in the case of a document, may be retained in accordance with section 81; 25
 - (b) in any other case, may be retained for as long as the officer considers necessary for the purpose of determining whether there has been a relevant contravention.
- (8) In this section –
- “justice” means – 30
 - (a) in relation to England and Wales, a justice of the peace;
 - (b) in relation to Scotland, the sheriff, a summary sheriff or a justice of the peace;
 - “relevant premises” means any premises which an enforcement officer has reasonable grounds to believe are – 35
 - (a) premises where a person acting as a gangmaster, or a person supplied with workers or services by a person acting as a gangmaster, carries on business, or
 - (b) premises which such a person uses in connection with the person’s business; 40
 - “worker” has the same meaning as in the Gangmasters (Licensing) Act 2004 (see section 26 of that Act).

- (9) Section 4 of the Gangmasters (Licensing) Act 2004 (acting as a gangmaster) applies for the purposes of this section as it applies for the purposes of that Act.

Labour market enforcement undertakings

- 84 Power to request LME undertaking** 5
- (1) This section applies where the Secretary of State believes that a person has committed, or is committing, a labour market offence (see section 112).
- (2) The Secretary of State may give a notice to the person –
- (a) identifying the labour market offence which the Secretary of State believes has been or is being committed; 10
 - (b) giving the Secretary of State’s reasons for the belief;
 - (c) inviting the person to give the Secretary of State a labour market enforcement undertaking in the form attached to the notice.
- (3) A labour market enforcement undertaking (an “LME undertaking”) is an undertaking by the person giving it (the “subject”) to comply with any prohibitions, restrictions and requirements set out in the undertaking (as to which, see section 85). 15
- 85 Measures in LME undertakings**
- (1) An LME undertaking may include a prohibition, restriction or requirement (each a “measure”) if, and only if – 20
- (a) the measure falls within subsection (2) or (3) (or both), and
 - (b) the Secretary of State considers that the measure is just and reasonable.
- (2) A measure falls within this subsection if it is for the purpose of –
- (a) preventing or reducing the risk of the subject not complying with any requirement imposed by or under the relevant enactment, or 25
 - (b) bringing to the attention of persons likely to be interested in the matter –
 - (i) the existence of the LME undertaking,
 - (ii) the circumstances in which it was given, and
 - (iii) any action taken (or not taken) by the subject in order to 30
- (3) A measure falls within this subsection if it is specified, or is of a description specified, in regulations made by the Secretary of State.
- (4) Regulations under subsection (3) are subject to the affirmative resolution procedure. 35
- (5) The Secretary of State may not –
- (a) invite a person to give an LME undertaking, or
 - (b) agree to the form of an undertaking,

unless the Secretary of State believes that at least one measure in the undertaking is necessary for the purpose mentioned in subsection (6).

- (6) That purpose is preventing or reducing the risk of the subject –
 - (a) committing a further labour market offence under the relevant enactment, or 5
 - (b) continuing to commit the labour market offence.
- (7) An LME undertaking must set out how each measure included for the purpose mentioned in subsection (2)(a) is expected to achieve that purpose.
- (8) In this section “the relevant enactment” means the enactment under which the Secretary of State believes the labour market offence concerned has been or is being committed. 10

86 Duration of LME undertakings

- (1) An LME undertaking has effect from –
 - (a) the time when it is accepted by the Secretary of State, or
 - (b) any later time specified in the LME undertaking for this purpose. 15
- (2) An LME undertaking has effect for the period specified in the LME undertaking.
- (3) The maximum period for which an LME undertaking may have effect is two years.
- (4) The Secretary of State may release the subject from an LME undertaking. 20
- (5) The Secretary of State must release the subject from an LME undertaking if at any time during the period for which it has effect the Secretary of State believes that no measure in it is necessary for the purpose mentioned in section 85(6).
- (6) If the Secretary of State releases the subject from an LME undertaking, the Secretary of State must take whatever steps the Secretary of State considers appropriate to bring that fact to the attention of – 25
 - (a) the subject;
 - (b) any other persons likely to be interested in the matter.

87 Means of giving notice under section 84 30

- (1) A notice may be given under section 84 to a person by –
 - (a) delivering it to the person,
 - (b) leaving it at the person’s proper address,
 - (c) sending it by post to the person at that address, or
 - (d) subject to subsection (6), sending it to the person by electronic means. 35
- (2) A notice to a body corporate may be given to any officer of that body.
- (3) A notice to a partnership may be given to any partner.

- (4) A notice to an unincorporated association (other than a partnership) may be given to any member of the governing body of the association.
- (5) For the purposes of this section and of section 7 of the Interpretation Act 1978 (service of documents by post) in its application to this section, the proper address of a person is the person’s last known address (whether of the person’s residence or of a place where the person carries on business or is employed) and also –
- (a) in the case of a body corporate or an officer of the body, the address of the body’s registered or principal office in the United Kingdom;
 - (b) in the case of a partnership or a partner, the address of the principal office of the partnership in the United Kingdom;
 - (c) in the case of an unincorporated association (other than a partnership) or a member of its governing body, the principal office of the association in the United Kingdom.
- (6) A notice may be sent to a person by electronic means only if –
- (a) the person has indicated that notices under section 84 may be given to the person by being sent to an electronic address and in an electronic form specified for that purpose, and
 - (b) the notice is sent to that address in that form.
- (7) A notice sent to a person by electronic means is, unless the contrary is proved, to be treated as having been given on the working day immediately following the day on which it was sent.
- (8) In this section –
- “electronic address” means any number or address used for the purposes of sending or receiving documents or information by electronic means;
 - “officer”, in relation to a body corporate, means a director, manager, secretary or other similar officer of the body;
 - “working day” means a day other than a Saturday, a Sunday, Christmas Day, Good Friday or a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.

Labour market enforcement orders

88 Power to make LME order on application

- (1) The appropriate court may, on an application by the Secretary of State under section 89, make a labour market enforcement order in relation to a person if the court –
- (a) is satisfied, on the balance of probabilities, that the person has committed, or is committing, a labour market offence, and
 - (b) considers that it is just and reasonable to make the order.
- (2) A labour market enforcement order (an “LME order”) is an order which –
- (a) prohibits or restricts the person in relation to whom it is made (the “respondent”) from doing anything set out in the order;

(b) requires the respondent to do anything set out in the order.
(See also section 91.)

- (3) An application for an LME order under this section is –
- (a) in England and Wales, to be made by complaint;
 - (b) in Northern Ireland, to be made by complaint under Part 8 of the Magistrates’ Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)). 5
- (4) In this section “the appropriate court” –
- (a) in a case where the conduct constituting the labour market offence took place, or is taking place, primarily in England and Wales, means a magistrates’ court; 10
 - (b) in a case where that conduct took place, or is taking place, primarily in Scotland, means the sheriff or a summary sheriff;
 - (c) in a case where that conduct took place, or is taking place, primarily in Northern Ireland, means a court of summary jurisdiction. 15

89 Applications for LME orders

- (1) The Secretary of State may apply for an LME order to be made under section 88 in relation to a person (the “proposed respondent”) if –
- (a) the Secretary of State has given the proposed respondent a notice under section 84, and 20
 - (b) the proposed respondent –
 - (i) refuses to give an LME undertaking, or
 - (ii) otherwise fails, before the end of the negotiation period, to give an LME undertaking in the form attached to the notice or in such other form as may be agreed with the Secretary of State. 25
- (2) The Secretary of State may also apply for an LME order if the proposed respondent –
- (a) has given an LME undertaking to the Secretary of State, and
 - (b) has failed to comply with the undertaking. 30
- (3) In subsection (1) “the negotiation period” means –
- (a) the period of 14 days beginning with the day after the day on which the notice mentioned in paragraph (a) of that subsection was given, or
 - (b) a longer period agreed between the Secretary of State and the proposed respondent. 35

90 Power to make LME order on conviction

- (1) This section applies where a court deals with a person in respect of a conviction for a labour market offence.

- (2) The court may make an LME order in relation to the person if the court considers it is just and reasonable to do so.
- (3) An LME order must not be made under this section except –
- (a) in addition to a sentence imposed in respect of the offence concerned, or
 - (b) in addition to an order discharging the person conditionally or, in Scotland, discharging the person absolutely.

5

91 Measures in LME orders

- (1) An LME order may include a prohibition, restriction or requirement (each a “measure”) if, and only if, the measure falls within subsection (2) or (3) (or both).
- (2) A measure falls within this subsection if it is for the purpose of –
- (a) preventing or reducing the risk of the respondent not complying with any requirement imposed by or under the relevant enactment, or
 - (b) bringing to the attention of persons likely to be interested in the matter –
 - (i) the existence of the LME order,
 - (ii) the circumstances in which it was made, and
 - (iii) any action taken (or not taken) by the respondent in order to comply with the order.
- (3) A measure falls within this subsection if it is specified, or is of a description specified, in regulations made by the Secretary of State.
- (4) Regulations under subsection (3) are subject to the affirmative resolution procedure.
- (5) Where an LME order includes a measure for the purpose mentioned in subsection (2)(a), the order must set out how the measure is expected to achieve that purpose.
- (6) In this section “the relevant enactment” means the enactment under which the labour market offence concerned has been or is being committed.

10

15

20

25

92 Further provision about LME orders

30

- (1) An LME order has effect for the period specified in the LME order.
- (2) The maximum period for which an LME order may have effect is two years.
- (3) An LME order may not be made against an individual who is under the age of 18.
- (4) If a court makes an LME order, the court may also –
- (a) release the respondent from any LME undertaking given in relation to the labour market offence concerned;

35

- (b) discharge any other LME order which is in force against the respondent and which was made by –
 - (i) that court, or
 - (ii) any other court in the same part of the United Kingdom as that court.

5

93 Variation and discharge of LME orders

- (1) On an application under this section, the appropriate court may by order vary or discharge an LME order.
- (2) An application for the variation or discharge of an LME order may be made by –
 - (a) the respondent, or
 - (b) the Secretary of State.
- (3) An application for an order under this section is –
 - (a) in England and Wales, to be made by complaint;
 - (b) in Northern Ireland, to be made by complaint under Part 8 of the Magistrates’ Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)).
- (4) In this section “the appropriate court” –
 - (a) in the case of an LME order made in England and Wales (whether made under section 88 or 90), means a magistrates’ court;
 - (b) in the case of an LME order made in Scotland, means the sheriff or a summary sheriff;
 - (c) in the case of an LME order made in Northern Ireland, means a court of summary jurisdiction.

10

15

20

94 LME orders: appeals

25

- (1) A respondent may appeal against –
 - (a) the making of an LME order under section 88;
 - (b) the making of, or refusal to make, an order under section 93.
- (2) An appeal under subsection (1) is to be made –
 - (a) where the order was made or refused by a magistrates’ court in England and Wales, to the Crown Court;
 - (b) where the order was made or refused by the sheriff or a summary sheriff, to the Sheriff Appeal Court;
 - (c) where the order was made or refused by a court of summary jurisdiction in Northern Ireland, to a county court.
- (3) On an appeal under subsection (1), the court hearing the appeal –
 - (a) may make such orders as may be necessary to give effect to its determination of the appeal, and

30

35

- (b) may also make any incidental or consequential orders that appear to it to be just and reasonable.
- (4) An LME order that has been varied by virtue of subsection (3) remains an order of the court that first made it for the purposes of section 93.
- (5) A respondent may appeal against the making of an LME order under section 90 as if the order were a sentence passed on the respondent for the labour market offence. 5

Safeguards

95 Evidence of authority

- (1) This section applies where a person is proposing to exercise – 10
 - (a) any enforcement function of the Secretary of State;
 - (b) any power of an enforcement officer.
- (2) The person must, if required to do so, produce identification showing that the person is authorised to exercise that function.

96 Items subject to legal privilege 15

- (1) Nothing in this Part requires a person to produce any document, or provide any information, which the person would be entitled to refuse to produce or provide –
 - (a) in proceedings in the High Court on the grounds of legal professional privilege, or 20
 - (b) in proceedings in the Court of Session on the grounds of confidentiality of communications.
- (2) In subsection (1) “communications” means –
 - (a) communications between a professional legal adviser and the adviser’s client, or 25
 - (b) communications made in connection with or in contemplation of legal proceedings or for the purposes of those proceedings.

97 Privilege against self-incrimination

- (1) This section applies where a person provides information in response to a requirement under section 78. 30
- (2) In any criminal proceedings against the person –
 - (a) no evidence relating to the information may be adduced by or on behalf of the prosecution, and
 - (b) no question relating to the information may be asked by or on behalf of the prosecution. 35
- (3) Subsection (2) does not apply if, in the proceedings –

- (a) evidence relating to the information is adduced by or on behalf of the person providing it, or
 - (b) a question relating to the information is asked by or on behalf of that person.
- (4) Subsection (2) does not apply if the proceedings are for – 5
- (a) an offence under section 103 (providing false information or documents);
 - (b) an offence under section 5 of the Perjury Act 1911 (false statutory declarations and other false statements without oath);
 - (c) an offence under section 44(2) of the Criminal Law (Consolidation) (Scotland) Act 1995 (false statements and declarations); 10
 - (d) an offence under Article 10 of the Perjury (Northern Ireland) Order 1979 (S.I. 1979/1714 (N.I. 19)) (false statutory declarations and other false unsworn statements).

Disclosure of information 15

98 Disclosure of information

- (1) In this section –
- “enforcing authority” means the Secretary of State or an enforcement officer;
 - “enforcement function” means – 20
 - (a) an enforcement function of the Secretary of State, or
 - (b) a power of an enforcement officer.
- (2) A person may disclose information to an enforcing authority if the disclosure is made for the purposes of the exercise of an enforcement function.
- (3) Information obtained by an enforcing authority in connection with the exercise of an enforcement function – 25
- (a) may be used by an enforcing authority in connection with the exercise of any other enforcement function;
 - (b) may be used by the Secretary of State in connection with a function of the Secretary of State under this Part. 30
- (4) The Secretary of State may disclose to a person any information obtained by an enforcing authority in connection with the exercise of an enforcement function if the disclosure is made for a purpose connected with an enforcement function or a function of the Secretary of State under this Part.
- (5) The Secretary of State may disclose to a person specified in Schedule 5 information obtained in connection with the exercise of an enforcement function if the disclosure is made for the purposes of the exercise of a function of the person. 35
- (6) The Secretary of State may by regulations amend Schedule 5.

- (7) Regulations under subsection (6) are subject to the affirmative resolution procedure.
- (8) Sections 99 to 101 contain further provision about disclosure of information under this section.

99 Disclosure of information: supplementary provision 5

- (1) A disclosure of information which is authorised by section 98 does not breach—
- (a) an obligation of confidence owed by the person making the disclosure, or
 - (b) any other restriction on the disclosure of information (however imposed). 10
- (2) But nothing in section 98 authorises either of the following—
- (a) the making of a disclosure which would contravene the data protection legislation (but in determining whether a disclosure would do so, the power conferred by that section is to be taken into account); 15
 - (b) the making of a disclosure which is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.
- (3) In subsection (2) “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).
- (4) Section 98 does not limit the circumstances in which information may be disclosed apart from that section. 20

100 Restriction on disclosure of HMRC information

- (1) HMRC information may not be disclosed by an enforcing authority without authorisation from the Commissioners for His Majesty’s Revenue and Customs (“the Commissioners”). 25
- (2) If an enforcing authority has disclosed HMRC information to a person, that person may not further disclose that information without authorisation from the Commissioners.
- (3) Subsections (1) and (2) do not apply to national minimum wage information.
- (4) If a person contravenes subsection (1) or (2) by disclosing revenue and customs information relating to a person whose identity—
- (a) is specified in the disclosure, or
 - (b) can be deduced from it,
- section 19 of the Commissioners for Revenue and Customs Act 2005 (wrongful disclosure) applies in relation to that disclosure as it applies in relation to a disclosure of such information in contravention of section 20(9) of that Act. 30
- (5) In this section—
- “enforcing authority” has the same meaning as in section 98; 35

“HMRC information” means information disclosed to an enforcing authority under section 98 by the Commissioners or a person acting on behalf of the Commissioners;

“national minimum wage information” means information obtained by an enforcing authority for the purposes of enforcing any provision of the National Minimum Wage Act 1998; 5

“revenue and customs information relating to a person” has the meaning given by section 19(2) of the Commissioners for Revenue and Customs Act 2005.

101 Restriction on disclosure of intelligence service information 10

(1) Section 98(2) does not authorise a person serving in an intelligence service to disclose information to an enforcing authority.

But this does not affect the disclosures which such a person may make in accordance with intelligence service disclosure arrangements (see subsection (4)). 15

(2) Intelligence service information may not be disclosed by an enforcing authority without authorisation from the appropriate service chief.

(3) If an enforcing authority has disclosed intelligence service information to a person, that person may not further disclose that information without authorisation from the appropriate service chief. 20

(4) In this section—

“appropriate service chief” means—

(a) the Director-General of the Security Service, in the case of information obtained from that Service or a person acting on its behalf; 25

(b) the Chief of the Secret Intelligence Service, in the case of information obtained from that Service or a person acting on its behalf;

(c) the Director of GCHQ, in the case of information obtained from GCHQ or a person acting on its behalf; 30

“enforcing authority” has the same meaning as in section 98;

“GCHQ” has the same meaning as in the Intelligence Services Act 1994;

“intelligence service” means—

(a) the Security Service; 35

(b) the Secret Intelligence Service;

(c) GCHQ;

“intelligence service disclosure arrangements” means—

(a) arrangements made by the Director-General of the Security Service under section 2(2)(a) of the Security Service Act 1989 about the disclosure of information by that Service; 40

(b) arrangements made by the Chief of the Intelligence Service under section 2(2)(a) of the Intelligence Services Act 1994 about the disclosure of information by that Service;

(c) arrangements made by the Director of GCHQ under section 4(2)(a) of that Act about the disclosure of information by GCHQ;

5

“intelligence service information” means information obtained from an intelligence service or a person acting on behalf of an intelligence service.

Offences

10

102 Offence of failing to comply with LME order

(1) A person in relation to whom an LME order is made commits an offence if the person, without reasonable excuse, fails to comply with the order.

(2) A person guilty of an offence under this section is liable—

(a) on summary conviction in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates’ court or a fine, or both;

15

(b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum, or both;

20

(c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum, or both;

(d) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine, or both.

25

103 Offence of providing false information or documents

(1) A person commits an offence if—

(a) the person produces, or knowingly causes or allows to be produced, any information or document in response to a requirement reasonably made by a person in the exercise of a power conferred by this Part,

30

(b) the information or document is false in a material respect, and

(c) the person knows that it is or is reckless as to whether it is.

(2) A person guilty of an offence under this section is liable—

(a) on summary conviction in England and Wales, to imprisonment for a term not exceeding the maximum term for summary offences or a fine, or both;

35

(b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding level 5 on the standard scale, or both;

(c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale, or both.

- (3) In subsection (2)(a) “the maximum term for summary offences” means—
- (a) in the case of an offence committed before the time when section 281(5) of the Criminal Justice Act 2003 comes into force, 6 months;
 - (b) in the case of an offence committed after that time, 51 weeks.

104 Offence of obstruction

- (1) A person commits an offence if the person—
- (a) intentionally obstructs a person who is acting in the exercise of an enforcement function, or
 - (b) without reasonable excuse, fails to comply with any requirement imposed by a person who is acting in the exercise of an enforcement function.
- (2) In subsection (1) “enforcement function” means—
- (a) an enforcement function of the Secretary of State, or
 - (b) a power of an enforcement officer.
- (3) A person guilty of an offence under this section is liable—
- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding the maximum term for summary offences or a fine, or both;
 - (b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding level 5 on the standard scale, or both;
 - (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale, or both.
- (4) In subsection (3)(a) “the maximum term for summary offences” means—
- (a) in the case of an offence committed before the time when section 281(5) of the Criminal Justice Act 2003 comes into force, 6 months;
 - (b) in the case of an offence committed after that time, 51 weeks.
- (5) Nothing in this section requires a person to answer any question or give any information if to do so might incriminate that person.

Supplementary

105 Offences by bodies corporate

- (1) If an offence under this Part committed by a body corporate 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, the officer, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.

- (2) In subsection (1) “officer”, in relation to a body corporate, means –
- (a) a director, manager, secretary or other similar officer of the body; 5
 - (b) a person purporting to act in any such capacity.
- (3) If the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with the member’s functions of management as if the member were a director of the body corporate. 10

106 Application of this Part to partnerships

- (1) If an offence under this Part committed by a partner (“P”) of a partnership which is not regarded as a legal person is shown –
- (a) to have been committed with the consent or connivance of another partner, or 15
 - (b) to be attributable to any neglect on the part of another partner, that other partner, as well as P, is guilty of the offence and liable to be proceeded against and punished accordingly.
- (2) Proceedings for an offence under this Part alleged to have been committed by a partnership which is regarded as a legal person may be brought against the partnership in the firm name. 20
- (3) For the purposes of such proceedings –
- (a) rules of court relating to the service of documents have effect as if the partnership were a body corporate, and
 - (b) the following provisions apply as they apply in relation to a body corporate – 25
 - (i) section 33 of the Criminal Justice Act 1925 and Schedule 3 to the Magistrates’ Courts Act 1980;
 - (ii) sections 34(2), 66(6AA) and 72D(2) of the Criminal Procedure (Scotland) Act 1995; 30
 - (iii) section 18 of the Criminal Justice Act (Northern Ireland) 1945 (c. 15 (N.I.)) and Schedule 4 to the Magistrates’ Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)).
- (4) A fine imposed on a partnership on its conviction of an offence under this Part is to be paid out of the funds of the partnership. 35
- (5) If an offence under this Part committed by a partnership is proved –
- (a) to have been committed with the consent or connivance of a partner, or
 - (b) to be attributable to any neglect on the part of a partner, the partner, as well as the partnership, is guilty of the offence and liable to be proceeded against and punished accordingly. 40

- (6) In subsections (1) and (5) “partner” includes a person purporting to act as a partner.
- (7) For the purposes of this section a partnership is, or is not, “regarded as a legal person” if it is, or is not, so regarded under the law of the country or territory under which it was formed.

5

107 Application of this Part to unincorporated associations

- (1) In a case falling within subsection (2), an unincorporated association is to be treated as a legal person for the purposes of this Part.
- (2) A case falls within this subsection if it relates to a labour market offence for which it is possible to bring proceedings against an unincorporated association in the name of the association.
- (3) Proceedings for an offence under this Part alleged to have been committed by an unincorporated association may be brought against the association in the name of the association.
- (4) For the purposes of such proceedings –
 - (a) rules of court relating to the service of documents have effect as if the association were a body corporate, and
 - (b) the following provisions apply as they apply in relation to a body corporate –
 - (i) section 33 of the Criminal Justice Act 1925 and Schedule 3 to the Magistrates’ Courts Act 1980;
 - (ii) sections 34(2), 66(6AA) and 72D(2) of the Criminal Procedure (Scotland) Act 1995;
 - (iii) section 18 of the Criminal Justice Act (Northern Ireland) 1945 (c. 15 (N.I.)) and Schedule 4 to the Magistrates’ Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)).
- (5) A fine imposed on the association on its conviction of an offence under this Part is to be paid out of the funds of the association.
- (6) If an offence under this Part committed by an unincorporated association is proved –
 - (a) to have been committed with the consent or connivance of an officer of the association, or
 - (b) to be attributable to any neglect on the part of such an officer, the officer, as well as the association, is guilty of the offence and liable to be proceeded against and punished accordingly.
- (7) In subsection (6) “officer”, in relation to any association, means –
 - (a) an officer of the association or a member of its governing body;
 - (b) a person purporting to act in such a capacity.

10

15

20

25

30

35

108 Application of this Part to the Crown

- (1) Subject to the provisions of this section, this Part is binding on the Crown and applies in relation to any Crown premises as it applies in relation to any other premises.
- (2) In this section “Crown premises” means premises held, or used, by or on behalf of the Crown. 5
- (3) No contravention by the Crown of any provision made by this Part is to make the Crown criminally liable; but the High Court or, in Scotland, the Court of Session may declare unlawful any act or omission of the Crown which constitutes such a contravention. 10
- (4) Despite subsection (3), the provisions of this Part apply to persons in the public service of the Crown as they apply to other persons.
- (5) If the Secretary of State certifies that it appears appropriate in the interests of national security that powers of entry conferred by this Part should not be exercisable in relation to Crown premises specified in the certificate, those powers are not exercisable in relation to those premises. 15
- (6) No power of entry conferred by this Part may be exercised in relation to—
 - (a) land belonging to His Majesty in right of His private estates, or
 - (b) premises occupied for the purposes of either House of Parliament.
- (7) In subsection (6)(a), the reference to His Majesty’s private estates is to be read in accordance with section 1 of the Crown Private Estates Act 1862. 20

109 Abolition of existing enforcement authorities

- (1) The following are abolished—
 - (a) the Gangmasters and Labour Abuse Authority;
 - (b) the Director of Labour Market Enforcement. 25
- (2) Accordingly—
 - (a) in the Gangmasters (Licensing) Act 2004, omit section 1 (the Gangmasters and Labour Abuse Authority);
 - (b) in Part 1 of the Immigration Act 2016 (labour market and illegal working), omit section 1 (Director of Labour Market Enforcement). 30

110 Consequential and transitional provision

- (1) Schedule 6 contains consequential amendments relating to this Part.
- (2) Part 1 of Schedule 7 contains provision for the making of schemes for the transfer of staff, property, rights and liabilities from the Gangmasters and Labour Abuse Authority and the Director of Labour Market Enforcement to the Secretary of State. 35
- (3) Part 2 of that Schedule contains other transitional and saving provision for the purposes of this Part.

Interpretation of this Part

111 Meaning of “non-compliance with relevant labour market legislation”

- (1) For the purposes of this Part, each of the following constitutes “non-compliance with relevant labour market legislation” –
- (a) failure to comply with any requirement, restriction or prohibition imposed by or under a provision of relevant labour market legislation; 5
 - (b) breach of a condition of a licence granted under section 7 of the Gangmasters (Licensing) Act 2004;
 - (c) the commission of a labour market offence.
- (2) For the purposes of this Part, any requirement to pay a relevant sum within the meaning of Part 2A of the Employment Tribunals Act 1996 is to be treated as a requirement imposed by or under that Part; and a reference to enforcing that Part is to be read accordingly. 10

112 Interpretation: general

- (1) In this Part – 15
- “the Advisory Board” means the Advisory Board established under section 75;
- “ancillary offence”, in relation to an offence under any provision of relevant labour market legislation, means –
- (a) an offence of attempting or conspiring to commit such an offence; 20
 - (b) an offence under Part 2 of the Serious Crime Act 2007 in relation to such an offence;
 - (c) an offence of inciting a person to commit such an offence;
 - (d) an offence of aiding, abetting, counselling or procuring the commission of such an offence; 25
- “business” includes –
- (a) a trade or profession, and
 - (b) any activity carried on by a body of persons (whether corporate or unincorporated); 30
- “employee” and “employer” have the same meaning as in the Employment Rights Act 1996 (see section 230 of that Act);
- “employers’ association” has the same meaning as in the Trade Union and Labour Relations (Consolidation) Act 1992 (see section 122 of that Act); 35
- “enactment” means an enactment whenever passed or made, and includes –
- (a) an enactment contained in subordinate legislation,
 - (b) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales or an Act of Senedd Cymru, 40

- (c) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament, and
 - (d) an enactment contained in, or in an instrument made under, Northern Ireland legislation;
- “enforcement function”, in relation to the Secretary of State, has the meaning given by section 73; 5
- “enforcement officer” has the meaning given by section 72(3);
- “labour market offence” means—
- (a) an offence under any provision of relevant labour market legislation, or 10
 - (b) an ancillary offence relating to such an offence;
- “LME order” has the meaning given by section 88(2);
- “LME undertaking” has the meaning given by section 84(3);
- “non-compliance with relevant labour market legislation” has the meaning given by section 111; 15
- “premises” has the meaning given by subsection (2);
- “relevant labour market legislation” means the labour market legislation listed in Part 1 of Schedule 4;
- “respondent”, in relation to an LME order, has the meaning given by section 88(2); 20
- “subject”, in relation to an LME undertaking, has the meaning given by section 84(3);
- “subordinate legislation” has the meaning given by section 21(1) of the Interpretation Act 1978;
- “trade union” has the same meaning as in the Trade Union and Labour Relations (Consolidation) Act 1992 (see section 1 of that Act); 25
- “worker” (except in section 83) has the same meaning as in the Employment Rights Act 1996 (see section 230 of that Act), and a reference to a person seeking work is to be read accordingly.
- (2) In this Part “premises” includes any place and, in particular, includes— 30
- (a) any vehicle, vessel, aircraft or hovercraft;
 - (b) any tent or movable structure;
 - (c) any offshore installation;
 - (d) any renewable energy installation.
- (3) In subsection (2)— 35
- “offshore installation” has the same meaning as in the Mineral Workings (Offshore Installations) Act 1971;
- “renewable energy installation” has the meaning given by section 104 of the Energy Act 2004.

PART 6

GENERAL

113 Power to make consequential amendments

- (1) The Secretary of State may by regulations make provision that is consequential on any provision made by this Act. 5
- (2) The power to make regulations under this section may, in particular, be exercised by amending, repealing, revoking or otherwise modifying any provision made by or under primary legislation passed before, or in the same session of Parliament as, this Act.
- (3) In this section “primary legislation” means – 10
 - (a) an Act of Parliament;
 - (b) a Measure or Act of the National Assembly for Wales or an Act of Senedd Cymru;
 - (c) an Act of the Scottish Parliament;
 - (d) Northern Ireland legislation. 15
- (4) Regulations under this section that amend or repeal any primary legislation are subject to the affirmative resolution procedure.
- (5) Any other regulations under this section are subject to the negative resolution procedure.

114 Power to make transitional or saving provision 20

- (1) The Secretary of State may by regulations make such transitional or saving provision as the Secretary of State considers appropriate in connection with the coming into force of any provision of this Act.
- (2) Regulations under this section may (among other things) – 25
 - (a) make provision in addition to, or different from, that made by this Act;
 - (b) make any adaptations of any provisions of this Act brought into force that appear to be appropriate in consequence of other provisions of this Act not yet having come into force.

115 Regulations 30

- (1) Any power of the Secretary of State to make regulations under this Act is exercisable by statutory instrument.
- (2) Regulations under this Act may –
 - (a) make different provision for different purposes or different areas;
 - (b) contain supplementary, incidental, consequential, transitional or saving provision. 35

- (3) Subsection (2) does not apply to regulations under section 118 (see instead subsection (4) of that section).
- (4) Where regulations under this Act are subject to the “negative resolution procedure” the statutory instrument containing the regulations is subject to annulment in pursuance of a resolution of either House of Parliament. 5
- (5) Where regulations under this Act are subject to the “affirmative resolution procedure” the regulations may not be made unless a draft of the statutory instrument containing them has been laid before Parliament and approved by a resolution of each House of Parliament.
- (6) Any provision that may be included in an instrument under this Act subject to the negative resolution procedure may be made by regulations subject to the affirmative resolution procedure. 10

116 *Financial provision*

There is to be paid out of money provided by Parliament –

- (a) *any expenditure incurred under or by virtue of this Act by a person holding office under His Majesty or by a government department, and* 15
- (b) *any increase attributable to this Act in the sums payable under any other Act out of money so provided.*

117 **Extent**

- (1) Except as set out below – 20
- (a) Parts 1, 2 and 4 of this Act extend to England and Wales and Scotland;
- (b) Part 3 of this Act extends to England and Wales only;
- (c) Part 5 and this Part extend to England and Wales, Scotland and Northern Ireland.
- (2) Section 25 (public sector outsourcing: protection of workers) extends to England and Wales, Scotland and Northern Ireland. 25
- (3) An amendment or repeal made by this Act has the same extent within the United Kingdom as the provision amended or repealed.

118 **Commencement**

- (1) The following provisions of this Act come into force on the day on which this Act is passed – 30
- (a) section 61 (repeal of provision about minimum service levels);
- (b) sections 113 to 117, this section and section 119.
- (2) The following provisions of this Act come into force at the end of the period of two months beginning with the day on which this Act is passed – 35
- (a) section 48 (requirement to contribute to political fund);
- (b) section 49 (deduction of trade union subscriptions from wages in public sector);

- (c) section 52 (facility time: publication requirements and reserve powers);
 - (d) section 53 (blacklists: additional powers);
 - (e) section 54 (industrial action ballots: turnout and support thresholds);
 - (f) section 55 (industrial action ballots: provision of information to members); 5
 - (g) section 56 (electronic balloting);
 - (h) section 57 (industrial action: provision of information to employer);
 - (i) section 58 (union supervision of picketing);
 - (j) section 63 (union annual returns: removal of provision about political expenditure); 10
 - (k) section 65 (Certification Officer: removal of investigatory powers);
 - (l) section 66 (Certification Officer: powers to be exercised only on application);
 - (m) section 67 (Certification Officer: removal of power to impose financial penalties); 15
 - (n) section 69 (Certification Officer: appeals to the Employment Appeal Tribunal);
 - (o) section 71 (devolved Welsh authorities).
- (3) The other provisions of this Act come into force in accordance with regulations made by the Secretary of State. 20
- (4) Regulations under subsection (3) may make different provision for different purposes or different areas.

119 Short title

This Act may be cited as the Employment Rights Act 2025.

SCHEDULES

SCHEDULE 1

Section 4

CONSEQUENTIAL AMENDMENTS RELATING TO SECTIONS 1 TO 3

Employment Tribunals Act 1996

- 1 In the Employment Tribunals Act 1996, in section 18 (conciliation: relevant proceedings), in subsection (1)(b), after “23,” insert “27BF, 27BM, 27BS,”. 5

Employment Rights Act 1996

- 2 The Employment Rights Act 1996 is amended as follows.
- 3 In section 27A (exclusivity terms unenforceable in zero hours contracts), omit subsections (1) and (2). 10
- 4 In section 27B (power to make further provision in relation to zero hours workers) –
- (a) omit subsection (4);
- (b) in subsection (6)(a) and (b) (inserted by section 6), for “prescribed” substitute “specified”; 15
- (c) omit subsections (7) and (8).
- 5 After section 47G insert –
- “47H Zero hours workers and similar**
- (1) A worker has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by the worker’s employer done on the ground that the worker – 20
- (a) accepted, or proposed to accept, an offer from the employer to vary the worker’s terms and conditions of employment or to enter into a new worker’s contract made in compliance (or purported compliance) with the duty imposed by section 27BA(1), 25
- (b) rejected, or proposed to reject, an offer from the employer to vary the worker’s terms and conditions of employment or to enter into a new worker’s contract made in compliance (or purported compliance) with the duty imposed by section 27BA(1), 30
- (c) declined to work a shift (or part of a shift) on the basis of a reasonable belief that the employer failed to comply with a duty imposed by section 27BI or 27BJ in relation to the shift,
- (d) brought proceedings against the employer under – 35
- (i) section 27BF,
- (ii) section 27BM, or

- (iii) section 27BS, 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 a worker who rejected an offer includes a reference to a worker who is to be treated as having rejected an offer (see section 27BE(7)). 5
 - (3) It is immaterial for the purposes of subsection (1)(d) or (e) whether or not the employer has failed to comply with the duty imposed by section 27BA(1), a duty imposed by section 27BI or 27BJ or the duty imposed by section 27BO(1) or 27BQ(2) (as the case may be) but, for subsection (1)(d) or (e) to apply, the claim must be made in good faith. 10
 - (4) It is sufficient for subsection (1)(e) to apply that the worker made the nature of the employer’s alleged non-compliance reasonably clear to the employer. 15
 - (5) This section does not apply where—
 - (a) the worker is an employee, and
 - (b) the detriment in question amounts to dismissal within the meaning of Part 10. 20
 - (6) References to “worker” and “employer” in this section, section 48(1BA) and section 49 so far as relating to a complaint under section 48(1BA) are to be read with the modifications set out in—
 - (a) section 27BI(6), in connection with a complaint of detriment in contravention of this section relating to a duty imposed by section 27BI or 27BJ; 25
 - (b) section 27BO(8), in connection with a complaint of detriment in contravention of this section relating to a duty imposed by section 27BO(1) or 27BQ(2).”
- 6 (1) Section 48 (enforcement) is amended as follows. 30
 - (2) After subsection (1B) insert—
 - “(1BA) A worker may present a complaint to an employment tribunal that the worker has been subjected to a detriment in contravention of section 47H.”
 - (3) In subsection (2), for “or (1B)” substitute “, (1B) or (1BA)”. 35
- 7 (1) Section 49 (remedies) is amended as follows.
 - (2) In subsection (1), for “or (1B)” substitute “, (1B) or (1BA)”. 40
 - (3) After subsection (7) insert—
 - “(7A) Where the complaint is made under section 48(1BA) and subsection (7B) or (7C) applies, any compensation awarded to a worker must not exceed the compensation that would be payable under Chapter

2 of Part 10 if the worker had been an employee and had been dismissed for a reason specified in section 104BA.

- (7B) This subsection applies if—
- (a) the detriment to which the worker is subjected is the termination of the worker’s contract, and 5
 - (b) that contract is not a contract of employment.
- (7C) This subsection applies if the detriment to which the worker is subjected is the termination of the arrangement in accordance with the terms of which the worker has been working for the employer.
- (7D) In subsection (7C) “arrangement” has the same meaning as in Part 2A.” 10

8 After section 104B insert—

“104BA Guaranteed hours

- (1) An employee who is dismissed 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— 15
- (a) accepted, or proposed to accept, an offer from the employer to vary the employee’s terms and conditions of employment or to enter into a new contract of employment made in compliance (or purported compliance) with the duty imposed by section 27BA(1), or 20
 - (b) rejected, or proposed to reject, an offer from the employer to vary the employee’s terms and conditions of employment or to enter into a new contract of employment made in compliance (or purported compliance) with the duty imposed by section 27BA(1). 25
- (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 section 27BE(7)).
- (3) An employee who is dismissed is also to be regarded for the purposes of this Part as unfairly dismissed if— 30
- (a) the duty imposed by section 27BA(1) applies to the employee’s employer in relation to the employee and a particular reference period,
 - (b) the reason (or, if more than one, the principal reason) for the dismissal is that the employer sought to avoid the necessity of complying with that duty in relation to the employee and that reference period, and 35
 - (c) the effective date of termination is a date during that reference period or the offer period that relates to that reference period. 40
- (4) In this section—

- “the offer period” has the meaning given by section 27BD(7);
“reference period” has the same meaning as in Chapter 2 of Part 2A (see section 27BA(4)).”
- 9 In section 105 (redundancy), after subsection (7B) insert—
- “(7BZA) This subsection applies if the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal was — 5
- (a) the reason specified in subsection (1)(a) or (3) of section 104BA, or
- (b) the reason specified in subsection (1)(b) of that section (read with subsection (2) of that section).” 10
- 10 In section 108 (qualifying period of employment), in subsection (3), after paragraph (gh) insert—
- “(gha) subsection (1)(a) or (3) of section 104BA applies, or subsection (1)(b) of that section (read with subsection (2) of that section) applies.” 15
- 11 (1) Section 205 (remedy for infringement of certain rights) is amended as follows.
- (2) In subsection (1), after “section 8,” insert “Chapters 2 to 4 of Part 2A,”.
- (3) After subsection (1A) insert— 20
- “(1B) In relation to the rights conferred by —
- (a) Chapters 2 to 4 of Part 2A, and
- (b) section 47H,
- the reference in subsection (1) to an employee has effect as a reference to a worker, read (where relevant) in accordance with section 27BI(6) or 27BO(8) (as the case may be).” 25
- 12 In section 225 (calculation date for purposes of working out a week’s pay), before subsection (1) insert—
- “(A1) Where the calculation is for the purposes of section 27BH, the calculation date is the last day of the reference period to which the complaint under section 27BF relates.” 30
- 13 In section 227 (maximum amount of week’s pay), in subsection (1), before paragraph (zza) insert—
- “(zza) an award of compensation under section 27BH(1)(b),”.
- 14 In section 235 (definitions for purposes of the Act)— 35
- (a) in subsection (2A) (definition of “limited-term contract”), after “contract of employment” insert “or other worker’s contract”;
- (b) in subsection (2B) (definition of “limiting event”), in the words before paragraph (a), after “contract of employment” insert “or other worker’s contract”. 40

- 15 In section 236 (orders and regulations), in subsection (3) (regulations subject to affirmative procedure), after “27B,” insert “27BA(3)(a)(ii) or (d), (6) or (10), 27BB(2), (4) or (8)(c), 27BD(5), 27BI(1)(b), (2)(a) or (4), 27BJ(3), 27BO(1), (2)(c), (3), (6) or (9), 27BQ(1)(b), 27BT(2), 27BV.”.

SCHEDULE 2

Section 19

5

RIGHT NOT TO BE UNFAIRLY DISMISSED: REMOVAL OF QUALIFYING PERIOD, ETC

Right not to be unfairly dismissed: removal of qualifying period of employment

- 1 In Part 10 of the Employment Rights Act 1996 (unfair dismissal), omit section 108 (qualifying period of employment).

Exclusion of right not to be unfairly dismissed where employee has not yet started work 10

- 2 In Part 10 of the Employment Rights Act 1996, after section 108 insert –

“108A Employees who have not yet started work

- (1) Section 94 does not apply to the dismissal of an employee if on the effective date of termination the employee has not yet started work.
- (2) Subsection (1) does not apply if any of the following provisions applies – 15
- (a) subsection (1) of section 98B (read with subsection (2) of that section);
 - (b) subsection (1) of section 99 (read with any regulations made under that section); 20
 - (c) subsection (1) of section 100 (read with subsections (2) and (3) of that section);
 - (d) subsection (1) of section 101 (read with subsection (2) of that section) or subsection (3) of that section;
 - (e) subsection (2) of section 101ZA (read with subsection (3) of that section) or subsection (4) of that section; 25
 - (f) any of sections 101A to 103A;
 - (g) subsection (1) of section 104 (read with subsections (2) and (3) of that section);
 - (h) subsection (1) of section 104A (read with subsection (2) of that section); 30
 - (i) subsection (1) of section 104B (read with subsection (2) of that section);
 - (j) subsection (1)(a) or (3) of section 104BA, or subsection (1)(b) of that section (read with subsection (2) of that section); 35
 - (k) section 104C;
 - (l) subsection (1) of section 104D (read with subsection (2) of that section);

- (m) section 104E;
 - (n) subsection (1) of section 104F (read with subsection (2) of that section);
 - (o) section 104G;
 - (p) subsection (1) of section 104I (read with subsection (4) of that section); 5
 - (q) section 105;
 - (r) section 4(3)(b) of the Rehabilitation of Offenders Act 1974 (read with any order made under section 4(4) of that Act);
 - (s) paragraph (3) or (6) of regulation 28 of the Transnational Information and Consultation of Employees Regulations 1999 (S.I. 1999/3323) (read with paragraphs (4) and (7) of that regulation); 10
 - (t) paragraph (1) of regulation 7 of the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 (S.I. 2000/1551); 15
 - (u) paragraph (1) of regulation 6 of the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002 (S.I. 2002/2034);
 - (v) paragraph (3) or (6) of regulation 30 of the Information and Consultation of Employees Regulations 2004 (S.I. 2004/3426) (read with paragraphs (4) and (7) of that regulation); 20
 - (w) paragraph 5(3) or (5) of the Schedule to the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006 (S.I. 2006/349) (read with paragraph 5(6) of that Schedule); 25
 - (x) paragraph (1)(a) or (b) of regulation 29 of the European Public Limited-Liability Company (Employee Involvement) (Great Britain) Regulations 2009 (S.I. 2009/2401);
 - (y) paragraph (1) of regulation 17 of the Agency Workers Regulations 2010 (S.I. 2010/93). 30
- (3) Subsection (1) does not apply if the reason (or, if more than one, the principal reason) for the dismissal is, or relates to, the employee's political opinions or affiliation.
- (4) Subsection (1) does not apply if the reason (or, if more than one, the principal reason) for the dismissal is, or is connected with, the employee's membership of a reserve force (as defined in section 374 of the Armed Forces Act 2006).” 35

Power to make provision about dismissal during initial period of employment

- 3 (1) The Employment Rights Act 1996 is amended as follows. 40

- (2) In Part 10, after section 98 insert –

“98ZZA Dismissal during initial period of employment

- (1) The Secretary of State may make regulations modifying the application of section 98(4) in relation to the dismissal of an employee that meets the conditions in subsections (2) and (3). 5
- (2) The condition in this subsection is that –
- (a) the effective date of termination falls on or before the last day of the initial period of employment (see subsection (4)), or
- (b) the employer gives notice to the employee to terminate the contract of employment before the end of the initial period of employment and the effective date of termination falls on or before the last day of the period of three months beginning with the day after the last day of the initial period of employment. 10 15
- (3) The condition in this subsection is that the reason (or, if more than one, the principal reason) shown for the dismissal by the employer is –
- (a) a reason falling within paragraph (a), (b) or (d) of section 98(2), or 20
- (b) some other substantial reason relating to the employee.
- (4) In this section “the initial period of employment”, in relation to an employee, means a period specified in, or determined in accordance with, regulations made by the Secretary of State.
- (5) The provision that may be made by regulations under this section includes, among other things – 25
- (a) provision specifying circumstances in which two or more periods of continuous employment are to be treated as a single period of continuous employment;
- (b) provision for determining whether a reason does, or does not, relate to an employee; 30
- (c) provision for the dismissal of an employee to be treated as fair if, or only if, the employer has taken any steps specified in the regulations.”
- (3) In section 236 (orders and regulations), in subsection (3) (regulations subject to affirmative resolution procedure), before “99” insert “98ZZA,”. 35

Consequential amendments

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

- (2) After section 153 insert –
- “153A Unfair dismissal: disapplication of requirement to have started work**
- Section 108A(1) of the Employment Rights Act 1996 (employees who have not yet started work) does not apply to a dismissal which by virtue of section 152 or 153 is regarded as unfair for the purposes of Part 10 of that Act.”
- (3) Omit section 154 (disapplication of qualifying period for unfair dismissal relating to union membership or activities).
- (4) In section 239 (supplementary provisions relating to unfair dismissal), in subsection (1), for the words from “sections 108” to “limit” substitute “section 108A(1) of that Act (employees who have not yet started work)”.
- (5) In Schedule A1 (union recognition) –
- (a) after paragraph 163 insert –
- “Disapplication of requirement to have started work*
- 163A Section 108A(1) of the Employment Rights Act 1996 (employees who have not yet started work) does not apply to a dismissal which by virtue of paragraph 161 or 162 is regarded as unfair for the purposes of Part 10 of that Act.”;
- (b) omit paragraph 164.
- 5 (1) The Employment Rights Act 1996 is amended as follows.
- (2) In section 92 (right to written statement of reasons for dismissal) –
- (a) in subsection (3), for the words from “unless” to the end substitute “if the dismissal occurs during the initial period of employment (see subsection (3A)).”;
- (b) after that subsection insert –
- “(3A) A reference in this section to a dismissal that occurs during the initial period of employment is a reference to a dismissal that meets the condition in section 98ZZA(2).”;
- (c) in subsection (4), for “she has been continuously employed for any period” substitute “the dismissal occurred during the initial period of employment”;
- (d) in subsection (4A), for “he has been continuously employed for any period” substitute “the dismissal occurred during the initial period of employment”.
- (3) In section 94 (right not to be unfairly dismissed), in subsection (2), for “108” substitute “108A”.
- (4) In section 97 (effective date of termination) –
- (a) in subsection (2), omit “108(1),”;
- (b) in subsection (4), omit “108(1),”.

-
- (5) In section 98 (fairness: general), in subsection (6)(a), for “98A” substitute “98ZZA”.
- (6) In section 192 (armed forces), in subsection (2)(e) –
- (a) omit “, 108(5)”;
 - (b) before “and 134” insert “, 108A(4)”. 5
- (7) In section 205A (employee shareholders), in subsection (10), for the words from “where” to the end substitute “where –
- (a) the dismissal is by reason of any requirement or recommendation that is referred to in section 64(2), or
 - (b) the reason (or, if more than one, the principal reason) for the dismissal is, or relates to, the employee’s political opinions or affiliations.” 10
- (8) In section 209 (powers to amend Act), in subsection (5), omit “108(1),”.
- (9) In section 213 (intervals in employment), in subsection (1), omit “108(1) or”. 15
- (10) In Schedule 1 (consequential amendments), omit paragraph 56(8).
- 6 In section 7 of the Public Interest Disclosure Act 1998, omit subsection (1).
- 7 In section 25 of the National Minimum Wage Act 1998, omit subsection (3).
- 8 In section 12 of the Employment Relations Act 1999 (detriment and dismissal), in subsection (4), for the words from “Sections” to “limit” substitute “Section 108A(1) of that Act (employees who have not yet started work)”. 20
- 9 In the Employment Relations Act 2004, omit the following provisions –
- (a) section 35; 25
 - (b) section 40(6);
 - (c) section 41(5);
 - (d) in Schedule 1, paragraph 32.
- 10 In section 39 of the Education and Skills Act 2008, omit subsection (4).
- 11 In section 57 of the Pensions Act 2008, omit subsection (5). 30
- 12 In Schedule 1 to the Apprenticeships, Skills, Children and Learning Act 2009, omit paragraph 4.
- 13 In the Enterprise and Regulatory Reform Act 2013, omit section 13.
- 14 In section 31 of the Growth and Infrastructure Act 2013, omit subsection (5). 35
- 15 In the Defence Reform Act 2014, omit section 48.
- 16 In Schedule 5 to the Enterprise Act 2016, omit paragraph 10.
- 17 In Schedule 7 to the Coronavirus Act 2020, omit paragraph 16.
- 18 In Part 1 of this Act –

- (a) in Schedule 1, omit paragraph 10;
- (b) in section 22, omit subsection (4).

SCHEDULE 3

Section 28

PAY AND CONDITIONS OF SCHOOL SUPPORT STAFF IN ENGLAND

The School Support Staff Negotiating Body 5

1 In the Education Act 2002, after Part 8 insert—

“PART 8A

SCHOOL SUPPORT STAFF IN ENGLAND

The School Support Staff Negotiating Body

148A The School Support Staff Negotiating Body 10

- (1) There is to be an unincorporated body of persons known as the School Support Staff Negotiating Body (“the SSSNB”).
- (2) The SSSNB has the functions conferred on it by this Part.
- (3) Schedule 12A makes further provision about the SSSNB.

148B Matters within the SSSNB’s remit 15

- (1) For the purposes of this Part, the matters within the SSSNB’s remit are matters relating to the following—
 - (a) the remuneration of school support staff;
 - (b) terms and conditions of employment of school support staff;
 - (c) the training of school support staff; 20
 - (d) career progression for school support staff.
- (2) The Secretary of State may by regulations provide that, for the purposes of subsection (1)—
 - (a) a payment or entitlement of a prescribed kind is, or is not, to be treated as remuneration; 25
 - (b) a prescribed matter is, or is not, to be treated as relating to terms and conditions of employment of school support staff;
 - (c) a prescribed matter is, or is not, to be treated as relating to the training of school support staff;
 - (d) a prescribed matter is, or is not, to be treated as relating to 30
career progression for school support staff.

148C Meaning of “school support staff”

- (1) This section has effect for the purposes of this Part.
- (2) “School support staff” means persons who meet the conditions in subsections (3) and (4).
- (3) The condition in this subsection is that the person— 5
- (a) is employed by a local education authority in England, or the governing body of a school maintained by a local education authority in England, under a contract of employment providing for the person to work wholly at one or more schools maintained by a local education authority in England, or 10
- (b) is employed by the proprietor of an Academy under a contract of employment providing for the person to work wholly at one or more Academies.
- (4) The condition in this subsection is that the person is not— 15
- (a) a school teacher, or
- (b) a person of a prescribed description.
- (5) In this section “school teacher” means—
- (a) a person who is a school teacher for the purposes of section 122, or 20
- (b) a qualified teacher who is employed by the proprietor of an Academy to work as a teacher.

*Consideration of matters by the SSSNB***148D Referral of matter to the SSSNB for consideration: general**

- (1) The Secretary of State may refer a matter within the SSSNB’s remit to the SSSNB for consideration by it. 25
- (2) For provision about referrals of matters relating to—
- (a) the remuneration of school support staff, or
- (b) terms and conditions of employment of school support staff, see section 148E (and sections 148H to 148J). 30
- (3) For provision about referrals of matters relating to the training or career progression of school support staff, see section 148F.

148E Referral of matters relating to remuneration or conditions of employment

- (1) This section applies if the Secretary of State refers a matter to the SSSNB under section 148D that relates to— 35
- (a) the remuneration of school support staff, or

- (b) terms and conditions of employment of school support staff.
- (2) The Secretary of State may specify –
 - (a) factors to which the SSSNB must have regard in considering the matter;
 - (b) a date by which the SSSNB must comply with subsection (4). 5
- (3) The SSSNB must consider the matter, having regard to any factors specified under subsection (2)(a).
- (4) When it has considered the matter, the SSSNB must –
 - (a) if it has reached an agreement about the matter, submit the agreement to the Secretary of State; 10
 - (b) if it has been unable to reach an agreement about the matter, notify the Secretary of State of that fact.
- (5) If the Secretary of State specifies a date under subsection (2)(b), the SSSNB must comply with subsection (4) no later than that date. 15
- (6) The Secretary of State may, at any time before the SSSNB has complied with subsection (4) in relation to a matter –
 - (a) withdraw or vary the reference of the matter;
 - (b) if factors have been specified under paragraph (a) of subsection (2), withdraw or vary those factors, or specify further factors under that paragraph; 20
 - (c) if a date has been specified under paragraph (b) of subsection (2), specify a later date under that paragraph.

148F Referral of matters relating to training or career progression

- (1) This section applies if the Secretary of State refers a matter to the SSSNB under section 148D that relates to the training or career progression of school support staff. 25
- (2) The Secretary of State may specify –
 - (a) factors to which the SSSNB must have regard in considering the matter; 30
 - (b) a date by which the SSSNB must comply with subsection (4).
- (3) The SSSNB must consider the matter, having regard to any factors specified under subsection (2)(a).
- (4) When it has considered the matter, the SSSNB must submit a report about the matter (including any recommendations it makes about the matter) to the Secretary of State. 35
- (5) If the Secretary of State specifies a date under subsection (2)(b), the SSSNB must comply with subsection (4) no later than that date.

- (6) The Secretary of State may, at any time before the SSSNB has complied with subsection (4) in relation to a matter –
- (a) withdraw or vary the reference of the matter;
 - (b) if factors have been specified under paragraph (a) of subsection (2), withdraw or vary those factors, or specify further factors under that paragraph; 5
 - (c) if a date has been specified under paragraph (b) of subsection (2), specify a later date under that paragraph.

148G Consideration of matters by the SSSNB without a referral

- (1) The SSSNB may, with the agreement of the Secretary of State, consider a matter within its remit, even if the matter has not been referred to it by the Secretary of State under section 148D. 10
- (2) If –
- (a) the matter relates to the remuneration of school support staff, or terms and conditions of employment of school support staff, and 15
 - (b) the SSSNB reaches an agreement about the matter, it may submit the agreement to the Secretary of State.
- (3) If the matter relates to training or career progression of school support staff, the SSSNB may submit a report about the matter (including any recommendations it makes about the matter) to the Secretary of State. 20

Powers of Secretary of State on submission of SSSNB agreement

148H Agreement submitted by the SSSNB under section 148E or 148G

- (1) This section applies if the SSSNB submits an agreement to the Secretary of State under section 148E(4)(a) or 148G(2). 25
- (2) The Secretary of State may –
- (a) make regulations ratifying the agreement (see section 148M), or
 - (b) if the Secretary of State thinks that it would be inappropriate to make regulations ratifying the agreement, refer the agreement back to the SSSNB for reconsideration (see section 148I). 30
- (3) Regulations under subsection (2)(a) may ratify the agreement –
- (a) in full, or 35
 - (b) to the extent prescribed in the regulations.

Reconsideration by the SSSNB

148I Reconsideration of agreement by the SSSNB

- (1) This section applies if, under section 148H(2)(b) or section 148J(2)(b), the Secretary of State refers an agreement back to the SSSNB for reconsideration. 5
- (2) The Secretary of State may specify –
 - (a) factors to which the SSSNB must have regard in the reconsideration;
 - (b) a date by which the SSSNB must comply with subsection (4). 10
- (3) The SSSNB must reconsider the agreement, having regard to any factors specified under subsection (2)(a).
- (4) After completing its reconsideration, the SSSNB must –
 - (a) if it has agreed revisions to the agreement, submit to the Secretary of State a new version of the agreement incorporating the revisions; 15
 - (b) if it has not agreed revisions to the agreement, submit the existing version of the agreement to the Secretary of State.
- (5) If the Secretary of State specifies a date under subsection (2)(b), the SSSNB must comply with subsection (4) no later than that date. 20
- (6) The Secretary of State may, at any time before the SSSNB has complied with subsection (4) in relation to an agreement referred back to it for reconsideration –
 - (a) withdraw the reference of the agreement;
 - (b) if factors have been specified under paragraph (a) of subsection (2), withdraw or vary those factors, or specify further factors under that paragraph; 25
 - (c) if a date has been specified under paragraph (b) of subsection (2), specify a later date under that paragraph.

148J Powers of Secretary of State following reconsideration under section 148I 30

- (1) This section applies if the SSSNB submits an agreement about a matter to the Secretary of State under section 148I.
- (2) The Secretary of State may –
 - (a) make regulations ratifying the agreement – 35
 - (i) in full, or
 - (ii) to the extent prescribed in the regulations;
 - (b) refer the agreement back to the SSSNB for reconsideration (see section 148I);

- (c) make regulations requiring prescribed persons to have regard to the agreement in exercising prescribed functions;
 - (d) by regulations make provision, in relation to a matter to which the agreement relates, otherwise than in the terms of the agreement (see section 148N). 5
- This is subject to subsections (3) and (4).
- (3) The Secretary of State may refer an agreement about a matter back to the SSSNB for reconsideration only if it appears to the Secretary of State that the condition in subsection (5) is met.
 - (4) The Secretary of State may make regulations under subsection (2)(d) in relation to a matter only if it appears to the Secretary of State that – 10
 - (a) the condition in subsection (5) is met, and
 - (b) there is an urgent need to make provision in relation to the matter. 15
 - (5) The condition is that one or more of the following applies –
 - (a) the agreement does not properly address the matter;
 - (b) it is not practicable to implement the agreement;
 - (c) the SSSNB failed in reconsidering the agreement to have regard to factors specified under section 148I(2)(a). 20

Additional powers of Secretary of State

148K Powers of Secretary of State in absence of SSSNB agreement

- (1) Subsection (2) applies if –
 - (a) the SSSNB notifies the Secretary of State under section 148E(4)(b) that it has been unable to reach an agreement on a matter referred to it, or 25
 - (b) the SSSNB fails to comply with section 148E(4) in relation to a matter by any date specified under section 148E(2)(b).
- (2) The Secretary of State may –
 - (a) if a date has been specified under paragraph (b) of section 148E(2) in relation to the matter, specify a later date under that paragraph, or 30
 - (b) if it appears to the Secretary of State that there is an urgent need to do so, by regulations make provision in relation to the matter (see section 148N). 35
- (3) Subsection (4) applies if the SSSNB fails to comply with section 148I(4) in relation to an agreement by any date specified under section 148I(2)(b).
- (4) The Secretary of State may –

- (a) if a date has been specified under paragraph (b) of section 148I(2) in relation to the SSSNB’s reconsideration of the agreement, specify a later date under that paragraph, or
 - (b) if it appears to the Secretary of State that there is an urgent need to do so, by regulations make provision in relation to a matter to which the agreement relates (see section 148N). 5
- (5) Before making any regulations under subsection (2)(b) or (4)(b), the Secretary of State must consult the SSSNB.

148L Powers of Secretary of State where SSSNB fails to submit report

- (1) This section applies if the SSSNB fails to comply with section 148F(4) in relation to a matter by any date specified under section 148F(2)(b). 10
- (2) The Secretary of State may –
- (a) specify a later date under section 148F(2)(b), or
 - (b) if it appears to the Secretary of State appropriate to do so, issue guidance under section 148P in relation to the matter without waiting for the SSSNB to submit a report about it. 15

Regulations

148M Effect of regulations ratifying agreement

- (1) This section applies if the Secretary of State makes regulations ratifying (to any extent) an agreement submitted by the SSSNB. 20
- (2) If the agreement relates to a person’s remuneration, the person’s remuneration is to be determined and paid in accordance with the agreement.
- (3) A provision of the agreement that relates to any other term or condition of a person’s employment has effect as a term of the person’s contract of employment. 25
- (4) A term of the person’s contract of employment has no effect to the extent that it makes provision that is prohibited by, or is otherwise inconsistent with, the agreement.
- (5) Where the person is employed by the proprietor of an Academy, any provision of the Academy arrangements relating to the Academy has no effect to the extent that it makes provision that is prohibited by, or is otherwise inconsistent with, the agreement. 30

148N Effect of regulations making provision otherwise than in terms of agreement 35

- (1) This section applies if the Secretary of State makes regulations under section 148J(2)(d) or 148K(2)(b) or (4)(b).

- (2) The regulations must either –
- (a) require prescribed persons, in exercising prescribed functions, to have regard to the regulations, or
 - (b) provide that the regulations are to have effect for determining the terms and conditions of employment of persons to whom the regulations apply. 5
- (3) If the regulations make provision within subsection (2)(b), subsections (4) to (6) apply.
- (4) If the regulations relate to a person’s remuneration, the person’s remuneration is to be determined and paid in accordance with the regulations. 10
- (5) A provision of the regulations that relates to any other term or condition of a person’s employment has effect as a term of the person’s contract of employment.
- (6) A term of the person’s contract of employment has no effect to the extent that it makes provision that is prohibited by, or is otherwise inconsistent with, the regulations. 15
- (7) Where the person is employed by the proprietor of an Academy, any provision of the Academy arrangements relating to the Academy has no effect to the extent that it makes provision that is prohibited by, or is otherwise inconsistent with, the regulations. 20

148O Regulations: supplementary

- (1) Regulations under this Part may make provision that has retrospective effect.
This is subject to subsection (2). 25
- (2) Regulations under this Part may not make provision the effect of which is to –
- (a) reduce remuneration in respect of a period wholly or partly before the day on which the regulations are made, or
 - (b) alter the terms and conditions of a person’s employment to the person’s detriment in respect of such a period. 30
- (3) Regulations under this Part may make provision by reference to –
- (a) an agreement submitted to the Secretary of State by the SSSNB, or
 - (b) any other document. 35
- (4) If regulations under this Part make provision by virtue of subsection (3), they must include provision about the publication of the agreement or other document.
- (5) A reference in section 148N(4) to (6) to regulations under section 148J(2)(d) or 148K(2)(b) or (4)(b), or to a provision of such 40

regulations, includes a reference to a provision of a document referred to by such regulations.

Guidance

148P Guidance

- (1) The SSSNB may, with the approval of the Secretary of State, issue guidance relating to— 5
- (a) an agreement that has been ratified by regulations under this Part;
 - (b) an agreement to which regulations under section 148J(2)(c) require persons to have regard. 10
- (2) The Secretary of State may issue guidance relating to—
- (a) an agreement that has been ratified by regulations under this Part;
 - (b) an agreement to which regulations under section 148J(2)(c) require persons to have regard; 15
 - (c) regulations made under section 148J(2)(d) or 148K(2)(b) or (4)(b);
 - (d) any matter relating to training or career progression of school support staff (but see subsection (3)).
- (3) The Secretary of State may issue guidance under subsection (2)(d) about a matter only if— 20
- (a) the SSSNB has submitted a report about the matter to the Secretary of State under section 148F(4) or 148G(3), and
 - (b) the Secretary of State has had regard to the report and any recommendations it makes. 25
- This is subject to section 148L (power to issue guidance where the SSSNB fails to submit a report by the specified date).
- (4) In exercising functions in respect of school support staff, each of the following is to have regard to guidance issued under this section— 30
- (a) a local education authority in England;
 - (b) the governing body of a school maintained by a local education authority in England;
 - (c) the proprietor of an Academy.

Supplementary and general

35

148Q Agreements of SSSNB not to be collective agreements, etc

- (1) Nothing done by the SSSNB, or by members of the SSSNB acting in that capacity, is to be regarded as collective bargaining for the

purposes of section 178 of the Trade Union and Labour Relations (Consolidation) Act 1992.

- (2) Accordingly, any reference to a collective agreement within the meaning of that Act does not include an agreement which the SSSNB reaches under this Part.

5

148R Interpretation of this Part

- (1) In this Part—

“Academy” and “Academy arrangements” have the same meaning as in the Academies Act 2010 (but see subsection (2));

10

“contract of employment” has the meaning given by section 230(2) of the Employment Rights Act 1996;

“school maintained by a local education authority” means any of the following—

- (a) a community, foundation or voluntary school;
- (b) a community or foundation special school;
- (c) a maintained nursery school;
- (d) a pupil referral unit;

15

“school support staff” has the meaning given by section 148C; “the SSSNB” means the School Support Staff Negotiating Body.

20

- (2) In this Part—

(a) a reference to an Academy includes a reference to a city technology college and a city college for the technology of the arts, and

(b) a reference to Academy arrangements includes a reference to an agreement under section 482 of the Education Act 1996.

25

- (3) Any reference in this Part to an agreement that has been ratified is, in a case where the agreement is ratified in part, a reference to so much of the agreement as has been ratified.”

- 2 In the Education Act 2002, after Schedule 12 insert—

30

“SCHEDULE 12A

Section 148A(3)

THE SCHOOL SUPPORT STAFF NEGOTIATING BODY

Constitution

- 1 (1) The SSSNB is to be constituted in accordance with arrangements made by the Secretary of State.

35

- (2) Before making or revising arrangements under sub-paragraph (1), the Secretary of State must consult—

- (a) the prescribed school support staff organisations, and
- (b) the prescribed school support staff employer organisations.

- (3) References in this Schedule to the SSSNB’s constitutional arrangements are to arrangements made under sub-paragraph (1).
- (4) References in this Schedule to the prescribed organisations are to the organisations prescribed under sub-paragraph (2). 5
- (5) Before making any regulations prescribing an organisation under sub-paragraph (2)(a), the Secretary of State must consult the Trades Union Congress.

Membership

- 2 (1) The SSSNB’s constitutional arrangements must provide for the members of the SSSNB to include persons representing the interests of – 10
 - (a) the prescribed organisations;
 - (b) the Secretary of State.
- (2) The arrangements may also provide for the members of the SSSNB to include other persons who do not represent the interests of – 15
 - (a) school support staff organisations, or
 - (b) school support staff employer organisations.
- 3 (1) The SSSNB’s constitutional arrangements must provide for the members of the SSSNB to include a person appointed to chair the SSSNB. 20
- (2) The arrangements must provide for that person to be a person who, in the opinion of the Secretary of State, does not represent the interests of –
 - (a) a school support staff organisation, 25
 - (b) a school support staff employer organisation,
 - (c) the Secretary of State, or
 - (d) any other person or organisation represented on the SSSNB.

Proceedings

- 4 (1) The SSSNB’s constitutional arrangements may not provide for a member of the SSSNB to be entitled to vote in respect of its proceedings unless the member is a person representing the interests of any of the prescribed organisations. 30
- (2) Subject to sub-paragraph (1), the arrangements may make provision about the proceedings of the SSSNB (including provision allowing the SSSNB to determine its own proceedings). 35

Administrative support

- 5 The SSSNB’s constitutional arrangements may make provision about the provision of administrative support by the Secretary of State to the SSSNB.

Annual reports

5

- 6 (1) The SSSNB’s constitutional arrangements must provide for the SSSNB to prepare a report, in respect of each successive period of 12 months beginning with the day on which it is established, about the performance of its functions in that period.

- (2) The arrangements may –

10

- (a) require the SSSNB to send copies of the report to specified persons;
- (b) require the SSSNB otherwise to publish the report in a specified manner.

In this sub-paragraph “specified” means specified in the arrangements.

15

Fees and expenses

- 7 The SSSNB’s constitutional arrangements may make provision about –

- (a) the payment of fees by the Secretary of State to the person appointed to chair the SSSNB;
- (b) the payment by the Secretary of State of expenses incurred by the SSSNB.

20

Interpretation

- 8 In this Schedule –

25

“school support staff organisation” means an organisation that, in the opinion of the Secretary of State, represents the interests of school support staff;

“school support staff employer organisation” means an organisation that, in the opinion of the Secretary of State, represents the interests of employers of school support staff.”

30

Consequential amendments

- 3 In the House of Commons Disqualification Act 1975, in Part 3 of Schedule 1 (other disqualifying offices), at the appropriate place insert –

35

“Person appointed to chair the School Support Staff Negotiating Body.”

- 4 In Schedule 2 to the Education Act 2002 (effect on staffing of suspension of delegated budget)–
- (a) after paragraph 10 insert–
- “10A Paragraph 8 has effect subject to–
- (a) any provision made by regulations under section 148H(2)(a) or 148J(2)(a); 5
- (b) any provision made by regulations under section 148J(2)(d) or 148K(2)(b) or (4)(b), where the regulations provide that they are to have effect for determining the terms and conditions of employment of persons to whom they apply.”; 10
- (b) omit paragraph 11.

Pre-commencement consultation

- 5 If, before the coming into force of paragraph 2 (which inserts Schedule 12A to the Education Act 2002), any consultation takes place which would have satisfied the requirement for consultation under paragraph 1(5) of that Schedule to any extent if it had been in force, that requirement is to be taken as having been satisfied to that extent. 15

SCHEDULE 4

Section 72(1)

LEGISLATION SUBJECT TO ENFORCEMENT UNDER PART 5 20

PART 1

RELEVANT LABOUR MARKET LEGISLATION

Employment Agencies Act 1973

- 1 The Employment Agencies Act 1973 (employment agencies and employment businesses). 25
- 2 Regulations under section 5 of that Act (conduct of employment agencies and businesses).

Social Security Contributions and Benefits Act 1992

- 3 Part 11 of the Social Security Contributions and Benefits Act 1992 (statutory sick pay). 30

Employment Tribunals Act 1996

- 4 Part 2A of the Employment Tribunals Act 1996 (financial penalties for failure to pay sums ordered to be paid or settlement sums).

National Minimum Wage Act 1998

- | | | |
|----|---|----|
| 5 | Section 1 of the National Minimum Wage Act 1998 (entitlement to the national minimum wage). | |
| 6 | Regulations under section 9 of that Act (duty of employers to keep records). | |
| 7 | Section 10 of that Act (worker’s right of access to records). | 5 |
| 8 | Regulations under section 12 of that Act (employer to provide worker with national minimum wage statement). | |
| 9 | Sections 17 to 19H of that Act (underpayments). | |
| 10 | Section 23 of that Act (right not to suffer detriment). | |
| 11 | Section 31 of that Act (offences). | 10 |

Working Time Regulations 1998

- | | | |
|----|---|----|
| 12 | The following provisions of the Working Time Regulations 1998 (S.I. 1998/1833)– | |
| | (a) regulation 16 (right to payment in respect of periods of leave); | |
| | (b) regulation 16A (rolled-up holiday pay for irregular hours workers and part-year workers). | 15 |

Gangmasters (Licensing) Act 2004

- | | | |
|----|---|----|
| 13 | Section 6 of the Gangmasters (Licensing) Act 2004 (prohibition of unlicensed activities). | |
| 14 | Rules under section 8 of that Act (power to make rules in connection with licensing of persons acting as gangmasters). | 20 |
| 15 | Section 9 of that Act (modification, revocation or transfer of licence). | |
| 16 | Sections 12 and 13 of that Act (offences). | |
| 17 | The references in paragraphs 13 and 16 to the Gangmasters (Licensing) Act 2004 are to that Act only so far as it applies in relation to England and Wales and Scotland. | 25 |

Modern Slavery Act 2015

- | | | |
|----|---|----|
| 18 | Section 1 of the Modern Slavery Act 2015 (offence of slavery, servitude and forced or compulsory labour). | |
| 19 | Sections 2 and 4 of that Act (human trafficking), so far as relating to an offence– | 30 |
| | (a) which is committed in relation to a worker or a person seeking work, or | |
| | (b) which is otherwise committed in circumstances where subsection (2) of section 3 of that Act applies. | 35 |
| 20 | (1) Part 2 of that Act (prevention orders), so far as relating to– | |

- (a) the making of orders under that Part on the application of the Secretary of State,
 - (b) offences committed in relation to orders made under that Part on such an application, or
 - (c) offences committed in relation to orders within sub-paragraph (2). 5
- (2) An order is within this sub-paragraph if –
- (a) the order was made under section 14 of that Act following –
 - (i) the conviction of the defendant of a relevant offence, or
 - (ii) a finding of a kind mentioned in section 14(1)(b) or (c) of that Act in connection with a relevant offence, and 10
 - (b) the prosecution resulted from an investigation conducted by or on behalf of the Secretary of State.
- (3) In sub-paragraph (2) “relevant offence” means –
- (a) an offence under section 1 of the Modern Slavery Act 2015;
 - (b) an offence under section 2 or 4 of that Act falling within paragraph 19; 15
 - (c) an ancillary offence relating to an offence within paragraph (a) or (b).

Employment Rights Act 2025

- 21 Sections 84 to 94 and 102 of this Act (LME undertakings and orders). 20
- 22 Sections 103 and 104 (offences relating to Part 5).

PART 2

POWER TO AMEND PART 1

- 23 (1) The Secretary of State may by regulations amend Part 1 of this Schedule in order to – 25
- (a) add an enactment to the list of legislation in that Part, or
 - (b) vary a reference to an enactment in that list.
- (2) Regulations under this paragraph may add an enactment only if it relates to –
- (a) rights or entitlements conferred on employees or workers; 30
 - (b) the treatment of employees or workers;
 - (c) requirements, restrictions or prohibitions imposed on employers;
 - (d) trade unions, employers’ associations, industrial action or labour relations.
- (3) Regulations under this paragraph may amend any of the following provisions in consequence of an amendment of Part 1 of this Schedule – 35
- (a) section 73 (enforcement functions of Secretary of State);
 - (b) section 74 (delegation of functions);

- (c) section 111 (meaning of “non-compliance with relevant labour market legislation”).
- (4) Regulations under this paragraph are subject to the affirmative resolution procedure.

SCHEDULE 5

Section 98(5)

5

PERSONS TO WHOM INFORMATION MAY BE DISCLOSED UNDER SECTION 98

Authorities with functions in connection with the labour market or the workplace etc

The Commissioners for His Majesty’s Revenue and Customs.

The Health and Safety Executive.

An enforcing authority within the meaning of Part 1 of the Health and Safety at Work etc. Act 1974 (see section 18(7) of that Act). 10

An inspector appointed by such an enforcing authority (see section 19 of that Act).

An officer acting for the purposes of Part 2 of the Employment (Miscellaneous Provisions) (Northern Ireland) Order 1981 (S.I. 1981/839 (N.I. 20)). 15

An enforcement authority within the meaning of regulation 28 of the Working Time Regulations 1998 (S.I. 1998/1833).

An inspector appointed by such an enforcement authority (see Schedule 3 to those Regulations).

The Advisory, Conciliation and Arbitration Service. 20

The Low Pay Commission.

The Pensions Regulator.

Law enforcement and border security

A chief officer of police of a police force maintained for a police area in England and Wales. 25

A local policing body.

The Chief Constable of the British Transport Police Force.

The chief constable of the Police Service of Scotland.

The Chief Constable of the Police Service of Northern Ireland.

A person appointed as an immigration officer under paragraph 1 of Schedule 2 to the Immigration Act 1971. 30

Local government

A county council or district council in England.

A London borough council.	
The Greater London Authority.	
The Common Council of the City of London in its capacity as a local authority.	
The Council of the Isles of Scilly.	
A county council or county borough council in Wales.	5
A council constituted under section 2 of the Local Government etc. (Scotland) Act 1994.	
A district council in Northern Ireland.	

Health bodies

The Care Quality Commission.	10
A National Health Service trust established under section 25 of the National Health Service Act 2006 or section 18 of the National Health Service (Wales) Act 2006.	
An NHS foundation trust within the meaning given by section 30 of the National Health Service Act 2006.	15
A Local Health Board established under section 11 of the National Health Service (Wales) Act 2006.	
A Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978.	
A Special Health Board constituted under that section.	20

Other persons

The Equality and Human Rights Commission.	
The Independent Anti-slavery Commissioner.	
A Northern Ireland department.	

SCHEDULE 6

Section 110(1) 25

CONSEQUENTIAL AMENDMENTS RELATING TO PART 5

PART 1

EXISTING POWERS UNDER RELEVANT LABOUR MARKET LEGISLATION

Employment Agencies Act 1973

1	The Employment Agencies Act 1973 is amended as follows.	30
2	Omit section 8A (appointment of officers).	

3 Omit section 9 (inspection).

4 (1) Section 11A (offences: extension of time limit) is amended as follows.

(2) In subsection (1), omit “9(4)(b) or”.

(3) In subsection (3), omit “9(4)(b) or”.

Part 2A of Employment Tribunals Act 1996

5

5 Part 2A of the Employment Tribunals Act 1996 (financial penalties for failure to pay sums ordered to be paid or settlement sums) is amended as follows.

6 In section 37D (unpaid amount of relevant sum: further provision), in subsection (6), for “an enforcement officer” substitute “the Secretary of State”.

10

7 (1) Section 37E (warning notice) is amended as follows.

(2) In subsection (1), for “an enforcement officer” substitute “the Secretary of State”.

(3) In subsection (2)–

15

(a) for “officer” substitute “Secretary of State”;

(b) for “officer’s” substitute “Secretary of State’s”.

(4) In subsection (3), for “officer” substitute “Secretary of State”.

8 (1) Section 37F (penalty notice) is amended as follows.

(2) In subsection (1), for “an enforcement officer” substitute “the Secretary of State”.

20

(3) In subsection (2), for “officer” substitute “Secretary of State”.

9 In section 37G (appeal against penalty notice), in subsection (3)(b), for “enforcement officer” substitute “Secretary of State”.

10 In section 37I (withdrawal of warning notice), in subsection (1)–

25

(a) in paragraph (b), for “an enforcement officer” substitute “the Secretary of State”;

(b) in the closing words, for “officer” substitute “Secretary of State”.

11 In section 37J (withdrawal of penalty notice), in subsection (1)–

(a) in paragraph (b), for “an enforcement officer” substitute “the Secretary of State”;

30

(b) in the closing words, for “officer” substitute “Secretary of State”.

12 In section 37K (replacement penalty notice), in subsection (1)–

(a) for “an enforcement officer” substitute “the Secretary of State”;

(b) for “the officer” substitute “the Secretary of State”.

35

13 Omit section 37M (enforcement officers).

14 In section 37O (modification in particular cases), in subsection (4)(a), for “enforcement officer” substitute “Secretary of State”.

- 15 In section 37P (giving of notices), in subsection (1)(a), for “an enforcement officer” substitute “the Secretary of State”.
- 16 In section 37Q(1) (interpretation), omit the definition of “enforcement officer”.

National Minimum Wage Act 1998

5

- 17 The National Minimum Wage Act 1998 is amended as follows.
- 18 Omit section 13 (appointment of officers).
- 19 Omit section 14 (powers of officers).
- 20 Omit section 15 (information obtained by officers).
- 21 Omit section 16 (information obtained by agricultural wages officers). 10
- 22 In section 16A (disclosure of information by officers), in subsection (5)–
- (a) in the definition of “enforcement officer”, omit paragraph (a) (and the “or” after it);
 - (b) in the definition of “the relevant legislation”, omit paragraph (a) (and the “and” after it). 15
- 23 (1) Section 19 (notices of underpayment: arrears) is amended as follows.
- (2) In subsection (1), for “an officer acting for the purposes of this Act” substitute “the Secretary of State”.
 - (3) In subsection (2), for “officer” substitute “Secretary of State”.
- 24 (1) Section 19B (suspension of financial penalty) is amended as follows. 20
- (2) In subsection (1), for “officer” substitute “Secretary of State”.
 - (3) In subsection (4)–
 - (a) for “An officer acting for the purposes of this Act” substitute “The Secretary of State”;
 - (b) for “the officer” substitute “the Secretary of State”. 25
 - (4) In subsection (6)–
 - (a) for “An officer acting for the purposes of this Act” substitute “The Secretary of State”;
 - (b) for “the officer” substitute “the Secretary of State”.
- 25 In section 19D (non-compliance with notice of underpayment: recovery of arrears), in subsection (1), for “an officer acting for the purposes of this Act” substitute “the Secretary of State”. 30
- 26 In section 19F (withdrawal of notice of underpayment), in subsection (1)–
- (a) for “an officer acting for the purposes of this Act” substitute “the Secretary of State”; 35
 - (b) for “the officer” substitute “the Secretary of State”.
- 27 In section 19G (replacement notice of underpayment), in subsection (1)–

- (a) for “an officer acting for the purposes of this Act” substitute “the Secretary of State”;
- (b) for “he” substitute “the Secretary of State”.

28 In section 31 (offences), omit subsection (5).

Gangmasters (Licensing) Act 2004

5

29 The Gangmasters (Licensing) Act 2004 is amended as follows.

30 Omit the italic heading before section 1.

31 Omit section 2 (directions etc to the Gangmasters and Labour Abuse Authority).

32 In section 3 (work to which Act applies), for subsection (6) substitute— 10
 “(6) Before making regulations under subsection (5), the Secretary of State must consult the Advisory Board established under section 75 of the Employment Rights Act 2025.”

33 (1) Section 7 (grant of licence) is amended as follows.

(2) In subsection (1)— 15
 (a) for “Authority” substitute “Secretary of State”;
 (b) for “it” substitute “the Secretary of State”.

(3) In subsection (2), for “Authority” substitute “Secretary of State”.

(4) In subsection (5), for “Authority” substitute “Secretary of State”.

34 (1) Section 8 (general power to make rules) is amended as follows. 20

(2) In the heading, omit “of Authority”.

(3) In subsection (1)— 25
 (a) for the words from the beginning to “State” substitute “The Secretary of State may”;
 (b) for “it” substitute “the Secretary of State”.

35 (1) Section 9 (modification, revocation or transfer of licence) is amended as follows.

(2) In subsection (1)— 30
 (a) for “Authority” substitute “Secretary of State”;
 (b) in paragraph (b), for “him” substitute “the Secretary of State”.

(3) In subsection (2), for “Authority” substitute “Secretary of State”.

(4) In subsection (3), for “Authority”, in both places it occurs, substitute “Secretary of State”.

36 In section 10 (appeals), in subsection (1), for “Authority” substitute “Secretary of State”. 35

37 (1) Section 11 (register of licences) is amended as follows.

- (2) In subsection (1), for “The Authority shall establish and” substitute “The Secretary of State must”.
- (3) In subsection (2), for “Authority” substitute “Secretary of State”.
- (4) In subsection (3), for “Authority” substitute “Secretary of State”.
- 38 In section 12 (offences: acting as a gangmaster, etc), in subsection (6)(b), for “Authority” substitute “Secretary of State”. 5
- 39 (1) Section 14 (offences: supplementary provisions) is amended as follows.
- (2) In subsection (1), for “section 24A of the Police and Criminal Evidence Act 1984 (c. 60)” substitute “Article 26A of the Police and Criminal Evidence Act (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12))”. 10
- (3) Omit subsection (2A).
- (4) In subsection (3), after “do not apply” insert “in England and Wales or”.
- 40 (1) Section 15 (enforcement and compliance officers) is amended as follows.
- (2) For the heading substitute “Enforcement officers: Northern Ireland”.
- (3) In subsection (1) – 15
- (a) for “Secretary of State” substitute “Department of Agriculture, Environment and Rural Affairs in Northern Ireland (“the Department”);
- (b) after “this Act” insert “, so far as it applies in relation to Northern Ireland”. 20
- (4) In subsection (2), for “Secretary of State” substitute “Department”.
- (5) In subsection (3) –
- (a) omit paragraph (a);
- (b) after paragraph (b) insert –
- “(ba) any Minister within the meaning of the Northern Ireland Act 1998 or any Northern Ireland department;” 25
- (c) omit paragraphs (c) and (d).
- (6) After subsection (3) insert –
- “(3A) Arrangements made under subsection (2) with a relevant authority within paragraph (b) or (e) of that subsection may provide for payments to be made by the Department in respect of the performance of any function to which the arrangements relate. 30
- (3B) *Any sums received by virtue of subsection (3A) by a Minister of the Crown or government department are to be paid into the Consolidated Fund.*” 35
- (7) Omit subsection (4).
- (8) In subsection (5), omit “or a compliance officer”.
- (9) In subsection (6), omit “or a compliance officer”.

- (10) After subsection (6) insert—
- “(6ZA) For powers to enforce this Act so far as it applies in relation to England and Wales and Scotland, see Part 5 of the Employment Rights Act 2025.”
- (11) Omit subsection (6A). 5
- 41 (1) Section 16 (powers of officers) is amended as follows.
- (2) Omit subsection (A1).
- (3) In subsection (1), omit “or a compliance officer”.
- 42 (1) Section 17 (entry by warrant) is amended as follows.
- (2) Omit subsection (A1). 10
- (3) In subsection (1), for “written information” substitute “a written complaint”.
- (4) After subsection (4) insert—
- “(4A) In this section a reference to section 6 is a reference to that section only so far as it applies in relation to Northern Ireland.”
- (5) Omit subsection (5). 15
- 43 (1) Section 18 (obstruction of officers) is amended as follows.
- (2) In subsection (1)(a)—
- (a) omit “or compliance officer”;
- (b) omit the words from “or functions” to “officers”.
- (3) In subsection (2), omit “or compliance officer”. 20
- (4) In subsection (3)—
- (a) omit paragraph (a);
- (b) in paragraph (b), omit “Scotland or”;
- (c) omit the words after paragraph (b).
- 44 (1) Section 19 (information relating to gangmasters) is amended as follows. 25
- (2) In subsection (1)—
- (a) omit paragraph (aa) (but not the “and” after it);
- (b) in paragraph (b), before sub-paragraph (i) insert—
- “(zi) the enforcement of this Act so far as it applies in relation to England and Wales and Scotland,”. 30
- (3) In subsection (1A), omit paragraph (b) (and the “and” before it).
- (4) Omit subsection (1B).
- (5) In subsection (2)—
- (a) for “subsection (1)(aa) or (b)” substitute “subsection (1)(b)”;
- (b) after “supplied to” insert “, or used by,”. 35
- 45 Omit section 22A (relationship with other agencies: requests for assistance).

- 46 Omit section 24 (financial provision).
- 47 (1) Section 25 (regulations, rules and orders) is amended as follows.
- (2) In subsection (3), after “regulations” insert “, rules”.
- (3) Omit subsection (4).
- (4) In subsection (5)– 5
- (a) omit paragraph (a);
- (b) omit paragraph (c) (and the “or” before it).
- (5) In subsection (6)(b), omit “made by the Authority” and “of Authority”.
- 48 Omit Schedule 1 (consequential amendments of enactments).
- 49 (1) Schedule 2 (application of Act to Northern Ireland) is amended as follows. 10
- (2) Omit paragraphs 3 to 6.
- (3) In paragraph 9 (grant of licences), for “Authority” substitute “Secretary of State”.
- (4) In paragraph 10 (general power to make rules)– 15
- (a) in the heading and sub-paragraph (1), omit “of Authority”;
- (b) omit sub-paragraph (2);
- (c) in sub-paragraph (3), for “Authority” substitute “Secretary of State”.
- (5) For paragraph 11 substitute–
- “11 Regulations under section 10 that make provision for appeals against decisions made in connection with Northern Ireland licences may, if the relevant Northern Ireland department so agrees, confer functions on the relevant Northern Ireland department.” 20
- (6) In paragraph 12 (register of licences), for “The Authority shall establish and” substitute “The Secretary of State must”. 25
- (7) Omit paragraph 14 (offences: supplementary provision).
- (8) Omit paragraph 15 (enforcement and compliance officers).
- (9) Omit paragraph 16 (entry by warrant).
- (10) In paragraph 16A (information relating to gangmasters), in sub-paragraph (1), omit paragraphs (a) and (b) (and the “and” before paragraph (c)). 30
- (11) Omit paragraph 16B (relationship with other agencies: requests for assistance).
- (12) Omit paragraph 18 (financial provision).

Modern Slavery Act 2015

- 50 The Modern Slavery Act 2015 is amended as follows. 35
- 51 Omit section 11A (enforcement of Part 1 by Gangmasters and Labour Abuse Authority).

- 52 (1) Section 15 (slavery and trafficking prevention orders on application) is amended as follows.
- (2) In subsection (1), for paragraph (d) substitute –
- “(ca) if it appears that an offence under this Part which is a labour market offence has been, is being or may be committed, the Secretary of State.” 5
- (3) In subsection (7) –
- (a) for “Gangmasters and Labour Abuse Authority” substitute “Secretary of State”;
- (b) for “the Authority” substitute “the Secretary of State”. 10
- (4) In subsection (8)(b) –
- (a) for “Gangmasters and Labour Abuse Authority” substitute “Secretary of State”;
- (b) for “the Authority” substitute “the Secretary of State”.
- 53 In section 19 (requirement to provide name and address), in subsection (7) – 15
- (a) for “Gangmasters and Labour Abuse Authority” substitute “Secretary of State”;
- (b) for “the Authority” substitute “the Secretary of State”.
- 54 (1) Section 20 (variation, renewal and discharge) is amended as follows. 20
- (2) In subsection (2)(g), for “the Gangmasters and Labour Abuse Authority, the Authority” substitute “the Secretary of State, the Secretary of State”.
- (3) In subsection (9) –
- (a) for “Gangmasters and Labour Abuse Authority” substitute “Secretary of State”;
- (b) for “the Authority”, in both places it occurs, substitute “the Secretary of State”. 25
- 55 (1) Section 23 (slavery and trafficking risk orders) is amended as follows.
- (2) In subsection (1), for paragraph (d) substitute –
- “(ca) if it appears that an offence under this Part which is a labour market offence has been, is being or may be committed, the Secretary of State.” 30
- (3) In subsection (6) –
- (a) for “Gangmasters and Labour Abuse Authority” substitute “Secretary of State”;
- (b) for “the Authority” substitute “the Secretary of State”. 35
- (4) In subsection (7)(b) –
- (a) for “Gangmasters and Labour Abuse Authority” substitute “Secretary of State”;
- (b) for “the Authority” substitute “the Secretary of State”. 40

- 56 In section 26 (requirement to provide name and address), in subsection (7) –
- (a) for “Gangmasters and Labour Abuse Authority” substitute “Secretary of State”;
 - (b) for “the Authority” substitute “the Secretary of State”. 5
- 57 (1) Section 27 (variation, renewal and discharge) is amended as follows.
- (2) In subsection (2)(g), for “the Gangmasters and Labour Abuse Authority, the Authority” substitute “the Secretary of State, the Secretary of State”.
 - (3) In subsection (7) –
- (a) for “Gangmasters and Labour Abuse Authority” substitute “Secretary of State”; 10
 - (b) for “the Authority”, in both places it occurs, substitute “the Secretary of State”.
- 58 Omit section 30A (enforcement of Part 2 by Gangmasters and Labour Abuse Authority). 15
- 59 In section 33 (guidance), in subsection (1), for “, the Director General of the National Crime Agency and the Gangmasters and Labour Abuse Authority” substitute “and the Director General of the National Crime Agency”.
- 60 In section 34 (interpretation of Part 2), in subsection (1), after the definition of “interim slavery and trafficking risk order” insert – 20
- ““labour market offence” has the same meaning as in Part 5 of the Employment Rights Act 2025;”.

PART 2

OTHER CONSEQUENTIAL AMENDMENTS 25

Public Records Act 1958

- 61 In Schedule 1 to the Public Records Act 1958 (definition of public records), in Part 2 of the Table at the end of paragraph 3, omit the entry relating to the Gangmasters and Labour Abuse Authority.

Parliamentary Commissioner Act 1967 30

- 62 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc subject to investigation), omit the entries relating to –
- (a) the Director of Labour Market Enforcement, and
 - (b) the Gangmasters and Labour Abuse Authority.

Superannuation Act 1972 35

- 63 In Schedule 1 to the Superannuation Act 1972 (kinds of employment to which that Act applies), omit the entries relating to –

- (a) the Director of Labour Market Enforcement, and
- (b) the Gangmasters and Labour Abuse Authority.

House of Commons Disqualification Act 1975

- 64 In Schedule 1 to the House of Commons Disqualification Act 1975 (offices disqualifying for membership) – 5
- (a) in Part 2, omit the entry relating to the Gangmasters and Labour Abuse Authority;
 - (b) in Part 3, omit the entry relating to the Director of Labour Market Enforcement.

Northern Ireland Assembly Disqualification Act 1975 10

- 65 In Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (offices disqualifying for membership) –
- (a) in Part 2, omit the entry relating to the Gangmasters and Labour Abuse Authority;
 - (b) in Part 3, omit the entry relating to the Director of Labour Market Enforcement. 15

Employment Protection Act 1975

- 66 In Schedule 13 to the Employment Protection Act 1975, omit paragraph 6.

Police and Criminal Evidence Act 1984

- 67 (1) Section 114B of the Police and Criminal Evidence Act 1984 (application of Act to labour abuse prevention officers) is amended as follows. 20
- (2) In the heading, for “labour abuse prevention officers” substitute “enforcement officers”.
 - (3) In subsection (1), for “labour abuse prevention officers” substitute “enforcement officers”. 25
 - (4) Omit subsections (3) and (4).
 - (5) In subsection (11) –
 - (a) after the definition of “enactment” insert –
 - ““enforcement officer” has the meaning given by section 72(3) of the Employment Rights Act 2025;”;
 - (b) for the definition of “labour market offence” substitute –
 - ““labour market offence” has the same meaning as in Part 5 of the Employment Rights Act 2025 (see section 112(1) of that Act).”

Companies Act 1985 35

- 68 In Schedule 15C to the Companies Act 1985, omit paragraph 7D.

Trade Union and Labour Relations (Consolidation) Act 1992

- 69 In section 251B of the Trade Union and Labour Relations (Consolidation) Act 1992 (prohibition on disclosure of information), in subsection (2), omit paragraph (ca).

Deregulation and Contracting Out Act 1994

5

- 70 In Schedule 10 to the Deregulation and Contracting Out Act 1994, omit paragraph 1(4).

Employment Relations Act 1999

- 71 In Schedule 7 to the Employment Relations Act 1999, omit paragraph 4.

Immigration and Asylum Act 1999

10

- 72 In Schedule A1 to the Immigration and Asylum Act 1999, omit paragraph 17.

Finance Act 2000

- 73 In the Finance Act 2000, omit section 148 (use of minimum wage information).

15

Regulation of Investigatory Powers Act 2000

- 74 In Part 1 of Schedule 1 to the Regulation of Investigatory Powers Act 2000 (relevant public authorities for purposes of sections 28 and 29 of that Act), omit paragraph 20E.

Freedom of Information Act 2000

20

- 75 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (bodies etc that are public authorities for the purposes of the Act), omit the entries relating to—

- (a) the Director of Labour Market Enforcement, and
- (b) the Gangmasters and Labour Abuse Authority.

25

Police Reform Act 2002

- 76 (1) The Police Reform Act 2002 is amended as follows.
- (2) In section 10 (general functions of the Independent Police Complaints Commission)—
- (a) in subsection (1), for paragraph (ga) substitute—

30

“(ga) to carry out such corresponding functions in relation to enforcement officers (within the meaning of Part 5 of the Employment Rights Act 2025) who are authorised to exercise powers under the Police and

Criminal Evidence Act 1984 (see section 114B of that Act);”;

(b) in subsection (3), omit paragraph (bd).

(3) Omit section 26D (labour abuse prevention officers).

Employment Relations Act 2004 5

77 In Schedule 1 to the Employment Relations Act 2004, omit paragraphs 40 and 41.

Civil Partnership Act 2004

78 In Schedule 27 to the Civil Partnership Act 2004, omit paragraph 155.

Pensions Act 2004 10

79 In Schedule 3 to the Pensions Act 2004 (certain permitted disclosures of restricted information held by the Pensions Regulator), omit the entry relating to the Director of Labour Market Enforcement.

Serious Organised Crime and Police Act 2005

80 In Schedule 7 to the Serious Organised Crime and Police Act 2005, omit paragraph 62. 15

Natural Environment and Rural Communities Act 2006

81 In Schedule 7 to the Natural Environment and Rural Communities Act 2006 (designated bodies), omit paragraph 13.

Regulatory Enforcement and Sanctions Act 2008 20

82 In Schedule 5 to the Regulatory Enforcement and Sanctions Act 2008 (designated regulators), omit the entry relating to the Gangmasters and Labour Abuse Authority.

Employment Act 2008

83 In the Employment Act 2008, omit sections 16 and 18. 25

Equality Act 2010

84 In Schedule 19 to the Equality Act 2010 (public authorities subject to public sector equality duty), omit the entry relating to the Gangmasters and Labour Abuse Authority.

Financial Services Act 2012 30

85 In Schedule 18 to the Financial Services Act 2012, omit paragraph 36.

Modern Slavery Act 2015

- 86 (1) The Modern Slavery Act 2015 is amended as follows.
- (2) In section 52 (duty to notify Secretary of State about suspected victims of slavery or human trafficking), in subsection (5), omit paragraph (k).
- (3) Omit section 54A (Gangmasters and Labour Abuse Authority: information gateways). 5
- (4) In section 58(4) (regulations), omit paragraph (ja).
- (5) In section 60 (extent) –
- (a) in subsection (1), omit “and section 54A, and Schedule 4A, in Part 7”; 10
- (b) in subsection (3), omit “(except for section 54A and Schedule 4A)”.
- (6) In Schedule 3, omit the following –
- (a) the entry relating to the Gangmasters and Labour Abuse Authority;
- (b) the entry relating to the Director of Labour Market Enforcement;
- (c) the heading “Regulators”. 15
- (7) Omit Schedule 4A.

Small Business, Enterprise and Employment Act 2015

- 87 In section 150 of the Small Business, Enterprise and Employment Act 2015, omit subsection (7).

Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 20

- 88 In Schedule 3 to the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2 (N.I.)) (slavery and trafficking prevention orders), in Part 3, in paragraph 18(7)(e), omit “or the Gangmasters and Labour Abuse Authority”. 25

Immigration Act 2016

- 89 In the Immigration Act 2016, omit the following –
- (a) sections 2 to 9;
- (b) section 10;
- (c) section 11(2); 30
- (d) section 12(2);
- (e) section 13;
- (f) sections 14 to 30;
- (g) sections 32 and 33;
- (h) in Schedule 2, paragraphs 1 to 7, 9, 16 and 17; 35
- (i) in Schedule 3, paragraphs 1 to 9, 11, 12, 14 to 16, 17(b), 18 to 22, 23(4)(b), 24(2) and (3) and 25 to 36.

Investigatory Powers Act 2016

- 90 (1) The Investigatory Powers Act 2016 is amended as follows.
- (2) In Part 1 of Schedule 4, in the Table, omit the entry relating to the Gangmasters and Labour Abuse Authority.
- (3) In Schedule 10, omit paragraph 35. 5

Policing and Crime Act 2017

- 91 In Schedule 9 to the Policing and Crime Act 2017, omit paragraph 36.

Data Protection Act 2018

- 92 In Schedule 19 to the Data Protection Act 2018, omit paragraphs 191 and 197. 10

Procurement Act 2023

- 93 (1) The Procurement Act 2023 is amended as follows.
- (2) In Part 1 of Schedule 6 (mandatory exclusion grounds: offences), in paragraph 26, for “section 27 of the Immigration Act 2016” substitute “section 102 of the Employment Rights Act 2025”. 15
- (3) In Schedule 7 (discretionary exclusion grounds), in paragraph 1(d), for “section 18 of the Immigration Act 2016” substitute “section 88 of the Employment Rights Act 2025”.

SCHEDULE 7

Section 110(2) and (3)

TRANSITIONAL AND SAVING PROVISION RELATING TO PART 5 20

PART 1

ABOLITION OF EXISTING ENFORCEMENT AUTHORITIES: TRANSFER SCHEMES

Staff transfer schemes

- 1 (1) The Secretary of State may make a scheme (a “staff transfer scheme”) providing— 25
- (a) for a designated employee of the GLAA to become a member of staff of the Secretary of State (and accordingly to become employed in the civil service of the state);
- (b) so far as may be consistent with employment in the civil service of the state, for the terms and conditions of the employee’s employment with the GLAA to have effect as if they were the conditions of service as a member of the Secretary of State’s staff; 30

- (c) for the transfer to the Secretary of State of the rights, powers, duties and liabilities of the GLAA under or in connection with the employee’s contract of employment;
 - (d) for anything done (or having effect as if done) before that transfer by or in relation to the GLAA in respect of such a contract or the employee to be treated as having been done by or in relation to the Secretary of State. 5
- (2) A staff transfer scheme may provide for a period before the employee became a member of the Secretary of State’s staff to count as a period during which the employee was a member of the Secretary of State’s staff (and for the operation of the scheme not to be treated as having interrupted the continuity of that period). 10
- (3) A staff transfer scheme may provide for the employee not to become a member of the Secretary of State’s staff if the employee gives notice objecting to the operation of the scheme in relation to the employee. 15
- (4) A staff transfer scheme may provide for a person who would be treated (by an enactment or otherwise) as being dismissed by the operation of the scheme not to be so treated.
- (5) A staff transfer scheme may provide for an employee of the GLAA to become a member of the Secretary of State’s staff despite any provision, of whatever nature, which would otherwise prevent the person from being employed in the civil service of the state. 20

Property transfer schemes

- 2 (1) The Secretary of State may make a scheme (a “property transfer scheme”) providing for the transfer from the GLAA or the Director to the Secretary of State of designated property, rights or liabilities. 25
- (2) A property transfer scheme may –
 - (a) create rights, or impose liabilities, in relation to property or rights transferred by virtue of the scheme;
 - (b) provide for anything done by or in relation to the GLAA or the Director in connection with any property, rights or liabilities transferred by the scheme to be treated as done, or to be continued, by or in relation to the Secretary of State; 30
 - (c) apportion property, rights and liabilities;
 - (d) make provision about the continuation of legal proceedings. 35
- (3) The things that may be transferred by a property transfer scheme include –
 - (a) property, rights and liabilities that could not otherwise be transferred;
 - (b) property acquired, and rights and liabilities arising, after the making of the scheme. 40

Continuity

- 3 A transfer by virtue of a staff transfer scheme or a property transfer scheme does not affect the validity of anything done by or in relation to the GLAA or the Director before the transfer takes effect.

Supplementary provision, etc

5

- 4 A staff transfer scheme or a property transfer scheme may include supplementary, incidental, transitional or consequential provision.

Interpretation

- 5 In this Part of this Schedule—
- “designated”, in relation to a staff transfer scheme or a property transfer scheme, means specified in, or determined in accordance with, the scheme; 10
 - “the Director” means the Director of Labour Market Enforcement;
 - “the GLAA” means the Gangmasters and Labour Abuse Authority.

PART 2

15

OTHER TRANSITIONAL AND SAVING PROVISION

General

- 6 (1) Anything which—
- (a) was done by a relevant person for the purpose of, or in connection with, any function of the person under a provision amended or repealed by Part 1 of Schedule 6, and 20
 - (b) is in effect immediately before the day on which the amendment or repeal comes into force,
- has effect, on and after that day, as if done by the Secretary of State.
- (2) Anything (including legal proceedings) which— 25
- (a) relates to a function of a relevant person under a provision amended or repealed by Part 1 of Schedule 6, and
 - (b) immediately before the day on which the amendment or repeal comes into force, is in the process of being done by or in relation to that person, 30
- may be continued, on and after that day, by or in relation to the Secretary of State.
- (3) Where anything mentioned in sub-paragraph (1) or (2) was done, or is in the process of being done, under a provision repealed by Schedule 6, that thing has effect as if done under, or may be continued under, the corresponding provision of this Act. 35
- (4) In this paragraph “relevant person” means—

- (a) an officer acting for the purposes of the Employment Agencies Act 1973;
- (b) an officer acting for the purposes of the National Minimum Wage Act 1998;
- (c) the Gangmasters and Labour Abuse Authority; 5
- (d) an officer of that Authority;
- (e) an enforcement officer acting for the purposes of the Gangmasters (Licensing) Act 2004, other than an enforcement officer appointed by virtue of paragraph 15 of Schedule 2 to that Act (enforcement officers in Northern Ireland); 10
- (f) a compliance officer acting for the purposes of that Act.

Powers to obtain documents etc

- 7 (1) Any requirement to provide documents or information which—
- (a) was made under a repealed provision before the commencement day, and 15
 - (b) immediately before the commencement day, has not been complied with,
- is to be treated, on and after that day, as having been made under the corresponding provision of this Act.
- (2) Any document which, immediately before the commencement day, was retained in the exercise of a power conferred by a repealed provision is to be treated, on and after that day, as retained under section 81. 20
- (3) In this paragraph—
- “the commencement day”, in relation to a repealed provision, means the day on which the repeal comes into force; 25
 - “repealed provision” means a provision repealed by Part 1 of Schedule 6.

LME undertakings and orders

- 8 (1) Anything which—
- (a) was done by an enforcing authority for the purpose of, or in connection with, any of sections 14 to 30 of the Immigration Act 2016 (“the 2016 Act”), and 30
 - (b) is in effect immediately before the commencement day,
- has effect, on and after that day, as if done by the Secretary of State under the corresponding provision of this Act. 35
- (2) Anything (including legal proceedings) which—
- (a) relates to a function of an enforcing authority under any of sections 14 to 30 of the 2016 Act, and
 - (b) immediately before the commencement day, is in the process of being done by or in relation to that person, 40

may be continued, on and after that day, by or in relation to the Secretary of State under the corresponding provision of this Act.

(3) Accordingly –

- (a) any undertaking given under section 14(3) of the 2016 Act and having effect immediately before the commencement day is to be treated, on and after that day, as an LME undertaking; 5
- (b) any order made under section 18 or 20 of the 2016 Act and having effect immediately before the commencement day is to be treated, on and after that day, as an LME order.

(4) In this paragraph – 10

“the commencement day” means the day on which the repeal of sections 14 to 30 of the 2016 Act comes into force;

“enforcing authority” has the meaning given by section 14(5) of the 2016 Act (as it had effect immediately before the commencement day). 15

Disclosure of information

- 9 Any reference in section 98 to information obtained by the Secretary of State in connection with the exercise of any enforcement function includes a reference to any information which, immediately before the coming into force of that section, is held by the Director of Labour Market Enforcement. 20

Slavery and trafficking prevention orders

- 10 The reference in paragraph 20(2)(b) of Schedule 4 to an investigation conducted by or on behalf of the Secretary of State includes, in relation to any order made under section 14 of the Modern Slavery Act 2015 before the coming into force of that paragraph, a reference to an investigation conducted by a labour abuse prevention officer (within the meaning of section 114B of the Police and Criminal Evidence Act 1984 as that section had effect before the coming into force of paragraph 67 of Schedule 6). 25

Enforcement of agricultural wages legislation

- 11 The amendments made by paragraphs 17 to 28 of Schedule 6 do not affect any provision of the National Minimum Wage Act 1998 so far as it has effect for the purposes of any of the following – 30
- (a) the Agricultural Wages Act 1948;
 - (b) the Agricultural Sector (Wales) Act 2014 (anaw 6);
 - (c) the Agricultural Wages (Scotland) Act 1949; 35
 - (d) the Agricultural Wages (Regulation) (Northern Ireland) Order 1977 (S.I. 1977/2151 (N.I. 22)).

Appeals under the Gangmasters (Licensing) Act 2004: Northern Ireland licences

- 12 The amendment made by paragraph 49(5) of Schedule 6 does not affect any regulations under section 10 of the Gangmasters (Licensing) Act 2004 (appeals) made by a Northern Ireland department in reliance on paragraph 11 of Schedule 2 to that Act as that paragraph had effect immediately before the coming into force of that amendment.

5

Employment Rights Bill

[AS INTRODUCED]

A

B I L L

TO

Make provision to amend the law relating to employment rights; to make provision about procedure for handling redundancies; to make provision about the treatment of workers involved in the supply of services under certain public contracts; to provide for duties to be imposed on employers in relation to equality; to provide for the establishment of the School Support Staff Negotiating Body and the Adult Social Care Negotiating Body; to make provision about trade unions, industrial action, employers' associations and the functions of the Certification Officer; to make provision about the enforcement of legislation relating to the labour market; and for connected purposes.

*Presented by Secretary Jonathan Reynolds
supported by the Prime Minister,
Secretary Angela Rayner,
the Chancellor of the Exchequer, Pat McFadden,
Secretary Bridget Phillipson, Secretary Liz Kendall,
Secretary Louise Haigh, Anneliese Dodds and
Justin Madders.*

Ordered, by The House of Commons, to be
Printed, 10th October 2024.

© Parliamentary copyright House of Commons 2024
*This publication may be reproduced under the terms of the Open Parliament Licence, which is published at
www.parliament.uk/site-information/copyright*

PUBLISHED BY THE AUTHORITY OF THE HOUSE OF COMMONS