

Research Briefing

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Strikes (Minimum Service Levels) Bill: Lords stages and amendments



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Summary

The [Strikes \(Minimum Service Levels\) Bill 2022-23](#) completed its Commons stages on 30 January 2023. The Bill passed second reading in the Lords on 21 February 2023 and committee stage on 9 March 2023. The Bill passed third reading on 9 May 2023 and was returned to the Commons with amendments. The Commons will consider Lords amendments on 22 May.

For information on the Bill itself, including background, original content and general commentary, see the [Commons Library briefing paper on the bill](#).

Committee reports

Since the Bill completed its Commons stages on 30 January 2023, three committees have issued reports on the bill, each of which have been critical of the government’s approach to different aspects of the Bill.

The [Regulatory Policy Committee’s opinion published on 21 February](#) “Red-rated” the government’s impact assessment for the Bill as “not-fit-for-purpose.”

The [House of Lords Delegated Powers and Regulatory Reform Committee report on 2 March 2023](#) [PDF] drew the House’s attention to two of the delegated powers in the bill; the power to make minimum service regulations and to define the scope of the services affected. The committee concluded that both of these powers should be seen as inappropriate, barring a better explanation from the government.

The [Joint Committee on Human Rights’ report on the bill, published on 6 March](#), expressed concerns that the bill, in particular the potential penalties it imposed on unions and workers for non-compliance, risked contravening Article 11 of the European Convention on Human Rights (ECHR). The committee recommended the Bill be amended in several ways. [The government disagreed with the recommendations](#) and said the proposed amendments were unnecessary.

Amendments

At report stage on 26 April the Lords agreed to five amendments to the bill; one (**Amendment 2** – now numbered 3 on the list for Commons consideration) at the proposal of the government and four following a division which the

government opposed. Two further amendments were moved but then withdrawn.

The five substantive amendments agreed to at report stage were:

- **Amendment 1** (now No. 2) – to require the government to conduct, and parliament to review, a consultation, before the new powers to create minimum service regulations could be used
- **Amendment 2** (now No. 3) – to expand the protection the Bill offers trade union members against being unfairly identified in work notices, to cover other aspects of union activities
- **Amendments 4 and 5** – to prevent unions being sued or workers being dismissed or penalised for failing to comply with work notices
- **Amendment 7** (now No. 1) – to limit the application of the Bill to England only, excluding Scotland and Wales from its effects

[At third reading](#) Parliamentary Under-Secretary of State Lord Callanan, summing up for the government, expressed his disappointment with the amendments that had been passed at report stage, saying:

I am disappointed that the Bill leaves this House in a condition which is not as the Government would have preferred. I hope that the upcoming consideration of the amendments in the other place will present an opportunity for the elected House to reconsider the Bill

Two other minor consequential amendments were agreed at third reading.

The Commons will consider the Lords amendments on Monday 22 May 2023. The Government has tabled motions to disagree with all of the Lords amendments except for what was **Lords Amendment 2** (now numbered 3 on the list of Lords amendments for Commons consideration).

1 Committee reports

The [Strikes \(Minimum Service Levels\) Bill 2022-23 completed its Commons stages on 30 January 2023](#). The Bill passed second reading in the Lords on 21 February 2023 and committee stage on 9 March 2023. The Bill passed third reading on 9 May 2023 and was returned to the Commons with amendments.

For information on the Bill itself, including background, original content and general commentary, see the [Commons Library briefing paper on the bill](#).

Following the completion of the Bill's Commons stages, three committees have published reports examining the Bill.

1.1 Regulatory Policy Committee

The Regulatory Policy Committee (RPC) (an independent regulatory scrutiny body for the UK Government) published [an opinion on the impact assessment](#) for the Strikes (Minimum Service Levels) Bill on 21 February 2023. The RPC opinion red-rated the impact assessment as “not-fit-for-purpose”.¹

The RPC was critical of the fact that the impact assessment was only released by the government several weeks after the introduction of the Bill.

The RPC accepted that the “specific choice of sector and minimum service level will be defined by later secondary legislation”, adding that they “would expect detailed analysis to be conducted at the secondary legislation stage.”²

However, the RPC specifically red-rated the small and micro business (SMB) part of the impact assessment, saying:

The Department includes some statistics outlining the number of SMBs across affected sectors, but does not include sufficient discussion of the specific impacts SMBs may face. The IA has not considered mitigation for SMBs who may be disproportionately impacted³

As a result of the red-rating of this one aspect, the entire impact assessment was red-rated.

¹ Regulatory Policy Committee, [Strikes \(Minimum Service Levels\) Bill: RPC Opinion \(Red-rated\)](#), 20 February 2023

² Regulatory Policy Committee, [Strikes \(Minimum Service Levels\) Bill: RPC Opinion \(Red-rated\)](#), 20 February 2023, p1

³ Regulatory Policy Committee, [Strikes \(Minimum Service Levels\) Bill: RPC Opinion \(Red-rated\)](#), 20 February 2023, p3

1.2

Delegated Powers and Regulatory Reform Committee

The House of Lords Delegated Powers and Regulatory Reform Committee examined the Bill in their 27th Report published on 2 March 2023.⁴ They drew the House’s attention to two of the delegated powers in the Schedule to the bill; the power to create minimum service regulations under new section 234B(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 and the accompanying power, under new section 234B(3), to define the scope of “relevant services” affected by the regulations.

The committee was critical of the bill’s lack of detail on what the extent or scope of minimum service levels would be, noting that:

there is nothing in the Bill saying what those minimum service levels are. We shall only know when Ministers make regulations after the Bill is enacted. This is small comfort to Parliament, which is considering the matter right now.⁵

The committee took issue with the government claim that the detail of the minimum service levels “is not appropriate for primary legislation”, saying:

the Memorandum does not explain **why** setting out **any** detail on the face of the Bill would be inappropriate. Parliament is not allergic to matters of detail, particularly where it relates to an important matter such as the right to strike.⁶

In the committee’s view, the new powers were significant enough to justify them being included on the face of the bill, rather than left to future regulations. The committee criticised the government for not publishing indicative draft regulations alongside the Bill to assist in parliamentary scrutiny, commenting that “the Government must have some idea how they propose to exercise these powers”.⁷

The committee concluded that both of these new delegated powers should be seen as inappropriate, unless a better explanation from the government was forthcoming, saying:

Given the absence of an exhaustive or non-exhaustive list in the Bill of the matters that can be included in regulations, the unconvincing reasons for this power in the Memorandum, and the absence of indicative draft regulations illustrating how the power might be exercised, the House may wish to press the Minister to provide an explanation of how the power to set minimum service

⁴ [House of Lords Delegated Powers and Regulatory Reform Committee, 27th Report of Session 2022-23, 2 March 2023 \[PDF\]](#)

⁵ [House of Lords Delegated Powers and Regulatory Reform Committee, 27th Report of Session 2022-23, 2 March 2023 \[PDF\]](#), para 15

⁶ [House of Lords Delegated Powers and Regulatory Reform Committee, 27th Report of Session 2022-23, 2 March 2023 \[PDF\]](#), para 17

⁷ [House of Lords Delegated Powers and Regulatory Reform Committee, 27th Report of Session 2022-23, 2 March 2023 \[PDF\]](#), para 22

levels in new section 234B(1) of the 1992 Act is likely to be exercised. In the absence of a satisfactory explanation, we regard the power as inappropriate.⁸

1.3

Joint Committee on Human Rights

The Joint Committee on Human Rights conducted legislative scrutiny of the Strikes (Minimum Service Levels) Bill. [Their report](#) was published on 6 March 2023.⁹

The committee noted in their report that the relevant protections for strike action are offered by Article 11 of the European Convention on Human Rights (ECHR), which forms part of domestic law through the Human Rights Act 1998. They noted that “Article 11 provides a qualified, not an absolute, right.”¹⁰

In current law, under section 219 of the Trade Union and Labour Relations (Consolidation) Act 1992, trade unions enjoy protection against liability in tort for any strike they organise, providing they comply with certain other legal requirements.

The original text of the Strikes (Minimum Service Levels) Bill would, through the insertion of new section 234E to TULRCA, remove this for protection for any strike a union induces people to take part in where the union fails to “take reasonable steps” to ensure that all workers that have been identified and requested to work by a work notice comply with that notice.

The removal of this protected status also means that in such cases all workers (not just those who act contrary to work notices) who take part in the strike would lose their protection from unfair dismissal. The committee noted this consequence in its report and expressed concern that it was not spelled out in the explanatory notes accompanying the Bill, saying:

A substantial additional consequence of the strike losing legal protection is that any employee taking part in the strike would be deprived of the presumption that an employee dismissed as a result of taking strike action was unfairly dismissed. This significant consequence is not mentioned in the explanatory notes that accompanied the Bill, a concerning oversight that we initially presumed meant that the consequence was not deliberate. In his letter to the Chair of the Committee, however, the Minister confirmed this consequence was intended as a way of ensuring consistency between MSLs [Minimum Service Levels] and the existing legal framework¹¹

⁸ [House of Lords Delegated Powers and Regulatory Reform Committee, 27th Report of Session 2022-23, 2 March 2023](#) [PDF], para 23

⁹ Joint Committee on Human Rights, [Legislative Scrutiny: Strikes \(Minimum Service Levels\) Bill 2022-2023, Tenth Report of Session 2022-23](#), 6 March 2023

¹⁰ Joint Committee on Human Rights, [Legislative Scrutiny: Strikes \(Minimum Service Levels\) Bill 2022-2023, Tenth Report of Session 2022-23](#), 6 March 2023, para 18

¹¹ Joint Committee on Human Rights, [Legislative Scrutiny: Strikes \(Minimum Service Levels\) Bill 2022-2023, Tenth Report of Session 2022-23](#), 6 March 2023, para 25

Discussing this part of the Bill further, the committee concluded that the seriousness of these consequences, given the lack of clarity as to what “reasonable steps” may involve, risked contravening the rights in ECHR Article 11.¹² Overall the committee also felt that the penalties imposed on unions and workers for failing to comply with the requirements of the Bill would be “severe” and “may amount to a disproportionate interference with Article 11, particularly in circumstances where the strike does not involve essential services and risks to life and limb.”¹³

The committee was also concerned by the scope of the powers to define minimum service levels that the Bill would grant to the Secretary of State, concluding that:

the Bill arguably contains insufficient protection against arbitrary interference with Article 11 rights. The Bill should be amended to provide some limits on the level of service that the Secretary of State can require.¹⁴

The committee had further concerns relating to the proportionality of the measures and the justification for them, saying:

The Government has not convinced us that there is a “pressing social need” for imposing minimum service levels across the breadth of categories currently set out in the Bill.¹⁵

The committee recommended the Bill be amended and included a series of suggested draft amendments in the Annex to their report. While none of these suggested amendments match the exact wordings of amendments introduced during the Lords stages, the committee’s suggested Amendment 4 is similar in intent to what was ultimately passed as Amendment 2, while the intent of the committee’s suggested Amendment 5 would be covered by the combined effect of Amendments 4 and 5 that were made to the Bill on report stage.

Government response

In their [response to the report](#) the government disagreed with the committee’s findings and stated the proposed amendments were unnecessary.

On the point of the difficulty in defining “reasonable steps”, the government noted that “The use of ‘reasonable steps’ in legal drafting is also common across many other pieces of existing legislation.”¹⁶

¹² Joint Committee on Human Rights, [Legislative Scrutiny: Strikes \(Minimum Service Levels\) Bill 2022–2023, Tenth Report of Session 2022–23](#), 6 March 2023, para 37

¹³ Joint Committee on Human Rights, [Legislative Scrutiny: Strikes \(Minimum Service Levels\) Bill 2022–2023, Tenth Report of Session 2022–23](#), 6 March 2023, para 84

¹⁴ Joint Committee on Human Rights, [Legislative Scrutiny: Strikes \(Minimum Service Levels\) Bill 2022–2023, Tenth Report of Session 2022–23](#), 6 March 2023, para 39

¹⁵ Joint Committee on Human Rights, [Legislative Scrutiny: Strikes \(Minimum Service Levels\) Bill 2022–2023, Tenth Report of Session 2022–23](#), 6 March 2023, para 53

¹⁶ Joint Committee on Human Rights, [Legislative Scrutiny: Strikes \(Minimum Service Levels\) Bill: Government response to the Committee’s Tenth Report](#), 27 April 2023, p3

On the question of the unlimited nature of the government's power to set minimum service levels, the government stated that restricting this in the text of the Bill was unnecessary given that any regulations made would have to be compliant with ECHR Article 11 in any case, adding:

This is because section 3 of the Human Rights Act (HRA) 1998 requires subordinate legislation (and primary legislation) to be read and given effect in a way which is compatible with Convention rights¹⁷

¹⁷ As above

2

Lords second reading

The Bill passed its second reading in the House of Lords on 21 February 2023, without division.

Parliamentary Under-Secretary of State Lord Callanan opened the debate, arguing that the Bill was needed to ensure that “when strikes occur, people’s lives and livelihoods are not put at undue risk”, and that the bill:

aims to maintain a reasonable balance between the ability of workers to strike and the rights and freedoms of the public to access essential services during those strikes.¹⁸

Labour Peer Baroness O’Grady responded by describing the Bill as a “skeleton bill” that would violate principles of democratic scrutiny, devolution and human rights, saying it would:

give the Secretary of State sweeping powers and deny proper parliamentary scrutiny and accountability. It also seeks to override the authority of the Scottish Parliament and the Welsh Parliament. By attacking the fundamental freedoms of working people, it almost certainly contravenes international law, including ILO convention 87, which the UK signed up to.¹⁹

All Labour, Liberal Democrat, Green Party, Crossbench Peers and Bishops who spoke were opposed to the Bill. Conservative Peers spoke largely in favour of the bill, such as Lords Dobbs who said: “it is a Bill that aims to restore that vital balance between rights and responsibilities, without which freedoms, jobs and basic rights die.”²⁰

A few Conservative Peers raised concerns about the bill, such as Baroness Browning saying “why is it needed?”²¹ or Lord Balfe saying “This is an unnecessary Bill.... it will achieve nothing and should be dropped”.²² Others supported the principle of the Bill but raised concerns about the procedural approach taken by the government, such as Conservative Peer Baroness Noakes who said:

I strongly support the Bill, but I am not uncritical of the way that the Government are seeking to get it through Parliament. Parliament should not be expected to pass laws without an understanding of the scale and scope of the impact that they will have.²³

¹⁸ [HL Deb 21 February 2023 c1562](#)

¹⁹ [HL Deb 21 February 2023 c1564](#)

²⁰ [HL Deb 21 February 2023 c1576](#)

²¹ [HL Deb 21 February 2023 c1570](#)

²² [HL Deb 21 February 2023 c1602](#)

²³ [HL Deb 21 February 2023 c1593](#)

3 Lords committee stage

Lords committee stage took place on 9 March 2023. Six amendments were moved during this stage, all by Labour or Liberal Democrat Peers, but all six were withdrawn without putting them to a vote.

The amendments would have, variously:

- Prevented minimum service levels from being applied to strikes which were already balloted for before the Bill has been passed.²⁴
- Removed one of the listed sectors such as health, education, or transport services from the scope of the Bill.²⁵
- Prevented regulations from setting minimum service levels that were “higher than the actual level of service recorded by the relevant service” over the previous year.²⁶

²⁴ Amendment 1; see [HL Deb 9 March 2023 c893](#)

²⁵ Amendments 3, 6 and 8 respectively; see [HL Deb 9 March 2023 cc922, 955 and 968](#)

²⁶ Amendment 13; see [HL Deb 9 March 2023 c982](#)

4 Lords report stage

The Bill passed report stage on 26 April 2023.

In total the Lords agreed to five amendments to the Bill during report stage; one (Amendment 2) at the proposal of the government and four following a division which the government opposed. Two further amendments were moved but then withdrawn.

4.1 Amendment 1

Amendment 1 (numbered 2 on the list of Lords amendments for Commons consideration) would require the government to carry out a consultation, which must then be reviewed by a committee of each House, before the government can use any of the new powers to create minimum service regulations.

Amendment 1 was moved by Liberal Democrat Peer Lord Fox, who described it as “a modest amendment that in no way impedes the purpose of the Bill. It is about democratic process.”²⁷

In moving the amendment Lord Fox cited the criticisms of the “skeletal” nature of the Bill that had been raised by Conservative MP Jacob Rees-Mogg during third reading in the House of Commons, as well as criticisms from the Delegated Powers and Regulatory Reform Committee discussed above.²⁸

Crossbench Peer Baroness Meacher and Labour Peer Lord Collins of Highbury spoke briefly in favour of the amendment. Parliamentary Under-Secretary of State Lord Callanan, responding for the government, expressed the view that “sufficient checks and balances are already built into the legislation before regulations can be made” and opposed the amendment on the grounds that it “adds unnecessary duplication into the process”.²⁹

Amendment 1 was put to a vote and was agreed to on a division with 221 votes in favour and 197 against.³⁰

²⁷ [HL Deb 26 April 2023 c1224](#)

²⁸ [HL Deb 26 April 2023 c1223](#)

²⁹ [HL Deb 26 April 2023 c1225](#)

³⁰ [HL Deb 26 April 2023 cc1226-1228](#)

4.2

Amendment 2

Amendment 2 (numbered 3 on the list of Lords amendments for Commons consideration) would expand the text that prohibits employers from having regard to workers’ trade union status when deciding which workers to identify in work notices. The original text of the Bill stated that employers must not have regard to:

whether the person is or is not a member of a trade union (or a particular trade union).

The amended text would expand this restriction to additionally include whether people have taken part in union activities; made use of union services; or have had, or consented to, issues being raised by a trade union on their behalf.

Amendment 2 was moved by the Parliamentary Under-Secretary of State Lord Callanan, on behalf of the government. Lord Callanan explained that this amendment was introduced in response to feedback from the Joint Committee on Human Rights and concerns raised by Lord Hendy during the Lords committee stage. Lord Callanan expressed his hope “that the amendment provides further reassurance to the House, in addition to trade unions and workers, putting the issue of trade union discrimination in relation to work notices beyond doubt.”³¹

Amendment 2 was agreed to without division.

4.3

Amendments 4 and 5

Amendments 4 and 5 would prevent the Bill from removing protections for trade unions against liability and protections from workers against dismissal. Amendment 5 specifically would remove the loss of protection against liability in cases of unions failing to take “reasonable steps” to ensure work notices are complied with, along with a corresponding loss of unfair dismissal protections for all workers in those cases. Amendment specifically seeks to protect individual workers against detriment or dismissal in cases where they fail to comply with work notices.

Amendment 5

In current law, under section 219 of TULRCA, trade unions enjoy protection against liability in tort for any strike they organise, providing they comply with certain other legal requirements.

³¹ [HL Deb 26 April 2023 c1229](#)

The original text of the Bill would, through the insertion of new section 234E to TULRCA, remove this for protection for any strike a union induces people to take part in where the union fails to “take reasonable steps” to ensure that all workers that have been identified and requested to work by a work notice comply with that notice.

The removal of this protected status also means that in such cases all workers (not just those who act contrary to work notices) who take part in the strike would lose their protection from unfair dismissal. This is due to the wording of subsection 238A(1) of TULRCA which states:

For the purposes of this section an employee takes protected industrial action if he commits an act which, or a series of acts each of which, he is induced to commit by an act which by virtue of section 219 is not actionable in tort.

As acts to induce workers to take part in strikes would no longer be protected against tort action under section 219 if the union “fails to take reasonable steps” under new section 234E(b), any workers taking part in such strikes would lose their protection from dismissal under section 238A, even if they personally complied with the work notices

Amendment 5 deletes all of the text that would cause this change, so would keep the existing protections for trade unions in law. This would prevent workers from losing their enhanced unfair dismissal protections where the union did not meet the taking “reasonable steps” test to ensure all workers were complying with work notices.

Amendment 5 was moved by Labour Peer Lord Collins of Highbury, who argued that the removal of trade union protections under the Bill “undermine the democratic role of trade unions”, adding:

This is not about minimum service levels; as we have said previously, these are properly and better addressed voluntarily. If this provision remains, it will simply undermine the role of trade unions.³²

Amendment 5 was put to a vote and was agreed to on a division with 220 votes in favour and 196 against.³³

Amendment 4

Section 238A normally grants striking employees protection by making any dismissal for taking “protected industrial action” automatically unfair.

Part 2 of the Schedule to Bill would make changes to section 238A(2) of TULRCA 1992 to add extra conditions that, in order to qualify for the usual enhanced protections against dismissal for taking part in strike action, workers must only take part in the strike to an extent that complies with any work notice.

³² [HL Deb 26 April 2023 c1246](#)

³³ [HL Deb 26 April 2023 cc1247-1249](#)

Amendment 4 would not remove this changed text in section 238A(2) but would instead add an additional new section 234CA into TULRCA. This new section 234C would grant protections to employees against dismissal or detriment for failing to comply with work notices.

The new section would define failure to comply with a work notice as a form of protected trade union activity under sections 146 and 152 of TULRCA 1992 and as a form of participation in industrial action under sections 238 and 238A of TULRCA 1992.

Amendment 4 aims to restore this protection against unfair dismissal to workers. Rather than remove the text added by the Bill above, however, the amendment adds new text which states that “failure to comply with a work notice” is not to “constitute lawful grounds for dismissal or any other detriment.”

This new section would also make clear that a worker is not subject to a work notice unless the employer can prove that the individual received a copy of it.

Amendment 4 was moved by Labour Peer Baroness O’Grady of Upper Holloway who said that the amendment would help to prevent the Bill from taking away individual workers’ protections under “the UK’s obligations on human and labour rights”, saying:

No other European country with minimum service levels gives employers the power to take away the livelihoods of workers in these circumstances —not one. This would make Britain an outlier in Europe and would constitute a gross infringement of an employee’s individual freedom.³⁴

In opposing Amendment 4 on behalf of the government, Lord Callanan said the approach the government was taking in removing unfair dismissal protections for workers who don’t comply with work notices was both “fair and proportionate”, adding:

It enables employers to manage instances of non-compliance with a work notice in exactly the same way that they would manage any other unauthorised absence.³⁵

Amendment 4 was put to a vote and was agreed to on a division with 232 votes in favour and 201 against.³⁶

³⁴ [HL Deb 26 April 2023 c1235](#)

³⁵ [HL Deb 26 April 2023 c1242](#)

³⁶ [HL Deb 26 April 2023 cc1243-1245](#)

4.4

Amendment 7

Amendment 7 would limit the application of the Bill to England only, removing the application of the Bill from Scotland and Wales where it would otherwise apply.

Amendment 7 was moved by Lord Thomas of Cwmgiedd who argued that the operation of the services most affected by the Bill are devolved, concluding:

the UK Government, which are under the law responsible only for health, ambulances and education in England, should not be interfering in areas for which they have no responsibility in Scotland and Wales. It is impractical, wrong in principle and makes no sense.³⁷

Lord Callanan, responding for the government, argued that employment rights were reserved matters and that, while the running of health and educational services were devolved, the devolved governments could still choose not to make use of the legislation in the running of those services:

it is then the employer's decision whether to issue a work notice ahead of the strike, specifying the workforce required to achieve the minimum service level for that strike period. If the employer is the Scottish Government or the Welsh Senedd, it is their decision whether or not they use this legislation.³⁸

Amendment 7 was put to a vote and was agreed to on a division with 213 votes in favour and 184 against.³⁹

4.5

Withdrawn amendments

Amendment 3

Amendment 3 would have made explicit that employers in relevant sectors to which minimum service regulations applied could not be required to issue work notices and that the issuing of such notices was entirely a matter for their discretion.

Amendment 3 was moved by Crossbench Peer Lord Thomas of Cwmgiedd.

The original text of the Bill notes that employers “may” issue work notices. Lord Thomas noted that “It is accepted that “may” does not mean “must”, although sometimes courts interpret “may” as meaning “must”.”⁴⁰ This amendment sought to clarify this potential ambiguity.

³⁷ [HL Deb 26 April 2023 c1251](#)

³⁸ [HL Deb 26 April 2023 c1254](#)

³⁹ [HL Deb 26 April 2023 cc1256-1257](#)

⁴⁰ [HL Deb 26 April 2023 c1230](#)

Amendment 3 was withdrawn without being put to a division.

Amendment 6

Amendment 6 would have limited the power of UK ministers to make consequential amendments to primary legislation, by preventing such powers from applying to Acts of the Scottish Parliament or Senedd Cymru/Welsh Parliament.

Amendment 6 was moved by Crossbench Peer Lord Thomas of Cwmgiedd but was withdrawn without being put to a division, on the basis that if Amendment 7 was passed, Amendment 6 would not be needed as the Bill would not apply to Wales or Scotland in any case.

5 Lords third reading

Lords third reading took place on Tuesday 9 May 2023.

Two further amendments were moved by Labour Peer Lord Collins of Highbury and agreed to without division. Both of these were technical consequential amendments arising from the passing of Amendment 5 at report stage, designed to tidy the Bill by removing reference to a section of the legislation that no longer existed.

Parliamentary Under-Secretary of State Lord Callanan, summing up for the government, expressed his disappointment with the amendments that had been passed at report stage, saying:

I am disappointed that the Bill leaves this House in a condition which is not as the Government would have preferred. I hope that the upcoming consideration of the amendments in the other place will present an opportunity for the elected House to reconsider the Bill and its contents following the modifications. The Government fully expect many of the matters in the Bill to be reconsidered in this House.⁴¹

Crossbench Peers Lord Thomas of Cwmgiedd and Lord Sentamu made brief speeches criticising the approach the government had taken to making legislation in this case, with Lord Sentamu saying:

I beg the other place not to take the amendments out because it is the elected House; I ask it to take them out because it thinks that that would improve the legislation. If it does not think that, please do not make us look like unruly people.⁴²

Lord Collins of Highbury, summing up for the opposition, highlighted the limited degree of scrutiny that was possible due to a lack of information about the practical implications the powers being granted to the government would have, adding:

Nevertheless, we have done a very good job and have amended the Bill. I hope that those amendments will be considered positively down the other end, but, as I have said at every stage of the Bill, when Labour returns to government fairly shortly, we will repeal this legislation.⁴³

The Bill as amended was passed without any division and returned to the Commons.⁴⁴

⁴¹ [HL Deb 9 May 2023, c1679](#)

⁴² [HL Deb 9 May 2023, c1680](#)

⁴³ [HL Deb 9 May 2023, c1680](#)

⁴⁴ As above

6 Consideration of Lords amendments

The Commons will consider the Lords amendments on Monday 22 May 2023.

Secretary of State for Business and Trade Kemi Badenoch has tabled motions to disagree with all of the Lords amendments except for what was **Lords Amendment 2** (now numbered 3 on the list of Lords amendments for Commons consideration).⁴⁵

⁴⁵ [Strikes \(Minimum Service Levels\) Bill \(Motions relating to Lords Amendments\)](#) [PDF], 18 May 2023

7 Other developments

7.1 Legislative consent motion not approved

On 25 April 2023 the Welsh Assembly voted not to approve a Legislative Consent Motion for the Strikes (Minimum Service Levels) Bill.⁴⁶

Due to the passage of Amendment 7 (see above) at Lords report stage the following day, 26 April, the Bill would currently only apply to England and not to Wales or Scotland. During that debate Parliamentary Under-Secretary of State Lord Callanan made clear that the government believed the Bill related to reserved matters.⁴⁷

7.2 Will write letters

Three “will write” letters were placed in the Lords Library in connection with questions put to ministers during the Lords stages of the Bill.

Buses

The first letter, from Aviation, Maritime and Security Minister Baroness Vere to Baroness Randerson, on 22 March 2023, responded to questions about the bill’s application to buses. In her letter, Baroness Vere said that the government was currently focussed on introducing minimum service regulations for passenger rail but would consider other transport sectors in the future and that “the position on applying MSLs to bus services will be kept under review”.⁴⁸

Health

The second letter, from Parliamentary Under-Secretary of State at the Department of Health & Social Care Lord Markham, responded to questions raised during committee stage about the bill’s application to the health sector. Lord Markham noted that the government was consulting on the introduction of minimum service levels in the ambulance services “as a

⁴⁶ Letter from Clerk of the Senedd to Clerk of the Parliaments and Clerk of the House of Commons on [Strikes \(Minimum Service Levels\) Bill – Legislative Consent](#) [PDF], 26 April 2023

⁴⁷ [HL Deb 26 April 2023 c1254](#)

⁴⁸ [Letter from Baroness Vere of Norbiton to Baroness Randerson](#) [PDF], 22 March 2023

priority”, due to concerns about agreements reached during recent ambulance strikes, adding:

“Further consultations on other health services may follow if we are not confident that voluntary arrangements are sufficient to protect the lives and health of patients.”⁴⁹

Private sector

The third letter, from Lord Callanan to Baroness O’Grady on 3 April 2023, confirmed that private sector businesses could be in scope of minimum service regulations “if they provide a relevant service”.⁵⁰

⁴⁹ [Letter from Lord Markham to Peers](#) [PDF], 23 March 2023

⁵⁰ [Letter from Lord Callanan to Baroness O’Grady](#) [PDF], 3 April 2023

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