

Dignity at Work Bill [HL]

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Provide for a right of dignity at work for employees; and for connected purposes.

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

Right to dignity at work

1 Right to dignity at work

- (1) Every employee shall have a right to dignity at work and if the terms of the contract under which a person is employed do not include that right they shall be deemed to include it. 5
- (2) Subject to section 5 of this Act, an employer commits a breach of the right to dignity at work of an employee if that employee suffers during his employment with the employer harassment or bullying or any act, omission or conduct which causes him to be alarmed or distressed including but not limited to any of the following— 10
- (a) behaviour on more than one occasion which is offensive, abusive, malicious, insulting or intimidating;
 - (b) unjustified criticism on more than one occasion;
 - (c) punishment imposed without reasonable justification; or
 - (d) changes in the duties or responsibilities of the employee to the employee's detriment without reasonable justification. 15

2 Victimisation

An employer commits a breach of the right to dignity at work of an employee if he treats that employee less favourably than he would treat other persons and does so by reason that the employee has — 20

- (a) brought proceedings under this Act against the employer or any other person;

	(b) given evidence or information in connection with proceedings brought by any person under this Act against the employer or any other person;	
	(c) otherwise done anything under or by reference to this Act in relation to the employer or any other person;	
	(d) alleged that the employer or any other person has committed an act which (whether or not the allegation so states) would give rise to a claim under this Act,	5
	or by reason that the employer knows or suspects that the employee has done or intends to do any of those things.	
3	Discrimination against contract workers	10
	(1) This section applies to any work for a person (“the principal”) which is available for doing by individuals (“contract workers”) who are employed not by the principal himself but by another person who supplies them under a contract made with the principal.	
	(2) It is unlawful for the principal, in relation to work which this section applies, to commit a breach of the right to dignity at work (as defined in section 1(2) or 2) of a contract worker.	15
	<i>Action on breach of right</i>	
4	Complaint to employment tribunal	
	(1) Without prejudice to his right to remedies for breach of contract for breach of the right to dignity at work, a complaint by an employee that another person has committed a breach of his right to dignity at work under this Act may be presented to an employment tribunal.	20
	(2) An employment tribunal shall not consider a complaint under this section unless it is presented to the tribunal before the end of the period of three months beginning with the day on which the act complained of was done, unless in all the circumstances of the case the tribunal considers that it is just and equitable to do so.	25
	(3) For the purposes of this section any act extending over a period or any persistent or recurrent breach of section 1(2) shall be treated as done at the end of that period or at the date of the last such act.	30
5	Employer’s defence	
	(1) In any proceedings before an employment tribunal under section 4, an employer shall not be liable in respect of an act or acts described in section 1(2) where the following circumstances apply –	35
	(a) at the time of the act or acts complained of, the employer has in force a Dignity at Work Policy which complies in all respects with the requirements of Schedule 1 to this Act (which shall have effect) and has taken all reasonable steps to implement and enforce the Policy, including the appointment of a competent person to assist the employer in undertaking the measures he needs to take to comply with the requirements of this Act and the Dignity at Work Policy;	40
	(b) the act or acts complained of are repudiated by the competent person as soon as reasonably practicable, and in any event within three	

- working days after they are notified to him by the employee or his representative; and
- (c) as soon as is reasonably practicable, the employer takes all steps as are reasonably necessary to remedy any loss, damage or other detriment suffered by the complainant as a result of the act or acts of which he complains. 5
- (2) A person shall be regarded as competent for the purpose of subsection (1) where he has sufficient training, experience and other qualities to enable him properly to assist in the measures referred to in that subsection.
- (3) Where an act is repudiated the competent person must give written notice— 10
- (a) of the repudiation, to the employee and his representative and to any employee of the employer who is alleged to have committed or participated in the act or acts which are repudiated; and
- (b) of the fact and date of repudiation, to all employees whom it is reasonable for him to believe, at the time the notice was given, witnessed or knew of the act repudiated. 15
- (4) If subsection (3) is not complied with, the repudiation shall be treated as ineffective.
- (5) An act shall not be treated as repudiated if at any time after the notice of repudiation— 20
- (a) the employer, or any employee of his, has behaved in a way which is inconsistent with the purported repudiation; and
- (b) the competent person fails as soon as reasonably practicable to confirm in writing to the persons referred to in subsection (3) that the inconsistent behaviour has been repudiated. 25
- (6) The provisions of this section are without prejudice to any liability of the employer, or any other person, to the employee in respect of the act or acts complained of arising other than under the provisions of section 1(2).

6 Remedies

- (1) Where an employment tribunal finds that a complaint presented to it under section 4 is well-founded the tribunal shall make such of the following as it considers just and equitable— 30
- (a) an order declaring the rights of the person bringing the complaint (“the complainant”) and the person against whom the complaint is brought (“the respondent”); 35
- (b) an order requiring the respondent to pay to the complainant compensation assessed in like manner as any other claim in tort or (in Scotland) in reparation for breach of statutory duty, which may include an award for injury to feelings whether or not they include compensation under any other head; 40
- (c) a recommendation that the respondent take within a specified period action appearing to the tribunal to be practicable for the purpose of obviating or reducing the adverse effect on the complainant of any breach of the right to dignity at work to which the complaint relates.
- (2) When determining the amount of an award of compensation for injury to feelings under subsection (1)(b) the tribunal shall take into account the seriousness, frequency and persistence of the employer’s breach. 45

- (3) If without reasonable justification the respondent to a complaint fails to comply with a recommendation made by an employment tribunal under subsection (1)(c), then, if it thinks it just and equitable to do so, the tribunal may increase the amount of compensation to be paid to the complainant under subsection (1)(b) or, where no order under subsection (1)(b) was made, the tribunal may make such an order. 5

Supplementary

7 Consequential amendments

Schedule 2 to this Act (which sets out consequential amendments to the Employment Rights Act 1996 (c. 18) and the Employment Tribunals Act 1996 (c. 17)) shall have effect. 10

8 Interpretation

In this Act, unless the context otherwise requires –

“competent person”, in respect of an employer, means the person for the time being appointed by that employer in accordance with section 5(1)(a) and (2); 15

“employment” means employment under a contract of service or of apprenticeship or a contract personally to execute any work or labour, and related expressions shall be construed accordingly;

“representative”, in respect of any employee, means a representative nominated by the employee who has agreed to act on his behalf and who is either employed by his employer or an official of an independent trade union of which he is a member; and for this purpose “official” and “independent trade union” shall have the meanings ascribed by sections 1, 5 and 119 of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52). 20 25

9 Short title, commencement and extent

- (1) This Act may be cited as the Dignity at Work Act 2001.
- (2) This Act shall come into force at the end of two months beginning on the day on which it is passed. 30
- (3) This Act does not extend to Northern Ireland.

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| 1 | In order to comply with section 5 of this Act an employer's Dignity at Work Policy must comply with the provisions of this Schedule. | 5 |
| 2 | The Dignity at Work Policy must be in writing and distributed to every employee and must include the following – | |
| | (a) an explanation of the statutory right of all employees to dignity at work and a statement that breaches of that right will not be tolerated; | |
| | (b) examples of the types of behaviour which do not conform with the right to dignity at work and of conduct which may lead to disciplinary action; | 10 |
| | (c) a clear statement of the procedure for bringing complaints and the manner in which they will be dealt with which must include a commitment that complaints of a breach of the right to dignity at work will be taken seriously, investigated objectively and dealt with in confidence and must allow the complainant to be represented by a representative of his choice at all stages; | 15 |
| | (d) designation of a competent person to whom complaints should be made and who shall fulfil the functions allotted to the competent person within the meaning of this Act; | 20 |
| | (e) a clear statement of the disciplinary procedure to be followed against employees who infringe the Policy, which shall comply with the provisions of the ACAS Code of Practice on Disciplinary Practice and Procedures in Employment (1977); | 25 |
| | (f) details (including names and contact telephone numbers) of designated persons available to counsel, assist and advise individuals bringing complaints or those who are the subject of complaints; | |
| | (g) arrangements to train in the Policy all those occupying any position of managerial authority with the employer and to inform all employees of the Policy; | 30 |
| | (h) annual monitoring of the operation of the Policy, to be reported to senior management and to include a summary of all complaints made under the Policy (with names of complaints kept confidential unless the complainant agrees); and | 35 |
| | (i) arrangements for consultation with trade union and safety representatives on the operation of the Policy, its implementation and any revision of the Policy in the light of its operation in practice. | |

SCHEDULE 2

Section 7

CONSEQUENTIAL AMENDMENTS

Employment Rights Act 1996

- 1 (1) In section 95(1)(c) to the Employment Rights Act 1996 (c. 18), after the words “the employer’s conduct” there shall be inserted the words “including a breach of the employee’s rights under the Dignity at Work Act 2001”. 5
- (2) In section 104(4)(a) of that Act, after the words “this Act” there shall be inserted the words “or the Dignity at Work Act 2001”.
- (3) In section 203 of that Act—
 - (a) there shall be added in each of subsection (1)(a) and (b) after the words “this Act” the words “or the Dignity at Work Act 2001”; and 10
 - (b) in subsection (2)(f) for the words “(proceedings under this Act where conciliation available)” there shall be substituted the words “or section 18(1)(cc) (proceedings under this Act or the Dignity at Work Act 2001 where conciliation available).” 15

Employment Tribunals Act 1996

- 2 (1) In section 12(1) of the Employment Tribunals Act 1996 (c. 17), after the words “section 8 of the Disability Discrimination Act 1995” there shall be inserted the words “or the Dignity at Work Act 2001”.
- (2) In section 18(1) that Act, after paragraph (c) there shall be inserted— 20

“(cc) under section 4 of the Dignity at Work Act 2001”.