

IMMIGRATION BILL ILPA PROPOSED AMENDMENTS FOR HOUSE OF COMMONS COMMITTEE STAGE PART 6 BORDER SECURITY AND PART 7 LANGUAGE REQUIREMENTS FOR PUBLIC SECTOR WORKERS

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PART 6 BORDER SECURITY**Clause 35 Penalties related to airport control areas****PROPOSED AMENDMENT/STAND PART**

Page 35 line 18, leave out lines 18 to 25 (Clause 35)

Purpose

To remove the new civil penalty scheme for airport control areas from the Bill.

Schedule 7 Penalties relating to airport control areas**PROPOSED AMENDMENT/STAND PART**

Page 102, line 7, leave out Schedule 7

Purpose

Consequential on the above. Removes Schedule 7, which sets out the detail of the civil penalty scheme from the Bill.

Briefing

This part creates yet another civil penalty regime, this time targeting airlines and port officers who allow passengers to disembark without being presented to immigration control where a control zone has been designated. Zones are designated in statutory instruments laid before parliament and subject to the negative procedure under Schedule 2 to the Immigration Act 1971, at paragraph 26(3A).¹ Unlike the case of landlords and landladies, who will be subject to criminal offences because civil penalties are considered insufficient, this conduct is already a

¹ Immigration Act 1971, Schedule 2, paragraph 26(3A).

criminal offence. Why then impose a civil penalty? If the criminal offence did not deter the conduct, why should a civil penalty?

The Explanatory Notes offer no explanation as to why a civil penalty regime is required other than this will make the legislation “simpler to enforce.” The criminal offence, set out in s 27 of the Immigration Act 1971, requires that the person act “knowingly” or fails without reasonable excuse to comply with a direction given. The civil penalty also uses a “reasonable steps” test. . The criminal offence carries a penalty of a fine of not more than level 5 on the standard scale or with imprisonment for not more than six months, or both. It is unclear therefore what is simpler about the new regime, which brings with it all the bureaucracy of a civil penalty regime.

PROPOSED AMENDMENT

Schedule 7, page 104, line 27, leave out line 27

Purpose

To remove the possibility for the Secretary of State to increase a penalty when the carrier lodges a notice of objection.

Briefing

This is a provision that has been inserted into successive civil penalty regimes and one that ILPA has challenged each time. It is a deterrent to challenging the Secretary of State’s decision.

Why should the Secretary of State get two bites at the cherry? This encourages hasty and sloppy decision-making (albeit in port’s favour not the Secretary of State’s own) at first instance because anything that has been overlooked can be put right later.

PROPOSED AMENDMENTS

Schedule 7, page 105, leave out lines 6 to 14

Purpose

Removes the requirement that a person on whom a penalty has been imposed first object to the notice before appealing. Again, a feature present in other civil penalty regimes, but one which ILPA has challenged each time.

Schedule 7, page 105, line 17 leave out from “on” to the end of line 17.

Purpose

Consequential on the above. Maintains the time limit of 28 days for appealing, but against the original decision rather than a decision on the notice of objection.

Briefing

There should be an option to waive the objection and move straight to an appeal. There is no point in spending time and money on an objection in circumstances where the Home Office disagrees with the analysis of law or fact and will not change its decision. Nor should a person be obliged in these circumstances to incur the costs associated with an objection including legal fees.

In the event of an appeal, where the respondent concedes the appellant is right (e.g. because a civil penalty was wrongly imposed), an order has to be drawn up that addresses costs. The Civil Procedure Rules Practice Direction 52 and Costs Practice Direction are in point. The former provides that where a settlement has been reached disposing of the application or appeal, the parties may make a joint request to the court for the application or appeal to be dismissed by consent. If the request is granted the application or appeal will be dismissed.

Where the Home Secretary has conceded the issue, she has no basis to resist a costs order.

When the appeal is settled so that it is withdrawn as the underlying decision is accepted to be wrong, the default position that costs follow the event applies.

PROPOSED AMENDMENT

Schedule 7, page 106 line 35 after “email” insert “if the person has consented to service by email”

Purpose

To provide that service cannot be effected by email unless the person has agreed to this,

Briefing

Service by email is desirable but, given that provision can be made for deemed service using the powers in paragraph 28F(2), it is desirable that consent be obtained before documents are served by email so that those who do not consider their technology to be sufficiently robust can decline service by this method.

SCHEDULE 8 MARITIME ENFORCEMENT

The structure of this Schedule is to make provision first for English waters, then Scotland Waters, then Northern Ireland waters. Therefore many of the amendments below are formulated in groups of three with the same point made for each. Where the effect is identical, a purpose is given once.

There are also amendments that are linked – for example confining the powers given to ports. Again, we have grouped these amendments.

PROPOSED AMENDMENTS

Schedule 8, page 109, line 35 at beginning insert

“(*)Hot pursuit can only be commenced when a ship is in United Kingdom waters.”

Purpose

Proposing amendment, to provide the Minister with an to confirm at ion that hot pursuit will only start when the ship is in territorial waters, as required by the UN Convention on the Law of the Sea which provides at Article 111

Article 111

Right of hot pursuit

1. The hot pursuit of a foreign ship may be undertaken when the competent authorities of the coastal State have good reason to believe that the ship has violated the laws and regulations of that State. Such pursuit must be commenced when the foreign ship or one of its boats is within the internal waters, the archipelagic waters, the territorial sea or the contiguous zone of the pursuing State, and may only be continued outside the territorial sea or the contiguous zone if the pursuit has not been interrupted. It is not necessary that, at the time when the foreign ship within the territorial sea or the contiguous zone receives the order to stop, the ship giving the order should likewise be within the territorial sea or the contiguous zone. If the foreign ship is within a contiguous zone, as defined in article 33, the pursuit may only be undertaken if there has been a violation of the rights for the protection of which the zone was established.

2. The right of hot pursuit shall apply *mutatis mutandis* to violations in the exclusive economic zone or on the continental shelf, including safety zones around continental shelf installations, of the laws and regulations of the coastal State applicable in accordance with this Convention to the exclusive economic zone or the continental shelf, including such safety zones.

3. The right of hot pursuit ceases as soon as the ship pursued enters the territorial sea of its own State or of a third State.

4. Hot pursuit is not deemed to have begun unless the pursuing ship has satisfied itself by such practicable means as may be available that the ship pursued or one of its boats or other craft working as a team and using the ship pursued as a mother ship is within the limits of the territorial sea, or, as the case may be, within the contiguous zone or the exclusive economic zone or above the continental shelf. The pursuit may only be commenced after a visual or auditory signal to stop has been given at a distance which enables it to be seen or heard by the foreign ship.

5. The right of hot pursuit may be exercised only by warships or military aircraft, or other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effect.

6. Where hot pursuit is effected by an aircraft:

(a) the provisions of paragraphs 1 to 4 shall apply *mutatis mutandis*;

(b) the aircraft giving the order to stop must itself actively pursue the ship until a ship or another aircraft of the coastal State, summoned by the aircraft, arrives to take over the pursuit, unless the aircraft is itself able to arrest the ship. It does not suffice to justify an arrest outside the territorial sea that the ship was merely sighted by the aircraft as an offender or suspected offender, if it was not both ordered to stop and pursued by the aircraft itself or other aircraft or ships which continue the pursuit without interruption.

7. The release of a ship arrested within the jurisdiction of a State and escorted to a port of that State for the purposes of an inquiry before the competent authorities may not be claimed solely on the ground that the ship, in the course of its voyage, was escorted across a portion of the exclusive economic zone or the high seas, if the circumstances rendered this necessary.

8. Where a ship has been stopped or arrested outside the territorial sea in circumstances which do not justify the exercise of the right of hot pursuit, it shall be compensated for any loss or damage that may have been thereby sustained.

PROPOSED AMENDMENT

Schedule 8, page 111, line 47 leave out from “every” to the end of line 47 and replace with “a hovercraft”

Purpose

A probing amendment. Omits reference to the word ship including “every kind of vessel used in navigation” and says instead that a ship includes a hovercraft. Does not on its face limit the definition or expand it.

Briefing

A probing amendment to give the Minister an opportunity to explain what is meant by “every type of vessel used in navigation” and thus the ambit of the Schedule.

PROPOSED AMENDMENTS (one each for England, Scotland and Northern Ireland)

England and Wales

Schedule 8, page 112, line 42, leave out “or has been,”

Scotland

Schedule 8, page 117, line 19, leave out “or has been,”

Northern Ireland

Schedule 8, page 121, line 42, leave out “or has been,”

Purpose

Probing amendments. Each amendment limits the powers of an officer to cases where an offence is being committed, depriving the officer of the powers where an offence “has been” committed and thus to test the temporal limits of the clause.

PROPOSED AMENDMENTS

England and Wales

Schedule 8, page 113, line 21, leave out lines 21 and 22

Scotland

Schedule 8, page 117, leave out lines 41 and 42.

Northern Ireland

Schedule 8, page 122, leave out lines 21 and 22

Purpose

To limit the officers' powers to search to cases where they have reasonable grounds to suspect that the specified offences are being committed rather than offences "in connection" with them.

Briefing

The specified offences are assisting unlawful immigration, assisting an asylum-seeker to arrive in the UK, and assisting entry to the United Kingdom in breach of a deportation or exclusion order. If the interest to ensure that powers exist where the offences are offences of aiding and abetting, conspiracy etc, then this could and should be specified rather than the vague "in connection with". Article 8 of the European Convention on Human Rights protects rights to private life, home and correspondence and Article 8(2) provides

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

Article 1 of Protocol 1 to the Convention beings

"(1) Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. "

The European Court of Human Rights has explained² that the requirement that any interference be "in accordance with the law" requires not only that the domestic legal system sanction the interference but that the provision is accessible and sufficiently precise to enable a person reasonably to foresee the consequences of their actions and thus provides adequate safeguards against arbitrary interference with rights. There must be real doubt as to whether these provisions are sufficiently precise to meet that test.

PROPOSED AMENDMENT

England and Wales

"Schedule 8, page 113, line 28 leave out "information about himself or herself" and replace with "his or her name, date of birth and details of his or her national identity documents, destination and purpose of journey"

Scotland

² See Huvig and Krushlin, 24 April 1990, C-176/B

“Schedule 8, page 118, line 6 leave out “information about himself or herself” and replace with “his or her name, date of birth and details of his or her national identity documents, destination and purpose of journey”

Northern Ireland

“Schedule 8, page 122, line 28 leave out “information about himself or herself” and replace with “his or her name, date of birth and details of his or her national identity documents, destination and purpose of journey”

Purpose

To remove the opened-ended power for an officer to ask a person questions about him/herself and set out the specific information that can be required

PROPOSED AMENDMENT

England and Wales

Schedule 8, page 113, line 29 at end insert

“(*) If in the course of questioning or otherwise a person expresses to or in the presence of an immigration officer, a fear of return that may be a claim for asylum” then the person shall be taken to the UK for that case to be considered.”

Scotland

Schedule 8, page 118, line 7 at end insert

“(*) If in the course of questioning or otherwise a person expresses to or in the presence of an immigration officer, a fear of return that may be a claim for asylum” then the person shall be taken to the UK for that case to be considered.”

Northern Ireland

Schedule 8, page 122, line 29 at end insert

“(*) If in the course of questioning or otherwise a person expresses to or in the presence of an immigration officer, a fear of return that may be a claim for asylum” then the person shall be taken to the UK for that case to be considered.”

Purpose

To remove the opened-ended power for an officer to ask a person questions about him/herself and set out the specific information that can be required

Briefing

In *Hirsi Jamaa and Others v. Italy* (Application no. 27765/09), a case concerning “pushbacks” of refugees in the Mediterranean to Libya, the European Court of Human Rights found Italy to owe

all obligations under the European Convention on Human Rights to those in need of international protection that it had taken onto on a ship flying its flag and under control of its personnel. But in these cases immigration officers will be boarding ships that fly other flags. They have powers to control the ship; although a person is not guilty of the offence in paragraph 11 of Schedule 8 of obstructing an officer in immigration and Wales if they have “reasonable excuse” not to do so and this would appear to give some control back to the Master.

The reports of the Children’s Commissioner for England and Wales *Landing in Kent* and *Landing in Dover* brought to light the 20 April 1995 “gentleman’s agreement”³ between England, Belgium and France allowing for the summary return of those refused entry within 24 hours. Although it was said not to apply to asylum cases after 1 September 1997, it was found to have been applied after that date to unaccompanied children and there was concern that they might not have had an opportunity to articulate a claim for asylum. The same concern applies here, in cases of those with a claim for asylum or victims of forced labour or trafficking.

PROPOSED AMENDMENTS to replace “elsewhere” with “at port”

These amendments are all concerned with replacing “elsewhere” with “at port” so that immigration officers’ powers can be exercised on the ship or at a port but not anywhere in the country. They are in groups of three according to the particular power restricted

Powers to search and obtain information

England and Wales

Page 114, line 9, leave out “elsewhere” and replace with “at port”

Scotland

Page 118, line 32, leave out “elsewhere” and replace with “at port”

Northern Ireland

Page 123, line 9, leave out “elsewhere” and replace with “at port”

Purpose

To limit powers of search to the ship and the port rather than a power to search any other place.

Briefing

The paragraph provides a power to search and obtain information if an officer has reasonable grounds to suspect that there is evidence on the ship relating to an offence under sections 25, 25A and 25B of the Immigration Act 1971 “or an offence connected with an offence under any of those sections.” It is stated that this power may be exercised on the ship “or elsewhere.”

³ <https://www.gov.uk/government/publications/gentleman-s-agreement>

Powers of arrest and seizure

England and Wales

Schedule 8, page 114, line 22, leave out “elsewhere” and replace with “at port”

Scotland

Schedule 8, page 118, line 46, leave out “elsewhere” and replace with “at port”

Northern Ireland

Schedule 8, page 123, line 22, leave out “elsewhere” and replace with “at port”

Purpose

Limits the powers of arrest without warrant and seizure of “anything found on the ship which appears to the officer to be evidence of an offence under s 25, s 25A or 25B of the Immigration Act 1971, to the ship and the port. In particular, would require that an arrest on land outside the port were effected with a warrant

Protective searches of persons

England and Wales

Schedule 8, page 115, line 4, leave out “elsewhere” and replace with “at port”

Scotland

Schedule 8, page 119, line 26, leave out “elsewhere” and replace with “at port”

Northern Ireland

Schedule 8, page 124, line 4, leave out “elsewhere” and replace with “at port”

Purpose

Limits the powers of search for the protection of the applicant or others, of property or of the ship to the ship and the port.

Search for nationality documents

England and Wales

Schedule 8, page 115, line 41 leave out “elsewhere” and with “at port”

Scotland

Schedule 8, page 120, line 19 leave out “elsewhere” and with “at port”

Northern Ireland

Schedule 8, page 124, line 41 leave out “elsewhere” and with “at port”

Purpose

Limits the powers to search for nationality documents to the ship or port. See clauses 24 and 25 for powers given detainee custody officers to search persons in detention for nationality documents.

Briefing

The Home Office Enforcement Guidance and Instructions at Chapter 31 rely on the (dubious) authority of *Singh v Hammond* [1987] 1 All ER 829, [1987] Crim LR 332 as authority for its stop and search operations, for example at tube stations. The Home Office takes the case as authority for the proposition that powers in statute to examine persons ‘who have arrived in the United Kingdom’ can be used not only at port but in-country. Its enforcement guidance and instructions provide at Chapter 31

In Singh v Hammond, the Court held that:

‘An examination [under paragraph 2 of Schedule 2 to the Immigration Act 1971] ... can properly be conducted by an immigration officer away from the place of entry and on a later date after the person has already entered ... if the immigration officer has some information in his possession which causes him to enquire whether the person being examined is a British citizen and, if not, ... whether he should be given leave and on what conditions.’

To avoid such creep of powers here, the limitation to port should be specified.

The word port is already used in the Bill, for example in 113 line 6. Ports of entry are defined in the Immigration Act 1971 at s 33(2A) (3) as follows:

“3)The ports of entry for purposes of this Act, and the ports of exit for purposes of any Order in Council under section 3(7) above, shall be such ports as may from time to time be designated for the purpose by order of the Secretary of State made by statutory instrument.”

In any event, immigration officers on land already have considerable powers of search and arrest, including without warrant, of entry of premises including business premises of search without warrant and of seizure in connection with these offences, under sections 28A to 28I of the Immigration Act 1971.

PROPOSED AMENDMENT

England and Wales

Schedule 8, page 114, line 14, after “without warrant” insert “on the ship or with warrant elsewhere”

Scotland

Schedule 8, page 118, line 37, after “without warrant” insert “on the ship or with warrant elsewhere”

Northern Ireland

Schedule 8, page 123, line 14, after “without warrant” insert “on the ship or with warrant elsewhere”

Purpose

To provide that arrest other than on the ship must be with a warrant.

Briefing

Once off the ship and not at port, a warrant for a person’s arrest could be obtained.

PROPOSED AMENDMENT

England and Wales

Schedule 8, page 114, line 25, after “believe” insert “the person is concealing and”

Scotland

Schedule 8, page 119, line 3, after “believe” insert “the person is concealing and”

Northern Ireland

Schedule 8, page 123, line 25, after “believe” insert “the person is concealing and”

Purpose

To outlaw speculative searches. The Bill as drafted requires the officer to have reasonable grounds to believe that the item for which s/he is searching might be used to cause physical injury etc. but there is no requirement in the Bill that the officer have reasonable grounds to believe that the item is concealed on the person.

PROPOSED AMENDMENTS

England and Wales

Schedule 8, page 114, line 28, leave out“(b) cause damage to property”

And

Schedule 8, page 114 line 39 leave out“(b) cause damage to property”

Scotland

Schedule 8, page 119, line 6, leave out“(b) cause damage to property”

And

Schedule 8, page 119 line 17 leave out“(b) cause damage to property”

Northern Ireland

Schedule 8, page 123, line 28, leave out“(b) cause damage to property”

And

Schedule 8, page 123 line 39 leave out“(b) cause damage to property”

Purpose

The provisions are concerned with “protective” searches. An officer can search a person for anything which the officer has reasonable grounds to believe the person might use to cause physical injury, cause damage to property or danger the safety of any ship.

Briefing

The first and third are indeed about “protective” searches, the third is about protecting property other than in circumstances where the ship could be endangered and this is not sufficient cause to award an immigration officer additional powers of search without warrant.

PROPOSED AMENDMENTS

England and Wales

Schedule 8, page 115, leave out line 44.

And

Schedule 8, page 116, leave out lines 4 to 6

Scotland

Schedule 8, page 120, leave out line 22.

And

Schedule 8, page 120, leave out lines 26 to 28

Northern Ireland

Schedule 8, page 124, leave out line 44.

And

Schedule 8, page 125, leave out lines 4 to 6

Purpose

To prevent immigration officers carrying out searches in accordance with this part to be accompanied by persons who are not immigration officers. The first amendment removes the power for immigration officers to be accompanied by these unspecified assistants, the second for such persons to perform any of the officer’s functions, under the offers supervision.

Briefing

The persons concerned may be operating on the property of others, the ship. They will have powers of arrest without warrant, of search, of arrest and of seizure. The Bill proposes that persons wholly unspecified may be able to carry out all of these powers, without limitation,

under the supervision of an immigration officer. Immigration Officer's little helpers? Pretend immigration officers? Any powers under this section should be exercised by immigration officers.

There are very many safety concerns about the operation of these powers, whomsoever exercises them: for example, about the safety of ordering ships to stop in traffic separation schemes or in circumstances where they might be stranded on an ebbing tide; about diversions to unsuitable ports, for example ports which are too small for merchant ships, or excessively difficult for yachts to reach in the prevailing weather conditions; and about costs associated with unwanted port calls. A Master may be able to defend his/herself from prosecution for refusing to comply with an unsafe order by arguing that s/he had "reasonable excuse" (paragraph 11(1)(b) of the new Schedule 4A inserted by paragraph 8 of Schedule 8 to the Act) not to do so, but the issue is less an ultimate prosecution than safety on board when an unsafe command is given. A Master may assert that s/he is under no obligation to comply with a particular order but the immigration officer or "assistant" may disagree and the resulting altercation may put the ship in danger.

As set out in the Explanatory Notes

Sub-paragraph (5) increases the maximum period of imprisonment to 51 weeks after the commencement of section 281(5) of the Criminal Justice Act 2003.

PROPOSED AMENDMENT

England and Wales

Schedule 8, page 116, leave out lines 13 to 19

Scotland

Schedule 8, page 120, leave out lines 35 to 40

Northern Ireland

Schedule 8, page 125, leave out lines 13 to 19

Purpose

To remove the immunity from both prosecution and civil suit for immigration officers, English and Welsh constables and "enforcement officers" for anything done "in the purported performance of functions under this Part of this Schedule if the courts is satisfied that the Act was done in good faith and that there are good grounds for doing it.

Briefing

This is not only immunity from prosecution, but also from civil suit. This is not only immunity from suit when performing functions under this act, but immunity when acting "in purported performance of functions under this part

The only purported justification given for the immunity in the Explanatory Notes is that

“378 In order to carry out their functions, relevant officers require some protection from prosecution”

This is asserted not argued or evidenced. As the discussions surrounding Part 3 have evidenced, the exercise of powers by immigration officers must be subject to careful oversight and they should never be given *carte blanche* in the way suggested by this clause.

PROPOSED AMENDMENT

England and Wales

Schedule 8, page 116, line 19, leave out paragraph 11
Scotland

Schedule 8, page 121, line 1, leave out paragraph 22

Northern Ireland

Schedule 8, page 125, line 19, leave out paragraph 33.

Purpose

To remove from the Bill the offences of obstructing an immigration officer in the performance of functions under this part or failing without reasonable excuse to comply with a requirement made by a relevant officer.

Briefing

Given the safety concerns above it a member of a crew must know that they need not to comply with a “relevant officer’s instruction” n immigration officer’s instruction where they deemed it unsafe and indeed can obstruct that immigration officer where s/he is endangering those on board or in the proximity of the ship.

Part 7 Language requirements for public sector workers

Clause 38 Language requirements for public sector workers

PROPOSED AMENDMENTS

Page 36, line 29, leave out “fluent” and replace with “adequate”

Page 27, line 16, leave out “fluent” and replace with “adequate”

Purpose

The level of English required by Part 7 is unchanged by these amendments, it remains “a command of spoken English which is sufficient to enable the effective performance of the person’s role. What is changed is the label given to that level. The first amendment changes the word “fluent” to “adequate” in the obligation placed on the public authority. The second amendment changes it in the definition of the standard of English required.

Briefing

The requirement to have “a command of spoken English which is sufficient to enable the effective performance of the person’s role” would appear uncontroversial in any sensible recruitment process. But the label “fluent” does not capture this. It suggests a higher standard of spoken English than is required for many roles, for example those when interaction with the public is simple and formulaic.

That public authorities would recruit a person to a post to who did not have an adequate level of English to enable the effective performance of a person’s role is difficult to understand. It seems likely to happen only where the public authority was unable to find anyone to carry out the

PROPOSED AMENDMENTS

Clause 38, page 36 line 35 at end insert

(3A) A public authority must operate an adequate procedure for enabling complaints to be made by a person who works for it about bullying, harassment and discrimination by members of the public making complaints under subsection (3) and for the consideration of such complaints.

Purpose

To protect staff of public authorities from those members of the public who use the complaints procedure as a means of bullying, discrimination or harassment.

Clause 38, page 36, line 37, after “(3)” insert “and (3A)”

Purpose

To provide for a public authority to have regard to a code of practice in determining the adequacy of its complaints procedure for its employees complaining of bullying, discrimination and harassment as per the clause above.

Briefing

There is concern that the requirement to operate a complaints procedure where persons do not speak “fluent” English could lead to discrimination against workers who speak “fluent” English as defined in the clause, i.e. *** but who speak English with an accent, or do not have the fluency of a native speaker.

PROPOSED AMENDMENT

Clause 38, page 37, line 18 at end insert

“A public authority shall put in place such support as is required to enable a person working for it in accordance with subsection 5(a), (b), (e) or (f) in a customer facing role when this section comes into force to speak fluent English where it judges that, with such support, the person will be able to speak fluent English within three months of the coming into force of this section.”

Clause 41 Duty to issue Codes of Practice

PROPOSED AMENDMENT

Clause 41, page 38, line 29, at end insert

“() the procedure to be operated by such a public authority for enabling complaints to be made to it by a person who works for it about bullying, harassment and discrimination by members of the public making complaints to the authority about breaches by the authority of section 38(1) in respect of that person.

PROPOSED AMENDMENT

Clause 41, page 38 line 35 at end insert

“and is free from bullying, discrimination and harassment at work in this context”

Purpose

To empower a Minister making a code to include such provision as s/he considers appropriate for securing that a worker is free from bullying, discrimination at work in the context of complaints about their ability to speak English.