

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Seventh Delegated Legislation Committee

DRAFT PRESCRIBED PERSONS (REPORTS ON DISCLOSURES OF INFORMATION) REGULATIONS 2017

Wednesday 22 March 2017

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The Committee consisted of the following Members:

Chair: MRS MADELEINE MOON

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| † Adams, Nigel (<i>Selby and Ainsty</i>) (Con) | † James, Margot (<i>Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy</i>) |
| † Barclay, Stephen (<i>Lord Commissioner of Her Majesty's Treasury</i>) | † Jenrick, Robert (<i>Newark</i>) (Con) |
| Bardell, Hannah (<i>Livingston</i>) (SNP) | † Lord, Jonathan (<i>Woking</i>) (Con) |
| † Carmichael, Neil (<i>Stroud</i>) (Con) | † Malhotra, Seema (<i>Feltham and Heston</i>) (Lab/Co-op) |
| † Debbonaire, Thangam (<i>Bristol West</i>) (Lab) | † Mitchell, Mr Andrew (<i>Sutton Coldfield</i>) (Con) |
| † Doughty, Stephen (<i>Cardiff South and Penarth</i>) (Lab/Co-op) | † Morton, Wendy (<i>Aldridge-Brownhills</i>) (Con) |
| † Dromey, Jack (<i>Birmingham, Erdington</i>) (Lab) | Onn, Melanie (<i>Great Grimsby</i>) (Lab) |
| Elliott, Julie (<i>Sunderland Central</i>) (Lab) | † Zahawi, Nadhim (<i>Stratford-on-Avon</i>) (Con) |
| † Harrison, Trudy (<i>Copeland</i>) (Con) | Katya Cassidy, <i>Committee Clerk</i> |
| † Huddleston, Nigel (<i>Mid Worcestershire</i>) (Con) | † attended the Committee |

Seventh Delegated Legislation Committee

Wednesday 22 March 2017

[MRS MADELEINE MOON *in the Chair*]

Draft Prescribed Persons (Reports on Disclosures of Information) Regulations 2017

2.30 pm

The Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy (Margot James): I beg to move,

That the Committee has considered the draft Prescribed Persons (Reports on Disclosures of Information) Regulations 2017.

It is a pleasure to serve under your chairmanship, Mrs Moon.

The draft regulations will ensure that relevant prescribed persons are transparent about the action that they take on whistleblowing disclosures. The Employment Rights Act 1996, as amended by the Public Interest Disclosure Act 1998 and subsequent legislation, provides employment protection for workers who have blown the whistle. It protects them from detriment if they have made a protected disclosure when they reasonably believe that they have witnessed wrongdoing at work. To qualify for protection, a worker must make their disclosure to their employer, to the relevant prescribed person set out in the Public Interest Disclosure (Prescribed Persons) Order 2014, to the police or, in some circumstances, to the media. Disclosures can also be made to a legal adviser. If a worker decides to blow the whistle to a prescribed person rather than to their employer, they must choose the person or body from the prescribed persons list whose remit is relevant to the wrongdoing that they are disclosing.

The legislation is intended to build openness and trust in workplaces by ensuring that workers who hold their employers to account are treated fairly. Individuals should be able to report malpractice without fear of reprisal and employers should be prepared to work with them, particularly by means of effective internal procedures, to resolve any concerns that may arise.

In 2013, the then Department for Business, Innovation and Skills conducted a call for evidence on the framework of protections for whistleblowers. One of the points that was identified in the evidence submitted was that whistleblowers did not have confidence that their reports of wrongdoing were being properly investigated. They saw inconsistent handling of disclosures, no legal requirement to investigate a disclosure, and a lack of feedback from prescribed persons on the handling of their complaints. In short, they were concerned that nothing was being done as a result of their disclosures.

In response to those concerns, the then Government sought a way of increasing whistleblowers' confidence that their disclosures were being investigated and followed up. They sought to increase transparency in the system so that prescribed persons could more effectively be held to account for the discharge of their responsibilities,

while respecting the importance of treating disclosures in confidence. They introduced a power in the Small Business, Enterprise and Employment Act 2015 to enable the Secretary of State to make regulations to require certain prescribed persons to report annually on whistleblowing disclosures; the draft regulations are laid under that power. Our approach aims, through greater transparency about how disclosures are handled, to increase confidence in the actions taken by prescribed persons. That in turn will improve consistency between different bodies in how they respond to disclosures.

Before I turn to the detail of the draft regulations, let me remind the Committee of the other improvements that have been made to the framework of protection for whistleblowers. We do not want any workers to fear retribution if they raise concerns about genuine wrongdoing in their workplaces. In recent years, guidance on the framework has been updated and improved, including practical guidance for whistleblowers on how to make disclosures while preserving their employment protections, and guidance for employers, including a non-statutory code of practice, which we will review this year. We have fulfilled our commitment to keep the prescribed persons list up to date with annual reviews. We now have guidance in place for prescribed persons, and we will update that guidance to reflect the new regulations.

The draft regulations will require most prescribed persons to report annually on a number of details. First, a prescribed person will need to report on the number of concerns that have been raised with the relevant body in that 12-month period and how many of them can be reasonably identified as qualifying disclosures. Secondly, they will need to provide general commentary on what types of action have been taken in response to whistleblowing disclosures, and how the information from whistleblowers has impacted on the prescribed body's activity in the relevant sector. They will also need to report on the number of disclosures where no further action was taken.

The regulations require prescribed persons to publish their reports online so that they are available to all. I intend to have their reports collated and to lay them before the House. To minimise the burden on prescribed persons, the reports are not required to be separate documents. For example, they may be included in a wider annual report that a body already publishes routinely. The new measures will require prescribed persons to reflect upon what they do with whistleblowing disclosures, which we envisage will encourage a greater focus on the positive impact of whistleblowing in their respective sectors.

The regulations do not apply to hon. Members, although each of us is a prescribed person. It is right that our constituents do not invalidate their employment protection if they contact us about wrongdoing they have witnessed at work. However, we are in a different position from bodies with a regulatory responsibility in relation to a particular sector or type of wrongdoing. Likewise, the regulations do not apply to Ministers of the Crown.

The new duty on prescribed persons to report annually on whistleblowing disclosures is an important step towards transparency and confidence about the action they take when wrongdoing is reported to them. I commend the regulations to the Committee.

2.36 pm

Jack Dromey (Birmingham, Erdington) (Lab): It is a pleasure to serve under your chairmanship, Mrs Moon. In an effort to ensure that we do not have to come back after the votes in the House, and in circumstances where we are not opposing the statutory instrument, I will be brief—unaccustomed as I am to that.

The starting principle is that of whistleblowing. It is absolutely right that those who work for an organisation and witness wrongdoing at first hand should be able so to do. What the Government have done is welcome in terms of the maintenance of the national register of those who have such obligations and laying down clearly what those—*[Interruption.]*

The Chair: Order. The sitting is now suspended. We shall resume at 3.17 pm, unless people can get back here quicker.

Jack Dromey: I can do this in 60 seconds, if that would help.

Hon. Members: Hear, hear!

The Chair: I resume the sitting.

Jack Dromey: The obligations are very welcome. The only reservation we have is not so much what is in the SI but what is not in it—further measures on blacklisting. I feel this particularly acutely, having been on three blacklists myself and exposed two of them—the companies were then driven out of business. Sadly, because of the need to be brief, I cannot tell those stories, but on another occasion I will.

Question put and agreed to.

2.38 pm

Committee rose.

