

79767791

Proposed Protection of Workers (Retail and Age-Restricted Sales etc.) (Scotland) Bill

Page 2: About you

Are you responding as an individual or on behalf of an organisation?

an individual

Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose "Member of the public".)

Member of the public

Please select the category which best describes your organisation

No Response

Please choose one of the following:

I am content for this response to be attributed to me or my organisation

Please insert your name or the name of your organisation. If you choose the first option above, this should be the name as you wish it to be published. If you choose the second or third option, a name is still required, but it will not be published.

Ian Watson

Page 7: Your views on the proposal - Aim and approach

Q1. Which of the following expresses your view of creating a new offence of assault against a worker in the retail sector?

Partially supportive

Please explain the reasons for your response

Clearly there are current laws prohibiting assault and intimidation which can be applied here. My view is that making retail sector (and indeed other public facing sector) employers vicariously liable for offences by customers on their staff (i.e third party bullying or harassment) would improve the protection already offered to workers under the Health and Safety at Work legislation. Staff would be assured that the customer

Q1. Which of the following expresses your view of creating a new offence of assault against a worker in the retail sector?

is not always right and that they have the right to walk away from intimidating customers without suffering disciplinary action by the employer.

Q2. Which of the following would you support as a way to respond to assaults on workers upholding statutory age-restrictions?

Unsure

Please explain the reasons for your response

If, as I suggest above, the solution lies in a combination of criminal liability on the part of the employer under the HSWA or in civil liability under vicarious liability on employers, the idea of a new statutory offence or aggravation doesn't really apply in my view

Q3. Which of the following would you support as a way to respond to abuse, harassment, threatening or obstruction of workers upholding statutory age-restrictions?

Unsure

Please explain the reasons for your response

See my answer above

Q4. Do you think that there are other steps which could be taken (either instead of, or in addition to, legislation) to achieve the aims of the proposal?

Yes

Please explain the reasons for your response.

The power to hold employers vicariously liable for acts of third party harassment on grounds of protected characteristics existed in the original Equality Act 2010 but was specifically repealed by the Westminster Coalition Government (wrongly in my view as the problem persists). Restoring this provision in the EA 2010 would be a start. However a) this is Westminster legislation as Employment law is not devolved and b) it is restricted to actions perpetrated on grounds of a protected characteristic and wouldn't cover 'bullying' where the behaviour cannot be shown to have a connection to sex, race, sexual orientation, disability etc. Fixing an employer with vicarious liability for this behaviour might require action under the Protection from Harassment Act 1997 or its Scottish equivalent.

Q5. Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have on:

	Significant increase in cost	Some increase in cost	Broadly cost neutral	Some reduction in cost	Significant reduction in cost	Unsure
(a) Government and the public sector		X				
(b) Businesses		X				
(c) Individuals						X

Q6. Are there ways in which the Bill could achieve its aim more cost-effectively (e.g. by reducing costs or increasing savings)?

Unsure

Page 13: Equalities

Q7. What overall impact is the proposed Bill likely to have on equality, taking account of the following protected groups (under the Equality Act 2010): race, disability, sex, gender re-assignment, age, religion and belief, sexual orientation, marriage and civil partnership, pregnancy and maternity?

Neutral (neither positive nor negative)

Please explain the reasons for your response.

See my replies above

Q8. In what ways could any negative impact of the proposed Bill on equality be minimised or avoided?

No Response

Page 15: Sustainability

Q9. Do you consider that the proposed Bill can be delivered sustainably i.e. without having likely future disproportionate economic, social and/or environmental impacts?

Yes

Page 16: General

Q10. Do you have any other comments or suggestions on the proposal, for example, other trigger points for violence and abuse, and other workers who should be covered?

Care workers are often subjected to intimidation and threats. They could usefully be included in any specific bill

Page 17: Personal Experience - Optional questions

Q11. Which of the following describes your retail-sector experience (please tick all that apply)?

Working in other retail premises

Q12. Which of the following describes your experience of violence or verbal abuse in the retail sector (please tick all that apply)?

None of the above

Q13. Please give details of any personal experience that you would wish to share. (Please avoid naming any other person or giving information that would allow another person to be identified)

No Response