

CONFIDENTIAL



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file 116
D. Wilson

10 DOWNING STREET

From the Private Secretary

3 December 1979

EMPLOYMENT BILL

The Prime Minister has read your Secretary of State's paper - L(79)95 - to Legislation Committee.

She has one comment on paragraph 8 which she would be grateful if your Secretary of State would consider. The last sentence of that paragraph says Mr. Prior proposes to say at Second Reading that the Government "will take whatever action seems necessary to restore the legal position either by amending the Bill in Committee or in separate legislation later" (if the House of Lords over-turn the Court of Appeal's judgement in the McShane case). Although the Prime Minister is of course aware that Cabinet took the view that action should be taken to restore the legal position, she wonders on reflection whether this is not an excessively restrictive formulation. As was made clear in the discussion which she had with your Ministers and officials when she visited the Department recently, restoring the position to what it is now (i.e. after the Court of Appeal's judgement) might not provide a satisfactory solution; rather than confirming the Court of Appeal's judgement, the Government might for example want to move on immunities in respect of commercial contracts. To take account of this point, the Prime Minister has suggested that Mr. Prior might simply say at Second Reading that the Government will take whatever action as seems necessary in the light of the House of Lords' judgement.

I am sending copies of this letter to the Private Secretaries to members of the Cabinet, the Chief Whip, the Attorney General and to Martin Vile (Cabinet Office).

J. P. LANKESTER

I. A. W. Fair, Esq.,
Department of Employment.

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T P Lankester Esq
10 Downing Street
LONDON SW1

7 December 1979

✓ to Mr Lankester
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NBAM

Dear Tim

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EMPLOYMENT BILL

Thank you for your letter of 3 December in which you conveyed the Prime Minister's comments on my Secretary of State's proposed form of words at Second Reading should the House of Lords overturn the Court of Appeal's judgement in the MacShane case.

Mr Prior will be happy to use the wider formulation, as proposed by the Prime Minister, which more accurately reflects the intention.

I am sending copies of this letter to the recipients of your letter.

Yours sincerely
Ian Pais

-- 7 DEC 1959



Very truly yours,
[Signature]

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1959

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File

10 DOWNING STREET

From the Private Secretary

14 December 1979

Dear Sir,

EMPLOYMENT BILL

We spoke this morning about the Employment Bill and what your Secretary of State intends to say at Second Reading on Monday in the light of the McShane judgement.

My earlier letter of 3 December recorded that the Prime Minister had suggested that Mr. Prior should say that the Government will take whatever action as seems necessary in the light of the House of Lords' judgement. The Prime Minister has now asked me to clarify this to the extent that she wishes Mr. Prior to make clear that he will be introducing amendments to the Bill in Committee. The Prime Minister understands that Mr. Prior will be bringing forward proposals for dealing with McShane as soon as possible; she is quite clear that action must be taken in the current Bill and should not await separate legislation. If Ministers were to decide merely to restore the legal position to what it was prior to the House of Lords' judgement, this would still leave open the possibility of taking action on immunities in respect of commercial contracts in later legislation.

I am sending copies of this letter to the Private Secretaries to member of the Cabinet, the Chief Whip, the Attorney General and Sir Robert Armstrong.

Yours faithfully,

Tim Latham.

I.A. Fair, Esq.,
Department of Employment.

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Tim Lankester Esq
Private Secretary to the
Prime Minister
10 Downing Street
LONDON SW1

Dear Tim

EMPLOYMENT BILL

Thank you for today's letter about what my Secretary of State intends to say at Second Reading on Monday in the light of the MacShane judgement.

Mr Prior thinks that it would be a great mistake to depart on Monday from the line hitherto agreed with the Prime Minister. Cabinet agreed on 22 November that further provision on immunities should be prepared so that, in the light of the House of Lords judgement, action could be taken to restore the position and make other required changes in immunities either by amendment to the Bill in Committee, or in a later separate Bill. That work is in hand and raises serious matters of policy and strategy which Mr Prior intends to put before colleagues in January in good time for any amendment to be put into this Bill if that is the final decision. Until Cabinet have had a chance to consider the matter, he proposes to rest publicly on the statement that the Government are considering the Lords judgement and will take what action seems necessary in the light of that consideration.

I am sending copies of this letter to the private secretaries to members of the Cabinet, the Chief Whip, the Attorney General and Sir Robert Armstrong.

Yours sincerely
I A W FAIR

Private Secretary

Ind. Ad.

*PA said the text
A. Prior is mistaken,
but will leave it at
his discretion to
his judgement.
14 December 1979
Scribe to D/Department
(Hans).*

*PL
14/12*

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