

Free Speech Bill

EXPLANATORY NOTES

Explanatory notes to the Bill are forthcoming.

Free Speech Bill

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B I L L

TO

recognise and restore the ancient liberty of free speech; to protect expression by the public, subject only to narrow and objective exceptions; to restrict the power of public authorities and essential services to interfere with lawful expression; to repeal or amend enactments which criminalise expression by reference to offence or distress; and for connected purposes.

BE IT ENACTED by the King'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:—

*Preliminary***1 Introduction**

- (1) This Act provides a legal framework to recognise and restore the liberty of every person within, and the people of, the United Kingdom to receive and impart expression, and engage in expressive association, without interference by public authorities except in the narrow cases explicitly prescribed by law. 5
- (2) In particular, this Act (among other things)—
 - (a) protects discourse on politics, morality, philosophy, or any other matter of public interest, including expression that others regard as offensive, insulting, abusive, shocking or hateful; 10
 - (b) confines criminal liability for expressive activity to a limited and traditionally excepted set of actions, including (among other things) unlawful threats, direct incitement of crime, and serious harassment;
 - (c) prevents the suppression of speech by public authorities via direct prohibitions or indirect actions which inhibit or discourage such expression; and 15
 - (d) repeals or amends enactments, and alters or abolishes common law doctrines which deprive people of their right to engage in the expressive discourse described in subsection (a). 20

Right to Freedom of Expression

2 The State

- (1) In this Act, subject to subsections (3) and (4), the obligations imposed on the State apply to any public authority.
- (2) For the avoidance of doubt, the term “public authority” in subsection (1) includes, but is not limited to— 5
- (a) a court or tribunal;
 - (b) any person certain of whose functions are functions of a public nature;
 - (c) any institution subject to direct or indirect control by a person referred in to subsection (1); 10
 - (d) the employees, servants, and agents of any person or category of persons or other entity subject to obligations under subsection (1).
- (3) The term “public authority” does not include the Church of England, nor any person exercising temporal or ecclesiastical functions relating to the Church of England in any way whatsoever. 15
- (4) The term “public authority” does not refer to His Majesty’s Forces, save where providing military aid to the civil authorities.
- (5) The Secretary of State may, by regulations, add any person or category of persons or other entity to Schedule 7 (Non-Exhaustive List of Public Authorities). 20
- (6) In determining if a person, category of persons, or body is a public authority under subsection (1), a court or tribunal shall construe the term “public authority” expansively.

3 United Kingdom persons 25

In this Act, “United Kingdom person” refers to—

- (a) a British citizen;
 - (b) an individual who is lawfully present in the United Kingdom;
 - (c) an individual who is lawfully ordinarily resident in the United Kingdom, whether or not present in the United Kingdom; 30
 - (d) a legal entity, trust, partnership, or association formed in the United Kingdom, including but not limited to—
- (i) a limited company; 35
 - (ii) a partnership, limited partnership, or limited liability partnership;
 - (iii) community interest company; or

- (iv) a registered charity;
- (e) the establishment in the United Kingdom of a foreign legal entity;
- (f) a group, club, or unincorporated association in the United Kingdom;
- (g) a registered party or minor party within the meaning of the Political Parties, Elections and Referendums Act 2000; or
- (h) any other association, including unregistered political parties, formed in the United Kingdom for the purpose of engaging in expressive association. 5

4 Freedom of expression

- (1) The right of any United Kingdom person to hold opinions and to engage in lawful expression shall not be violated by the State, except as expressly permitted by this Act. 10
- (2) The liberty in subsection (1) applies to expression which, without limitation—
 - (a) is popular or unpopular; 15
 - (b) is regarded by any person as offensive, grossly offensive, insulting, abusive, shocking, blasphemous, obscene, indecent, or otherwise objectionable;
 - (c) advocates the alteration or abolition of existing laws or institutions; or 20
 - (d) is inoffensive or widely accepted.
- (3) Lawful expression includes, but is not limited to—
 - (a) the right to engage in spoken or written expression pertaining to any matter of public interest, morality, philosophy, religion, or politics; and 25
 - (b) the right not to be compelled to engage in expression pertaining to any matter of public interest, morality, philosophy, religion, or politics.

5 No right not to be offended 30

- (1) There is no right in law not to be offended by the expression of others.
- (2) A United Kingdom person does not commit an offence and does not incur civil liability merely because his or her expression—
 - (a) is offensive, grossly offensive, insulting, abusive, indecent, shocking or distressing; or 35
 - (b) caused an emotional or intellectual impact on, or feelings of, any

hearer or recipient of the expression.

- (3) Subsection (2) does not affect the law insofar as it relates to assault or psychiatric injury.

6 Special protection for expression on matters of public interest

No United Kingdom person may be convicted of a criminal offence, or subjected to civil or disciplinary sanctions or other penalties by the State, solely by reason of spoken or written expression pertaining to any matter of public interest, morality, philosophy, religion, or politics, unless—

- (a) the expression falls within a category of unprotected expression specified in Part 3; and
- (b) the conditions for liability under the relevant offence or legal rule are strictly satisfied.

7 Government speech

- (1) The State has no liberty under this Act to refuse to speak, to withhold information, or to decline to comply with any legal duty of disclosure, publication or neutrality on the basis of freedom of expression.
- (2) In particular, nothing in this Act—
- (a) limits any obligation on the State to provide information or assistance to Parliament, a court, an inquiry or an auditor; or
- (b) prevents Parliament from regulating or restricting the content of communications issued by the State.
- (3) Where an individual who is an office holder or employee of the State communicates in public in relation to matters pertaining to their official function, that communication shall be presumed to be made in an official capacity unless the individual clearly identifies that he or she is engaged in expression in a purely personal capacity.

Unprotected Expression

8 General rule on unprotected expression

- (1) Expression is protected by this Act unless it falls within a category of unlawful expression specified in this Act.
- (2) For the purpose of any legal proceeding, the burden of proving that expression falls within an unprotected category lies on the person or authority seeking to rely on that fact and must be proved on balance of probabilities.

9 Direct incitement

- (1) Direct incitement is unlawful expression.
- (2) Expression amounts to “direct incitement” where—
 - (a) it is directed to one or more identifiable persons, or to a specific audience; 5
 - (b) the expression is intended to produce imminent lawless action; and
 - (c) considering the totality of the circumstances, the expression is likely to result in or produce imminent lawless action.
- (3) Expression shall not be regarded as direct incitement solely because it advocates, praises or defends unlawful conduct in general terms, or because it is offensive, grossly offensive, insulting, shocking, disturbing, or alarming. 10

10 Harassment and stalking by communication

In section 7 of the Protection from Harassment Act 1997, for subsection (3) substitute— 15

“(3) A “course of conduct” must—

- (a) involve—
 - (i) in the case of conduct in relation to a single person (see section 1(1)), conduct on at least two occasions in relation to that person, or 20
 - (ii) in the case of conduct in relation to two or more persons (see section 1(1A)), conduct on at least two occasions in relation to each of those persons; 25
- (b) be done with the intention of causing the person or persons to whom the conduct relates serious alarm or distress; and
- (c) serve no legitimate purpose.

(3ZB) The following applies in relation to subsection (3)— 30

- (a) A course of conduct does not include communications which are not intentionally communicated to a person or persons, directly or indirectly, even if that person or those persons become aware of it and find the communications offensive, alarming or distressing.
- (b) Communications are not intentionally communicated to a person or persons, directly or indirectly, by reason only that the person or persons have chosen to navigate to, subscribe to, follow, receive notifications concerning, or otherwise monitor those 35

communications.

- (c) For the purposes of paragraph (a), “communications” includes letters, emails, messages, telephone calls, direct messages, “tagging” or other notifications, and any other direct or targeted means of conveying information of any kind.”

11 Savings for justice and other matters 5

- (1) The following categories of speech are unlawful expression—
- (a) perjury or an attempt to pervert the course of justice;
 - (b) contempt of court;
 - (c) an unlawful threat; 10
 - (d) fraud, blackmail or extortion;
 - (e) an offence under the National Security Act 2023 or the Official Secrets Act 1989;
 - (f) procuring, counselling, encouraging, or assisting the commission of a crime; 15
 - (g) a criminal conspiracy;
 - (h) direct incitement;
 - (i) defamation;
 - (j) an offence under the Protection from Harassment Act 1997;
 - (k) an offence under this Act; or 20
 - (l) any other category of expression which has been expressly designated as unlawful, or in respect of which penalties or other liability may be imposed, by an Act of Parliament.
- (2) Nothing in this Act affects the law of defamation, save that any provision of that law must be interpreted, so far as possible, in a manner compatible with the freedom of expression recognised in this Act. 25
- (3) Nothing in this section affects Section 20 (Online services).

12 Public order offences

- (1) The public order offences set out in Schedule 2 (Public order, provocation and threatening offences) are preserved as content-neutral public order offences. 30
- (2) No United Kingdom person may be convicted of an offence, including riot, violent disorder, affray, unlawful assembly, or common law breach of the peace, by reason only of the content of that person’s lawful expression.

*Restrictions on State action***13 Prohibition of censorship by the State**

- (1) In relation to any United Kingdom person, the State must not—
- (a) directly or indirectly prohibit, restrict, or penalise, or threaten to prohibit, restrict, or penalise, lawful expression; 5
 - (b) directly or indirectly subject any United Kingdom person to detriment in employment, office, education, access to services or benefits on the ground of lawful expression, or threaten to do the same;
 - (c) directly or indirectly impose conditions on the grant of any licence, authorisation, recognition, funding or other benefit requiring that a United Kingdom person refrain from lawful expression, or adopt any particular political, moral or ideological opinion, or threaten to do the same; or 10
 - (d) directly or indirectly maintain or apply any policy or code of conduct that purports to prohibit, restrict, or penalise lawful expression, or threaten to do the same. 15
- (2) Subsection (1) does not prevent a public authority from applying neutral and reasonable requirements relating to time, place and manner of expression which are necessary. 20

14 Non-crime speech monitoring prohibited

- (1) The State must not—
- (a) directly or indirectly, for the purpose of punishing or chilling lawful expression, create, maintain or share any record, database or file which identifies a United Kingdom person as having engaged in lawful expression, or threaten to do the same; or 25
 - (b) directly or indirectly, for the purpose of punishing or chilling lawful expression, record lawful expression as a “non-crime hate incident” or by any similar description, or threaten to do the same. 30
- (2) Subsection (1)(a) does not prevent the collection, retention or analysis of lawful expression where, and to the extent that, this is reasonably necessary for the purposes of investigating crime or suspected crime.
- (3) Any record kept in contravention of subsection (1) must be destroyed without delay. 35
- (4) A United Kingdom person who has a record, database, or file created about

them by the State as a result of a contravention of this section may bring civil proceedings under section 21.

15 No outsourcing or funding of censorship by the State

- (1) The State must not—
- (a) directly or indirectly, arrange for, attempt to, or procure any act or omission by another person which, if done by the State, would contravene this Act; 5
 - (b) directly or indirectly, fund, subsidise or otherwise support any programme or scheme whose purpose or effect is to suppress lawful expression; or 10
 - (c) directly or indirectly, enter into any agreement with another person with the aim or intent of suppressing lawful expression.
- (2) Any term of a contract, grant agreement or similar instrument which has as its objective the suppression of lawful expression, and if performed is reasonably likely to bring about the suppression of lawful expression either directly or indirectly, is void. 15

16 No compelled speech as a condition of public services, public benefits, or licensing

- (1) A public authority must not, directly or indirectly, require any United Kingdom person, as a condition of— 20
- (a) employment, office or promotion;
 - (b) admission to or continued participation in an educational course;
 - (c) grant of a licence, accreditation or professional registration;
 - (d) receipt of funding or other public benefit; or 25
 - (e) grant of citizenship,
- to declare, adopt or affirm any political, moral, religious or ideological belief, other than expressing allegiance to His Majesty.
- (2) No United Kingdom person may be subjected to any detriment by a public authority for refusing to attend or participate in training, ceremonies or events whose purpose is to secure such declaration, adoption or affirmation, other than expressing allegiance to His Majesty. 30
- (3) Subsection (1) does not prevent a public authority or regulator from requiring a United Kingdom person to comply with professional or technical standards which are neutral as to political, moral, religious or ideological belief. A standard is not neutral for the purposes of this 35

subsection if compliance with it requires a person to express or endorse a particular political, moral, religious or ideological viewpoint, other than expressing allegiance to His Majesty.

- (4) Subsection (1) does not prevent the continued application of existing processes for security clearances, safeguarding, or other protective measures for roles where those processes are necessary to the function of the position. 5
- (5) Subsection (1) does not affect any existing statutory oaths, affirmations, or attestations.

Intellectual discrimination

- 17 Amendments to the Employment Rights Act 1996** 10
Schedule 3 (Employment: lawful expression) has effect.

- 18 Amendments to the Equality Act 2010**
Schedule 4 (Equality: lawful expression) has effect.

Essential services and the internet

- 19 Duties of essential service providers** 15
- (1) An essential service provider must not, directly or indirectly, refuse to provide, or withdraw, a core service to a United Kingdom person on the ground that the United Kingdom person has engaged in, or failed to engage in, lawful expression.
- (2) Subsection (1) does not prevent an essential service provider from refusing or withdrawing services where this is reasonably necessary to— 20
- (a) prevent the commission of an offence either by the essential service provider or a United Kingdom person;
- (b) comply with the order of any court or tribunal; or 25
- (c) comply with a specific regulatory or statutory duty.
- (3) A United Kingdom person who suffers loss as a result of a contravention of this section may bring civil proceedings under section 21.
- (4) In this section, “essential service” means— 30
- (a) a core activity or core service as defined in sections 142B (Core activities) and 142C (Core services) of the Financial Services and Markets Act 2000;
- (b) a regulated credit agreement as defined in section 8 (Consumer credit agreements) of the Consumer Credit Act 1974; 35

- (c) any service, facility, network, or other activity which must be provided, made available or supplied throughout the United Kingdom under provision made under section 65 (Obligations to be secured by universal service condition) of the Communications Act 2003;
- (d) services provided to an end-user by a qualifying internet domain registry, as defined in section 124O (Notification of failure in relation to internet domain registry) of the Communications Act 2003; or
- (e) any other service, facility, provision, or other thing the Secretary of State may by regulations designate.

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20 **Online services**

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- (1) In any civil action, no provider or user of an interactive computer service shall be treated as the publisher or speaker of any content provided by another information content provider.
- (2) No provider or user of an interactive computer service shall be held civilly liable on account of—
 - (a) any action taken to restrict access to or availability of material that the provider or user considers to be harmful, obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable; or
 - (b) any action taken to enable or make available to information content providers or others the technical means to restrict access to material described in paragraph (a).
- (3) A provider of an interactive computer service must implement proportionate technical measures to detect and remove any material on its service that it reasonably believes to be unlawful under the Protection of Children Act 1978 and, as soon as reasonably practicable, and not later than 24 hours, after obtaining actual knowledge of the presence of such material, promptly remove such material and provide to law enforcement information within its possession about the identity of any individual who appears to have violated or plans to violate the Protection of Children Act 1978. Such disclosure shall, to the extent reasonably practicable, include that individual's electronic mail address, Internet Protocol address, payment information, or any other identifying information.
- (4) Nothing in this section shall be construed to impair or limit criminal liability of any interactive computer service providers or users for unlawful expression under this Act, or criminal liability arising from matters

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preserved by Part 3.

Enforcement and remedies

21 Civil proceedings

- (1) A United Kingdom person who claims that—
- (a) the State; or 5
 - (b) an essential service provider
- has acted (or is proposing to act) in a way which is incompatible with this Act may bring civil proceedings against that authority or provider in the appropriate court or tribunal.
- (2) Where the court finds that a defendant in an action described in subsection (1) has acted in a way which is incompatible with this Act, it may grant such relief or remedy, or make such order, as it considers just and appropriate, including, as appropriate, a declaration, an injunction, interim or emergency relief, an order quashing a decision or requiring a decision to be retaken, actual damages, a final order, or reasonable costs incurred by the claimant in seeking such relief. 10
- (3) In determining whether to award damages, and the amount, the court must have regard to the importance of the right to freedom of expression and the need to deter future breaches. 15
- (4) Where a claimant is successful in whole or in part in proceedings under this section, the court must order the defendant to pay the claimant's reasonable costs, unless it considers that exceptional circumstances make such an order unjust. 20

22 Remedies for strategic lawsuits against public participation

- (1) This section applies to any civil claim arising from, or materially connected with, the publication or proposed publication of expression on a matter of public interest. 25
- (2) A defendant may, at any time prior to the service of the defendant's answer, apply to the court for an order striking out the claim on the ground that it is strategic litigation against public participation. 30
- (3) On an application under subsection (2), the court must dismiss the claim unless the claimant satisfies the court that—
- (a) the claim has substantial merit;
 - (b) the claimant is likely to succeed at trial; 35
 - (c) the purpose of the claim is not to infringe on, suppress, or chill a

right protected by this Act; and

- (d) the likely harm suffered or to be suffered by the claimant is sufficiently serious to justify the continuation of the proceedings.
- (4) In determining whether a claim is strategic litigation against public participation, the court must have regard to whether the claim has the purpose or effect, or is likely to have the purpose or effect, of restraining, penalising, intimidating or exhausting the defendant in relation to lawful expression. 5
- (5) In particular, the court may have regard to—
- (a) any disproportionate, excessive or punitive claim for damages or other relief; 10
- (b) any abuse of process, including the use of multiple proceedings;
- (c) any significant imbalance of resources between the parties;
- (d) any failure by the claimant to give a proper opportunity to reply before proceedings were begun; 15
- (e) any conduct by the claimant which suggests that the real purpose of the claim is to suppress lawful expression.
- (6) Upon the making of an application under subsection (2), all proceedings in the claim are stayed until the application is determined, except to the extent that the court orders otherwise. 20
- (7) Where the court dismisses a claim under this section, it must award the defendant the defendant's full reasonable costs of the proceedings, unless exceptional circumstances make such an order unjust.
- (8) Where the court is satisfied that a claim is strategic litigation against public participation, it may also award such damages or other relief to the defendant as it considers just in respect of loss caused by the bringing of the claim. 25

23 Burden of proof in enforcement proceedings

- (1) Where, in civil proceedings under section 21, or in proceedings brought by virtue of the amendments made under Schedule 3 or 4 of this Act, a claimant shows— 30
- (a) that he or she has engaged in lawful expression; and
- (b) that a defendant has acted in a way which interferes with, or seeks to punish the claimant for, or to chill that expression, 35
- it shall be presumed, unless the defendant proves otherwise, that the interference is incompatible with this Act.
- (2) In determining whether the presumption in subsection (1) has been

rebutted, the court shall have regard to —

- (a) the temporal proximity between the claimant’s lawful expression and the act or omission complained of;
- (b) whether the defendant has applied the stated ground for its action consistently as between persons who have and have not engaged in the lawful expression at issue; 5
- (c) whether the stated ground for the defendant’s action was articulated before or only after the claimant’s expression became known to the defendant;
- (d) any direct or circumstantial evidence that the defendant’s true motivation was to penalise or chill the claimant’s lawful expression rather than the stated ground; and 10
- (e) whether a standard relied upon by the defendant as justification is neutral in substance or operates in practice to penalise lawful expression protected by this Act. 15

24 Vacatur of convictions, cautions and binding-over orders

- (1) Any conviction entered under a provision repealed by this Act, where the conduct at issue would constitute lawful expression under this Act, is hereby annulled, vacated and of no legal effect.
- (2) A court of record shall enter an order setting aside such a conviction upon application by the person convicted, and all legal disabilities or penalties flowing from the conviction shall be extinguished. 20
- (3) Any caution administered under a provision repealed by this Act, where the conduct at issue would constitute lawful expression under this Act, is of no effect, and a court of record shall, on application, make a declaration to that effect. 25
- (4) Any binding-over order made on the basis of conduct which would constitute lawful expression under this Act is discharged, and a court of record shall, on application, make an order to that effect.
- (5) This section does not apply to convictions, cautions or orders for conduct involving violence, threats, actual physical harm, or offences preserved under this Act. 30
- (6) All relevant record-holders must take all reasonably practicable steps to amend, annotate or remove records to reflect an order or declaration made under this section. 35

Interpretation, human rights, and subsequent enactments

25 Relationship with other enactments

- (1) This Act has effect notwithstanding any provision of any other enactment, whenever passed, which is implicitly inconsistent with it, unless that other enactment—
- (a) expressly disapplies or amends this Act; and 5
 - (b) identifies the specific provision or provisions affected.
- (2) So far as it is possible to do so, primary and subordinate legislation, whenever enacted, must be read and given effect in a way which is compatible with this Act.
- (3) Nothing in this Act shall be construed as limiting the rights of students, educators, and higher education personnel to freedom of speech under Section 43 of the Education (No. 2) Act 1986, Section 202 of the Education Reform Act 1988, or the Higher Education (Freedom of Speech) Act 2023. 10

26 European Convention on Human Rights and foreign law

- (1) In determining any question arising under this Act, a court or tribunal— 15
- (a) must not interpret this Act, or any other enactment, so as to allow a greater restriction on expression than is permitted by this Act by reference to— 20
 - (i) the Convention for the Protection of Human Rights and Fundamental Freedoms, agreed by the Council of Europe at Rome on 4th November 1950 as it has effect for the time being in relation to the United Kingdom; or
 - (ii) any judgment or decision of the European Court of Human Rights; and 25
 - (b) must not treat any such Convention, judgment or decision as requiring a restriction on expression which would be incompatible with this Act.
- (2) No court or tribunal may have regard to the law of any foreign state, or to any judgment of a foreign court or tribunal, in a manner which would permit a restriction on expression that is inconsistent with this Act. 30

27 Schedules

- (1) Schedule 1 (Repeals and amendments) has effect.
- (2) Schedule 2 (Public order, provocation and threatening offences) has effect. 35
- (3) Schedule 5 (Application to Scotland) has effect.
- (4) Schedule 6 (Application to Northern Ireland) has effect.

28 Interpretation

In this Act—

“expression” means receiving or imparting words, sounds, writing, images, data, performance or any other communication, or lack of communication, or any expressive association, intended to convey meaning, whether addressed to the public or to one or more persons and whether by analogue or digital means; 5

“expressive association” means the act of joining, forming, participating in, supporting, or affiliating with any other person, group, club, unincorporated association, or other organisation or association for the purpose of engaging in, facilitating, or promoting lawful expression or other lawful activity, and includes the right to refrain from joining, forming, participating in, supporting, or affiliating with any such person, group, club, unincorporated association, or other such organisation or association; 10

“information content provider” means any person or entity that is responsible, in whole or in part, for the creation or development of information provided through the Internet or any other interactive computer service; 15

“interactive computer service” means any system that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet, including artificial intelligence models; 20

“lawful expression” means expression which is not unlawful expression as defined in this Act;

“matter of public interest” includes any matter relating to— 25

- (a) government, public administration or the conduct of public authorities;
- (b) elections, referendums, political debate, public policy or parties within the meaning of the Political Parties, Elections and Referendums Act 2000; 30
- (c) crime, fraud, misconduct, corruption or abuse of power;
- (d) public health or safety;
- (e) the conduct of corporations, charities, regulators or other bodies whose activities affect the public; or 35
- (f) any other matter in relation to which the public has a legitimate interest in receiving information or opinion;

“political expression” means expression concerning politics; and

“politics” includes, but is not limited to, expression concerning

- (a) the Crown, Parliament, devolved legislatures, law, regulation, government or public administration;
- (b) political parties, campaigns, elections or referendums;
- (c) public policy, public morals or matters of public controversy or importance; and 5
- (d) religion or belief.

29 Modification of schedules

- (1) The Secretary of State may by regulations made by statutory instrument— 10
 - (a) modify Schedule 1 for the sole purpose of removing provisions in enactments or rules of the common law which unduly restrict expression;
 - (b) clarify, in cases of ambiguity as to whether or not a particular person, category of persons, or other body is considered part of the State for the purposes of this Act. 15
- (2) A statutory instrument made under this section must be laid before Parliament and is subject to annulment in pursuance of a resolution of either House of Parliament.

30 Power to make consequential and transitional provisions 20

The Secretary of State may by regulations make—

- (a) such supplementary, incidental or consequential provision, or
- (b) such transitory, transitional or saving provision, as the Secretary of State considers appropriate for the purposes or in consequence of any provision made by this Act. 25

31 Commencement, extent, and short title

- (1) This Act extends to England and Wales.
- (2) Subject to the modifications in Schedules 5 and 6, this Act extends to Scotland and Northern Ireland. This Act binds the Crown. 30
- (3) This Act comes into force on the day on which it is passed.
- (4) This Act may be cited as the Free Speech Act 2026.

SCHEDULES

SCHEDULE 1

REPEALS AND AMENDMENTS

PART 1

REPEAL OF ENACTMENTS

The enactments specified in the first column of the following table are repealed to the extent specified in the second column. 5

<i>Short title</i>	<i>Extent of repeal</i>
Communications Act 2003	Section 127
Contempt of Court Act 1981	Sections 1 through 7
Malicious Communications Act 1988	The whole Act
Hate Crime and Public Order (Scotland) Act 2021	The whole Act
Human Rights Act 1998	Article 10(2) of Schedule 1
Official Secrets Act 1989	Section 5
Obscene Publications Act 1959	The whole Act
Online Safety Act 2023	The whole Act
Public Order Act 1986	The whole Act
Public Order Act 2023	The whole Act
Senedd Cymru (Member Accountability and Elections) Act 2026	The whole Act
Terrorism Act 2000	Part II
Terrorism Act 2006	Sections 1, 2, 3, 21 and 22

PART 2

MODIFICATION OF ENACTMENTS

Human Rights Act 1998

In the Human Rights Act 1998, after section 13 (Freedom of thought, conscience and religion), insert—

“13A Freedom of expression: interpretation

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In sections 12 and 13, any references to the “Convention right to freedom of expression” or the “Convention right to freedom of thought, conscience and religion” include references to the right to lawful expression under the Free Speech Act 2026.”

PART 3

MODIFICATION OF THE COMMON LAW

Outraging public decency

The offence of outraging public decency is abolished.

SCHEDULE 2

PUBLIC ORDER, PROVOCATION AND THREATENING OFFENCES

*Public Order Offences***1 Riot**

- (1) A person is guilty of an offence if— 5
- (a) the person is one of 12 or more persons who are present together; and
 - (b) those persons use or threaten unlawful violence for a common purpose; and
 - (c) the conduct of these persons, taken together, is such as would cause a person of reasonable firmness present at the scene to fear for his or her physical safety. 10
- (2) A person guilty of an offence under this paragraph is liable on conviction on indictment to imprisonment for a term not exceeding ten years or a fine or both. 15

2 Violent Disorder

- (1) A person is guilty of an offence if—
- (a) the person is one of 3 or more persons who are present together; and
 - (b) those persons use or threaten unlawful violence; and 20
 - (c) the conduct of them (taken together) is such as would cause a person of reasonable firmness present at the scene to fear for his or her physical safety.
- (2) A person guilty of an offence under this paragraph is liable on conviction on indictment to imprisonment for a term not exceeding 5 years or a fine or both, or on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both. 25

3 Affray

- (1) A person is guilty of an offence if— 30
- (a) the person uses or threatens unlawful violence towards another; and
 - (b) the person's conduct is such as would cause a person of reasonable firmness present at the scene to fear for his or her physical safety.
- (2) A person guilty of an offence under this paragraph is liable on conviction on indictment to imprisonment for a term not exceeding 3 years or a fine or 35

both, or on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both.

4 Unlawful assembly

- (1) A person is guilty of an offence if the person is one of 3 or more persons who are present together and— 5
- (a) those persons intend to carry out a common unlawful purpose, and the conduct of them (taken together) is such as would be likely to occasion a breach of the peace; or
 - (b) those persons intend to carry out a common purpose, and the conduct of them (taken together) is such as to substantially prevent 10 any person from exercising a lawful right of passage, entry, exit, or access to premises or services.
- (2) A person guilty of an offence under this paragraph is liable on conviction on indictment to imprisonment for a term not exceeding 2 years or a fine or both, or on summary conviction to imprisonment for a term not exceeding 15 6 months or a fine not exceeding the statutory maximum or both.

Provocation & Threatening offences

5 Fear or provocation of violence

- (1) A person is guilty of an offence if that person— 20
- (a) threatens another person with unlawful violence, or
 - (b) distributes or displays to another person any writing, sign or other visible representation which contains a threat to commit unlawful violence or would be understood by a person of reasonable firmness to constitute a threat of unlawful violence, 25
- with intent to cause that person to believe that imminent unlawful violence will be used against him or another by any person, or to provoke the imminent use of unlawful violence by that person or another, or whereby that person is likely to believe that such violence will be used or it is likely that such violence will be provoked. 30
- (2) An offence under this paragraph may be committed in a public or a private place, except that no offence is committed where the words or behaviour are used, or the writing, sign or other visible representation is distributed or displayed, by a person inside a dwelling and the other person is also inside that or another dwelling. 35
- (3) A person guilty of an offence under this paragraph is liable on summary conviction to imprisonment for a term not exceeding 6 months or a fine not

exceeding level 5 on the standard scale or both.

6 Threatening communications

- (1) A person is guilty of an offence if—
- (a) the person sends a communication, by any medium of expression;
 - (b) the message conveys a threat of death, serious harm, or the commission of unlawful violence; and 5
 - (c) at the time of sending it, the person—
 - (i) intended an individual encountering the message to reasonably fear that the threat would be carried out (whether or not by the person sending the communication); 10
 - (ii) had a subjective understanding that the person or persons to whom such communication is directed would reasonably perceive that communication as a true threat of death, serious harm, or the commission of unlawful violence. 15
- (2) “Serious harm” means—
- (a) serious injury amounting to actual bodily harm or grievous bodily harm within the meaning of the Offences against the Person Act 1861, 20
 - (b) rape,
 - (c) assault by penetration within the meaning of section 2 of the Sexual Offences Act 2003;
 - (d) the commission of an offence under the Theft Act 1968; or
 - (e) serious financial loss. 25
- (3) In proceedings for an offence under this paragraph relating to a threat of serious financial loss, it is a defence for the person to show that—
- (a) the threat was used to reinforce a reasonable demand, and
 - (b) the person reasonably believed that the use of the threat was a proper means of reinforcing the demand. 30
- (4) If evidence is adduced which is sufficient to raise an issue with respect to the defence under paragraph 6(3), the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not. 35
- (5) A person who commits an offence under this paragraph is liable—
- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates’ court or a fine (or both); 40

- (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine (or both).

General

7 Interpretation

- (1) “Breach of the peace” means, for the purposes of this Act and the common law— 5
 - (i) circumstances where unlawful violence is actually directed at a person or property;
 - (ii) where, considering the totality of the circumstances, a person of reasonable firmness would conclude that unlawful violence is likely to be imminently directed at a person or property; or 10
 - (iii) circumstances where a person of reasonable firmness would likely consider that there is a substantial risk that the offence of affray, riot, or unlawful assembly, or some other unlawful violence, will be imminently committed. 15
- (2) A person may not be arrested for, or convicted of, breach of the peace by reason of that person’s lawful expression alone, even if a likely or predictable consequence of that person’s lawful expression would be the unlawful actions of another.
- (3) In this Schedule— 20
 - (a) “Unlawful violence” includes violent conduct towards property as well as towards persons;
 - (b) a person of reasonable firmness need not be, and is not to be taken to be, present at the scene; 25
 - (c) a threat of unlawful violence may be made by words or conduct, but an offence under this Schedule is committed by the violent conduct, not by the content of the words alone;
 - (d) for the purposes of the offences of riot, violent disorder, and unlawful assembly, the conduct of persons present together includes— 30
 - (i) the unlawful obstruction of any highway, road, railway, waterway, or access to any premises, where that obstruction is calculated to cause serious disruption to the life of the community or to endanger public safety; 35
 - (ii) the unlawful physical restraint or confinement of any person against that person’s will; or

- (iii) the unlawful exclusion of any person from any place where that person has a right to be lawfully present, including preventing any person from entering or leaving any premises or place where that person has a right to be lawfully present, or preventing any person from moving any personal property or vehicle to or from any premises or place where that person has a right to be lawfully present with such property or vehicle.

SCHEDULE 3

EMPLOYMENT: LAWFUL EXPRESSION

1 The Employment Rights Act 1996 is amended as follows.

2 After section 47EB insert—

“47EC Lawful expression outside work

- (1) A worker has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by the worker’s employer done on the ground that the worker has engaged in lawful expression in a personal capacity, where that expression occurred outside the workplace and otherwise than in the course of the worker’s duties. 5
- (2) This section does not apply where— 10
- (a) the worker is an employee, and
- (b) the detriment in question amounts to dismissal within the meaning of Part 10.
- (3) It is a defence for the employer to show that the act, or deliberate failure to act, was a proportionate means of achieving a legitimate business aim. 15
- (4) In determining whether subsection (3) is satisfied, regard shall be had in particular to— 20
- (a) the importance of freedom of expression in a democratic society, and
- (b) whether the expression materially impaired the worker’s ability to perform the work.
- (5) In this section “lawful expression” has the same meaning as in the Free Speech Act 2026.” 25

3 In section 48(1) (complaints to employment tribunals), after “47EB” insert “, 47EC”.

4 After section 104K insert—

“104L Lawful expression outside work

- (1) An employee who is dismissed shall be regarded for the purposes of this Part as unfairly dismissed if the reason, or principal reason, for the dismissal is that the employee engaged in lawful expression in a personal capacity, where the expression occurred outside the workplace and otherwise than in the course of the employee’s 30

duties.

- (2) It is a defence for the employer to show that the dismissal was a proportionate means of achieving a legitimate business aim.
- (3) In determining whether subsection (2) is satisfied, regard shall be had in particular to—
 - (a) the importance of freedom of expression in a democratic society, and
 - (b) whether the expression materially impaired the employee's ability to perform the role.
- (4) In this section "lawful expression" has the same meaning as in the Free Speech Act 2026.

5 In section 105 (redundancy as unfair dismissal), after subsection (7BZB) insert—

“(7BZC) This subsection applies if the reason, or principal reason, for which the employee was selected for dismissal was one of those specified in section 104L(1).”

6 In section 108(3) (qualifying period of employment), after paragraph (gp) insert—

“(gq) section 104L applies.”

SCHEDULE 4

EQUALITY: LAWFUL EXPRESSION

- 1 The Equality Act 2010 is amended as follows.
- 2 In section 4 (the protected characteristics), after “gender reassignment;” insert—
- “lawful expression;”.
- 3 After section 12 (Sexual orientation) insert— 5

“12A Lawful expression

- (1) In relation to the protected characteristic of lawful expression—
- (a) a reference to a person who has that protected characteristic is a reference to a person who has engaged, proposes to engage, or is believed to have engaged, in lawful expression; 10
- (b) a reference to persons who share that protected characteristic is a reference to persons who have done any of those things.
- (2) “Lawful expression” means lawful expression within the meaning of the Free Speech Act 2026.” 15

- 4 After section 12A insert—

“12B Scope of lawful expression

The protected characteristic of lawful expression is a protected characteristic for the purposes of Parts 3, 4, 5 and 6 only.” 20

- 5 After section 12B insert—

“12C Freedom from compelled expression

- (1) Nothing in this Act requires a person to express, publish, endorse, affirm or facilitate any message, opinion, belief or viewpoint.
- (2) Nothing in this Act requires a person to create, produce, adapt or supply expressive goods or services bearing, communicating or promoting a message, opinion, belief or viewpoint. 25
- (3) A refusal to express, publish, endorse, affirm, facilitate, create, produce, adapt or supply a message, opinion, belief or viewpoint does not of itself constitute direct discrimination, indirect discrimination, harassment or victimisation. 30

- (4) In determining whether conduct falls within subsection (3), a court or tribunal must distinguish between—
- (a) refusal of a message, opinion, belief or viewpoint, and
 - (b) refusal of a person by reason of a protected characteristic.
- (5) This section does not permit discrimination against a person by reason of a protected characteristic within the meaning of this Act.”. 5
- 6 In section 13 (direct discrimination), after subsection (4) insert—
- “(4A) If the protected characteristic is lawful expression, this section applies only to a contravention of Parts 3, 4, 5, and 6 only.”.
- 7 In section 19(3) (relevant protected characteristics), after “marriage and civil partnership;” insert— 10
- “lawful expression;”.
- 8 After section 19(3) (Indirect discrimination) insert—
- “(3A) If the relevant protected characteristic is lawful expression, this section applies only to a contravention of Parts 3, 4, 5, and 6 only.”. 15
- 9 In section 26(5) (relevant protected characteristics), after “gender reassignment;” insert—
- “lawful expression;”.
- 10 After section 26(5) insert—
- “(5A) In relation to lawful expression, this section applies only for the purposes of Parts 3, 4, 5, and 6 only.”. 20
- 11 In section 149 (public sector equality duty), in subsection (1), after paragraph (c) insert—
- “(d) have due regard to the need to secure, and not to discourage or penalise, lawful expression.” 25
- 12 In section 149 (public sector equality duty), after subsection (9) insert—
- “(10) In having due regard under subsection (1)(d), a public authority must in particular have regard to—
- (a) the importance of freedom of expression in a democratic society; 30
 - (b) the need for public authorities to act in a viewpoint-neutral manner in relation to lawful expression;

- (c) the need to avoid treating the expression of lawful opinions, beliefs or political positions as, of itself, constituting harm, harassment or hostility;
- (d) the principle that lawful expression may not be restricted, disfavoured or chilled save where this is a proportionate means of achieving a legitimate aim.

(11) For the purposes of subsection (1)(d), “lawful expression” has the same meaning as in the Free Speech Act 2026.”

SCHEDULE 5
APPLICATION TO SCOTLAND

[PLACEHOLDER]

SCHEDULE 6
APPLICATION TO NORTHERN IRELAND

[PLACEHOLDER]

SCHEDULE 7

NON-EXHAUSTIVE LIST OF PUBLIC AUTHORITIES

[PLACEHOLDER]

Free Speech Bill

A

B I L L

to recognise and restore the ancient liberty of free speech; to protect expression by the public, subject only to narrow and objective exceptions; to restrict the power of public authorities and essential services to interfere with lawful expression; to repeal or amend enactments which criminalise expression by reference to offence or distress; and for connected purposes.

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