

**EMPLOYMENT RELATIONS BILL - MAIN PROPOSALS**

1. **Disciplinary and Grievance Hearings**

**Representation:**

Where an employee is invited or required to attend a disciplinary or grievance hearing, he or she may 'reasonably' request to be accompanied by a fellow worker or a trade union official.

- \* There can only be one companion
- \* The companion is permitted to confer with the worker during the hearing
- \* The companion may address the hearing but may not answer questions on the worker's behalf
- \* If the companion is unavailable and the employee proposes an alternative time which is 'reasonable' and within 5 working days of the scheduled hearing, the employer must postpone the original hearing

A fellow worker chosen to act as 'companion' is entitled to paid time off work.

**Failure to comply:**

An Employment Tribunal can order an employer to pay compensation of not more than two weeks' pay if it rules the employer has failed to allow the employee to be represented in this way.

**Detriment:**

Employees cannot be punished or dismissed for seeking representation at a disciplinary or grievance hearing.

2. **Family Friendly Working Conditions**

**Maternity Leave:**

The ordinary entitlement to maternity leave will be increased from 14 to 18 weeks. Regulations will also reduce the qualifying period of service for the entitlement to additional maternity leave of up to 40 weeks from 2 years to 1 year.

The woman's rights will be the same during both ordinary and additional leave. This extends the right to contractual benefits, other than remuneration, from ordinary to additional leave.

#### Parental Leave:

The entitlement will be to three months parental leave for the purpose of caring for a child. It is proposed that the employee will remain entitled to all benefits under contract, other than remuneration. The entitlement will be available to both natural and adoptive parents. Regulations will flesh out the detail, for example, qualifying period (if any) and timing of the leave.

It should be noted that the Fairness at Work White Paper indicated that one year's continuity of employment would be needed, the leave period would be three months and leave would have to be taken by the child's eighth birthday.

#### Time Off for Domestic Incidents:

The entitlement will be to a reasonable amount of time off during working hours to deal with a 'domestic incident'. There is to be no qualifying period for domestic incident leave. Regulations will flesh out the detail, for example, factors determining whether it is reasonable to take time off and factors affecting what amount of time off is reasonable.

#### Contracts of Employment:

These continue during parental leave and additional maternity leave unless expressly terminated.

#### Return to Work:

Employees on parental or maternity leave will have the right to return to their own jobs, or a suitable alternative, by mutual agreement.

### 3. **Individual Rights and Minimum Standards**

#### Unfair Dismissal:

The current limit on the unfair dismissal award is to be raised from £12,000 to £50,000.

The normal qualifying period for the ability to claim unfair dismissal is reduced from 2 years to 1 year.

#### Fixed Term Employment:

It will no longer be possible to agree with an employee engaged on a fixed term contract (of one year or more) that on its expiry the employee will not be able to claim unfair dismissal. It will, however, still be possible, in relation to a fixed term contract of at least 2 years' duration to agree to exclude the employees right to a statutory redundancy payment.

#### Part-Timers:

The Bill enables the Part-time Workers Directive to be incorporated into UK Law, via regulations and a supportive Code of Practice. Part-time employees will have the same

legal rights at work as full-timers. A Code of Practice on eliminating discrimination, developing part-time working opportunities and enhancing the use of flexible working, will be issued.

Whistleblowers:

There will be no limit to compensation pay outs for employees who lose their jobs unfairly after disclosing fraud or corruption.

Automatic Unfair Dismissal:

Employees will be able to claim automatic unfair dismissal, regardless of length of service, if the dismissal relates to the new rights to parental leave, time off for domestic incidents, rights to be accompanied to a disciplinary or grievance hearing, involvement in issues relating to recognition or de-recognition of trade unions.

4. **Trade Union Recognition and Consultation**

Recognition by Ballot:

A union must show 10% membership in the bargaining unit to trigger a ballot. It must then show a majority of those eligible to vote in the relevant ballot and receive 'yes' votes from at least 40%.

Automatic Recognition:

A union must demonstrate more than 50% membership in the bargaining unit. However, the Central Arbitration Committee can order a ballot if it believes this to be in the interest of 'good industrial relations' or if it believes that union members do not want the union to bargain collectively on their behalf.

Central Arbitration Committee (CAC):

If the union and employer fail to reach agreement over recognition, the CAC can make a ruling. It can instruct the employer to co-operate with a ballot, or risk being fined and to give unions access to employees to campaign for their support.

Collective Bargaining:

The CAC can assist the parties in reaching agreement on the conduct of collective bargaining. It can also specify how collective bargaining is to be conducted, if no agreement is reached.

Bargaining Unit:

If the union and employer cannot agree on the bargaining unit, the CAC will help the parties reach agreement within 28 days. If no agreement is reached at the end of this period, the CAC has 10 working days to decide on the appropriate bargaining unit.

De-recognition:

De-recognition of a recognised union (or unions) will be possible in a number of different situations, although it will not in principle be possible for three years following recognition being agreed or declared by the CAC.

An employer can request an end to arrangements where at least 10% of the workforce favour the end of the bargaining arrangements and there is evidence that a majority of the workforce would be likely to favour the end of arrangements. Workers can request an end to arrangements if the same threshold test is satisfied. Where recognition has been automatic, the employer may request de-recognition if fewer than half of the workers in the bargaining unit are members of the union.

If agreement cannot be reached, de-recognition will need to be supported by a majority of those eligible to vote in the relevant ballot and 'yes' votes from at least 40%.

#### Training:

Employers must consult every six months with the recognised trade union on the employers' training policy and plans, where the Central Arbitration Committee has been required to specify a procedure for collective agreement. The CAC may make such a specification, for example, where there has been a failure to agree recognition.

#### Blacklisting:

Discrimination against or blacklisting of trade union members - including the compilation of records of union activities to be used by employers for recruitment purposes - is to be outlawed.

#### Strikes:

It is unlawful to dismiss strikers for the first eight weeks of a strike. After that, a dismissal is fair if the Central Arbitration Committee (CAC) judges that all reasonable action has been taken by the employer to end the strike.

#### Names:

When conducting a workplace industrial action ballot, a union need no longer provide the employer with the names of members to be balloted, though it should still identify the group or category of employees concerned.

#### Individuals:

Those not presently included in collective contracts at their place of work can have these rights extended to them by a decision of the Secretary of State for Trade and Industry.

#### Collective Agreements:

Employees covered by a collective workplace agreement cannot be forced to sign an individual contract signing away their existing rights under a collective agreement and they cannot be penalised if they refuse to do so.