

Workers (Definition and Rights) Bill

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TO

Amend the definition of worker; to make provision about workers' rights; and for connected purposes.

BE IT ENACTED by the Queen'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:—

1 Definition of “worker” and related expressions

- (1) There shall be a single employment status for workers and employees for the purpose of employment rights and employer responsibilities in the workplace.
- (2) For sections 295 (meaning of employee and related expressions) and 296 (meaning of worker and related expressions) of the Trade Union and Labour Relations (Consolidation) Act 1992, substitute— 5

“295 Definition of “worker” and related expressions

- (1) In this Act “worker” means an individual who—
(a) seeks to be engaged by another to provide labour, 10
(b) is engaged by another to provide labour, or
(c) where the employment has ceased was engaged by another to provide labour,
and is not genuinely operating a business on his or her own account.
- (2) In this Act “employee” means an individual who— 15
(a) seeks to be engaged by another to provide labour,
(b) is engaged by another to provide labour, or
(c) where the employment has ceased was engaged by another to provide labour,
and is not genuinely operating a business on his or her own account.
- (3) In this Act a person is an “employer” if he or she engages another to provide labour, whether directly or through another, and the person providing the labour is not genuinely operating a business on his or her own account. 20

- (4) In this Act “employed” and “employment” mean engaged –
- (a) as a “worker” under subsection (1), or
 - (b) as an “employee” under subsection (2).
- (5) It shall be for the respondent to show in any legal proceedings that the applicant is not an employee, a worker, employed, or in employment as the case may be. 5
- (6) It shall be for the respondent to show in any legal proceedings that the respondent is not an employer.
- (7) The provisions above apply to employment for the purposes of a government department (otherwise than as a member of the naval, military or air forces of the Crown).” 10
- (3) For section 230 (employees, workers etc.) of the Employment Rights Act 1996, substitute –
- “230 Workers, employees etc.**
- (1) In this Act “worker” (except in the phrases “shop worker” and “betting worker”) means an individual who – 15
- (a) seeks to be engaged by another to provide labour,
 - (b) is engaged by another to provide labour, or
 - (c) where the employment has ceased was engaged by another to provide labour, 20
- and is not genuinely operating a business on his or her own account.
- (2) In this Act “employee” means an individual who –
- (a) seeks to be engaged by another to provide labour,
 - (b) is engaged by another to provide labour, or
 - (c) where the employment has ceased was engaged by another to provide labour, 25
- and is not genuinely operating a business on his or her own account.
- (3) In this Act a person is an “employer” if he or she engages another to provide labour, whether directly or through another, and the person providing the labour is not genuinely operating a business on his or her own account. 30
- (4) In this Act “employed” and “employment” mean engaged –
- (a) as a “worker” under subsection (1), or
 - (b) as an “employee” under subsection (2).
- (5) It shall be for the respondent to show in any legal proceedings that the applicant is not an employee, a worker, employed, or in employment as the case may be. 35
- (6) It shall be for the respondent to show in any legal proceedings that the respondent is not an employer.”
- (4) The Secretary of State may by regulations made by statutory instrument make any consequential amendments that require to be made to sections 171, 230, 232 and 233 of the Employment Rights 1996 Act arising from the provisions above. 40

- (5) Any statutory instrument containing regulations under subsection (4) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

2 Hours of work

- (1) The Employment Rights Act 1996 is amended as follows. 5
- (2) Part IIA (Zero Hours Workers) shall be renamed Part IIA (Hours of Work).
- (3) After section 27B insert –

“27C Reasonable notice of shifts

- (1) This section applies where a worker may be requested or required by his or her employer to attend for the performance of work at the discretion of the employer. 10
- (2) Where this section applies, an employer shall be required to give reasonable notice of –
- (a) any request or requirement to undertake a period of employment; and 15
- (b) any cancellation of a period of employment already agreed.
- (3) A period of notice shall not be reasonable if given less than 7 days before any period of employment referred to in subsection (2).
- (4) If a worker accepts employment offered contrary to the requirements of subsections (2) and (3), the employer shall be required to pay the worker at a rate of 200% of the rate they would normally be paid for the period in question. 20

27D Payment for shift cancellations

- (1) This section applies where an employer has cancelled a period of employment which a worker has already accepted. 25
- (2) Where this section applies, the employer shall be required to pay for the period of employment in question, even though no work has been done.
- (3) The amount of the payment shall be made up of –
- (a) 200% of the rate the worker would normally be paid by his or her employer for the period in question; and 30
- (b) a sum equivalent to any other monetary loss incurred as a result of the cancellation (including loss of wages caused by declining offers of employment elsewhere, childcare arrangements, and advance travel costs). 35
- (4) Payments shall be recoverable under subsection (3)(b) whether or not the costs incurred are otherwise recoverable by or refundable to the worker.

27E Right to fixed and regular hours

Every worker shall be entitled to fixed and regular weekly hours on commencing employment. 40

27F Notice of fixed and regular hours

- (1) An employer shall be required to give a worker notice in writing of the hours of the worker's employment.
- (2) A notice under subsection (1) must be given—
 - (a) before the commencement of the employment, or 5
 - (b) where notice of the hours of the worker's employment has been given orally before the commencement of the employment, within seven days from the commencement of the employment.
- (3) The requirement under this section is without prejudice to the obligations of employers in respect of employees under sections 1 and 4. 10

27G Employer request for worker to work additional hours

- (1) An employer may request a worker to work additional hours in excess of the hours specified in accordance with section 27F.
- (2) Additional hours referred to in subsection (1) above shall not exceed by 10% the hours referred to in section 27F, in accordance with a reference period of 12 calendar months. 15
- (3) An employer may request a worker to work additional hours only if—
 - (a) The worker has agreed in writing that such a request may be made; 20
 - (b) The agreement referred to in paragraph (a) specifies the circumstances in which such a request may be made;
 - (c) The agreement specifies the length of notice that must be given by the employer making the request, and the request complies with that requirement; 25
 - (d) The agreement specifies that the worker shall be paid at least 200% his or her normal hourly rate were he or she to agree to the request, and the request expressly complies with that requirement;
 - (e) The agreement provides that, should the request be rescinded, the worker shall nevertheless be entitled to be paid the sum referred to in paragraph (d) and to recover any losses arising from having agreed to the request; and 30
 - (f) The employer has complied with subsections (1) and (2) of section 27F. 35
- (4) An employer may otherwise request a worker to work additional hours in excess of the fixed and regular hours specified in accordance with section 27F only in accordance with the terms of a collective agreement between an employer and an independent trade union recognized by the employer for the purposes of collective bargaining. 40
- (5) For the purposes of subsection (4), the terms "collective agreement", "collective bargaining", "employer", "independent trade union", and "recognized" have the same meaning as in the Trade Union and Labour Relations (Consolidation) Act 1992.

27H Unauthorised employer request for worker to work additional hours

- (1) This section applies where an employer requests a worker to work additional hours in excess of the hours specified in accordance with sections 27F and 27G.
- (2) Where this section applies, the employer shall be required to pay for the period of employment in question, even though no work has been done. 5
- (3) The amount the employer shall be required to pay to the worker shall be 200% the normal hourly rate of the worker in question for the entire period to which the request relates. 10
- (4) Any payment due under this section shall be recoverable as an unauthorised deduction from wages.”

3 Liability for unpaid wages

- (1) The Employment Rights Act 1996 shall be amended as follows.
- (2) After section 207B insert – 15

“Liability for unpaid wages

207C Contractor liability for worker’s wages

- (1) This section applies where the immediate employer (A) of a worker (B) is contracted to provide services on behalf of a third party (C).
- (2) In the event of a failure on the part of A to pay wages legally due to B, B may bring proceedings for recovery of unpaid wages against C. 20
- (3) C shall be deemed for the purposes of this Act to be the employer of B jointly with A.
- (4) For the purposes of this section “wages” includes any sums payable to a worker by the employer in connection with the worker’s employment, including any fee, bonus, commission, sick pay, maternity pay, holiday pay, redundancy pay, or other emolument referable to the employment, whether payable under contract or otherwise.” 25

4 Interpretation 30

For the purpose of this Act “worker” and “employee” have the meaning given by section 295 of the Trade Union and Labour Relations (Consolidation) Act 1992.

5 Extent, commencement and short title

- (1) This Act extends to England and Wales, Scotland and Northern Ireland. 35
- (2) This Act comes into force at the end of the period of two months beginning with the day on which this Act is passed.
- (3) This Act may be cited as the Workers (Definition and Rights) Act 2018.

Workers (Definition and Rights) Bill

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To amend the definition of worker; to make provision about workers' rights; and for connected purposes.

*Ordered to be brought in by
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