

Employment Bill

[AS INTRODUCED]

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Make provision about the rights of workers, including to negotiate pay and join trade unions and employee associations; to amend the definition of worker; to make provision about the employment rights of members of the armed forces; to make provision about employee representatives on company boards; 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

For section 230 (employees, workers etc.) of the Employment Rights Act 1996, substitute—

“230 Workers, employees etc.

- (1) There shall be a single employment status for workers and employees for the purpose of employment rights and employer responsibilities in the workplace. 5
- (2) In this Act “worker” (except in the phrases “shop worker” and “betting worker”) means a person who—
 - (a) seeks to be engaged by another person to provide labour, 10
 - (b) is engaged by another person to provide labour, or
 - (c) where the employment has ceased, was engaged by another person to provide labourand is not genuinely operating a business on his or her own account.
- (3) In this Act “employee” means a worker under the definition in subsection (2). 15
- (4) In this Act a person is an “employer” if he or she engages another person to provide labour, whether directly or through another person, and the person providing the labour is not genuinely operating a business on his or her own account. 20
- (5) In this Act “employed” and “employment” mean engaged as a “worker” under subsection (1) or as an “employee” under subsection (2).

- (6) It shall be for the respondent to show in any legal proceedings that—
- (a) the applicant is not an employee, a worker, employed, or in employment as the case may be;
 - (b) that the respondent is not an employer.
- (7) The Secretary of State may by regulations make amendments to this Act consequential on this section.” 5

2 Rights of workers relating to trade unions, collective bargaining, etc.

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— 10

“295 Meaning of worker and employee

In this Act, “worker” and “employee” have the same meaning as in section 230 of the Employment Rights Act 1996.”

3 Armed Forces Federation

After section 333 (pay, bounty and allowances) of the Armed Forces Act 2006 insert— 15

“333A Armed Forces Federation

- (1) There shall be an Armed Forces Federation for the United Kingdom for the purpose of representing members of the Armed Forces in the United Kingdom in all matters affecting their welfare, remuneration and efficiency, except for— 20
- (a) questions of promotion affecting individuals, and
 - (b) (subject to subsection (2)) questions of discipline affecting individuals.
- (2) The Armed Forces Federation may not recommend, advise on or otherwise support strike action. 25
- (3) The Armed Forces Federation may represent a member of the Armed Forces at any proceedings or on an appeal from any such proceedings.
- (4) The Armed Forces Federation shall act through local and central representative bodies. 30
- (5) This section and section 333B apply to reservists of the Armed Forces as they apply to members of the Armed Forces, and references to the Armed Forces shall be construed accordingly.

333B Regulations for the Armed Forces Federation

- (1) The Secretary of State may by regulations— 35
- (a) prescribe the constitution and proceedings of the Armed Forces Federation, or

- (b) authorise the Federation to make rules concerning such matters relating to their constitution and proceedings as may be specified in the regulations.
- (2) Without prejudice to the generality of subsection (1), regulations under this section may make provision about—
 - (a) the membership of the Federation;
 - (b) the raising of funds by the Federation by voluntary subscription and the use and management of funds derived from such subscriptions;
 - (c) the manner in which representations may be made by committees or bodies of the Federation to officers of the Armed Forces and the Secretary of State; and
 - (d) *for the payment by the Secretary of State of expenses incurred in connection with the Federation and for the use by the Federation of premises provided by local Armed Forces bodies for Armed Forces purposes.*
- (3) Regulations under this section may contain such supplementary and transitional provisions as appear to the Secretary of State to be appropriate, including provisions adapting references in any enactment (including this Act) to committees or other bodies of the Federation.”

4 Worker representative directors

After section 155 of the Companies Act 2006 (companies required to have at least one director who is a natural person) insert—

“155A Companies required to have worker representative directors

- (1) The Secretary of State must by regulations make provision requiring qualifying companies to have at least one director who is also a member of the board of the company who is a worker representative director.
- (2) A worker representative director is, in addition to their other responsibilities as a company director, responsible for bringing the perspective of a worker to the boardroom rather than for directly representing the interests of the company’s workers.
- (3) The regulations must—
 - (a) require qualifying companies to ensure that its board has a minimum of worker representative directors and that such directors comprise at least one third of membership of the board;
 - (b) make provision for the nomination (including my recognised trade unions) and election of workers as worker representative directors.
- (4) In this section—
 - a “qualifying company” is one which—
 - (a) has 250 or more workers, or

(b) has 100 or more workers and those workers have triggered the right to have worker representative directors through a procedure to be prescribed by regulations under this section, or;

(c) made a pre-tax profit of £2.5 million or more in the last year for which accounts are published.

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“worker” has the same meaning as in section 230 of the Employment Rights Act 1996.

(5) Regulations under this section are subject to affirmative resolution procedure.”

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5 Extent, commencement and short title

(1) Any amendment or repeal made by this Act has the same extent as the provision amended or repealed.

(2) This Act comes into force at the end of the period of 90 days beginning on the day on which it is passed.

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(3) This Act may be cited as the Employment Act 2021.

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*Presented by Martin Docherty-Hughes
supported by Chris Stephens.*

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