

CAMPAIGN FOR

TRADE UNION FREEDOM

Update

Spring 2016



Dangers lurk in Act

TRADE UNION ACT

BY CAROLYN JONES

THE TRADE UNION Act received Royal Assent on Wednesday 4 May – the 90th anniversary of the 1926 General Strike – and much of it is likely to be in force by the end of the year.

The Act is a shadow of the Bill first proposed, but dangerous details hide in those shadows so shining a light on the dangers ahead and exposing the intentions behind the Act are vital.

If not our kids and their kids will suffer as the power of trade unions to organise, to represent and to defend living standards are choked

off by this anti-working class Act.

Some of the more bizarre proposals in the Bill have been removed as have some of the more extreme. But many of the “flagship” elements of the Tory Bill are now UK law. (See Box).

On ballots, the imposition of a 50% turnout and an additional 40% support for workers in important services make it near impossible for many of those leading the resistance against privatisation and cuts to take industrial action. Promises to review and roll-out e-ballots were dumped, kicked into the long grass of an independent review.

And even when these new hurdles to strikes are navigated

aspects of the legislation, that is still the case. This is a piece of legislation that should never have existed, an attack on the labour movement driven by politics and ideology rather than common sense. Even amended, it still places unnecessary burdens on working people and their unions.

Yet as we condemn the Bill we shouldn't overlook what union campaigning has achieved. Without these changes, unions representing working people across the UK would have found it hard (if

successfully, proposals to bus in agency workers – often vulnerable people coerced into taking jobs under new Universal Credit rules – still lurk in the background.

On political funds, though delayed for 12 months, the opt-in system is now law and threatens to undermine the political voice of trade unions. And the bureaucratic nonsense of unions having to declare all political expenditure over £2,000 a year stands in complete contrast to the privacy and anonymity given to off-shore funds and off-shore Tory funders.

The idea of giving concessions where agreement can be reached permeates much of the Trade Union Act. But if the Government were really supportive of industrial relations being conducted by agreement, they would have introduced statutory procedures to encourage collective bargaining. Instead they have put in place yet more hurdles for unions to jump and created a statutory safety net for employers to fall back on should relations at work deteriorate still further.

And the backdrop to this unnecessary Act is the newly empowered state surveillance officer. The Certification Officer has powers to initiate complaints, undertake inspections, record names, determine outcomes and impose fines of between £200-£20,000 on any national, regional or local branch. Issues for

inspection include political fund procedures and expenditure, internal elections, ballots and much more.

It's true the government inserted a clause saying the CO would not be 'subject to directions of any kind from any Minister of the Crown as to the manner in which he is to exercise his functions'. But it's not the manner that is so objectionable.

It is the nature of the work he undertakes that raises concerns and it is the nature of the work that is set by Ministers.

This was a nasty Bill that's turned into a nasty Act. Parliamentary activity has delivered what it can in the face of a government determined to silence political opposition, cull collective action, criminalise solidarity on the picket line and strangle unions with bureaucratic red tape controlled by a state surveillance officer.

If this Act, like the 1971 Act before it is to be defeated, the immediate battle will be extra-parliamentary, led by workers responding to attacks on their standard of living and working conditions. Those battles are already being fought in the UK, Spain and France and will continue to grow as current economic policies fail to deliver anything other than growing inequality and lack of opportunity.

continued overleaf

A bad bill but we should take pride in our fight against it

FOR MONTHS UNISON – including tens of thousands of our members – has fought the government's unnecessary and restrictive Trade Union Bill writes **Dave Prentis**

Despite several significant turns, and the watering down of

not impossible) to continue doing what they do best – speaking up for those being treated badly at work and campaigning for a fairer society.

Ministers have sensibly listened to many of the arguments put to them. Measures that would have stopped unions from collecting members' subs through check off were dropped thanks to lobbying from UNISON.

Likewise, the ability of unions to lobby successfully could be seen in the significant dilution of attacks on

facility time. The government listened to our arguments about the huge value that union reps can bring, not just to public sector employees, but to their employers as well.

Workplaces where there is a union aren't just safer, more pleasant places to work, they also tend to have better trained, more informed staff, and that has a huge impact on the quality of service provided to the public.

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In the longer term, Jeremy Corbyn and his team need to be given the space and time to develop alternative economic and industrial policies that will expose the political nature of Tory attacks and show how another narrative and political agenda is possible. To that end, IER are working on a Manifesto for Labour Law which places trade unions back at the heart of economic, industrial and social regeneration

In the meantime, the labour movement must do all it collectively can to educate, agitate and organise against this undemocratic, unnecessary and unfair Trade Union Act.

Carolyn Jones is director of the Institute of Employment Rights

Restrictions imposed by the Act include:

- The need to appoint an authorized picket supervisors who must make themselves known to the police and employer
- Breaches of the picketing code will be a criminal offence
- 50% and 40% ballot thresholds will be imposed
- Yet more bureaucratic balloting requirements are to be imposed which will be costly, time consuming and open to challenge by bosses and the Certification Officer (CO)
- The ballot notice to be given to bosses is extended (14 days) while the "life" of a ballot is restricted (6 months)
- Unions wanting to retain check-off will have to win the boss's agreement and pay the cost
- After 12 month research, Ministers can instruct any public sector employers to end facility time
- All new members will be required to opt-in to the political fund
- A state surveillance officer, the CO, will have vastly extended powers to investigate, condemn and fine trade unions on a wide range of issues

The uberisation of v

THE FRENCH newspaper L'Humanité recently published an important article on the "ubérisation of work"; the piece was entitled *Modern Day Slavery*, delivered to your door with a focus on how employers were using uberisation to avoid social security contributions and labour rights.

In France Uber is expanding from minicabs into take away food delivery. UberEats and similar companies like Deliveroo are leading the way in the casualisation of employee contracts, stripping away employment rights and effectively enslaving people.

The 'platforms' as UberEats and Deliveroo are called are not paying employers' social security contributions for these employees who have been disguised as self-employed 'service providers.'

The workers may well have the 'freedom' and 'flexibility' to work the hours they want but the company is getting out of paying social security contributions – putting workers at risk should they ever fall ill or lose their job. They get no paid holidays or other employee benefits.

Jerome Pinot a cyclist contacted a lawyer who said that he is in

actual fact an employee, with direct links of 'subordination' to the 'platform'. Pinot has taken his case to the labour court with 10 others to demand a reclassification of their contracts. Seven of them settled out of court. The rest were back in court on 5 May.

Pinot's goal is to establish case law. Uberisation has only one objective, he says, to make employer social security contributions disappear by transforming workers into false independents. It's also a way of evading all employment rights.

Pinot says that one 'platform' had put in place a minimum guarantee for each night worked but it was soon removed. Under French employment law it would have been impossible to unilaterally lower wages for employees.

These delivery cyclists wait around on call for the next job, bringing to mind how Mexican workers would be picked up in an old van for a day's work or dockers queuing up for jobs.

It is hard to mobilise delivery cyclists to fight their corner - there is no organisation to support them.

One young cyclist, 22 years old,

says how great the flexible working is and how much he can earn. But he clearly doesn't consider things like no paid holidays, how he'll be on the minimum level of retirement benefit, sickness benefit, etc.

But this is the new reality for young workers.

L'Humanité
21 April 2016
English synopsis by Chantal Chegrinec

Meanwhile in the US ...

In New York City Uber has announced that it will deal with a drivers' association and establish a forum for regular dialogue but this is not recognition of a union for representation and bargaining purposes.

The drivers' association is called the Independent Drivers Guild; a branch of the AFL-CO affiliated International Association of Machinists (IAM).

An interesting question is does the "Independent" in the name indicate the association is

Check-Off victory for PCS

CIVIL SERVICE

PCS HAS WON a major victory as a High Court judge ruled that the vindictive removal of check-off was unlawful in the largest civil service department.

Ruling in PCS's favour and Judge Elisabeth Laing agreed check-off was contractual in the Department for Work and Pensions and should not have been scrapped without agreement.

PCS are considering further legal challenges against other government departments that have removed the system.

Previous Cabinet Office minister Francis Maude called on civil service employers to end check-off and the arbitrarily short timescales imposed proved it was a politically-motivated attempt to undermine PCS finances and break union organisation.

PCS has been forced to expend huge resources in effectively re-recruiting tens of thousands of members to pay by direct debit.

Plans to ban check-off in the rest of the public sector were included in the Tories' latest anti-trade union bill but were dropped before it became law,

in a concession that came just days before the union's claim was heard in the high court.

PCS general secretary Mark Serwotka said: "It has always been clear that the political decision to remove check-off was unnecessary and vindictive, and we have comprehensively been proved right.

"This is not just a defeat for DWP, it is a victory for all unions over a major injustice. And it is scandalous that taxpayers again face huge legal bills because Tory ministers have an obsession with trying to undermine trade unions in the workplace."

work

independent of Uber or is it recognition that Uber insists that the drivers are independent contactors. As in France (see above) so in the US, independent contactor status excludes drivers from most labour rights including the minimum wage and overtime rates.

The IAM deal with Uber lasts for 5 years during which time the Machinists must refrain from unionising the drivers; encouraging them to take strike action or campaigning to get them reclassified as employees.

Meanwhile a rival organising drive in NYC by the Uber Drivers Network, associated with the AFL-CIO affiliated Amalgamated Transit Union, dismissed the IAM initiative as "bogus" claiming that the Guild was "no substitute for an actual union."

At the same time as these attempts to organise at Uber the attempt by the Service Employees International Union to unionise housekeepers working in short term rentals on the Airbnb platform collapsed in the face of US labour movement opposition including from the SEIU's own members.

European Union mulls TTIP and CETA

TRADE DEALS

BY ADRIAN WEIR

THE EU'S Council of Ministers met on 13 May with CETA and TTIP on the agenda.

The pre-Council press briefing sets out that the Council will submit proposals for signing off and provisional application of the Canada deal (CETA) in June 2016 with a final sign-off in October 2016.

The Council acknowledges that it is working on the basis that CETA is not a "mixed" agreement and therefore does not require the ratification by member states. The question of free trade treaties and mixed agreements or not is to be decided by the Court of Justice of the European Union in 2017 when it rules on the Singapore treaty.

This means that CETA will be provisionally applied a full year before the key question of ratification by member states has been decided by the Court. The Council will be keen to get provisional application of CETA before the CJEU decision as more and more member states and regional assemblies are declaring against the sister treaty, TTIP.

CETA of course contains all the bad features of these trade

agreements including "regulatory co-operation" which aims to reduce the regulatory options for governments. CETA also contains the so-called reformed ISDS, the Investment Court System which will still give rights to foreign corporations to sue sovereign states in a special transnational court whilst denying that right to trade unions and citizens.

Adrian Weir is Unite's Assistant Chief of Staff

Jude Kirton-Darling MEP adds:

In about six months' time, provided that the British people chose to stay in the EU I will have to choose on behalf of constituents in the North East whether to back the EU-Canada trade deal known as CETA.

The trade deal which was recently concluded and awaits MEPs and EU trade ministers' greenlight, could be seen as a perfect illustration of what the EU can deliver to the British economy: using the EU's 500 million strong consumer base to open up new markets abroad and create jobs at home. But there's another side to CETA, which many in the UK have been concerned about: the deal could end up giving prominence to multinationals over workers, in a way not compatible with our social

model.

As always in politics, whatever choice I will make together with the other Labour MEPs will have to reflect a careful balance.

What we need first and foremost to inform our decision are facts.

A key element to this debate is the question of investment protection. We rejected proposals for introducing private justice for foreign investors in TTIP as a matter of principle: the rule of law should be upheld in all circumstances, and workers and consumers should not see their rights undermined by any trade deal.

CETA does contain an investment chapter, which I don't reject per se provided that it respects the rule of law. But many reputable organisations, such as Client Earth or the Association of European Judges have expressed concerns that this condition was not met. Legal advice commissioned by Unite has also cast doubt on the ability of public authorities to administer public services as they see fit under CETA's provisions.

We are a long way to go until the ratification of CETA, and now is the time for trade unionists and citizens to make their voice heard. Labour MEPs won't allow this crucial decision to be taken behind closed doors.

Court awards £million blacklisting pay-outs

CONSTRUCTION

BY GAIL CARTMAIL

THE BIGGEST 'blacklisting' scandal in UK construction industry history has seen the court case end in victory.

Pay-outs to Unite members ranged from £25,000 up to £200,000 per claimant, depending on such factors as the loss of income and the seriousness of the defamation. Other unions, UCATT and the GMB as well as members of the Blacklist Support Group also won financial awards.

The five-year fight was against household names, such as Sir Robert McAlpine Ltd and Balfour Beatty Engineering Services and

more than 30 other firms. All were complicit in a massive cover-up of a blacklisting conspiracy that robbed hundreds of workers of jobs and ruined their lives for carrying out legitimate trade union activities, such as health and safety in one of the most hazardous industries.

At the centre of the scandal were the machinations of the secretive Consulting Association which was raided by the Information Commissioner in 2009. Even after this expose major contractor companies refused to apologise and denied any wrong doing. That is why an apology read in open court was cold comfort to many of the blacklisted workers present.

The massive scale of the agreed damages shows the gravity of the misdeeds of these companies which created and used The Consulting Association as a vehicle to blacklist trade unionists.

The sums to be paid out acknowledge the hurt, suffering and loss of income blacklisted workers and their families have been through over many years. The fight for fairness is not over.

What remains to be done is to enforce employment transparency on every site, right through the supply chain to root out selection and so-called 'vetting' that discriminates against workers identified as trade union activists. Companies have agreed with Unite that site managers will be

trained to avoid future blacklisting and promised non-discrimination. This will be tested as workers elect shop stewards whose job it is to organise collectively in the interests of their members.

Activists need and deserve better law as the Employment Relations Act 1999 (Blacklisting) Regulations 2010 are not fit for purpose.

There are many who have fought the fight for justice. Brave workers whose dignity in the face of denial and earlier insulting offers of pay offs held firm. They have earned their place in our movements history.

Gail Cartmail is a Unite Assistant General Secretary

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And on political funding-one of the final developments in the saga of this bill-the changes secured mean that unions can continue to campaign on behalf of the issues that matter to our members, like fighting low pay, supporting anti-racist campaigns and winning the fight for Britain to remain in a reformed EU.

Restricting unions' ability to raise funds for this kind of campaigning would have hampered efforts to make the UK a safer, better and fairer place to work-and a better country to live in.

At least after the hard-won changes to the Trade Union Bill, we can continue to fight and win for our members in the years ahead.

We will continue to oppose the new restrictions that this government has imposed on us-adding to Britain's already onerous anti-union laws at a time when unions have never been needed more-and hope one day to see them repealed. But after months in which our movement has faced a number of existential threats, we have every right to be relieved with and thankful for the progress we've made.

This is a bad bill but without the labour movement pushing back with passion and vigour, it could have been much worse.

Dave Prentis is UNISON general secretary



THREE US union locals won a significant victory April against Wisconsin's anti-union 'right to work laws'. Right-to-work laws prohibit businesses

and unions from reaching agreements that require all workers, not just union members, to pay union subscriptions. Twenty-four US states have such laws.

New Zealand bans zero hours

The New Zealand government has effectively banned their use after political parties supported the ban after a campaign led by trade unions.

Mike Treen, leader of the NZ Unite union, which organizes food and hospitality workers in

NZ, said fast-food workers worldwide were now closely following the move. "This is an incredible victory and I am still shocked by it to be honest - the fact that the ban was unanimously supported in Parliament is pretty unbelievable.

The bill, which took effect on 1 April, stipulates that employers must guarantee a minimum

The Machinists Local Lodge 1061 in Milwaukee; the Wisconsin AFL-CIO chapter and United Steelworkers District 2 in Menasha argued in court that that Wisconsin's law introduced by right wing Republican Governor Scott Walker was 'an unconstitutional seizure of union property' as unions have to extend the benefit of being in a union to non union workers.

In 2014 the Indiana Supreme Court rejected two almost identical challenges to that state's right-to-work law. Those lawsuits alleged that the law unconstitutionally required unions to provide services to non-union workers without compensation.

Months after taking office in 2011, Governor Walker also signed a law that effectively ended collective bargaining for public sector workers.

Republicans say they will fight the decision in the courts.

number of hour's work each week, and workers can refuse extra hours without repercussions. The bill eliminates zero hour contracts by getting rid of unfair employment practices where employers do not commit any hours of work, but expect employees to be available when required without compensation.

Campaign for Trade Union Freedom

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The Campaign for Trade Union Freedom is sponsored by 25 national trade union organisations and over 200 branches, trades councils and individuals and financed solely by supporters fees from trade union bodies and individuals. By becoming a supporter you or your organisation show your agreement with the call to repeal the anti-trade union laws, and aid the Campaign's fight. Please make cheques payable to Campaign, for Trade Union Freedom and send to the CTUF, 4th Floor, 1 Islington, Liverpool, L3 8EG Donations gratefully received.



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