

CAMPAIGN FOR TRADE UNION FREEDOM Update



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www.tradeunionfreedom.co.uk

Another direct attack on employment rights

Trade Union Act

ANDY GREEN, CTUF SECRETARY AND
UNITE CONVENOR, TILBURY DOCKS

ALTHOUGH IT has promised to transfer EU employment rights to the UK Statute Book post Brexit, the Government is still pressing ahead with implementing its anti-union Trade Union Act – which makes its EU assurances look very much like the Wolf offering comfort to Little Red Riding Hood.

Industrial Action

In March the Government published its Regulations on statutory ballot thresholds – unions now need a general 50%

turnout and a 40% positive vote of those entitled to vote in 'important public services'. See our recent posting on the CTUF website

<http://tinyurl.com/mxo5dt2>

Also on 1 March the Government tightened the rules on industrial action and picketing. Unions must include further information on the ballot paper they send their members; provide employers with a least 14 days' notice prior to the start of any industrial action; and, appoint a 'picket supervisor'. See <http://tinyurl.com/mw7hbw6>

These further attacks on unions organising industrial action will further impact on the lessening coverage of collective bargaining;

a process that has led to a reduction in the share of GDP that goes to wages and salaries – attacks on collective bargaining are a direct attack on working class living standards.

Political Fund

When the new law was at the Bill stage the government proposed that all members in all unions with a political fund would have to switch from an assumption of "contacting or opting in" to an assumption of "contacting or opting out". In other words all members would not be part of the political fund unless they explicitly agreed that was to be the case.

CONTINUED OVERLEAF

UK Trade Union Act

In what is being seen as a concession by the Government, the Act now says:

- only new members of the union will have to “opt in”, there will be an assumption that new members have “opted out”; for existing members the old assumption will hold that members have “opted in”.
- the launch of these new arrangements for new members will start from the end of the transitional period, that is, from 1st March 2018. How much of a concession this is remains to be seen because membership “churn”, people leaving and joining, will mean that eventually all members will be “new” members and so all members will have to explicitly “opt in”.

The understanding, that there should be no change to party funding unless the major parties agree, has been broken by the Tories.

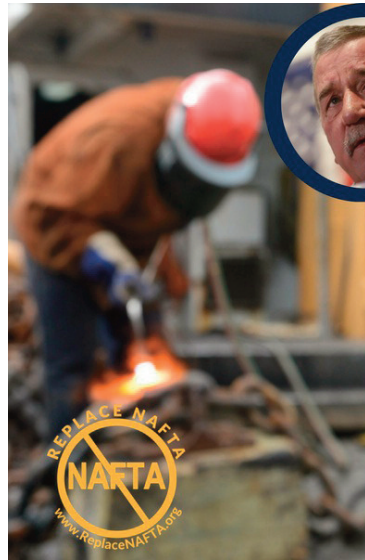
Although unions’ political funds are used for activities other than supporting Labour this is a direct attack on the funding of the Labour Party with no agreement to the change from Labour or its supporters.

Other measures

The Government now requires all public sector organisations to publish the amount of their total spend on trade union facility time. There is only a requirement to publish the costs not the benefits; it is widely believed that the latter significantly outweighs the former.

The Government now requires all unions organising in the public sector to pay the administrative costs of check off on union contributions (deductions at source through the pay packet) if a union does not pay these costs, the check off agreement will be cancelled.

The Government has appointed Sir Ken Knight to conduct a review of e-balloting for union industrial action ballots.



“We’ve seen [Trump's] plans for NAFTA, and the American worker isn’t in it. We’re locked out again.”

Chuck Jones
United Steelworkers Local 1999 President

NAFTA

DESPITE PROMISING to ‘tear up’ the controversial NAFTA trade between the USA, Canada and Mexico deal it appears Donald Trump will make only ‘modest changes’ to the trade deal.

Trump stole the unions’ clothes during his campaign and had crowds of supporters cheering his announcement that he would re-negotiate the trade agreement much despised by US unions as it sucked good jobs into cheap labour areas of Mexico.

Trump described the trade deal a “disaster” during his campaign but in reality the Trump

administration isn’t interested in stopping this tragedy from continuing. As a leaked draft letter to Congress about re-negotiating NAFTA made clear, Trump is not looking to replace or leave NAFTA – he wants to expand it. It’s business as usual – and not what he promised on the campaign trail.

The ISDS clauses at the heart of NAFTA that promote off-shoring will apparently stay in place, making it easier to ship jobs to Mexico.

The document actually calls for expanded protections to make it easier for United States’ investors to relocate facilities.

Richard Trumka, president of the US AFL-CIO, described the Trump

proposals as leaving the worst aspects of NAFTA standing. He called on Trump to maintain the promises he made on trade deals during his campaign.

★ Chuck Jones is President of Local 1999 at Carrier Inc., Indiana who Trump criticised on Twitter when Jones and his members fought to save their jobs that were heading to Mexico. Trump visited the plant and said he had personally intervened to stop workers jobs from moving, saying he would tear up NAFTA. Jones described Trump’s visit to Carrier as a stunt – ‘a dog and pony show’ and proved that Trump had done little to assist.

Taylor to back ‘Self Employed’ rights

MATTHEW TAYLOR, who was appointed by the prime minister to head up a review of ‘modern day employment practices,’ said that his review will ‘recommend changes to the rights of self-employed workers’ when his review is published in June.

Taylor said his review would highlight the blurring of boundaries between people who are ‘self employed’ and get few employment rights and workers who are classified as employees, eligible for full rights.

“If you are subject to control – if as an individual in the relationship with the person who’s hiring you, they control your work, they control the basis upon which you work, they control the content of your work – that looks like the kind of

relationship where the quid pro quo should be that you respect that person’s employment rights and entitlements,” he said.

Taylor said he defined ‘the boundary’ as a “question of control” that companies have over workers. “If you want to control your workers, you will have to respect their rights and provide entitlements, too, but if you really don’t want to control them, that’s fine, then they’ll be self-employed,” he said.

“But it looks like there are cases at the moment where firms both want control but not to provide those workers with entitlements and rights.”

Workers in the gig economy such as Uber taxi drivers and Hermes and Deliveroo workers

have been in the headlines – with media coverage highlighting the fact that these workers are under the control of an employer or service provider.

Taylor said: “In the 21st century, a time when we have so much autonomy and choice and we expect control in our lives, we don’t accept the idea of kind of wage slavery, the idea of people at work having no choice, no voice, no capacity to influence what’s going on around them and I think people feel that doesn’t really fit with the times,” he said.

With the massive growth in gig working – not just in services, unions will be watching closely as to how the Government react to any proposal to give gig workers basic employment rights.

Australia

New ACTU leader sets out radical programme



IN HER FIRST address to the National Press Club as the new general secretary of the Australian Congress of Trade Unions Sally McManus confirmed an earlier statement that that it was right to break unjust laws.

McManus who has a battling, 'fighting back' reputation said bluntly that Australia's workplace laws were 'broken' and that 'wage theft' had become the new business model for too many employers.

McManus also set out the ACTU's case for a \$45 a week increase in the minimum wage which was met by fierce opposition by right wing politicians and employers.

McManus said neo-liberalism had run its course. It had caused inequality to reach a 70-year high in Australia and that "working people and ordinary Australians have been the victims".

She said wealth had not been shared, and "too much has ended up in offshore bank accounts or in CEO's back pockets."

You can read Sally's full speech on the Campaign For Trade Union Freedom website.



Backdoor trade deal

JEFTA

TONY BURKE

A NEW TRADE deal between Japan and the EU has come to light! Known as JEFTA, talks started in March 2013 and both the EU and Japan have kept quiet about it – afraid that it will gain similar public opposition as TTIP, TPP, TiSA and CETA.

Eighteen rounds of negotiations have taken place and the EU is pressing for the deal to be closed by the end of this year.

Few detailed documents have surfaced – however a 314 page Trade Sustainability Impact Assessment prepared for the European Commission in 2016 has leaked.

The document says JEFTA will include an investor-state dispute settlement (courts set up to allow corporations to protect their profits or threats to them from government actions), but reports suggest that Japan is resisting the Commission's push for an ISDS system.

There seems to be an agreement the ISDS clauses could be similar to those in CETA – including the right for investors to 'fair and equitable treatment', 'protection against direct and indirect expropriation' – but with clearer language on exempting public services and procurements. It appears that Japan is also pushing for the inclusion of its own model of 'ad-

hoc arbitration', with an automatic consent to arbitration granted by the parties.

On the question of labour rights it is suggested that JEFTA would provide 'fairly weak' provisions limited to an 'obligation' for the parties to implement the ILO conventions they have already been ratified, but no commitment to ratify remaining conventions. Japan has not ratified convention 105 on forced labour and 111 on discrimination. The enforcement provisions would be weaker still, with no former powers granted to civil society and social partners whether in Domestic Advisory Groups or in a "joint dialogue with civil society".

UK Labour MEP Jude Kirton Darling commented: "As a result of public pressure, EU Trade Commissioner Malmström and EU negotiators promised greater transparency in EU trade talks in the JEFTA negotiations but they have kept 'radio silence' without publication of the EU's mandate or basic negotiating texts.

"Labour MEPs have been at the forefront of this push for greater transparency and the party is clear in our opposition to the inclusion of separate arbitration courts for multinational investors in trade talks.

"The Commission's insistence on the inclusion of ISDS-style provisions in trade deals risks their public support and legitimacy, which is not good for the EU or our trade relations long term."

Union Law

Labour pledges recognition rights

The Labour Party has said that an incoming Labour government would force all private companies who take government contracts to recognise unions and offer employees full collective bargaining.

Labour says it will require public contractors such as Capita, Serco, and Atos to agree to union recognition if they want to win public contracts and be paid with taxpayers' money.

Labour has pledged to stop the UK "subsidising bad corporate behaviour" and instead use the £200 billion of public money spent on such firms a year to make companies to change the way they operate. Private sector contractors would be required to move towards a 20-1 pay ratio between their highest and lower paid employees to reduce inequality, pay all their suppliers the full amount within 30 days, and provide apprenticeship training to their workforce – all as part of the deal for taking taxpayers' money.

Firms would also be barred from avoiding tax, would have to adopt best practice in equal opportunities, and maintain the highest environmental standards.

Labour says the policy would not fall afoul of current EU rules, providing it is enacted on a "non discriminatory" basis.

Labour leader Jeremy Corbyn said: "National and local government spends £200 billion per year in the private sector. That's an incredible purchasing power, which we can use to support the good companies and improve the behaviour of the bad ones that undercut with unfair practices.

"Under the next Labour government, Britain will subsidise bad corporate behaviour no longer. Our business partners should have the same values we as a country hold: enterprise, fairness, high-quality service and doing right by everyone."

Tribunal fees battle goes to the Supreme Court

Rights at work

UNISON'S LEGAL battle to give workers the right to access justice – without having to pay expensive fees – when employers break the law has now gone to the Supreme Court.

The hearing is the final stage of Unison's legal campaign against the introduction of employment tribunal fees, which began back in 2013.

Since July of that year anyone who has been treated unlawfully or unfairly by their employer, and who wants to challenge them at an employment tribunal, has had to fork out a fee, which ranges from £390 to as much as £1,200, says UNISON.

In January this year, the government produced its long-awaited review of the impact of fees. It showed there'd been a 70% drop in the number of cases since July 2013. Low-paid women, especially those treated unfairly when they were pregnant or on maternity leave, have been the biggest losers.

Unison will assert that the government's decision to demand a fee from anyone taking their employer to court has stopped many thousands of badly treated employees – especially those on low incomes – from getting justice.

Commenting on the Supreme Court case, Unison general secretary Dave Prentis said: "If an employer breaks the law and treats

one of their employees unfairly, they should be challenged. It cannot be right that unscrupulous bosses are escaping punishment because people simply don't have the money to pursue a case.

"The introduction of fees was a terrible decision. It has denied many thousands of people the right to seek justice. Bad employers are having a field day, safe in the knowledge that few will be able to afford to challenge them at a tribunal.

"The government originally said making people pay would weed out vexatious claims. All it's done is penalise lower paid employees with genuine grievances. That's why it's so important our legal challenge succeeds."

A Manifesto for Labour Law:
towards a comprehensive revision of workers' rights
edited by K D Ewing, John Hendy and Carolyn Jones

A Manifesto for Labour Law

On 28 June 2016, the Institute of Employment Rights launched its Manifesto for Labour Law at Westminster with Shadow Chancellor John McDonnell and Shadow Minister for Trade Unions Ian Lavery alongside leaders from several major trade unions. The 25 policy recommendations were warmly welcomed by John and Ian, who stated that they would form the blueprint for Labour's official position on workers' rights in post-EU Britain.

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