

# **Status of Workers Bill**

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**BILL**

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Make provision for the creation of a single status for workers by amending the meaning of ‘employee’, ‘worker’, ‘employer’ and related expressions in the Trade Union and Labour Relations (Consolidation) Act 1992 and the Employment Relations Act 1996 and cognate legislation; and for connected purposes.

## **1 Amendments to the Trade Union and Labour Relations (Consolidation) Act 1992**

1. The Trade Union and Labour Relations (Consolidation) Act 1992 is amended as follows.
2. Omit sections s 295 (meaning of employee and related expressions) and 296 (meaning of worker and related expressions) and insert—

### **295 Single employment status**

(1) In this Act—

(a) “worker” and “employee” both mean an individual who

- i. seeks to be engaged by another to provide labour,
- ii. is engaged by another to provide labour, or
- iii. where the employment has ceased, was engaged by another to provide labour,

and is not, in the provision of that labour, genuinely operating a business on his or her own account.

(b) an “employer” in relation to a worker is:

- i. every person or entity who engages or engaged the worker; and

- ii. every person or entity who substantially determines terms on which the worker is engaged at any material time.
- (c) “employed” and “employment” mean engaged as an ‘employee’ or as a ‘worker’ under paragraph (a) above.
- (d) “contract of employment” means a contract of service or apprenticeship, or any other contract whereby an individual undertakes to do or perform any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual, and any reference to a worker’s contract must be construed accordingly.
- (e) It is for the person who is claimed to be the employer and contests that claim to show in any legal proceedings that—
  - (i) he or she is not the employer, and
  - (ii) that the person(s) providing the labour is not an employee, a worker, employed, or in employment as the case may be.
- (f) For the avoidance of doubt the foregoing provisions apply to employment for the purposes of a government department, except for members of the armed forces.
- (g) For the avoidance of doubt where a worker provides work through a ‘personal service company’ the employer will be the end user.
- (h) The Secretary of State may by regulations designate as “workers” other persons engaged in work and to designate as ‘employers’ other entities engaged in the provision of work after consultation with organisations which appear to him to represent such persons and entities.

## **2 Amendments to the Employment Rights Act 1996**

- (1) The Employment Rights Act 1996 is amended as follows.
- (2) Omit subsections (1) to (6) of section 230(employees, workers etc.) and insert—

(1) In this Act—

(a) “worker” and “employee” both mean an individual who

- i. seeks to be engaged by another to provide labour,
- ii. is engaged by another to provide labour, or
- iii. where the employment has ceased, was engaged by another to provide labour,

and is not, in the provision of that labour, genuinely operating a business on his or her own account.

(b) an “employer” in relation to a worker is:

- i. every person or entity who engages or engaged the worker; and
- ii. every person or entity who substantially determines terms on which the worker is engaged at any material time.

(c) “employed” and “employment” mean engaged as an “employee” or as a “worker” under paragraph (a) above.

(d) “contract of employment” means a contract of service or apprenticeship, or any other contract whereby an individual undertakes to do or perform any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual, and any reference to a worker’s contract must be construed accordingly.

(e) It is for the person who is claimed to be the employer and contests that claim to show in any legal proceedings that—

(i) he or she is not the employer, and

(ii) person(s) providing the labour is not an employee, a worker, employed, or in employment as the case may be.

(f) For the avoidance of doubt the foregoing provisions apply to employment for the purposes of a government department, except for members of the armed forces.

(g) For the avoidance of doubt where a worker provides work through a ‘personal service company’ the employer will be the end user.

(h) The Secretary of State shall have the power by regulation to designate as ‘workers’ other persons engaged in work and to designate as ‘employers’ other entities engaged in the provision of work after consultation with organisations which appear to him to represent such persons and entities.

### **3      Extent, commencement and short title**

(1) This Act extends to England and Wales and Scotland.

(2) This Act comes into force three months after the day on which it receives Royal Assent.

(3) This Act may be cited as the Status of Workers Act 2021.

JHQC 040521