

CAMPAIGN FOR TRADE UNION FREEDOM

AUTUMN 2021

End Fire & Rehire

By BARRY GARDINER, MP FOR BRENT NORTH

IN JUNE this year, I launched my Private Members' Bill to stop the practice of fire and rehire. It's wrong that workers are threatened with the sack and told they will only be re-employed to do the same basic job if they accept less money and poorer conditions.

It's an issue that affects every constituency, every industry. It's a social evil that is hurting hundreds of thousands of families.

The new breed of fire and rehire companies are household names – Argos, British Gas, Tesco, Sainsbury's and Weetabix are all at it. These are brands that we all know, and they have all done well during the lockdown.

I launched my campaign at Jacob Douwe Egberts (JDE) in Banbury. Coffee consumption was up 40% during the lockdown and Jacobs Douwe Egbert made record profits, but that didn't stop them threatening their workforce with the sack unless they accepted a cut in wages of up to £12,000. No family should have to put up with that. How do you pay your rent or your mortgage with a cut like that? How do you support your family?

The government has said that they believe fire and rehire should not be happening, but they are not prepared to legislate to stop it. They say they will issue expanded guidelines instead. But the companies who are doing this don't need more guidelines, they know what they are doing is wrong and they will keep on doing it unless someone stops them. That is why legislation is needed.

I wanted to create a Bill that works for all and with the visionary work of the IER and the intellectual fire power of Professor Keith Ewing and Lord John Hendy QC, we have a great team working to that end.

My Bill already has the backing of over 100 MPs from every single party in the House of Commons – including a growing number of Conservative MPs. The public also wants change. I have met hundreds of people, not one has said Fire and Rehire is acceptable, most are surprised to learn it's still legal.

We can persuade the government to do the right thing and back this Bill. I have been criss-crossing the country, speaking with people to make that happen. When there is such clear injustice, it must be possible for MPs to work together.



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thousands of families."***





Trade unionists beware of the police, crime and sentencing Bill

By LORD HENDY QC, VICE PRESIDENT OF CTUF

THIS DREADFUL Bill attacks the freedom to protest, the Roma and travellers and many others. Trade unionists should know that it also threatens pickets.

The right to peacefully picket to persuade people not to work in an industrial dispute has been a statutory right since 1875. It has been much restricted, most recently by the Trade Union Act 2016. But, though emaciated, the right remains.

Under the Bill a senior police officer will have the power to impose conditions on “assemblies” (even of one person) and processions where the officer reasonably believes that noise generated by persons taking part may result in “serious disruption to the life of the community” or “serious disruption to the activities of an organisation which are carried on in the vicinity of” the procession or assembly. It will be a criminal offence to breach such conditions. These phrases are aimed at picketing (and other demonstrations).

It is bad enough that the Bill does not define either of these phrases. Instead, remarkably, it gives the government Minister the power to impose her own definitions in Regulations. This is an abuse of Parliament.

But we know what the government has in mind. It has drafted Regulations dealing with one phrase but not the other.

The draft Regulations state that:

“It may be regarded by the senior police officer as serious disruption to the life of the community if there is— (a) a significant delay to the supply of a time-sensitive product impacting on the community, or (b) prolonged physical disruption to access to essential goods and services impacting on the community.”

The draft goes on to say that “time-sensitive product” includes newspapers and perishable items, and that “essential goods and services” includes the supply of money, food, water, energy, fuel, communications, transport, a place of worship

or education, health and other “critical public service”.

So, the police may impose conditions on pickets where the workplace is involved in food, water, power and fuel supply; road, rail, waterway and maritime transport; newspaper, TV, radio, film, telephony and electronic communications; banking, postal, education, health and other public services. How many workplaces will not be covered?

The police officer must judge that the picket is creating serious disruption by noise. Loudhailers, chants, vuvuzelas, bagpipes, shouting ‘scab’, even making a speech might tip the balance.

Trade unionists: beware.

Trade and Cooperation Agreement and workers’ rights

By KEITH EWING, PRESIDENT OF THE CTUF



BREXIT HAS created a new legal and constitutional architecture in the United Kingdom. In doing so it has changed but not ended our relationship with the EU. True, EU law is no longer directly enforceable in the British courts, and new EU social law no longer applies. We nevertheless have obligations under the Trade and Cooperation Agreement (TCA) concluded to govern our future relationship with the EU.

Along with others, I have expressed reservations about the TCA, which has many of the flaws of other free trade agreements. However, it also provides opportunities, with both the EU and the UK committed to:

- respecting, promoting and effectively implementing the internationally recognised core labour standards, as defined in the fundamental ILO Conventions. These are the right to freedom of association, the elimination of forced or compulsory labour, the elimination of child labour, as well as the elimination of discrimination in employment; and

- implementing all the ILO Conventions that the UK and the EU Member States have respectively ratified, as well as the different provisions of the European Social Charter that, ‘as members of the Council of Europe,

the UK and EU Member States have respectively accepted’. The UK has ratified 53 ILO Conventions still in force, and has accepted 13 of the 17 labour provisions of the Social Charter.

In the last ten years we have been found by the ILO to be in breach of various core labour standards (including most notably on trade union rights). Less well known are the breaches of other ILO Conventions relating to low levels of sick pay and the underfunding of the Health and Safety Executive. We were also found by the European Social Rights Committee in 2019 to be in breach of 10 of the 13 labour rights paragraphs of the Social Charter by which we are legally bound.

Trade unions now have a responsibility to (i) make better known the commitments made by the Johnson government, and

(ii) develop a meaningful legal and political strategy to ensure that these commitments are met.

If we are not prepared to engage with and use what is already there, some will begin to question why we spend time lobbying for labour rights in the first place. No other free trade agreement covers the Social Charter, and only the TCA can be used in the domestic courts. It’s the best we’ve got – so far.

Derek Watkins: salute to a stalwart

By ADRIAN WEIR, ASSISTANT NATIONAL SECRETARY OF CTUF

DEREK WATKINS has recently died. Derek was one of three London dockers arrested on 21st July 1972, a group that with the addition of two further arrested dockers, Vic Turner and Bernie Steer, became known as the Pentonville Five.

Derek, along with Tony Merrick and Con Clancy, was arrested for contempt of court while picketing Midland Cold Store in east London after the Vesty Group obtained an injunction under the terms of the notorious Industrial Relations Act.

The arrests and jailing of the dockers in Pentonville Prison resulted in a mass mobilisation of shop stewards and workers, led by the Liaison Committee for the Defence of Trade Unions (now CTUF). The anger and outrage felt across the labour movement was so intense that the TUC was obliged to call for a general strike to be held on 26 July to secure their release.

Faced with such a mobilisation the Conservative Government backed down deploying a little known legal figure, the Official Solicitor, to release the five.

The immediate impact of the jailing and release of Derek Watkins and the others meant that the Industrial Relations Act was a dead letter and that the subsequent Labour Government was able to repeal the Act.

However, the lessons learned by the Tories became clear. When Thatcher introduced anti-union laws from 1980 there was no question of jailing shop stewards, instead the funds of the unions were made the main target.

Solidarity greetings to the family and friends of Derek Watkins from all involved with the Campaign for Trade Union Freedom.

Radical overhaul of New Zealand's employment laws

By TONY BURKE, CHAIR OF CTUF

A package of sweeping measures will return New Zealand to centralised sector wage bargaining which will be at the heart of their industrial relations law – something the Labour Party should look and learn from.

It is a simple system that will help prevent undercutting taking place in sectors where pay is low, and unions find it difficult to organise.

The new Fair Pay Agreement system (FPA) is designed to put a floor under wages by allowing unions to negotiate on an industry/sector wide basis.

If 10% of a workforce, or 1000 workers agree, a new Fair Pay Agreement can be enacted.

The relevant trade union will be given the power to negotiate directly with an employer's group covering the sector, enabling negotiation for a collective agreement.

Any resulting agreement will set minimum pay and conditions, along with overtime rates across

the country. Other areas of bargaining could include redundancy compensation, health and safety, flexible working, as well as training and upskilling courses.

Regional variations to consider the cost of living will also be able to be built into the system.

Importantly, the agreements will cover all workers in a sector – union and non-union. However, as part of the deal, unions will be able to apply for union members to receive additional wages up to the value of their union subscriptions.

The New Zealand government says that such a scheme is necessary to stop 'cowboys' from undercutting competitors on price and thereby forcing wages down.

New Zealand is expected to announce that it will be proceeding with a new Fair Pay Agreement system to be implemented in 2022.

If an FPA is agreed, it will be voted on in a simple majority of

both workers and employers in a ballot vote.

The NZ government will also provide financial support to Business New Zealand and the NZ Council of Trade Unions, as well as providing direct financial assistance to the bargaining parties.

NZ unions have praised the proposals, while many employers and pro-employer groups have been critical of the new system (as would be expected).

However, the system, as it is proposed, means employers will have little choice but to establish structures to enable collective bargaining to take place.

As we go to press, the Labour Party has voted in its green paper "A New Deal For Working People" to introduce a New Zealand style Fair Pay Act for UK workers alongside banning zero hours contracts and fire and rehire, and to introduce single status for workers legislation.

CAMPAIGN FOR TRADE UNION FREEDOM

Affiliation costs:

National Unions 100,000+ **£650**
less than 100,000 **£150**

Regional Unions **£75**

Union Branches 500+ **£75**
less than 500 **£35**

Associations of TUCs **£35**

Trade Union Councils **£35**

Strike Committees, non-union organisations & individuals **£15**

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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Name of secretary
Address
E-mail
We may contact you with information about the Campaign.

The Pacific trade deal that threatens all workers

By ROSA CRAWFORD, TUC POLICY OFFICER ON TRADE



DESPITE HAVING the largest trading bloc in the world and the only one with high standards of workers' rights on our doorstep, the government has decided to spend its energies joining a trade agreement on the other side of the world involving a host of workers' rights abusers.

This trade agreement is called the Comprehensive and Progressive Transpacific Partnership (CPTPP) that was

finalised in 2018.

It currently involves eleven countries: Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, Peru, New Zealand, Singapore and Vietnam.

In June the government announced official talks had started for the UK to join CPTPP.

This should worry workers everywhere.

Workers' rights at risk
CPTPP has no effective mechanism to enforce fundamental International Labour Organisation (ILO) standards. And the deal provides no role for trade unions to trigger investigations into complaints over labour abuses.

This is particularly worrying as the deal involves countries where abuses of labour rights are widespread such as Brunei, Mexico and Vietnam. In Brunei and Vietnam independent trade

unions are banned - violating ILO conventions on freedom of association and collective bargaining.

Threats to public services

CPTPP contains the Investor-State Dispute Settlement (ISDS) corporate court system which allows foreign investors to sue governments for regulations or actions that they believe threaten their ability to make profits. ISDS court systems have been used in the past to challenge minimum wage laws and government attempts to renationalise public services. CPTPP would also make it more difficult for the government to protect personal data and prevent NHS patient data being misused by companies.

Threats to manufacturing

CPTPP puts manufacturing jobs at risk by making it easier for China to export goods via

Vietnam to avoid UK anti-dumping duties. This would increase the rate of dumping of cheap goods such as steel, cement and tyres which would put thousands of jobs in manufacturing and related supply chains at risk.

Join the campaign

Due to these threats, the TUC and unions internationally are opposed to CPTPP.

There is still time to stop the UK joining the deal - we need as many union members and allies to join the campaign.

To find out how you can get involved mail Rosa Crawford at rcrawford@tuc.org.uk

The Workers' Status Bill and employment rights

By LORD HENDY QC, VICE PRESIDENT OF CTUF



THE BILL is intended to put right one of the many grave injustices of UK workplace law. Only a complete transformation of workplace law (as proposed by IER and CTUF) will give workers the balance of power at work. The Bill could achieve one aspect of this transformation, though the government will probably wreck it later.

Currently, the law classifies workers into different categories, each with a different set of workplace rights. So employers

minimise workers' rights by exploiting these categories. With one exception, the Bill would create a single status of 'worker' entitled to all statutory employment rights from day one.

The exceptional category contains those who are genuinely self-employed in business on their own account with their own clients or customers. The Bill will not affect them - the 'professionals' - the self-employed house painter, the jobbing electrician, the gigging musician, the novelist, the barrister and others.

Some of these professionals use 'personal service companies' (PSC), a limited company in which the professional is the major shareholder, director and sole employee. Genuine PSCs will also be unaffected by the Bill.

But the Bill will stamp out abuse of these two categories.

It will put an end to bogus self-employed workers - those

whose arrangements are dressed up to look as if they are self-employed but who, in reality, are employees. Unless they challenge their status in successful litigation, they are not entitled even to the national minimum wage - not even some health and safety protections. Bogus self-employment is rampant in construction and elsewhere.

The Bill will also stop workers being unwillingly forced into PSCs. Here, a worker is told by the real employer that if she wants work she must set up a PSC to supply her services to the real employer and to employ herself. The worker has full employment rights - but only against her own PSC! The real employer is completely insulated. Such abusive PSCs are common in delivery (and other sectors).

Then there are the so-called 'limb (b) workers', workers who have a contract but not a

contract of employment. They only get some of the rights that employees have. They don't get protection against unfair dismissal, parental leave, and so on. This is the status that the Uber drivers achieved in the Supreme Court. Limb (b) workers are common in some service industries.

Finally, there are 'employees', entitled to all the statutory rights (if they have been employed long enough).

The Bill will, if passed, extend employment rights to hundreds of thousands who do not currently enjoy them and prevent greedy employers from undercutting good employers who give staff full employment rights.