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# **Days of Action**

**The legality of protest strikes  
against government cuts**

**by K D Ewing and John Hendy QC**

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INSTITUTE  
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Trade unions and their members are deeply concerned by the policies of the new government and by what they see being done in the name of austerity. That concern was evident at the extraordinary TUC march and rally on 26 March 2011 and again in the public sector pension strike on 30 June 2011. It is likely that the austerity package being pursued by the present government will give rise to more protest both in the form of industrial disputes and also by way of demonstrations, marches and rallies. It is quite possible that non-attendance at work will be an incidental consequence of the latter forms of protest.

Against that background, the authors consider whether a Day of Action called by the TUC and trade unions, taking place on a weekday and intended to protest at the government's cuts and austerity measures, could be lawful in the UK in the light of recent jurisprudence of the European Court of Human Rights. They conclude that such a call and participation in the action should both be protected by Article 11 of the European Convention on Human Rights and Fundamental Freedoms. They go on to consider how that conclusion would impact on domestic law.

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