

Collective Bargaining

Version 02 - 8th September 2026

Introduction

Labour's blueprint 'A New Deal for Workers' promised that:

Labour will establish Fair Pay Agreements across the economy... Fair Pay Agreements will be negotiated through sectoral collective bargaining, reversing the decades-long decline in collective bargaining coverage. Worker representatives and employer representatives would be brought together to negotiate Fair Pay Agreements that establish minimum terms and conditions, which would be binding on all employers and workers in the sector.

What does the Act say?

- The Act makes some useful changes to the current statutory, single-employer recognition procedure (though it needed to go further). More significantly it does not mention sectoral collective bargaining or agreements at all.
- The Act does provide for the establishment of a School Support Staff Negotiating Body (SSSNB) and an Adult Social Care Negotiating Body (ASCNB);
- It gives the Secretary of State (SoS) power to make Regulations determining how members may be appointed to each Negotiating Body (NB), including a chairperson and third parties who neither represent employers nor unions in the sector (in the case of the ASCNB, the SoS may give these third parties voting rights, but in the case of SSSNB third parties will have no such rights);
- The Act specifies the (limited) subjects each Negotiating Body may consider and gives the SoS power to make Regulations as to the nature of such consideration, including factors each NB must take into consideration and any conditions to be met in reaching agreement. For the SSSNB, the SoS sets deadlines, and matters can be discussed only with the permission of the SoS or on referral from the SoS, and the SoS can also specify matters that may not be discussed.
- In the event of a failure to agree, the Act gives SoS power to impose a settlement. Where the NB has reached agreement, the SoS can require it to reconsider and may specify factors that must be taken into account, and conditions to be met, on such reconsideration;
- The SoS may make Regulations to ratify an agreement reached by either NB or (for SSSNB) to require prescribed persons to 'have regard' to the agreement.
- The Act expressly states that nothing done in the SSSNB is to be regarded as collective bargaining and any agreements reached are not to be regarded as collective agreements

within the existing statutory definitions of those terms. And the SoS may make Regulations to the same effect for the SSSNB.

- The Act defines a 'social care worker' as those employed in regulated social care services and those employed directly by the individuals they assist, so self-employed/gig economy social care workers are outside the scope of the ASCNB.

What are the defects?

- The Act fails to include any provision or mechanism by which sector-wide collective bargaining can be implemented in any sector of the economy. The government refused to accept an amendment which would have enabled the SoS to make Regulations for such bargaining elsewhere in the economy.
- The arrangements for the ASCNB and the SSSNB operate only in one major and one minor sub-sectors of the economy but even they do not constitute proper collective bargaining. Quite apart from the Act saying so (above), this is because the following matters are not left to the employers and unions to decide but are imposed by the State:
 - The size and composition of the NB;
 - The arrangements for appointing the Chair (and the identification of any category from which they may or may not be chosen). In the SSSNB, the bilateral parties must not select one of their representatives as Chair (thus precluding the usual arrangement of alternating the Chair between the two sides);
 - The very limited subjects permitted for discussion, (which exclude, for example, work organisation, diversity and inclusion, health and safety, the deployment of new technologies, formulation of a dispute resolution procedure, legal status of workers); apparently there will also be a 'remit' letter to the parties to set the parameters of their discussions;
 - The factors to be taken into account, and conditions to be met, in reaching agreement and on any reconsideration of such agreement (where required by the SoS);
- Furthermore, where there is a failure to agree, the SoS has the power to take over the NB's functions and to impose a settlement regardless of the parties' wishes (who may prefer their own dispute resolution procedure or conciliation, mediation, or arbitration by a third party in whom they have confidence);
- The extent of governmental control over the output of the NBs does not meet the definition of free collective bargaining in international law;

continued overleaf...



For further details, and up to date information once consultations conclude and regulations are published, see IER's new **Working Life Podcast**, or scan this QR code.

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- Self-employed/gig economy care workers will be outside the scope of the remuneration and terms and conditions arising out of the ASCNB process. This will be an incentive for employers to attempt to re-classify adult social care workers;
- The failure to enable sectoral bargaining and the limits on the NBs do not fulfil the UK's ratified international obligations to 'encourage and promote' collective bargaining, leaving the UK in breach of those laws.

What needs to be done?

- *Further legislation to enable the SoS, after appropriate consultations, to impose sectoral collective bargaining arrangements on any specified sector. These need to be bilateral Joint National Committees (as was the norm prior to the 1980s) with equal representation from unions and employers' associations within the sector. Both sides must be free to establish their own arrangements, including the appointment of Chair, matters for negotiation, and dispute resolution procedures.*
- *Amend the ASCNB and the SSSNB proposals to convert them into proper collective bargaining bodies consistent with international law.*
- *Expand the definition of relevant adult social care workers so as to mirror that of 'care worker' in the Courts and Criminal Justice Act 2015, s 20. This would mean that 'any person who, as paid work, provides social care for an adult' will be within the scope of the ASCNB.*



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