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Finishing the job: why we need a second Employment Rights Bill

Crisis in trade unionism:

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1979:

- ▶ 13.2 million TU members out of a workforce of 24 million
- ▶ 20 of 24 million workers covered by a collective agreement or wages council order

2025:

- ▶ 6.7 million TU members out of a workforce of 34 million
- ▶ 9 out of 34 million workers covered by a collective agreement

Crisis of workers' rights:

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Substance

Compared to workers in other countries, in Europe and elsewhere, British workers have relatively weak legal protections and relatively meagre legal rights

Scope

- A multitude of legal statuses: employees, 'limb b' workers, agency workers, home workers.
- 'Continuous employment' requirements

Enforcement

- No labour inspectorate as such, incomplete patchwork of agencies with different roles, priorities and powers; all underfunded
- Employment Tribunal System at breaking point; widespread non-payment of compensation

A single crisis with multiple dimensions?

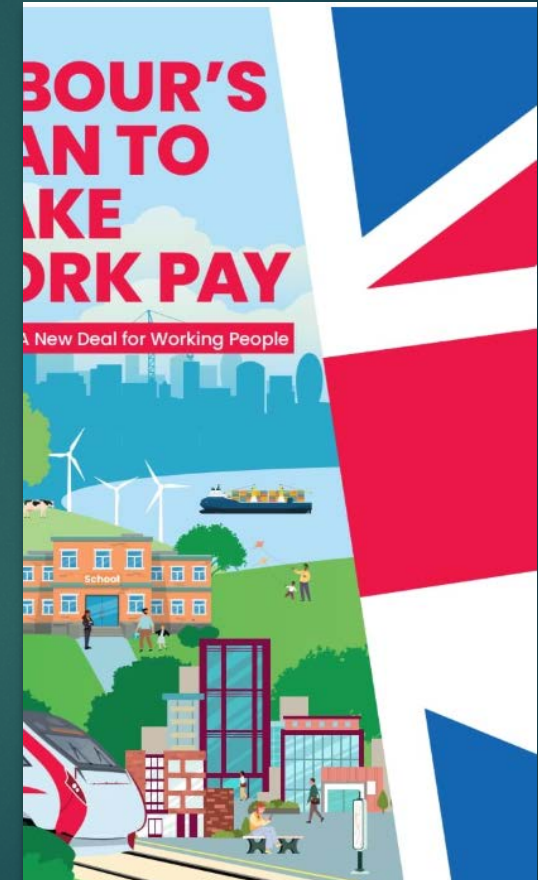
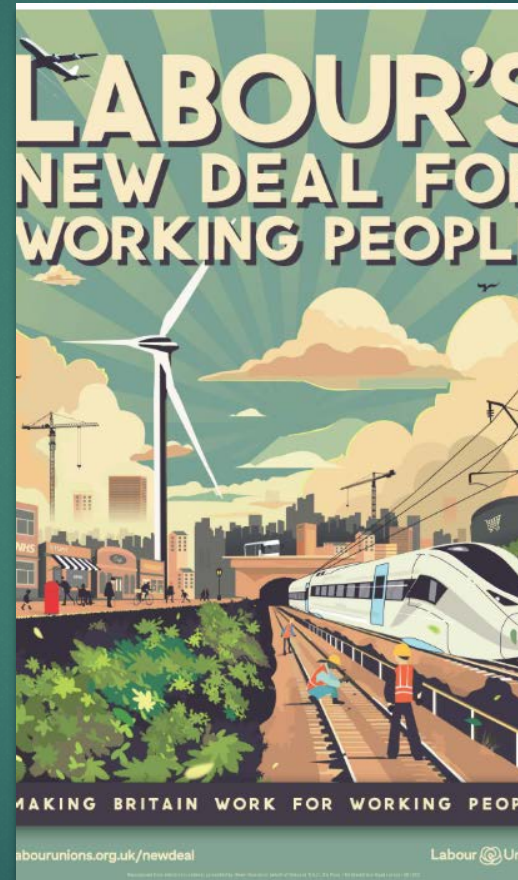
New Deal for Working People:

- New individual rights
- Single status and day-one rights
- Single enforcement agency with new and improved powers
- Stronger trade union rights:

“WHEN workers are empowered to act as a collective, they are able to secure better pay and conditions... [S]trong collective bargaining rights and institutions at all levels are key to tackling the problems of insecurity, inequality, discrimination, enforcement, low pay, and other issues identified in this Green Paper.”

Assessing the ERB

- ▶ Does the Bill do what the Party said that it would do?
- ▶ Does the Bill do what it would need to do to bring UK labour law into line with international law?
- ▶ Does the Bill do what it would need to do to halt the crisis currently confronting workers and trade unions?



Th ERB and workers' individual rights

- ▶ Unfair dismissal
 - ▶ Pregnant women and new mothers
- ▶ Statutory sick pay
- ▶ Flexible working
- ▶ Bereavement, paternity and parental leave
- ▶ Harassment
- ▶ Zero hours contracts
- ▶ Fire and rehire

'Stronger family-friendly rights'

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Bereavement

Introduction of new right to bereavement leave but detail to be set out in secondary legislation:

- Eligibility
- Length of leave
- Timing of leave

NB: No right to receive wages during bereavement leave

Paternity leave

Removal of requirement to complete continuity of service requirements; employees will be able to give notice of their intention to take Paternity Leave from their first day in a new job.

Parental leave

Removal of requirement to complete continuity of service requirements; employees will be able to give notice of their intention to take Parental Leave from their first day in a new job.

Unfair Dismissal, Zero Hours Contracts, Single Status

Unfair Dismissal

Qualifying period scrapped but new powers to introduce statutory probation period:

- Likely 9 months
- Likely a 'lighter touch process'
- Likely lower compensation for anyone who successfully claims for unfair dismissal during probation

Zero Hours Contracts

No prohibition of ZHCs

Instead, employers must offer 'guaranteed hours' to zero hours workers:

- No provision for guarantees of procedural fairness

Single Status?

Nothing in the Bill.

Government undertaking to consult on single status in the future.

The ERB and trade union rights

New Deal/Plan to Make Work Pay:



- ▶ new right of entry to organise in workplaces
- ▶ union recognition to be simplified
- ▶ sectoral collective bargaining to be 'rolled-out'
- ▶ anti-trade union rules to be repealed, bringing legislation into line with international law commitments

Employment Rights Bill:



**MINIMUM
SERVICE LEVELS
TO BE REPEALED**

- ▶ Highly complex framework for negotiating an 'access agreement'; no effective enforcement
- ▶ Leaves in place (i) requirement to ballot workers to gauge support for recognition and (ii) the *Deliveroo* exclusion
- ▶ Provision for pay determination for social care and school support staff, but no sectoral collective bargaining
- ▶ Repeals Acts of 2023 and 2016 (largely) but leaves in place outright ban on secondary action and other significant restrictions

Enforcement

- A new **Fair Work Agency**
- An extended remit in the future but not immediately
- New powers?
 - Powers to inspect workplaces and require employers to produce relevant documents and evidence to demonstrate compliance with employment law
 - A civil penalty regime (based on the National Minimum Wage Act 1998)
 - A civil proceedings regime
 - Enforcement powers in respect of criminal activity
 - Cost recovery

‘The FWA will take a balanced approach to upholding workers’ rights. The FWA will provide better support to businesses on how to comply with the law and will take tough action against rogue employers who exploit their workers. That is fair for workers, and fair for businesses too.’

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Forward to an Employment Rights Bill #2?

The Employment Rights Bill contains some important improvements on existing law

But it falls well short of what was promised and well short of what would be needed to allow trade unions and collective bargaining to flourish and to ensure fair and decent work for all

If the Government is to deliver on the commitments made in the New Deal for Working People, further legislation will be needed