



European
Social
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03/01/2025

RAP/ Cha /GBP/43(2024)

1961 EUROPEAN SOCIAL CHARTER

43rd National Report on the implementation of
the European Social Charter

submitted by

THE GOVERNMENT OF THE UNITED KINGDOM

Articles 2, 3, 4, 5, 6, and 20

Report registered by the Secretariat on

03 January 2025

CYCLE 2024

European Social Charter Group 1 provisions report for the United Kingdom

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Note on territorial extent

The United Kingdom is a country of countries. It is made up of four countries: England, Scotland, Wales and Northern Ireland as well as three Crown Dependencies - Jersey, Guernsey and the Isle of Man. Some policies covered in this report relate to ones which apply throughout the whole United Kingdom and others are devolved. The note on terminology below is aimed at helping the reader understand these distinctions.

England, Scotland and Wales are part of **Great Britain**, the largest isle of the United Kingdom. Where the term 'Great Britain' is used, this is in reference to policies covering these three countries.

Northern Ireland is on the Isle of Ireland and is part of the **United Kingdom of Great Britain and Northern Ireland**. Where the term 'United Kingdom' is used, this is in reference to policies that apply to Great Britain, Northern Ireland and the Crown Dependencies unless otherwise specified.

Where a policy relates to a specific country (e.g. Scotland), the report specifies this is devolved.

Article 3 – The right to safe and healthy working conditions

Explanatory remark:

The proposed questions which focus on health and safety raise issues identified in the most recent conclusions, notably on Article 3 (right to health and safety at the workplace), or focus on new issues such as risks to health and safety caused by climate change (e.g. having to work in extreme heat or cold). Other proposed questions on Article 3 focus on new issues that were covered by the Committee's Statement of interpretation on Article 3§2 of the Charter in Conclusions 2021, notably the right to digital disconnect.

Furthermore, the questions on Article 3 cover self-employed and vulnerable categories of workers, such as domestic workers, as there were previously many nonconformities on the ground that self-employed and domestic workers were not adequately protected by occupational health and safety regulations. An emphasis has been placed on supervision, as supervision is crucial if the effective implementation of the right to safe and healthy working conditions is to be guaranteed, especially for vulnerable categories of workers (such as domestic workers, digital platform workers, posted workers and workers employed through subcontracting). Workers are more often exposed to environmental-related risks such as climate change and pollution.

Questions:

Article 3§2 of the Revised Charter (**Article 3§1 of 1961 Charter**) Health and safety regulations

a) **Please provide information on:**

- **the measures taken to ensure that employers put in place arrangements to limit or discourage work outside normal working hours (including the right to disconnect);**
- **how the right not to be penalised or discriminated against for refusing to undertake work outside normal working hours is ensured.**

UK response: a

United Kingdom

The UK Government recognises that a culture of 'always-on' presenteeism is damaging to workers' morale and productivity. That is why the Government has committed to bring in a right to switch off through a statutory Code of Practice, to support all workers' work-life balance.

The Code of Practice will provide practical guidance to employers and workers on how to manage contact and other work-related activities outside normal hours. A Code of Practice follows successful international precedent for the right to disconnect, in countries like the Republic of Ireland.

The Working Time Regulations 1998 sets out the legal limits on working hours, the right to paid holidays, and mandate rest breaks. They provide protections against excessive working hours. These regulations ensure that workers are not required to work beyond a maximum of 48 hours per week unless they voluntarily opt out. Employers must ensure that their workers are not overworked and do not go without proper rest.

Workers have the right to:

- A maximum average working week of 48 hours for adult workers, measured over a reference period of 17 weeks;
- Workers can 'opt-out' of the 48-hour limit in writing;
- Rest break of 20 mins for a working day of more than 6 hours;
- Uninterrupted rest periods of 11 hours each day; and at least 24 hours each week (or 48 hours each fortnight);
- Annual leave of 5.6 weeks each year;
- Special protections for young workers and night workers.

Northern Ireland

In the north of Ireland (NI), Departmental guidance documents detail, for employees and employers, the statutory framework established by the Working Time Regulations (NI) 2016. This includes information on working hours, limits and calculations.

The Department is currently gathering information on matters relating to a 'Right to Disconnect', with a view to considering action on the matter in the forthcoming Good Jobs Employment Rights Bill.

Individuals have the right to complain to an Industrial Tribunal if they believe their rights are being affected. Free and confidential advice is available through the Labour Relations Agency and the Law Centre NI.

Isle of Man

The applicable legislation relating to the protection of workers and those affected by work activities is the *Health and Safety at Work Act 1974*, as applied to the Isle of Man by order under the Island's *Health and Safety at Work etc. Act 1977*¹. Further protection is provided

¹ http://www.legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/1977/1977-0001/HealthandSafetyatWorkEtcAct1977_1.pdf

by the *Management of Health and Safety at Work Regulations 2003*² made under the provisions of the above legislation.

The Health and Safety at Work Inspectorate (HSWI), a Division of the Isle of Man Government's Department of Environment, Food and Agriculture (DEFA), is responsible for enforcing all applicable health and safety legislation on the Isle of Man.

HSWI considers the generalities of established standards elsewhere to determine whether businesses are compliant with regards to working hours. the Isle of Man Government is currently consulting on working time and rest break legislation.

The Isle of Man's *Shops Act 2000*³ regulates the working hours of retail workers, prohibiting any term in an employment contract which obliges such a worker to work:

- more than 5 hours without an interval of at least 30 minutes;
- for a total number of hours, exclusive of intervals allowed for meals and rest, in excess of 10 hours in any 24 hours; or 44 hours in any week.

Employees' health and safety must not be adversely affected by their working hours. Preventative measures to reduce risk should be implemented by employers, whether during the normal workday or when working outside of normal hours. Failure to comply with the requirements imposed by the *Health and Safety at Work etc. Act 1974* can result in enforcement action being taken.

The Management of Health and Safety at Work Regulations 2003 require employers to undertake suitable and sufficient health and safety assessments of the risks to which they are exposed whilst they are at work. This includes assessing the risks associated with working outside of normal working hours, long working hours and the failure to provide sufficient rests and breaks from work.

An employer would be in breach of health and safety law and may be subject to enforcement action commensurate with any breaches identified where:

- this matter does affect the health, safety and welfare of an employee, such as creating fatigue; and
- there is no specific risk assessment in place for the work activity, or indeed where a risk assessment has been disregarded.

Many employees in the Isle of Man choose to do additional work to supplement their income. This may involve working outside of their normal hours. HSWI does not actively discourage this. However, it ensures employers implement suitable measures and procedures whereby risks are managed to appropriate standards. Provided employers

² <https://www.gov.im/media/622283/managementhsregs.pdf>

³ <https://www.gov.im/media/630221/shopsact2000.pdf>

monitor and manage these activities, taking into account individual employees' health and safety, they will remain in line with Isle of Man legislation.

Where an employee refuses to work outside of their normal hours, and where they can point to a failure by their employer to comply by their health and safety policy or relevant risk assessment, the employer may be punished under the relevant health and safety provisions including Section 2 of the Health and Safety at Work etc. Act 1974, and Regulation 3 of the Management of Health and Safety at Work Regulations 2003. Employers may also be punished where, following an investigation, it is established that the employer does not have suitable and sufficient health and safety policies or risk assessments for risks associated with work undertaken by their employees.

Employees are encouraged to ensure that contractual arrangements between them and their employers reflect their agreed working arrangements and terms and conditions. This is a matter of Civil Law and not an issue enforced by DEFA. The Isle of Man's health and safety law penalises discrimination when the employee's health and safety in the workplace is affected.

Employees can refuse to undertake a work activity if it appears to them to be unsafe or it contravenes workplace rules and established risk assessments as well as other control measures, and employers can be punished where they fail to comply with these measures.

b) Please provide information on:

- **the measures taken to ensure that self-employed workers, teleworkers and domestic workers are protected by occupational health and safety regulations;**
- **whether temporary workers, interim workers and workers on fixed-term contracts enjoy the same standard of protection under health and safety regulations as workers on contracts with indefinite duration.**

UK response: b

Great Britain

Self-employed workers are protected by health and safety legislation⁴ in the same way as other workers. All self-employed workers whose work activities pose a risk of harm to others have a duty to protect others (including but not limited to, employees, customers and colleagues) who may be exposed to risks to their health and safety from their undertaking.

⁴ [Legislation - HSE](#)

Teleworker employers have the same health and safety responsibilities for teleworkers whether they are working at home or in a workplace. This includes ensuring a risk assessment covers teleworkers and that teleworkers are protected from risks presented from working on a computer, laptop and/or display screen equipment.

Domestic workers employed through an employment agency and employees whose role extends beyond solely domestic duties are covered by health and safety legislation. A very small number of roles in private households which are exclusively domestic in nature have recourse to other employment and social protections, for example under the Modern Slavery Act 2015 or labour market non-compliance .

For health and safety purposes, temporary workers, interim workers and workers on fixed-term contracts should be treated no differently to other workers and will often identify as agency or temporary workers, or self-employed.

Northern Ireland

Northern Ireland operates under a similar framework to Great Britain. The Health and Safety at Work (NI) Order 1978 is the primary piece of legislation covering occupational health and safety.

Isle of Man

Sections 2 and 3 of the *Health and Safety at Work etc. Act 1974* apply to employees and self-employed persons respectively, this includes teleworkers and domestic employees. HSWI interacts with a wide range of employers and self-employed persons in a variety of workplace sectors including teleworkers and domestic self-employed workers who are included in the HSWI intervention programme, with visits prioritised based on levels of risk. Secondary legislation extends to these categories of workers and therefore a variety of reporting and notification lines are relevant to this category of workers.

Guidance on the application of legislation to domiciliary care and domestic duties can be found at: https://www.hse.gov.uk/foi/internalops/sims/pub_serv/071105.htm

All workers are entitled to work in an environment where the risks to their health and safety are properly controlled. Under Isle of Man legislation temporary workers, interim workers and workers on fixed-term contracts enjoy the same standards of protection under health and safety regulations, as workers on contracts with indefinite duration.

Article 3§3 of Revised Charter (**Article 3§2 of 1961 Charter**)

Enforcement of health and safety health regulations

Please provide information on measures taken to ensure the supervision of implementation of health and safety regulations concerning vulnerable categories of workers such as:

- **domestic workers;**
- **digital platform workers;**
- **teleworkers;**
- **posted workers;**
- **workers employed through subcontracting;**
- **the self employed;**
- **workers exposed to environmental-related risks such as climate change and pollution.**

UK response:

Great Britain

For workers on non-standard contracts, including those who are digital platform workers or teleworkers, HSE guidance is clear that health and safety law applies in the same way as to other workers. Health and safety concerns can be reported to HSE via an online portal⁵, where they will be triaged and followed up as appropriate, with any necessary enforcement action. Any enforcement action should be proportional to the health and safety risks and the seriousness of the breach. HSE uses various enforcement techniques to deal with risks and secure compliance with the law, ranging from the provision of advice to enforcement notices. They can also initiate or recommend prosecution where the circumstances warrant such punitive action.

Northern Ireland

For workers on non -standard contracts, including those who are digital platform workers or teleworkers, Health and Safety Executive for NI (HSENI) guidance is clear that health and safety law applies in the same way as to other workers. Health and safety concerns can be reported to HSENI via an online portal, where they will be triaged and followed up as appropriate, with any necessary enforcement action. Concerns can also be submitted by email and post.

Isle of man

⁵ [Contact the Health and Safety Executive.](#)

Section 2 of the *Health and Safety at Work etc. Act 1974* requires employers to provide ‘such information, instruction, training and supervision as is necessary to ensure, so far as is reasonably practicable, the health and safety at work of their employees’. HSWI interventions in the workplace can require employers to demonstrate compliance with this Section of the Act including the inspection of evidence of correct supervision where vulnerable workers are concerned.

Article 5 – The right to organise and Article 6 – The right to bargain collectively

Explanatory remark:

Questions concerning the the long-term decline in unionisation and collective bargaining coverage rates across Europe from a social rights perspective are proposed. While the causes of low trade union density rates are complex, these include deindustrialization and globalization, as well as the presence of large nonunionized segments of the workforce, including many workers who are low paid and/or have a precarious contractual situation. One of the questions under Article 5 seeks to articulate the scope of State Party obligations in arresting that decline, without unduly interfering with trade union freedom. Another question looks at some of the reported ways in which unionisation at the workplace has been undermined, for instance by the promotion of alternative sources of representation that are more prone to being controlled by the employer. The decline in trade unionisation is accompanied in many places by the demotion of joint consultation mechanisms in bipartite and tripartite mechanisms, by diluting the contents of the matters of joint interest addressed or downgrading the status of these exchanges.

The decline in collective bargaining coverage has been uneven, with some countries more affected than others. However, in many cases the decline has been associated with a decentralisation of collective bargaining arrangements and an increase in the discretion afforded to employers in terms of fixing the terms and conditions of the employment relationship. The targeted questions seek to uncover some of the common elements underpinning this process, including, for example, the way in which collective bargaining is articulated across different bargaining levels. They also seek to ascertain what measures are taken by States Parties to arrest and reverse this decline, in line with their duty under Article 6§2 to promote collective bargaining. The questions under Article 6§4 take a closer look at some of the restrictions to the right to strike reported in many States Parties, including the minimum service requirement or the availability of injunctive relief for preventing a strike from taking place.

Article 5 Right to organise

a) Please indicate what measures have been taken to encourage or strengthen the positive freedom of association of workers, particularly in sectors which traditionally have a low rate of unionisation or in new sectors (e.g., the gig economy).

UK response: a

United Kingdom

The UK Government is committed to strengthening the rights of working people by empowering workers to organise collectively through trade unions.

The Government will do this by updating trade union legislation, so it is fit for a modern economy, removing unnecessary restrictions on trade union activity and ensuring industrial relations are based around good faith negotiation and bargaining.

The Government's new Employment Rights Bill repeals previous restrictions on trade union activity, including the Strikes (Minimum Service Levels) Act 2023. The Government is also substantively repealing the Trade Union Act 2016. and the key provisions of the Trade Union Act 2016. It also modernises and simplifies the rules governing statutory trade union recognition, for example by removing the rule that means that unions must show that at least 50% of workers in the proposed bargaining unit are likely to support their claim before the process has even begun.

The UK Government has committed to consulting on moving towards a simpler two-part framework that differentiates between workers and the genuinely self-employed. We have also committed to consult on further protections for the self-employed, including the right to a written contract, and extension of health and safety and blacklisting protections to the self-employed.

Northern Ireland

In Northern Ireland, areas relating to workplace access are being examined in the current Department for Economy Good Jobs Employment Rights Bill consultation⁶. Guidance documentation on trade union membership and worker rights have been produced and are available^{7, 8, 9}.

⁶ Consultation documentation is available at <https://www.economy-ni.gov.uk/consultations/good-jobs-employment-rights-bill>

⁷ <https://www.nidirect.gov.uk/articles/trade-union-membership-your-employment-rights>

⁸ <https://www.nibusinessinfo.co.uk/content/trade-union-membership-rights>

⁹ <https://www.lra.org.uk/sites/default/files/2019-03/Advisory%20Guide%20-%20Advice%20on%20Trade%20Union%20Representation%20In%20the%20Workplace.pdf>

Isle of Man

The Isle of Man Government is currently consulting on statutory recognition of trade unions in the workplace. The Isle of Man currently has a Code of Practice on Statutory Recognition of Trade Unions, published in 2001¹⁰.

b) Please describe the legal criteria used to determine the recognition of employers' organisations for the purposes of engaging in social dialogue and collective bargaining.

UK response: b

Great Britain

The definition of an employer association is set out in section 122¹¹ of the Trade Union and Labour Relations (Consolidation) Act 1992. For clarity we have included the definition below:

- 1) In this Act an “employers’ association” means an organisation (whether temporary or permanent) -
 - a. which consists wholly or mainly of employers or individual owners of undertakings of one or more descriptions and whose principal purposes include the regulation of relations between employers of that description or those descriptions and workers or trade unions; or
 - b. which consists wholly or mainly of—
 - i. constituent or affiliated organisations which fulfil the conditions in paragraph (a) (or themselves consist wholly or mainly of constituent or affiliated organisations which fulfil those conditions), or
 - ii. representatives of such constituent or affiliated organisations, and whose principal purposes include the regulation of relations between employers and workers or between employers and trade unions, or the regulation of relations between its constituent or affiliated organisations.
- 2) References in this Act to employers’ associations include combinations of employers and employers’ associations.

¹⁰ <https://www.gov.im/media/622307/2001sd0564.pdf>

¹¹ [Trade Union and Labour Relations \(Consolidation\) Act 1992](#)

Northern Ireland

If an employer does not voluntarily recognise a trade union for collective bargaining in NI, the trade union can apply to the Industrial Court under Schedule 1A of the Trade Union and Labour Relations (NI) Order 1995 for statutory recognition.

In order for the Industrial Court to accept an application for recognition from a trade union, the employer must employ at least 21 workers or an average of at least 21 workers in the 13 weeks ending the day a trade union makes the request for recognition.

c) Please describe the legal criteria used to determine the recognition and representativeness of trade unions for the purposes of engaging in social dialogue and collective bargaining.

Please provide information:

- **on the status and prerogatives of minority trade unions;**
- **on the existence of alternative representation structures at enterprise-level, such as elected worker representatives.**

UK response: c

United Kingdom

The rules governing trade union recognition are set out in the Trade Union and Labour Relations (Consolidation) Act 1992 (TULRCA)¹². The definition of a trade union is set out in Section 1 of the Act, which is included below:

- 1) In this Act a “trade union” means an organisation (whether temporary or permanent)
 - a. which consists wholly or mainly of workers of one or more descriptions and whose principal purposes include the regulation of relations between workers of that description or those descriptions and employers or employers’ associations; or
 - b. which consists wholly or mainly of—
 - i. constituent or affiliated organisations which fulfil the conditions in paragraph (a) (or themselves consist wholly or mainly of constituent or affiliated organisations which fulfil those conditions), or
 - ii. representatives of such constituent or affiliated organisations, and whose principal purposes include the regulation of relations between workers and

¹² [Trade Union and Labour Relations \(Consolidation\) Act 1992](#)

employers or between workers and employers' associations, or the regulation of relations between its constituent or affiliated organisations.

The act governs the two routes to trade union recognition, voluntary recognition and statutory recognition. The simplest approach for trade union recognition is through a voluntary agreement between the union and the employer. This can be an explicit, written agreement, but it could also be implied where an employer agrees to negotiate with a union over a period of time in respect of some of the statutory issues listed in section 178(2) of TULRCA 1992.

Statutory recognition is required when an employer refuses to recognise a trade union, and that union wishes to impose compulsory collective bargaining on the employer. However, the right to impose compulsory collective bargaining is subject to the following qualifying conditions:

- The statutory procedure only applies to firms employing at least 21 workers and to unions which have a certificate of independence.
- A request under the statutory procedure must be made by the union, to the employer, in writing and clearly identify the relevant 'bargaining unit', the set of employees that will be represented by the union when it is recognized. The union also needs to show that at least 10% of the workers in the bargaining unit are members of the union, and that a majority of workers in the unit support the union conducting collective bargaining.
- As set out under Schedule A1 of the TULRCA the union must represent either workers or employees. Self-employed workers are excluded from the right compulsory collective bargaining, although they retain the right to voluntarily collective bargaining.

If the employer refuses to recognise the trade union or fails to respond, then the union applies to the Central Arbitration Committee for recognition. The Central Arbitration Committee (CAC) is an independent tribunal with statutory powers to resolve certain types of collective disputes in Great Britain, specifically around the statutory recognition of trade unions and disclosure of information to trade unions. The CAC can also offer voluntary arbitration in other kinds of collective disputes.

Status and prerogatives of minority trade unions;

An employer is free to recognise more than one union in a workplace and one as a result one union may have more members than the other.

Alternative representation structures at enterprise-level, such as elected worker representatives.

The alternative representation structures outside trade union recognition are set out in the Information and Consultation Representatives regulations which are included under the Information and Consultation of Employees Regulations 2004¹³ (the ICE Regulations).

The ICE Regulations create rights for employees in all but the smallest organisations to be informed and consulted about developments in the workplace on an ongoing basis. These Regulations apply to an undertaking (such as a limited company, partnership or public sector organisation) with 50 or more employees that has its principal place of business in Great Britain.

There is no automatic right to information and consultation; the right is either triggered by a valid employee request or the employer starting the process of its own volition. In relation to a valid employee request, this must be made by at least 2% of the employees in the undertaking, subject to a minimum of 15 employees and a maximum of 2,500 employees.

Where a valid employee request is made, the employer must negotiate an information and consultation agreement with representatives of the employees and must make arrangements for employees to appoint or elect negotiating representatives; inform the workforce in writing of the representatives who have been appointed or elected and invite the negotiating representatives to negotiate an information and consultation agreement covering all employees and setting out the circumstances in which the employer will inform and consult with employees.

A negotiated agreement must cover all employees of the undertaking; set out the circumstances in which the employer must inform and consult the employees to which it relates; be in writing, dated and signed by the employer, and provide for either the appointment or election of information and consultation representatives to whom the employer must provide the information and whom the employer must consult, or that the employer provides information directly.

Northern Ireland

Please see response for Article 5 above.

The Department is gathering information on matters relating to collective bargaining in Northern Ireland and will publish a review of the consultation responses in due course.

Ise of Man

“Minority trade union” is assumed to refer to a trade union in a workplace that does not have the majority of members in a workplace. The Code of Practice on Trade Union

¹³ [The Information and Consultation of Employees Regulations 2004](#)

Recognition 2001 which currently operates in the Isle of Man states that an employer can voluntarily recognise any union with members in the workplace.

There is also no st Structures being set up elected worker representatives are permitted in . Nevertheless there is nothing to prevent such.

d) Please indicate whether and to what extent the right to organise is guaranteed for members of the police and armed forces.

UK response: d

United Kingdom

Police

Police officers are servants of the Crown holding the Office of Constable and are not permitted to be a member of any trade union or similar association having for its objects to control or influence the pay, pensions or conditions of service of any police force. In the UK, officers up to and including chief inspectors are represented by alternative official bodies, being the Police Federation of England & Wales¹⁴, the Scottish Police Federation¹⁵, and the Police Federation for Northern Ireland¹⁶. These are police staff associations set up by law to represent and support police officers on issues such as pay, allowances, terms and conditions, and other matters operating through local/district branches.

Armed forces

The UK's trade union legislation specifically excludes armed forces personnel from collective labour relations. Armed Forces personnel are therefore not permitted to join an independent trade union for collective bargaining purposes. The UK government does continue to keep its policies in relation to collective representation for the Armed Forces under review, with a view to ensuring they are in line with the European Convention on Human Rights.

Northern Ireland

By virtue of the Police Act 1919, police officers are not able to become members of trade unions or take part in industrial action. In NI, however, police officers can become

¹⁴ [Police Federation of England & Wales \(polfed.org\)](http://polfed.org)

¹⁵ [Scottish Police Federation \(spf.org.uk\)](http://spf.org.uk)

¹⁶

members of the Police Federation for Northern Ireland¹⁷ which operates as a representative body similar to a trade union.

Isle of Man

The Isle of Man's Police Act 1993¹⁸ prohibits a member of the police force becoming, or being a member of any trade union, or of any association which has as its object, or one of its objects, to control or influence the pay, pensions or conditions of service of any police force.

In the Isle of Man, however, police officers can become members of the Police Federation of the Isle of Man¹⁹, which operates a similar service to the Police Federation of England and Wales. The Police Federation of the Isle of Man predates the Isle of Man Police Act 1993 but is enabled by the 1993 Act. ‘

Though Isle of Man residents may serve in the armed forces, the Isle of Man does not have its own armed forces.

Article 6§1 Joint consultation

a) Please state what measures are taken by the Government to promote joint consultation.

UK response: a

Great Britain

The UK government regularly consults on important matters of policy and follows proper legal and procedural principles. This consultation includes organisations of employers and trade unions, as well as others such as individual workers, small business owners and consumers of public and private services.

The Information and Consultation of Employees Regulations (ICE) give employees the right to request a formal agreement to be informed and consulted on significant matters and decisions. As a minimum, this must include information about the undertaking's activities and economic situation; and information and consultation on employment prospects and decisions likely to lead to substantial changes in work organisation or contractual relations. The ICE regulations apply to undertakings with 50 or more employees, where at least 2% of employees, subject to a minimum of 15, request the arrangements.

¹⁷ [Police Federation For Northern Ireland \(policefed-ni.org.uk\)](http://policefed-ni.org.uk)

¹⁸ https://legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/1993/1993-0011/1993-0011_3.pdf

¹⁹ [Home | Isle of Man Police Federation](#)

The European Committee of Social Rights has found the British joint consultation mechanisms in the public and private sector and at national, sectoral and company level to be in conformity with Article 6.1 since 2003.

Northern Ireland

The Information and Consultation of Employees Regulations (NI) 2005 provide accommodation for employees to request that their employer set up arrangements to inform and consult them on matters relating to the business.

Information and guidance documents are publicly available on these Regulations. In addition, this area is being examined as part of the Department for Employment consultation on the Good Jobs Employment Rights Bill.

Isle of Man

Response for targeted question a, b and c.

The Isle of Man Government maintains an Industrial Relations Forum which enables trade union representatives to discuss matters related to public sector employees and other issues with Government representatives.

b) Please describe what issues of mutual interest have been the subject of joint consultation during the past five years, what agreements have been adopted as a result of such discussions and how these agreements have been implemented.

UK response: b

Consultations between employers and employees are a private matter, the UK Government does not receive nor record data on these consultations outside of collective redundancies (where information is collated by the Redundancy Payments Service) and complaints. Where an employee considers they have not been properly consulted under the terms and conditions set out under the ICE Regulations, they are entitled to complain to the CAC.

c) Please state if there has been any joint consultation on matters related to (i) the digital transition, or (ii) the green transition.

UK response: c

(i) Digital transition

Building on the ambition of the France AI Action Summit Future of Work track, and the complementary initiatives of the G7 and OECD, the UK is beginning to scope the role of transparency and consultation in the deployment of AI in the workplace.

(ii) Green transition

Recognising the critical workforce challenges within the energy sector transition, we have established the Office for Clean Energy Jobs within DESNZ. The Office is dedicated to ensuring that clean energy jobs are not only abundant, but also of high quality, focussing on fair pay, favourable terms, and good working conditions.

We are actively engaging with key stakeholders, including trade unions and industry leaders, to keep job quality at the forefront of our efforts.

Article 6§2 Collective bargaining

a) Please provide information on how collective bargaining is coordinated between and across different bargaining levels including information on:

- **the operation of factors such as erga omnes clauses and other mechanisms for the extension of collective agreements;**
- **the operation of the favourability principle and the extent to which local/workplace agreements may derogate from legislation or collective agreements agreed at a higher level.**

UK response: a

Great Britain

The UK has a highly de-centralised collective bargaining structure, with the vast majority of collective bargaining taking place at firm level. Most unions are directly recognised by the employer, either voluntarily or through the trade union statutory recognition procedure.

The UK has 36 employer associations, as at end of March 2024, which facilitate those sectors where sectoral collective bargaining takes place, examples are in the higher education and local government sectors.

The Government is seeking to introduce sectoral Fair Pay Agreements, starting with the adult social care sector, to increase the coverage of sectoral collective bargaining for key sectors.

Northern Ireland

Collective agreement structures are generally only established for public sector bodies in NI, with the exception of the agricultural sector which retains the Agricultural Wages Board.

Isle of Man

Collective bargaining in the Isle of Man operates in a similar manner to that in the UK. There is nothing to specifically prohibit, for example, sectoral bargaining, but in practice collective bargaining is carried out at an employer level.

b) Please provide information on the obstacles hindering collective bargaining at all levels and in all sectors of the economy (e. g. decentralisation of collective bargaining).

UK response: b

Great Britain

Collective bargaining has been in steady decline in the UK since the 1970s. Estimates from the Office for National Statistics (ONS) Labour Force Survey (LFS) show that in 2022, trade union membership levels among UK employees fell by 200,000 on the year to 6.25 million²⁰.

There has been a significant decline in trade union membership since 1979, with trade union membership now at half the level it was when it stood at 13 million. Union membership as a proportion of those in employment fell from 28.8% in 1995 to 20.2% in 2022.

The UK government believes that this has been due to several factors:

- As in many developed countries, much of the decline in union membership has been due to the decline in traditional heavy industries, where union membership was most concentrated.
- It has been harder for unions to organise in new industries, such as the tech and services sectors.
- The Government believes also that the current trade union legislative framework has made it difficult for unions to access workplaces to recruit new members and subsequently obtain recognition. For examples, unions currently do not have a right of access to workplaces to recruit and organise, they only derive this right through the individual rights of their members.

Furthermore, the Government believes that the current trade union recognition scheme has too many hurdles (for example, the 40% support threshold at the final recognition ballot) that makes it difficult for unions to obtain statutory recognition. Further details are

²⁰ Data including below from House of Commons Library, Research Briefing, 5 Jan 2024, Trade Unions and Industrial Relations - [CBP-9785.pdf \(parliament.uk\)](#)

set out below about what this government is doing through the Employment Rights Bill to address this.

Northern Ireland

Response for targeted question b, c and d.

Northern Ireland is gathering information on matters relating to collective bargaining, with a view to exploring ways in which it can be strengthened and its use expanded.

Northern Ireland will publish a review of the consultation responses and policy actions in due course.

c) Please provide specific details on:

- **the measures taken or planned in order address those obstacles;**
- **the timelines adopted in relation to those measures;**
- **the outcomes achieved/expected in terms of those measures.**

UK response: c

Great Britain

- The Government will address these obstacles in a variety of ways, including through our new Employment Rights Bill which was laid before Parliament on 10 October 2024.
- We are committed to strengthening the rights of working people by empowering workers to organise collectively through trade unions. Specifically, on trade union recognition, we will:
 - Simplify the process and the law around statutory trade union recognition thresholds, so that working people have a meaningful right to organise through trade unions;
 - Review the process for statutory recognition claims, with existing thresholds presenting too high a hurdle in modern workplaces that are increasingly fragmented;
 - Remove the rule that means that unions must show that at least 50% of workers are likely to support their claim before the process has even begun; and
 - Modernise the rules governing the final ballot in which workers vote on whether to recognise a trade union, requiring unions to gain a simple majority to win.

- By empowering workers to organise collectively, we will improve terms and conditions, tackle low pay, and create a more stable and productive workforce. This new partnership will also make it easier for businesses to operate efficiently without the threat of disruptive strikes.
- To address the decline in trade union membership the government has introduced a new Employment Rights Bill which updates trade union legislation, so it is fit for a modern economy. It further removes unnecessary restrictions on trade union activity and ensures industrial relations are based around good faith negotiation and bargaining.
- Finally, the Bill will further enhance worker and trade union rights by granting or strengthening rights in the following areas:
 - Repealing the Strikes (Minimum Service Levels) Act 2023
 - Repealing the great majority of the Trade Union Act 2016
 - Strengthening protections from blacklisting
 - Simplifying the process for trade union recognition
 - Simplifying industrial action notices
 - Introducing new rights and protections for trade union representatives
 - introducing new rights for trade unions to access workplaces
 - introducing a new duty on employers to inform all new employees of their right to join a union
 - protecting workers against detriment imposed by employers in relation to participation in industrial action

Isle of Man

In terms of measures taken, as previously noted, the Isle of Man Government is currently consulting as to whether statutory provision for recognition of trade unions in the workplace should be adopted.

d) Please provide information on the measures taken or planned to guarantee the right to collective bargaining of (i) economically dependent (self-employed) persons showing some similar features to workers and (ii) self-employed workers.

UK response: d

Great Britain

The UK does not set any restrictions on the right to voluntary collective bargaining, which is open to all categories of workers including the economically dependent, and the self-employed.

That voluntary collective bargaining is open to all categories of employment status can be evidenced by the activities of unions such as the Criminal Bar Association (CBA). The CBA is a recognised trade union which represents approximately 3,600 employed and self-employed lawyers who prosecute and defend criminal cases across England and Wales. The CBA engages in voluntary collective bargaining with the UK Government over legal aid fees paid to their members. All CBA members including the self-employed have full union membership and are covered by a voluntary collective bargaining.

That this right is available open to all categories of workers can be further evidenced by the membership of the National Union of Journalists (**NUJ**) who represent more than 30,000 people working across the media sector. This includes those employed on formal employment contracts as well as those working on a casual and freelance basis.

Isle of Man

No measures have been taken or are currently planned to guarantee the right to collective bargaining of economically dependent persons showing some similar features to workers or to self-employed workers.

Article 6§4 Collective action

a) **Please indicate:**

- **the sectors in which the right to strike is prohibited;**
- **those sectors for which there are restrictions on the right to strike;**
- **sectors for which there is a requirement of a minimum service to be maintained.**

Please give details about the relevant rules concerning the above and their application in practice, including relevant case law.

UK response: a

Great Britain

Provisions under the Police Act 1996 mean police officers in the UK are prohibited from striking. Likewise, members of the armed forces are prohibited from striking under the Incitement to Disaffection Act 1934.

Prison officers are prohibited from striking by sections 126 to 128 of the Criminal Justice and Public Order Act 1994.

The government also sets qualifications and conditions on the right to strike, some of which apply to all sectors where collective action is not prohibited, and some apply only to important public services.

For example, the statutory provisions governing industrial action ballots and notices are contained in Trade Union and Labour Relations (Consolidation) Act 1992, sections 226 to 235. For the union to gain protection in the case of industrial action, the ballot must satisfy all the following conditions:

- a majority of those who vote must vote in favour of the action
- at least 50% of those entitled to vote in the ballot must have turned out to vote
- if the majority of those who vote are normally engaged in the provision of “important public services”, at least 40% of those entitled to vote must vote in favour of the action.

Under the terms of the TULRCA important public services are defined as:

- Health
- Education
- Fire
- Transport
- Border Security and
- Nuclear industry

Additionally, mandates from successful industrial action ballots become invalid after six months, or after nine months with agreement of the employer.

Finally, trade unions must also notify their employers of industrial action. There are three key points where unions are required to provide notice to employers for action to be protected under TULRCA 1992:

- Unions must give notice to all relevant employers of their intention to hold a ballot on industrial action, at least one week before the first day voting papers are sent out
- Unions must then inform members and any relevant employers of the results of any ballot held, as soon as is reasonably practicable

- Unions must then give notice to relevant employers of their intention to hold industrial action least 14 days before action begins (or seven days with consent of the employer).
- The notice must include the dates of any relevant action (or date it would begin if continuous) and lists and figures showing the number and categories of employees affected and the workplaces where they are employed.

Through the UK Government's new Employment Rights Bill, which was introduced to Parliament on 10 October 2024, the government is repealing the Strikes (Minimum Services Level) Bill which imposes minimum service levels during industrial action in the following sectors; health, education, fire and rescue, transport, border security, and nuclear decommissioning and radioactive waste management services. The Bill will repeal amendments made by the Trade Union Act 2016 to the Trade Union and Labour Relations (Consolidation) Act 1992. These changes will remove restrictions on trade unions thereby giving them greater freedom to organise, represent and negotiate on behalf of their workers. The changes brought about by the Employment Rights Bill will remove the curtailments of trade unions and addresses some of the previous findings that the UK's legislation had excessively limited the possibilities for workers to defend their interests through lawful collective action

Northern Ireland

There are no sectorial restrictions nor minimum service level regulations governing strike action within NI.

Articles 144 and 144A of The Employment Rights (NI) Order 1996 provide detail on dismissals and participation in relation to official industrial action respectively.

By virtue of the Police Act 1919, police officers are not able to become members of trade unions or take part in industrial action. In NI police officers can become members of the Police Federation for Northern Ireland which operates as a representative body similar to a trade union.

Isle of Man

There are no sectors in the Isle of Man in which the right to strike is prohibited, except that as police officers are prohibited from trade union membership it is not possible for police officers to legally go on strike.

There are no sectors in which there are restrictions on the right to strike and neither are there sectors for which there is a requirement of a minimum service to be maintained. Consultation is however ongoing as to whether provision for minimum service levels in respect of certain public services should be introduced in the Island.

Other than police officers there are no sectors in which there are restrictions on the right to strike. The Isle of Man Government is currently seeking views in a consultation on trade unions and balloting requirements.

There are no sectors for which there is a requirement for a minimum service to be maintained.

b) Please indicate whether it is possible to prohibit a strike by seeking injunctive or other relief from the courts or other competent body (administrative body or arbitration body). If affirmative, please provide information on the scope and number of decisions in the last 12 months.

UK response: b

Great Britain

Unions must observe statutory ballot and notification requirements when balloting for industrial action. Where an employer believes that the union has not balloted correctly or followed the statutory provisions, the employer can go to the High Court and seek an injunction to stop that action.

If the Court agrees that a union has not followed the statutory provisions, then the union must re-ballot. If it proceeds with the industrial action without a re-ballot, it could be found in contempt of Court and face significant fines, up to and including sequestration of its assets.

The UK Government does not have information on how many decisions by Courts were made in relation to industrial action ballots over the last 12 months.

Northern Ireland

If there is a question about the validity of a trade union ballot to take part or continue industrial action, for example there is a concern that not all eligible members were given the opportunity to vote, then a court can grant a temporary injunction to prevent that union from organising industrial action until the case has been heard. If the court is satisfied that no ballot was held, or was not conducted properly, it may make an order against the trade union.

Further, an individual has the right to try and prevent or stop industrial action if the industrial action is, or is likely to be both unlawful and either is likely to prevent or has prevented a person from receiving goods or services or is likely to reduce or has reduced the quality of the goods or services an individual receives.

If a court agrees with that claim, it can make an order for the industrial action to cease.

The Northern Ireland Executive has no information on the number of such decisions in the last 12 months.

Isle of Man

There is no provision in the Isle of Man similar to that of the “citizen’s right” to apply to court to stop unlawful industrial action where an individual is deprived of services or goods.

However, under the Isle of Man’s Trade Unions Act 1991, industrial action is “actionable in tort” unless it is conducted in accordance with the Act’s provisions for balloting on such action. There have, though, been no such cases in the last 12 months in the Isle of Man.