

# Development of employment law

Sociology, Empowerment



## **Abstract**

Employment law faces amendments since its inception. Its aim was to charter employee rights against unjust employers. This paper analyses employment law based on the key sections that include essential bills. It also views external factors that lead to the formation of the employment law.

## Introduction

The United Kingdom employment law has developed considerably in recent times. This was mainly done to shield employees from unjust employers. However, that is not the only cause for the push for improved employment law. As we will see in the paper, employment laws can be pushed by other factors such as political promises by governments, compliance to foreign policy and pressure from other countries.

## The Unfair Dismissal Act

The Unfair Dismissal Act 1971 was a vital step in employment law under the Industrial Relations Act. Since its inception, employers lost their freedom to dismiss employees as they wish (Bell, 2006). For an employer to sack an employee, it has to happen through the right legal framework. Employees have their rights protected through this act meaning dismissal should be based on very strong grounds such as gross misconduct. The Act gives little privilege to employers on instances where they can terminate the employment of an individual. This means that before the employer does so, he or she must be ready to defend the action in front of an Industrial Tribunal

(Blanpain, 2007). Employers dislike this regulation due to the high number of regulations it has.

According to The Guardian, the new proposal by Beecroft presents a delicate situation for the survival of the Unfair Dismissal Act. The proposal gives all laid off workers the same status and allows them to claim compensation (Turner, 2013). This means it will be a matter of 'how much' compensation to give to employees. This bill has elicited mixed reactions with equal numbers expected to support and reject it. In the case of employees rightfully dismissed, the bill indicates they can successfully claim compensation. This might be pleasant news for the 'unfaithful' employees, but bad news for honest business persons. Small firms are likely to fall prey to this directive. Employees who seek reinstatement after termination will also be affected. The advice most lawyers would give is for the employee to claim compensation and move on to another employment opportunity.

### The Equal Pay Act

The legislators established the Equal Pay Act 1970 to consider women employees. To date, women receive the same pay as their male counterparts where the same work rate is involved. The Act also binds employers to set up contracts that promote equality between men and women (Blanpain, 2007). Where a contract favors a man more than a woman, the Act asserts that the woman shall receive same benefits as the man. However, there are provisions for limitations under the Act which apply when the woman is pregnant or retires (Kidner, 2006). Benefits of women facing such prejudice follow the Sex Discriminatory Act and Pension Act respectively.

## SexDiscriminationAct

In 1986, the Sex Discrimination Act was amended to guarantee that discrimination in small companies, households and employment, and at retirement age, was eradicated. This proved to be a significant step under the employment laws. In 2008, the Act got a further boost with new regulations (Hardy, 2011). The Act introduced regulations on employee harassment and discrimination claims on grounds of pregnancy and maternity leaves. The regulations bind the employer to third party harassment claims from the employee. For instance, an employer should defend an employee acting on company interests against a customer. The employer should be tied in a suit involving the two parties. If necessary, the employer should be entirely responsible for the employee including the legal suit fee involved.

The Act helps solve disputes; a case in London in recent years is the acquitting of a CEO of a top performing company (Turner, 2013). He proved in court that one of his employees blackmailed him to get a promotion and added benefits. The court report indicates that employee turned genuine public sexual advances from her boss into blackmail. Most of the witnesses supported the plaintiff in alleging it was an act of sexual discrimination. Despite all that, the defendant still won the case.

## The Race Relations Act

The Race Relations Act of 1976 applies to discriminations involving race, color, nationality and ethnic groups (Bell, 2006). This is extremely beneficial

to employment law especially when relating to groups considered as minorities in working environments. The Act covers employees through all stages of employment starting from how companies should recruit workers, their training and transfer, promotion opportunities, employee benefits, terms for employee termination and eventually conditions defining unfair employee treatment (Cushway, 2007). This legislation covers both direct and indirect discrimination claims. Case laws by tribunals get published for future referencing especially for similar cases.

The Act offers exemptions when referring to jobs that require genuine occupational qualification (GOQ). This refers to cases where the job description refers to either specific ethnic groupings or races (Lewis, 2004). Such workplaces include restaurants or the film industry for actors and models. For instance, Chinese restaurants commonly hire employees of Chinese descent for obvious reasons. Therefore, cases with no qualifications to meet the criteria for such exemptions are easy to handle. This Act also assists employees who find themselves in such environments but do not belong to the said groupings (Kidner, 2006). In this case, an employee with an African descent working in a Chinese restaurant or an Italian restaurant gets the necessary cover.

### Benefits for Women Employees

Following developments in employment law, more women have been encouraged to pursue professional careers. This is because highly rated jobs have become within the reach of women due to the developments. This explains the significant rise in the number of women in the corporate world.

The amendments in the Sex Discriminatory Act 1986 mean homosexuals get same benefits like any other employee. This is now in line with the European Union's Foreign Policy to ensure that homosexuals receive the same treatment as heterosexuals (Lewis, 2004). This is no longer a Human Rights issue but a political issue. It is a challenge for the government especially when critics challenge homophobic violence.

The Equal Value Amendment 1983 is an improvement of the Equal Pay Act 1970 which gives women benefits based on the work rate. The two laws are still more or else the same; the former was instituted to comply with EU directives. The Part-Time Workers clause under the Employment Act 1995 is also less significant for such employees who bear that title (Bell, 2006). A part-timer contract is not as weighty as a permanent employ meaning the employer can terminate employment without notice. This is a great disservice to such employees.

### Benefits to Persons with Disability

The Disability Discrimination Act 1995 (DDA) and a further amendment that upgraded it to the Disability Discrimination Order 2006 (DDO) aim to end discrimination facing people with disability (Hardy, 2011). This law was developed to encourage people with disability to seek opportunities in different sectors. Their rights extend to areas of employment, education, buying or renting property, and access to goods and services. The same law created seats for people with disability in public boards. Under the EU directives, all marginalized groups should be represented in such bodies.

## The Transfer of Undertakings

Employees from transfers of business faced contract termination in past times. However, through the European Union directives, the UK legislature formed the Transfer of Undertakings (Protection of Employment) TUPE 1981. The regulations cover employees who transit between two different managements. The second employer is bound to maintain employees under the first employer. TUPE 2006 replaced TUPE 1981 with additional provisions that include outsourcing of staff. TUPE case laws are particularly direct, and their referrals easy to use. There are numerous previous cases showing different compensation amounts paid to employees. Tribunal judges use such information to give verdicts on current cases (Bell, 2006).

## Development of Employment Law under Coalition Governments

Britain had two eras from different governments that spearheaded the changes the electorate desired. In 1979 under Margaret Thatcher, the Conservative Party ascended into power with enormous expectations that were accomplished in the first decade. Economic growth was a main characteristic in the Conservative era. Eventually, the Labour Party clawed back into power after 18 years under a young and vibrant Tony Blair. Dubbed the 'New Labour', the party took over the reins in 1997 and achieved a total economic turnaround in the first years of administration (Pitt, 2009). The public's expectations were so high leading to numerous policy improvements.

The 1997 Labour Party implemented new policies freely unlike the 1979 Conservative Party which implemented policies over fear of court battles. The new Government aimed at solving the national social concerns that the Conservative Party ignored. The government introduced the National Minimum Wage (NMW) for employees based on their age, and whether one is an apprentice (Holland, 2012). However, an employee has to be at the school leaving age to get the wages. Unlike the NMW, the Equality Act 2010 was drawn due to pressure from external forces, especially other EU countries (Hardy, 2011). Despite the forceful implementation, employees have equal rights regardless of gender, age, religion, race and sexual orientation.

Recent moves by government and opposition leaders to curb unions affect the development of employment law. In as much as unions have rights of their members at heart, their leaders end up taking advantage of union positions. As witnessed in the past, decisions by the union chiefs do not reflect the opinion of the majority of union members (Pitt, 2009). The new proposal stating that for a union to carry out a strike it would need majority backing from members is beneficial to the government. The move is also politically instigated due to the financial support offered to political parties.

With the recent move by Tory MPs to push for a referendum by 2017, the odds on some sections of the employment law hang in a balance. The referendum's aim is to hand over the decision to the public to either stay or pull out of the European Union; this is according to an article " Tories fight off 11-hour filibuster over EU referendum laws" in The Telegraph dated July 18th



2013. According to many silent voices, leaving the EU might be a wrong decision with regards to long term plans (Turner, 2013). For instance, in the event Britain manages to pull out of the EU, then it is possible that new laws might not meet international standards (Holland and Burnett, 2013).

Sensitive laws affecting the public including the employment law will be left in the hands of legislators to decide.

However, the opposition indicates that the referendum calls might be a hoax from the Conservative Party to try and misdirect the public. According to an article “ EU referendum bill: MPs back in/out poll by 304-0” in The Independent dated July 5th 2013, the Labour Party say the referendum issue is not a matter of national interest. Douglas Alexander, the shadow Foreign Secretary, said that the move was a sign of weakness and not strength. He added that it was a sign of external electoral threat spiced with internal leadership threats.

The Agency Workers Directive (AWD) 2010 was a brilliant idea in solving unemployment cases. More people have since been employed through this initiative (Hardy, 2011). However, its regulations under employment law are rather displeasing to employers. Initially, the joint cost for outsourcing workers from an agency was low compared to permanent workers due to extra costs (Holland, 2012). Currently, the government requires that agency and permanent workers be paid same (Benny and Jefferson, 2012). This indicates that an employer will pay extra for the agency worker. In addition, employers tend to avoid tribunal cases involving such workers.

Case Laws

Case laws are written materials containing judges' explanations on rulings made. Judges may refer to rulings made earlier or statutory laws. Some current cases may be similar to previous cases (Turner, 2013). In such instances, judges may make similar rulings or alter the ruling based on self-understanding. Reference is still made to the previous case, and reason for deviation also stated (Cushway, 2007). This shows that the same altered ruling can be used later in the future. Statute laws on the other hand, are additional laws mostly from assented bills. At times, they offer further interpretation on the main law.

## Conclusion

Employment laws are subject to further amendments in the future whether internally or through external influence. As long as Britain will still be a member of European Union, it has to stand with other members under common directives. This makes some British statesmen call for the disintegration of the EU. Whether the move will succeed, is a story for another day. What is essential currently is that the government ensures favorable employment laws for its people to ensure economic growth.

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