

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Third Delegated Legislation Committee

DRAFT EMPLOYMENT RIGHTS ACT 1996
(ITEMISED PAY STATEMENT) (AMENDMENT)
(NO. 2) ORDER 2018

Wednesday 14 March 2018

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The Committee consisted of the following Members:

Chair: JOAN RYAN

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| † Caulfield, Maria (<i>Lewes</i>) (Con) | † Pidcock, Laura (<i>North West Durham</i>) (Lab) |
| † Charalambous, Bambos (<i>Enfield, Southgate</i>) (Lab) | † Robinson, Mary (<i>Cheadle</i>) (Con) |
| † Docherty, Leo (<i>Aldershot</i>) (Con) | † Slaughter, Andy (<i>Hammersmith</i>) (Lab) |
| † Donelan, Michelle (<i>Chippenham</i>) (Con) | † Smith, Nick (<i>Blaenau Gwent</i>) (Lab) |
| Flynn, Paul (<i>Newport West</i>) (Lab) | † Swayne, Sir Desmond (<i>New Forest West</i>) (Con) |
| † Griffiths, Andrew (<i>Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy</i>) | † Syms, Sir Robert (<i>Poole</i>) (Con) |
| † Harris, Rebecca (<i>Lord Commissioner of Her Majesty's Treasury</i>) | † Thomson, Ross (<i>Aberdeen South</i>) (Con) |
| † Hoey, Kate (<i>Vauxhall</i>) (Lab) | † Twigg, Derek (<i>Halton</i>) (Lab) |
| Lammy, Mr David (<i>Tottenham</i>) (Lab) | Yohanna Sallberg, Mems Ayinla, <i>Committee Clerks</i> |
| | † attended the Committee |

Third Delegated Legislation Committee

Wednesday 14 March 2018

[JOAN RYAN *in the Chair*]

Draft Employment Rights Act 1996 (Itemised Pay Statement) (Amendment) (No. 2) Order 2018

8.58 am

The Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy (Andrew Griffiths): I beg to move,

That the Committee has considered the draft Employment Rights Act 1996 (Itemised Pay Statement) (Amendment) (No. 2) Order 2018.

It is a great pleasure to serve under your chairmanship, Ms Ryan. It is also a pleasure to bring the order to the House, because in doing so we are protecting the rights of thousands of workers and ensuring that everyone is paid fairly. In our response to the Taylor review of modern working practices, the Government agreed with the principle of increasing transparency for workers. Workers should have access to information on their rights and entitlements. In fact, today's order goes beyond the recommendations made by Matthew Taylor in that review.

The order was laid alongside the Employment Rights Act 1996 (Itemised Pay Statement) (Amendment) Order 2018. Together, the orders will give all workers across the economy the right to a regular payslip and require all employers to provide better information in those payslips to help workers understand what exactly they are being paid for. They will provide workers with more information on their pay and help workers spot if they are being underpaid. For example, the Employment Rights Act 1996 (Itemised Pay Statement) (Amendment) Order 2018 will require employers to increase the amount of information provided in time-paid employees' payslips. That means employers will have to state clearly the number of hours that those workers are being paid for.

Put simply, if a worker receives a payslip recording 20 hours of work, when she or he has worked 25 hours, there is a clear case of underpayment. The transparency ensured by providing hourly information will assist workers in identifying and addressing cases of underpayment, including in some cases national minimum wage underpayment. Up to 1.6 million people will be entitled to receive information on the amount of time they are being paid for in their payslips.

The second order, which we are debating, extends the right to receive an itemised payslip to all workers. Currently only employees—a subset of workers—are entitled to a payslip. The order will mean that an estimated 300,000 workers who do not currently receive a payslip will start receiving one. These simple and practical changes will help workers up and down the country spot and address underpaid wages.

Whenever a worker thinks they may have been underpaid, I encourage them to raise it with their employer. Unfortunately for some workers, that is not always feasible. In those cases, workers should call ACAS for

free and confidential advice. I commend the work of that organisation. However, although Her Majesty's Revenue and Customs will look into potential national minimum wage underpayments, a worker will need to raise a complaint with an employment tribunal if they do not receive a payslip or the information to which they are entitled.

To develop the policy, we consulted widely with a variety of stakeholders, including employer and worker representatives and payroll and software providers. The exercise established that the majority of stakeholders supported the principle of greater transparency and sharing more information with workers. We are encouraged that the majority of employers already provide all their workers, not just those who are employees, with a payslip. Furthermore, some employers also include breakdowns on the hours worked by their staff. The orders therefore bring all employers under one set of standards.

Sir Robert Syms (Poole) (Con): Will the Minister define what he considers a payslip? Is it a piece of paper or is it access to something online?

Andrew Griffiths: It is access to information on the amount that a worker or employee is being paid, so it could be paper or it could be electronic.

I have listened to the arguments for even greater detail in payslips, which I am sure hon. Members may want to make. It is important that we introduce the measure in a proportionate way that does not overburden employers who are trying to do the right thing.

The need to provide greater transparency over pay in workers' payslips was first recommended by the independent Low Pay Commission. It said:

"We recommend that the Government reviews the current obligations on employers regarding provision of payslips and considers introducing a requirement that payslips of hourly-paid staff clearly state the hours they are being paid for."

Bringing these orders into force is part of a wider Government crackdown on wage underpayment. Those aged 25 and over are entitled to the national living wage of £7.50 per hour, and I am pleased to say that the Government will increase that rate above inflation to £7.83 from next month. That is a pay rise of £600 a year for those on the national minimum wage. In all, increases to the national minimum wage and national living wage will benefit more than 2 million workers. It is a well-earned pay rise.

We recognise that, as the minimum wage rises each year, the risk of non-compliance increases. We are actively taking steps to tackle non-compliance and sending a clear message to employers that underpaying workers will not go unpunished. It is simply wrong and must end, which is why the Government continue to invest heavily in ensuring workers are paid correctly. We have doubled our investment in minimum wage enforcement and spend more than £25 million annually on investigating employers and ensuring they meet their legal responsibilities.

It is right that workers are provided with transparent information on their employment rights. It helps empower workers to hold their employers to account. It is essential for good work and underpins a productive and motivated workforce.

9.5 am

Laura Pidcock (North West Durham) (Lab): It is fantastic to be here this morning discussing a long-overdue extension of entitlement for thousands of people. The

most basic demand is that someone providing their labour for another should be able to see what they have been paid and what has been deducted from that pay.

It is also important that workers, whatever their classification, should know how their pay has been calculated—the reverse is a situation in which thousands of people are unable to decipher what they have been paid, the deductions from their pay, whether the deductions were in order and the method of payment. That has resulted in thousands of people being completely unaware whether they have been given the correct pay or whether it meets the legal minimum. For many, the lack of clarity is a stumbling block to seeking pay justice.

Acknowledging that there exists an unequal power relationship between an employer and employee is fundamental. Knowledge is power and an itemised pay statement for those classified as workers—the right is currently given only to those classified as employees—is certainly a start, so I welcome the statutory instrument. As the Low Pay Commission stated:

“A cross-cutting problem impeding workers bringing...cases, and HMRC enforcing the minimum wage, is uncertainty regarding the hours for which they are being paid...Incorrect recording of hours worked, and therefore subsequent underpayment, is likely an important driver of non-compliance.”

Although we do not oppose the statutory instrument, the Minister will expect me to suggest improvements and to make political points. I have just a few. First, I wonder why it has taken so long to implement such an important change. Trade unions have been calling for it for such a long time. I understand that there are administrative challenges, but why will it take a further year to implement the change? I am sure the Minister will need to balance the consideration of the time businesses will need to prepare for administrative changes with the protection workers need from potential pay abuses. An itemised pay statement is vital in proving pay abuses and a year is a long time to wait for someone who currently suspects pay abuse.

I hope the Minister will agree that the pay statement should include all that is currently set out in the Employment Rights Act 1996, but I would like clarity. I was interested in some of the points made about hours paid. The provisions in the Act should rightly apply to workers, but to protect workers and make their pay crystal clear, the pay statement should include the hours worked and the rate paid for those hours. Otherwise, there will still be ambiguity and confusion over whether the pay is correct.

I note that the impact statement refers to extending the right to receive a payslip to workers, so that they can assess information

“including from the number of hours they are being paid for”.

Will there be an account of how many hours and the rate paid for those hours in the new itemised payslip in the extension of itemised payslips to workers?

Although welcome, the SI is only a small step on the road to improving employment conditions. The Opposition argue that the Government need to go further. In our opinion, employers should be required to give all workers a statement of their terms of employment, recognising the power imbalance I cited. We believe that all statutory employment rights should be applicable to workers from day one of the employment relationship, regardless of the hours of work. The scope of the statutory instruments

regulating working time, part-time, fixed-term work and agency work should be reformed into a much simpler single employment definition. I am sure many people would celebrate that. In addition, non-standard forms of work should be regulated to address the specific insecurities that that sector faces.

We will support this statutory instrument with the knowledge that it is a small drop in the ocean to improve employment rights. Clarity from the Minister on hours worked and the rate for those hours would be very helpful.

9.9 am

Andrew Griffiths: I thank the hon. Lady for the way in which she has engaged with the order. We are united in our desire to bring greater rights and greater protections to our constituents. We want people to be paid fairly, with good terms and conditions, and to be motivated and happy in their work, which is why, through the Matthew Taylor report, the Government will for the first time monitor and benchmark ourselves on the quality of work and not just the quantity. That is a huge step forward.

We share a desire to address the things that the hon. Lady talked about. In our positive response to the Matthew Taylor report, we looked to take forward all the issues—52 of the report’s 53 recommendations. We want greater clarity from day one, and a contract for people from day one, to ensure that agency workers and temporary workers have greater understanding of who employs them and what their rights are.

The hon. Lady mentioned the clarification of the status of workers, which is fundamental. As working conditions and the way we act as consumers change because of technology and so on, so people’s way of working changes. To ensure that they have the proper rights and protections and are paid properly, we need to clarify their status. It should not be that the only way for people who are unsure about their status—employed, self-employed or worker—to get that clarity is to employ a very expensive barrister and go to court. We want to make it simpler.

The hon. Lady talked about disaggregation—the technical term for the breaking down of hours—and I listened closely. I understand her points. What we are keen to do, and must do, is introduce that in an affordable way for employers, recognising the extra cost burden. As the Committee heard, we consulted widely with employers, trade unions, payroll specialists and the people who write the relevant software. They said that there would be an extra burden of cost that they felt unable to bear at this stage.

However, I am minded to ensure that all workers have greater transparency and greater understanding of how they are paid, as the hon. Lady said. That is not included in the draft order, but I am watching it closely and reserve the right to return to the House with further regulation if needed.

Laura Pidcock: In the Minister’s opening contribution, there was talk of the hours paid. That is where my confusion came from. To be clear, the itemised pay statement will not have to include the hours worked and the rate at which those hours are paid. Will the Minister acknowledge that that is a very important step for pay justice?

Andrew Griffiths: Let me clarify for the hon. Lady: payslips will need to include the total pay, deductions and the hours that the person is being paid for—a clear ability for anyone to ensure that they are paid correctly when they are being paid the minimum wage.

The draft order will extend the basic right to receive a payslip to all workers in the economy. The Employment Rights Act 1996 (Itemised Pay Statement) (Amendment) Order 2018 requires employers to support workers by providing a greater level of detail in payslips.

I am proud to bring these employment rights into force at a time when the Government are accused of being intent on slashing the rights of employees. It is said that, when we leave the European Union, there will be a bonfire of employment rights, starting a race to the bottom, to a Singapore-style economy. Through the draft order, the Government are clearly increasing the rights of workers. Through measures such as this and the Matthew Taylor review, we are showing that we do not need the European Union to ensure that we have worker protections and rights. We will enshrine them in this place. We will ensure that British employees and workers, and people working in the British economy, are properly protected and properly paid, and have their rights fully enforced.

We expect basic fairness in the workplace. The right to receive clear payslips is an important building block of what good work should look like—meaning work underpinned by fair and transparent employment practices, where workers can hold their employers to account for being paid fairly and for all hours worked. Upholding fair and transparent work practices is an integral part of the “good work” agenda that the Government and I embarked upon following the review of modern working practices. That is why last year we ensured that £10.9 million in arrears for 98,000 workers were clawed back for the minimum wage. We want everyone to have easy access to information about their working arrangements and the rights to which they are entitled.

Laura Pidcock: Will the Minister give way?

Andrew Griffiths: I was just about to finish, but I will give way.

Laura Pidcock: I am grateful to the Minister. Under the Employment Rights Act, the suggestion is that an itemised pay statement asks for the gross amount of wages or salaries, the amount of deductions, the net amount of wages and the amount and method of payment. Nowhere does it talk about the hours paid. I am just wondering where that will come. Is it in the draft order, because I cannot see it? How will the Minister monitor whether those hours are being captured on the pay statement?

Andrew Griffiths: The measure will be enforced. I urge the hon. Lady to read the draft order again, because it contains that completely. I have even received divine intervention that clarifies definitely—it is in the SI. Perhaps I can point it out to her after the event.

Nick Smith (Blaenau Gwent) (Lab): The Minister said that he would be interested in monitoring whether the hourly rate of a worker’s pay should be included on payslips in future. How will he do that? We think that that important measure is worth introducing.

Andrew Griffiths: I agree. As part of my role, I meet regularly with unions, employers, and employer and employee organisations. Such transparency is the sort of thing that we are introducing through the Matthew Taylor review. There is a plan to engage with stakeholders over the coming weeks and months as this comes into force. Through such engagements, I will monitor the situation to ensure that the transparency and change in the relationship between worker and employee that we want are delivered. I therefore assure the hon. Gentleman that my beady eye will be trained. I will talk at length with the unions to ensure that we deliver fairness for workers, and that people are being paid correctly. The draft order forms a crucial part of our efforts to ensure that no worker is underpaid.

Question put and agreed to.

9.18 am

Committee rose.