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## TUC response to government proposals on workers' rights after Brexit

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After weeks of empty words in parliament and rumours in the press, government has today announced its plans for workers' rights after Brexit.

Government has stated that the Withdrawal Agreement Bill will include provisions to assess whether new UK legislation would constitute a regression of existing workers' rights plus a system for government to report to parliament on future changes to workers' rights in the EU and its proposed response. Parliament will be able to vote on a motion setting out these proposals.

Government has also repeated proposals announced last year in its Good Work Plan to merge the functions of various enforcement bodies and to implement other parts of the Taylor Review.

### Proposals for non-regression of existing employment rights

The TUC understands that government is proposing a 'statement of compatibility' system for primary legislation that makes changes to employment or health and safety requirements that became part of UK law through membership of the EU. Government would have to assert before a bill's second reading whether proposed legislation constitutes a regression of EU derived rights.

A statement of compatibility is not an objective assessment. Rather, it will be a statement intended to reflect the government's own views on how it wishes to present its legislation.

And even a statement by government that legislation would lead to a regression of rights would not come with any power to stop government proceeding with its intended course of action. Such a system would do nothing to stop a government from reducing workers' rights if it wanted.

There would no doubt also be significant practical problems. For example, we have concerns that statements may only be made in relation to primary legislation while employment changes are often made via secondary legislation. Similarly, there is a risk that trade unions and others take a different view from government as to the scope of employment/health and safety protections and when a statement is required.

In any event, this system would in no way mitigate for the loss of protections for workers that will follow on from leaving the single market. For example, trade unions can petition the European Commission to take infringement proceedings against member states for failures to comply with requirements. Individuals can of course take their case to the CJEU in addition to domestic courts. And all workers benefit from the evolution in meaning and reach of rights that results from judgments of the CJEU. None of these benefits will be available to workers under this system. In any event, the system itself could easily be dismantled by a future government, in a way that is not the case under single market rules.

### Proposals for future rights adopted by the EU

Government has outlined that it will also report regularly on changes to employment protections at an EU level. We understand government would make an assessment of whether changes constitute a strengthening of rights and set out what course of action it intends to take. It has been indicated that trade unions, business, and select committees could be able to contribute their assessment of the situation and that an amendable motion setting out the government's intended course of action will be placed before parliament.

Again, this system is not convincing. An offer for parliament to vote on the government's proposed course of action is very far from a commitment that government will bring forward and support legislation that implements all progress in EU workplace rights. In our experience, successive UK governments have been exceptionally resistant to introducing improvements even when they are required to do so by the EU. It is difficult to see why this or future right-wing governments would be any more amenable when there is no internationally binding requirement for them to make changes.

Consultation with trade unions on changes to employment law should be standard practice for any government. But it seems unlikely that the government is offering that if trade unions and scrutiny bodies have concerns then the proposed course of action will change.

Such a system would fall very far short of a guarantee that new rights will be implemented.

### **Taylor Review**

The government has sought to rely on its response to the Taylor Review and its own 'Good Work Plan' as evidence that it supports working people. As a result of trade union campaigning, the Taylor review did include a number of small improvements to employment law. Over eighteen months after the publication of the Taylor review, statutory instruments to implement these changes will be debated in parliament today.

The TUC believes that the 'Good Work Plan' is an inadequate response to the problems faced by working people. It does little to redress the balance of power in the labour market, fails to ban zero hours contracts, and does not recognise the scale of non-compliance with basic employment rights. As an indication of the government's intentions for the workplace, it gives no comfort.

### **Single enforcement mechanism**

The government has also today re-announced its plans contained in the Good Work Plan to bring together various enforcement bodies as a single enforcement mechanism.

The TUC's main concern in the area is to ensure that expertise and resources are not diluted. Any enforcement body must be adequately funded and mergers must not be an excuse to cut costs.

### **Conclusion**

Today's proposals come nowhere near to demonstrating that this government takes workplace rights seriously. It offers working people no comfort that once we leave the EU existing employment rights will be protected nor that rights in the UK will keep pace with future developments in other European countries. In the face of a government determined to reduce rights, these measures would in no meaningful way compensate for the loss of the protections that currently exist - the system as proposed would be weak and ineffective in the face of a hostile government, and even these weak provisions could be repealed in future.