

PO-CH/NL/0383  
PART A

Part A

**SECRET**

(Circulate under cover and  
notify REGISTRY of movement)

Begins: 11/7/89

Ends : 11/7/89



PO -CH /NL/0383



PART A

Chancellor's (Lawson) Papers:

PROPOSALS FOR FURTHER  
REFORM OF THE INDUSTRIAL  
RELATIONS LAW

PO -CH /NL/0383

PART A

PART A

DD's : 25 Year

*[Handwritten Signature]*

6/12/95



KNIGHT  
→  
CX  
11/7

FROM: N J KNIGHT (IAE 3)  
DATE: 11th July 1989  
EXT: 4476

- Approved by Mr Burr and  
signed in his absence*
1. MR BURR
  2. CHANCELLOR

cc Chief Secretary  
Sir P Middleton  
Dame Anne Mueller  
Mr Anson  
Mr Monck  
Mr I Wilson  
Mr C W Kelly  
Ms Young  
Mr J de Berker

**E(A)(89)22: PROPOSALS FOR FURTHER REFORM OF INDUSTRIAL RELATIONS LAW**

1. This paper, to be discussed at E(A) committee tomorrow, recommends considering further legislative measures to curb both the level and impact of unofficial strike action. <sup>Mr Fowler</sup> He is seeking approval from E(A) to issue a consultative document in September, with a view to enacting legislation as part of the Employment Bill in the next Session.

**The proposals**

2. Mr Fowler proposes a range of legal measures which could be taken to curb unofficial strikes. These fall into two main areas considered separately below.

**Extend the scope for action against individuals taking or organising industrial action**

There are two suggestions here. Firstly, unlike official action, organisers of unofficial action can obtain legal immunities without conducting strike ballots prior to striking. Mr Fowler proposes removing this anomaly. Secondly, employers who dismiss an individual for taking industrial action can, at present, be found guilty of unfair dismissal unless they dismiss all those taking part in the action at the same establishment and do not offer to re-employ any of those dismissed within 3 months of their

*KS*

*This was always a real nuisance in old BL strike days & is long overdue for reform in my view.*

dismissal. Mr Fowler proposes removing these restrictions so that individuals dismissed for taking part in unofficial action would not have redress for unfair dismissal.

**Extend union responsibility for the activities of its officials/members**

Mr Fowler puts forward a number of proposals under this heading which, variously, would make Unions responsible for any of their officials, committees, or members who induce or take part in industrial action, unless they make such action official or repudiate the action and take active steps to stop it.

**Discussion**

3. Whilst unofficial strikes are a significant problem, their importance, both in numerical terms and in terms of days lost, has diminished significantly in recent years. Mr Fowler's proposals would undoubtedly have some further effect on both their number and impact. But many unofficial strikes are, and will continue to be, relatively spontaneous and short lived actions taken in response to particular local issues. It is doubtful whether legislation will be able to combat these issues effectively. That being said, there are two specific reasons why you may wish to support Mr Fowler's proposals:

- (a) in the light of recent unofficial action, notably London Underground and the Docks (but now superseded by official action), there is an expectation that the Government will come forward with proposals to curb unofficial strike action;
- (b) the present restrictions on taking legal official action have provided some incentive to take unofficial action to avoid these restrictions. A legal framework dealing with unofficial action should therefore provide a better foundation for introducing further restrictions on official action, should this be considered desirable.

Line to take

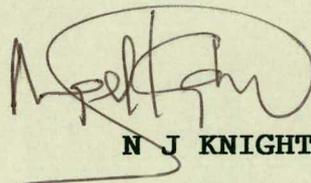
4. Of Mr Fowler's two sets of proposals, increasing scope for disciplinary action against individuals is a much more direct sanction than legal redress, and is therefore likely to have more impact.

5. But we are doubtful whether Mr Fowler's proposal to require organisers of unofficial action to hold strike ballots is realistic. In practice it would be difficult to identify unofficial organisers, and they may well have few or no assets at risk in the event of employer action. Even where sanctions are effective, there is the risk of creating employee "martyrs".

6. Mr Fowler's proposals to increase Unions' responsibility for action by their officials/members should be politically more attractive, and should have some impact on Union attitudes towards unofficial strikes. The risk with this approach is that it may tend to shift influence from Union members to the Union hierarchy, and more importantly may increase the number of official strikes.

Recommendation

7. We recommend that you agree to the issue of a consultative document as proposed; but you may wish to question whether the option discussed in paragraph 5 above is realistic.

  
N J KNIGHT

SECRET

*It is worth noting that groups which are now prevented from striking (eg the police) do enjoy preferential pay arrangements.  
@Young 11/7*

FROM: J de BERKER (PAY1)  
DATE: 11 July 1989  
ext 5605

- 1. MS. YOUNG
- 2. CHANCELLOR

- cc Chief Secretary
- Sir Peter Middleton
- Dame Anne Mueller
- Mr Anson
- Mr Monck
- Mr C W Kelly
- Mr Wilson
- Mr Burr
- Mr N Knight

**INDUSTRIAL ACTION IN ESSENTIAL SERVICES E(A)(89)23**

1. Mr Fowler reports he has put in hand a review of the options for preventing or restraining industrial action in essential services and industries. The review will also cover experience in other countries. The paper for EA is a trailer for the review inviting colleagues' comments for incorporation into a further paper which will be circulated in a week or so. The annex covers experience abroad and is based on a paper written last summer.

2. Mr Fowler floats a range of options which would make it harder to sustain official action in essential services by limiting the unions' immunity from legal proceedings unless they comply with further conditions. These might include:

- Cooling off periods
- Minimum periods of notice before strike action
- Making immunity conditional on exhaustion of established procedures
- Providing a minimum level of service
- Balloting separately each time labour is withdrawn so that a series of one-day strikes would require a corresponding series of ballots.

3. Another approach is to make strikers and the strike organisers more vulnerable to dismissal by allowing employers to dismiss strikers selectively.

SECRET

SECRET

4. Mr Fowler has two caveats:

(i) Restraining official action could lead to further unofficial action, so restraints on official action will need to be accompanied by restraints on unofficial action. This is probably right.

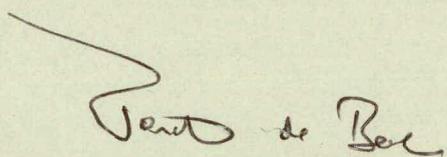
(ii) It will be important to avoid approaches which would make it necessary to establish alternatives to collective bargaining in essential services. This is the key point, as it is a matter for political judgement how far industrial action in essential services can be restrained without conceding preferential pay arrangements. To be acceptable to the unions preferential pay arrangements (review bodies etc) would have to compensate them for their lost bargaining power so the market distortions would remain. Even if such arrangements were conceded there must be doubt how far unions would stick to their side of the bargain. It is therefore essential to avoid concessions on bargaining arrangements.

*The key caveat conditional - how far is this a prerequisite?*

*[Fowler's note is clearer than this brief]*

Line to take

5. Whatever measures are taken to restrain industrial action in essential services we must not put ourselves in a position where we have to concede preferential bargaining arrangements.



JONATHAN de BERKER