



Caxton House Tothill Street London SW1H 9NF

Telephone Direct Line 01-213.. 6400 GTN 213

Switchboard 01-213 3000

Mike Pattison Esq  
Private Secretary  
10 Downing Street  
LONDON SW1

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Dear Mike

As promised in my earlier letter of today's date, I am enclosing guidance notes for Ministers on the proposals for industrial relations legislation my Secretary of State will be announcing in the House this afternoon.

I am copying this letter and its attachment as before.

Yours  
Mamie Fahey

MISS M C FAHEY  
Private Secretary

## PROPOSALS FOR INDUSTRIAL RELATIONS LEGISLATION

### Notes for Ministers

1 In introducing this further legislation the Government has two main purposes

- to provide further safeguards for the liberty of the individual against the abuse of industrial powers;
- to improve the operation of the labour market by providing a balanced framework of industrial relations law.

2 The Employment Act made some important changes, particularly as regards secondary picketing and secondary action. The time is now right for a further measure. This was confirmed by the responses of over 300 organisations to the Green Paper on Trade Union Immunities which showed overwhelming support for a further legislative step this Parliament.

3 These proposals will contribute to the Government's policies as a whole, because

- we must improve the performance and competitiveness of industry;
- there is no doubt that poor industrial relations for the last 20 years have contributed to our economic decline and to high unemployment. Improving industrial relations is an essential element in our economic recovery.

4 The proposed changes in the law will improve industrial relations because

- in recent years the law has tipped the balance of bargaining power too far towards the trade unions at the expense of the individual and of employers.

- the result has been the abuse of industrial power in the closed shop and on the picket line, damaging and disruptive industrial action against those not involved in the dispute.
- all of this has soured the climate of industrial relations.

### The Proposals

#### Closed Shop

5 Closed shop agreements unacceptably restrict the freedom of individuals. Since the loss of employees union membership directly forces closed shop employers to dismiss loyal workers it enables militant unions to discipline workers who refuse to strike, who defy blacking orders and other instructions to damage their employer or other firms. It acts as a barrier to improved efficiency and competitiveness. It is not practicable in today's circumstances to outlaw the closed shop but the need for further legislation has been strengthened in recent months by the actions of Sandwell and Walsall Councils who have dismissed non-union employees regardless of their rights and of the wishes of their workforce.

6 The Government, therefore, propose:

- substantially higher compensation for closed shop dismissals and a right to seek compensation from the trade union;
- periodic reviews (ballots) for all existing closed shops;

#### Union Labour Only Requirements

7 The practice of requiring contractors to use only union labour has increased in recent years, not least among local authorities.

8 Such practices are a means of forcing into unions employees who have no interest in being union members. A small non union firm may have no choice but to submit to union labour only requirements in order to avoid being put out of business.

9 The Government, therefore propose:

- to make union labour only clauses in contracts void
- to outlaw discrimination against non union firms in inviting tenders for, offering or awarding contracts.

#### Trade Dispute

10 The statutory definition of a trade dispute (on which immunity depends) has been shown to allow unacceptably wide scope for industrial action, including that for political ends and that arising from disputes or other matters abroad.

11 The Government, therefore propose:

- to amend the definition so as to exclude disputes which are predominantly political and disputes which do not directly involve an employer and his own employees;

#### Trade Union Immunities

12 Trade unions enjoy virtually unlimited immunity from civil actions - an immunity wider than that accorded to the Crown and much wider than that for individual union officials.

13 This breadth of immunities is unnecessary in modern conditions to enable trade unions effectively to represent their members. Since unions have no legal responsibility for their actions the law provides no incentive for trade unions to ensure that their officials operate within the law and that industrial action is restricted to legitimate trade disputes.

14 The Government, therefore, propose:

- to bring the immunities for trade unions into line with those for individual trade union officials;

- thereby to make trade unions (and their funds) liable for unlawful acts (eg secondary picketing, secondary action, industrial action outside trade dispute) carried out by trade union officials on their behalf.

#### Selective Dismissal in a Strike

15 Since 1971 the law has enabled an employer to dismiss employees who are on strike without being liable for unfair dismissal proceedings provided that he dismisses them all. A House of Lords judgement in 1978 interpreted this as requiring an employer using this provision to dismiss not only all employees on strike but also those who had been on strike but who had returned to work.

16 The Government propose to correct this anomaly.