

PMB – Briefing Pack

Bill¹

- Unpaid Trial Work Periods (Prohibition) Bill 2017-19 – *first reading 19 July 2017*
- The Bill was sponsored by:
 - Patricia Gibson – SNP
 - David Linden – SNP
 - Alison Thewliss – SNP
 - Chris Stephens – SNP
 - Patrick Grady – SNP
 - Carol Monaghan – SNP
 - Martin Whitfield - Labour
 - Ian Murray - Labour
 - Lady Hermon - Independent
 - Caroline Lucas – Green
 - Christine Jardine - Liberal Democrats
- Since introduced the Bill has gathered cross party support – all parties.
- ***Second reading on March 16th 2018***

Background²

- Feb 2017 - Two Glasgow branches of Mooboo were asking workers to do unpaid work before being considered for a job.
- A petition calling for an enquiry into the Mooboo Bubble Tea stores in Buchanan Galleries and the St Enoch Centres surpassed 13,000 signatures
- MP Stewart McDonald wrote an open letter to HMRC about the issue.

Consultation ahead of drafting the Bill

- Over half (56.7%) either had or knew someone who had been offered a trial period.
- Particular issues with the hospitality, entertainment and retail industries highlighted.
- Just some of the ways respondents reacted to Unpaid Work Trials - “unfair”, “demeaning”, “soul-destroying”, “humiliating” and “desperate”
- Independent report also shows unpaid trials contributing to £3billion in missing wages³

Press Coverage

- [SNP - Our plan to end exploitative work](#)
- [Independent - MP launches bid to outlaw 'unscrupulous' unpaid work trials](#)
- [Evening Times - Glasgow MP bids to outlaw "exploitative" unpaid trial shifts](#)
- [Holyrood - Stewart McDonald introduces private members' bill to ban unpaid trial shifts](#)
- [Glasgow Live - Glasgow MP lodges bill to stop unpaid trial shifts in hospitality industry](#)
- [National - SNP MPs vow to fight for workers' rights](#)
- [STV - Trainee workers 'exploited through unpaid trial shifts'](#)
- [Herald - Young, exploited and underpaid](#)

¹ <http://uk.businessinsider.com/unpaid-britain-report-uk-workers-cheated-out-of-pay-2017-7>

² http://www.eveningtimes.co.uk/news/15114156.Mooboo_Bubble_Tea_faces_outrage_after.asking.workers.to.do.unpaid.work.before.being.considered.for.job/

³ <http://services.parliament.uk/bills/2017-19/unpaidtrialworkperiodsprohibition.html>

- [Barrhead News - Teen hits out over five-hour 'free labour' shift at cafe](#)
- [Huffington Post - Want To Help Those Struggling To Find Secure Work, PM? Back My Bill](#)
- [Unpaid trial shifts are exploiting workers](#)
- [Daily Record backs Bill to end unpaid work](#)
- [Theresa May doesn't know what she's talking about on employment law at Prime Minister's Questions says Glasgow MP](#)
- [MP campaigns to end unpaid 'trial shifts'](#)
- [Introduction to the Bill - social media video](#)
- [Work Trials belong in past – social media video](#)

What is in the Bill?

- The Bill establishes exactly what a trial work period is.
- Makes clear that when a person is taking part in a trial period that they are to be paid at least the national minimum wage. And it makes provision for applicants to challenge an employer where they may be in breach of the law.
- The Bill also safeguards people on jobseeker allowances and benefits, which ensures anybody undertaking a work trial through their local jobcentre will not lose income support.
- It sets out the requirement that employers must comply with when offering a trial period: Such as making clear how many positions are available, a copy of the job description and the right to feedback – this is following a lot of feedback from the public about trial shifts being offered where no job actually exists.
 - *Why are requirements for employers included?* –businesses and industry that favoured trials, and they were eager to stamp out exploitative practices and ensure employers are clear with candidates ahead of trials.

Legal Memo⁴

- The Bill makes amendments to the National Minimum Wage Act 1998, Section 54. The amendment to S54(3) of the NMW Act 1998 would clearly state that an individual participating in a trial work period is defined as a “*worker*” and therefore entitled to NMW⁵.
- The amendment to S54 of the NMW Act 1998 clearly states that a worker's contract shall be construed as so to include trial work period arrangements.
- It is arguable that a person who has been engaged on an unpaid trial shift could argue that they are already a worker under section 54 (3) because they work under an implied, unwritten “contract” to personally perform work during their trial shift.
- The problem is that the majority of employers- and even the Government's own employment advisory service ACAS- do not categorise a person carrying out a trial shift as working under a “contract” of any sort; or as carrying out “work” of any sort when they undertake their trial shift. They therefore do not consider the NMW protections apply.
- Where there is no prospect of such an organic clarification of the law (and where there is an identifiable and widespread abuse of existing NMW protections taking place) it is incumbent on the legislature to tighten up and clarify the law in this area.
- This Bill makes it clear that “a process of determining whether [a person] should be offered a contract” (i.e. a trial shift) attracts the national minimum wage if there is an “arrangement” in place which involves the personal provision of work by one person to another.

⁴ Thompsons Solicitors – Employment Law Dept

⁵ <http://www.legislation.gov.uk/ukpga/1998/39/section/54>

What happens next?

- Second reading of the Bill takes place on ***March 16th 2018***
- At least 100 MPs need to turn up to force a vote, if there are attempts to talk the Bill out.
- Should the Bill pass, it will go to Committee Stage for amendments, before returning to Parliament for a Third Reading, which is where the Bill would become enshrined in law.