

## – United Kingdom –

### *Ratifications*

The United Kingdom ratified the European Social Charter on 11/07/1962. The United Kingdom has accepted 60 of the Charter's 72 paragraphs.

1.1	1.2	1.3	1.4	2.1	2.2	2.3	2.4	2.5	3.1	3.2	3.3
4.1	4.2	4.3	4.4	4.5	5	6.1	6.2	6.3	6.4	7.1	7.2
7.3	7.4	7.5	7.6	7.7	7.8	7.9	7.10	8.1	8.2	8.3	8.4
9	10.1	10.2	10.3	10.4	11.1	11.2	11.3	12.1	12.2	12.3	12.4
13.1	13.2	13.3	13.4	14.1	14.2	15.1	15.2	16	17	18.1	18.2
18.3	18.4	19.1	19.2	19.3	19.4	19.5	19.6	19.7	19.8	19.9	19.10
AP1	AP2	AP3	AP4								= Accepted provisions

The United Kingdom has neither signed nor ratified Protocol No. 1 which adds new rights.

The United Kingdom has not accepted to be bound by the “collective complaints” procedure.

The United Kingdom has signed but not yet ratified the Protocol reforming the supervisory mechanism and the Revised Charter.

### *Reports*

Between 1965 and 2006, the United Kingdom submitted 27 reports on the application of the Charter. The 27<sup>th</sup> report concerns the provisions related to the theme “employment training and Equal Opportunities” (Articles 1, 9, 10,15, and 18 of the Charter). The report was submitted on 16 November 2007.

### **The Charter in domestic law**

The United Kingdom is a dualist state.

The United Kingdom's record with respect to application of the Charter is the following as of 1 December 2007:

## **Examples of progress achieved or being achieved**

### **Non-discrimination**

#### **Sex**

► Access to a court and recognition of the right of appeal against the certifications provided for under section 79 of the Equal Treatment in Employment Act (Northern Ireland) to justify refusing employment on grounds of safeguarding national security or public order. *Article 1§2 – non-discrimination in employment.*

#### **Nationality**

► Eligibility for housing benefit (in the United Kingdom, the Isle of Man, Scotland and Northern Ireland), long tenancies for local authority housing and the right to occupy housing (in Scotland and in Northern Ireland) has been extended to foreign nationals who are citizens of States that are Contracting Parties to the Charter provided that they are habitually resident (orders of 1997, 1998 and 1999 on housing and the homeless). *Article 19§4 – right to equal treatment in housing.*

#### **Disability**

► Protection against discrimination on grounds of disability was strengthened (Disability Discrimination Act 1995) *Article 15- rights of persons with disabilities to education and employment*

### **Employment**

► Dismissing an employee under a *closed shop* agreement is considered unfair and affords a right of action (Employment Act 1982). Any dismissal on the ground of membership or non-membership of a trade union is automatically unfair (Employment Act 1988). Any discrimination on grounds of membership or non-membership of a trade union on recruitment is unlawful (Employment Act 1990)

► The confidentiality of trade union membership is protected (Employment Relations Act 1999). *Article 5 – right to organise.*

► Introduction of a statutory procedure for trade union recognition (Employment Relations Act 1999). *Article 6§2 – right to collective bargaining (negotiation procedures)*

► Workers who take strike action enjoy employment protection for the first eight weeks (Employment Relations Act 1999)<sup>1</sup>. *Article 6§4 – right to collective bargaining (strikes and lock-outs).*

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<sup>1</sup> RecChS(93)3 adopted by the Committee of Ministers on 7 September 1993.

## **Children**

▶ Corporal punishment has been abolished in both State schools and grant-maintained schools in the United Kingdom (Education Act 1986 (No. 2)). *Article 17 – right of young persons (legal and social protection)*.

▶ The protection of children from sexual exploitation and trafficking for economic exploitation strengthened (Sexual Offences Act 2003 Asylum and Immigration Act 2004) *Article 7-right of children and young persons to protection from exploitation*

## **Movement of persons**

▶ An appeal may be brought before the Immigration Appeals Tribunal against deportation orders made by the Home Secretary on grounds of national security or for political reasons (1997 Act governing the Special Immigration Appeals Commission). *Article 19§8 – right to guarantees in case of expulsion.*

▶ Nationals of States Parties to the Charter are no longer prevented from having access to public funds even if they happen to be subject to immigration control. They may claim means tested social assistance benefits on an equal footing with United Kingdom nationals (Social Security (immigration and Asylum) Consequential Amendments regulations 2000)–*Article 19§6-right to family reunion*

## **Cases of non-compliance**

### **Health**

▶ *Article 2§4 – right to compensatory time off in dangerous occupations*

There is no provision in legislation for reduced working hours or additional holidays for workers in dangerous or unhealthy occupations coupled with the fact that no evidence is given demonstrating that such measures are provided by collective agreement or by other means.

▶ *Article 8§1 – right to maternity leave*

The compulsory period of post natal leave is less than six weeks.

### **Non-discrimination**

#### **Nationality/ethnic origin**

▶ *Article 16 – (legal) protection of the family*

The right of Roma/Traveller/Gypsy families to housing is not effectively guaranteed

#### **Sex**

▶ *Article 16 – (legal) protection of the family*

Full equality between spouses with respect to their matrimonial property is not guaranteed in Northern Ireland.

### **Education**

▶ *Article 7§3 – prohibition of employment of children subject to compulsory education*

The mandatory rest period during the school holidays for children still subject to compulsory education is not sufficient to ensure that they may fully benefit from such education.

▶ *Article 10§4 – right to vocational training*

Equal treatment for non-EU nationals with respect to fees and financial assistance for training is not guaranteed.

### **Social Protection**

▶ *Article 8§1 – right to maternity leave*

. The standard rates of SMP (Statutory Maternity Pay) and MA (Maternity Allowance) were inadequate during the reference period.

▶ *Article 12§1-right to social security*

The level of Statutory Sick Pay, the Short Term Incapacity benefit and the Contributory Jobseekers Benefit for a single person are inadequate.

### **Children**

▶ *Article 17 – right of young persons (legal and social protection)*

1. Corporal punishment in the home is not prohibited;
2. The age of criminal responsibility is manifestly too low.

### **Employment**

▶ *Articles 2§3-Annual holiday with pay*

Workers who fall ill or are injured during their holiday are not entitled to take the days lost at another time.

▶ *Articles 2§5-weekly rest period*

Workers in a wide range of sectors may work for more than twelve consecutive days without a rest period and no safeguards.

▶ *Articles 4§1 (adults) and 7§5 (young persons) – right to fair remuneration*

The full rate minimum wage and *a fortiori* the development rate fall manifestly short of the 60 % threshold (net minimum wage as a share of the net average wage).

▶ *Article 4§2 – right to increased remuneration for overtime*

Workers do not have adequate legal guarantees ensuring them increased remuneration for overtime.

▶ *Article 4§4 – right to notice of dismissal*

Notice of termination of employment for workers with less than 3 years' service is too short.

▶ *Article 4§5 – right to limitation of deduction from wages*

Deductions from wages is left to the mere negotiation between the parties to the employment contract.

▶ *Article 5 – right to organise*

1. Unjustified incursions into the autonomy of trade unions (Sections 15 and 65 of the Trade Union and Labour Relations (Consolidation) Act 1992);
2. Excessive restriction of trade unions' right to determine their membership conditions (Section 174 of the Trade Union and Labour

Relations (Consolidation) Act 1992 as amended by Sections 33 and 34 of the Employment Relations Act 2004).

▶ *Article 6§4 – right to collective bargaining (strikes and lock-outs)*

1. The scope for workers to defend their interests through lawful collective action is excessively circumscribed;
2. the requirement to give notice to an employer of a ballot on industrial action is excessive;
3. the protection of workers against dismissal when taking industrial action is insufficient.<sup>2</sup>

▶ *Article 7§5 – fair pay for young workers*

There was no evidence that, during the reference period, young workers' lowest wages were fair compared to adult workers' minimum wages, which were themselves unreasonably low compared to the average wage in industry and services.

### **Movement of persons**

▶ *Article 19§§6 and 10 – migrant workers' right to family reunion.*

Neither legislation or practice provide for family reunion in respect of migrant workers' children aged between 18 and 21 years. The same applies to self-employed workers.

▶ *Article 19§§8 and 10 – migrant workers' guarantees in case of expulsion or repatriation*

Where a migrant worker is deported from the United Kingdom, his family members are also liable to deportation. The same applies to self-employed workers.

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<sup>2</sup> RecChS(97)3 adopted by the Committee of Ministers on 17 January 1997.