Government publishes details of new employer duty to provide written statement regarding trade union membership rights

Under the Employment Rights Act 2025 from 1 January 2027 employers will be required to provide a prescribed written statement to new and existing workers about certain trade union rights. The Government has recently set out details of how this duty will operate following its analysis of consultation responses from the end of 2025.

Key elements of the new duty

- **Format of statement**. The Government will provide a standardised prescribed statement for employers to use. The statement can only be amended to add specified workplace information.

- **Content of statement**. The statement will provide clear, neutral information to enable workers to understand their right to join a trade union. It will cover:

- union functions;
    - the Certification Officer’s list of trade unions;
    - statutory rights relating to union membership;
    - details of any unions recognised by the employer including the staff group, grade and workplace location represented, and
    - details of any statutory access agreements entered into by the employer.

- **Manner of delivery**. The statement must be delivered directly to all new workers from 1 January 2027 alongside their written statement of employment particulars (which is usually the employment contract). Delivery to existing workers may be direct or indirect, provided that statements delivered indirectly are reasonably accessible and workers are told where to find the statement.

- **Frequency of delivery**. Employers delivering *directly* to existing workers must do so annually by 5 April each year. Those using *indirect* delivery must keep the statement continuously and reasonably available from 1 January 2027, issue an annual reminder of its availability and location, and notify workers directly of any change in its location. Where the identity of

unions holding recognition or statutory access agreements changes, the statement must be reissued within one month.

- **Next steps**. Regulations will be published to bring into effect the requirements in relation to the form, content, manner and timing of delivery of the statement. The pro forma statement will be published by the Government before 1 January 2027.

What does this mean for employers?

Employers should review their HR processes and prepare to add the new statement to the list of documents issued to new workers from 1 January 2027. For existing workers employers should consider whether to provide the statement directly or indirectly. Directly could be via email to each employee and indirectly could be by incorporation into a staff handbook, or a separate page on a staff intranet, with an email telling workers where the statement can be found.

The duty is expected to come into force in January 2027. From that date, employers will be required to issue the statement to all new workers and also to all existing workers, where it is to be given indirectly. However, where the employer proposes to give it to existing workers directly, then they have until 5 April 2027 to provide it.

Failing to provide a statement of trade union rights under the Employment Rights Act 2025 incurs the same penalties as failing to provide a section 1 statement of employment particulars. An employment tribunal can award compensation of two to four weeks' pay to the worker subject to the statutory maximum, but the award will only be triggered if the worker successfully brings another substantive employment claim in the tribunal such as unfair dismissal or discrimination.

BDBF is a leading employment law firm based at Bank in the City of London. If you would like to discuss any issues relating to the content of this article, please contact Sophie Cameron (SophieCameron@bdbf.co.uk) or your usual BDBF contact.