

EXPLANATORY MEMORANDUM ON A EUROPEAN UNION DOCUMENT

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COM(2017) 251 final**

Proposal for a Interinstitutional Proclamation on the European Pillar of Social Rights

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SWD(2017) 204 final**

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE Report on the implementation by Member States of Directive 2003/88/EC concerning certain aspects of the organisation of working time

COMMISSION STAFF WORKING DOCUMENT Detailed report on the implementation by Member States of Directive 2003/88/EC concerning certain aspects of the organisation of working time Accompanying the document Report from the Commission to the European Parliament, the Council and the European Economic and Social Committee Report on the implementation by Member States of Directive 2003/88/EC concerning certain aspects of the organisation of working time

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COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS Establishing a European Pillar of Social Rights

COMMISSION STAFF WORKING DOCUMENT Social Scoreboard Accompanying the document COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS Establishing a European Pillar of Social Rights

COMMISSION STAFF WORKING DOCUMENT Accompanying the document COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS Establishing a European Pillar of Social Rights

**COMMISSION STAFF WORKING DOCUMENT Report of the public consultation
Accompanying the document COMMUNICATION FROM THE COMMISSION TO THE
EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND
SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS Establishing a
European Pillar of Social Rights**

8717/17

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8717/17 ADD 1

COM(2017) 206 final - ANNEX 1

8717/17 ADD 2

COM(2017) 206 final - ANNEX 2

REFLECTION PAPER ON THE SOCIAL DIMENSION OF EUROPE

**ANNEXES 1-2 to the REFLECTION PAPER ON THE SOCIAL DIMENSION OF
EUROPE**

Submitted by the Department for Business, Energy and Industrial Strategy on 6th July
2017

SUBJECT MATTER

The Social Pillar Package

1. The Commission adopted on 26 April 2017 a recommendation on a European Pillar of Social Rights, accompanied by a proposal for a joint proclamation by the Parliament, the Council and the Commission. This is intended by the Commission to set the guiding principles for the development of policy and 'upward social convergence'. In addition to the recommendation, the Commission announced a package of measures which form part of the Social Pillar. These are:
 - A Reflection paper on the future Social Dimension of Europe (for the EU27)
 - Consultations with Social Partners regarding labour contracts rules, and access to social protection
 - An 'interpretative communication" on the Working Time Directive, summarising CJEU case law for clarification.

The Recommendation on a Pillar of Social Rights

2. The recommendation includes 20 social rights (see annex), structured around three categories: equal opportunities and access to the labour market, fair working conditions and social protection and inclusion. These are currently drafted as high level ambitions, with further legislative and non-legislative measures expected to achieve the goals outlined.
3. While the recommendation on the Social Pillar is aimed initially at the Eurozone, the Commission hopes that all Member States will participate.

Reflection paper on the future Social Dimension of Europe

4. This reflection paper is the first in a series of five reflection papers signalled in the Future of Europe white paper. This paper is intended for the EU27.

5. It sets out potential future options for the EU: limiting the social dimension to free movement (including issues like posting of workers, cross-border healthcare and the recognition of diplomas); those Member States who want to do more doing more; EU 27 deepens the social dimension of Europe together. It looks at current trends, including in respect of labour markets, skills and education with the aim to kick start a debate.
6. Discussion among the EU27 will be taken forward at the Social Summit in Gothenburg in the autumn.

Consultations with Social Partners

7. The Commission has announced a consultation of the social partners concerning modernising the rules on labour contracts. The Written Statement Directive (91/533/EEC) gives employees starting a new job the right to be notified in writing of the essential aspects of their employment relationship.
8. The Commission is looking to revise the Directive in light of new realities and practices on the labour markets to ensure fair working conditions. They are particularly interested in extending minimum safeguards to every worker, including those in non-standard employment.
9. The Commission has stated that they intend to propose a revision of this directive by the end of the year.
10. The Commission is also starting a consultation of social partners on access to social protection, to define possible new rules in this area. The Commission is particularly interested in ensuring protections for those in atypical employment and the self-employed. They are keen to explore ways to ensure that everyone who works has access to social protection coverage and employment services on the basis of their contributions.

Interpretative Communication on Working Time

11. The Commission has produced an 'Interpretative Communication' on the Working Time Directive. The document is a summary of CJEU (Court of Justice of the European Union) case law on all aspects of the Directive. This includes complex issues such as holiday pay, the interaction between annual leave and sick leave, on-call time, night work, 'opt-out from the maximum 48 hour working week'. The Communication is intended to provide legal clarity, but is not in itself legally binding. Where there has been no direct case law, the Commission provides its own interpretation of some issues.

Background

12. President Juncker announced the establishment of a European Pillar of Social Rights in his State of the Union address in the European Parliament on 9 September 2015. The initiative formed part of the Commission's 2016 Work Programme.
13. The Commission has set out that the purpose of the Pillar is to support well-functioning and fair labour markets and welfare systems within Eurozone Member States. They intend the Pillar to build on, and complement, the existing EU-level social *acquis*. The Commission states that it will help to measure the employment and social performance of participating Member States, to drive reforms at national level and, to drive further convergence within Eurozone Member States.

14. The Commission has been clear that the Pillar does not entail an extension of the Union's powers as defined by the Treaties. They have stated that they will respect Member State competence.
15. A consultation, to which the UK responded, ran from March 2016 to December 2016.
16. The UK response welcomed the intent of the Pillar – to improve the working and living conditions of European citizens – but stated a belief that its application should be primarily for the Eurozone and non-Eurozone states should be able to choose whether to opt-in after careful consideration of the final proposals. The response also made clear the UK preference for a non-legislative approach, whereby the Social Pillar sets an overarching framework, demonstrating the social policies of the EU, but retains the flexibility for reforms to be driven by each Member State.

SCRUTINY HISTORY

17. EM 7276/16 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions Launching a consultation on a European Pillar of Social Rights was submitted by the Department for Business Innovation and Skills on 6 April 2016. The Commons European Scrutiny Committee considered it to be politically important and cleared it from scrutiny (Report No. 31, Session 16/17). The Lords European Union Select Committee cleared it from scrutiny (Sift No. 1616, Session 15/16).

MINISTERIAL RESPONSIBILITY

18. The Secretary of State for Business, Energy and Industrial Strategy is responsible for Labour Market Policy. The Secretary of State for Work and Pensions also has an interest.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

19. No legislative proposals have yet been made. Given the broad scope of the Social Pillar, any resulting proposals have the potential to affect both reserved and devolved matters.
20. The devolved administrations in Scotland, Wales and Northern Ireland have been advised of this Explanatory Memorandum and will be consulted as appropriate when any proposals emerge.

LEGAL AND PROCEDURAL ISSUES

21. Not applicable as this is not a proposal for legislation. The government will provide further explanatory memoranda as necessary should legislative proposals emerge.

APPLICATION TO THE EUROPEAN ECONOMIC AREA

22. Not applicable as this is not a proposal for legislation. The Commission have indicated that the Social Pillar is intended to apply to the Eurozone only, with other Member States able to opt-in should they wish.

SUBSIDIARITY

23. In the absence of legislative proposals, it is not possible to give a comprehensive view on subsidiarity implications. However, the Communication is mindful of subsidiarity concerns. It acknowledges that “Member States are primarily competent for the definition of their employment and social policies. This includes labour law and the organisation of welfare systems.” The Commission recognises that, “ultimately, the legal nature of the Pillar itself will need to take account of the scope and legal limitations at EU and euro area levels”. We will consider the proposals as they develop.

POLICY IMPLICATIONS

24. On 23 June, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation, including new legislation that requires transition prior to exit.

25. This initiative is aimed at the Eurozone, and non-Eurozone countries are invited to participate.

26. It is not yet possible to provide a view on policy implications, as there are no legislative proposals. We will carefully examine any further proposals as they emerge.

27. There will be policy implications for related proposals on Work-Life Balance, which are detailed in a separate Explanatory Memorandum.

CONSULTATION

28. Consultation is not deemed necessary at this stage. As proposals emerge we will assess whether they raise any issues which require the government to consult.

IMPACT ASSESSMENT

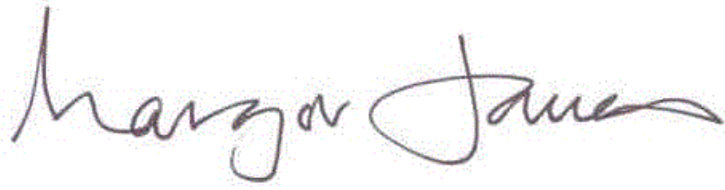
29. An impact assessment is not required at this stage as proposals are high level. Should legislative proposals be made we will impact assess them as appropriate.

FINANCIAL IMPLICATIONS

30. There are no financial implications for the UK at this stage.

TIMETABLE

31. The Commission have indicated that they are seeking agreement on the Social Pillar proclamation in the latter half of 2017.

A handwritten signature in dark ink that reads "Margot James". The signature is written in a cursive, flowing style.

Margot James MP

Minister for Small Business, Consumers and Corporate Responsibility
Department for Business, Energy and Industrial Strategy

Annex 1 - Summary of the preliminary outline proposals

1. **Education, training and lifelong learning** – a right to quality and inclusive education, training and life-long learning in order to maintain and acquire skills for participation and transitions in the labour market and wider society.
2. **Gender equality** – Equality of treatment and opportunities in all areas, including participation in the labour market, terms and conditions of employment and career progression. The right to equal pay for work of equal value.
3. **Equal opportunities** – right to equal treatment and opportunities regarding employment, social protection, education, and access to goods and services available to the public. Equal opportunities of under-represented groups shall be fostered.
4. **Active support to employment** – right to timely and tailor-made assistance to improve employment or self-employment prospects; right to transfer social protection and training entitlements during professional transitions; Young people have the right to continued education, apprenticeship, traineeship or a job offer of good standing within 4 months of becoming unemployed or leaving education; unemployed have the right to personalised, continuous and consistent support; long-term unemployed have the right to an in-depth individual assessment at the latest at 18 months of unemployment.
5. **Secure and adaptable employment** – Equal treatment, regardless of employment contract. Misuse or abuse of precarious and non-permanent employment prevented; greater flexibility in the conditions of employment.
6. **Wages** – measures to ensure fair remuneration for employment, with wages set in a transparent and predictable way.
7. **Information about employment conditions and protections in case of dismissals** – right to be informed in writing at the start of employment about rights and obligations, including on probation period; Prior to any dismissal, workers have the right to be informed of the reasons and be granted a reasonable period of notice. They have the right to access to effective and impartial dispute resolution and, in case of unjustified dismissal, a right to redress, including adequate compensation.
8. **Social dialogue and involvement of workers** – measures to enhance the role of Social Partners and workers, including through collective agreements.
9. **Work Life Balance** – proposal for Directive covering paternity leave, carers' leave and some changes to EU parental leave.
10. **Health, Safety and well adapted work environment and data protection** – rights to: a high level of protection of health and safety at work; a working environment adapted to professional needs and which enables workers to prolong

their participation in the labour market; personal data protected in the employment context.

11. **Childcare and support to children** – Access to quality and affordable childcare services; measures to address child poverty, including increasing participation.
12. **Social Protection** – Regardless of the type and duration of their employment relationship, workers, and, under comparable conditions, the self-employed, have the right to adequate social protection.
13. **Unemployment Benefits** – a package of support including fair unemployment benefits, and support in job-seeking.
14. **Minimum income** – Adequate minimum income benefits; For those who can work, minimum income benefits should be combined with incentives to (re)integrate into the labour market.
15. **Old age income & Pensions** – measures to ensure: an adequate standard of living; safeguard sustainability; address the gender pension gap; promote participation of the self-employed.
16. **Healthcare** – timely access to good quality, affordable health care.
17. **Inclusion of people with disabilities** – right to income support that ensures living in dignity, services that enable them to participate in the labour market and in society, and a work environment adapted to their needs.
18. **Long-term care** – Access to quality and affordable long-term care services, including home-based care and community based services.
19. **Housing and assistance for the homeless** – Access to social housing or housing assistance; protection against eviction for vulnerable people; support for low and medium income households to access property; provisions for those that are homeless.
20. **Access to essential services** – Affordable access to good quality essential services including water, sanitation, energy, transport, financial services and digital communications. Support for access to such services shall be available for those in need.