

Neuere Tendenzen zur personellen Reichweite des Arbeitnehmerschutzes im englischen Arbeitsrecht

Gliederung

I. Vorbemerkung: case law vs. Kodifikation

II. Arbeitnehmer und Selbständige

III. Selbständige mit arbeitsrechtlichem Schutz (limb b)-worker)

1. Grundlagen

2. Partner und Schiedsrichter als worker

IV. Employee Shareholders

V. Zero-Hours Contracts

VI. Thesen

Employment Rights Act 1996

S.27a(3) Any provision of a zero hours contract which—

- (a) prohibits the worker from doing work or performing services under another contract or under any other arrangement, or
 - (b) prohibits the worker from doing so without the employer's consent,
- is unenforceable against the worker.

s.205a

(1) An individual who is or becomes an employee of a company is an “employee shareholder” if—

- (a) the company and the individual agree that the individual is to be an employee shareholder,
- (b) in consideration of that agreement, the company issues or allots to the individual fully paid up shares in the company, or procures the issue or allotment to the individual of fully paid up shares in its parent undertaking, which have a value, on the day of issue or allotment, of no less than £2,000,
- (c) the company gives the individual a written statement of the particulars of the status of employee shareholder and of the rights which attach to the shares referred to in paragraph (b) (“the employee shares”) (see subsection (5)), and
- (d) the individual gives no consideration other than by entering into the agreement.

- (2) An employee who is an employee shareholder does not have—
- (a) the right to make an application under section 63D (request to undertake study or training),
 - (b) the right to make an application under section 80F (request for flexible working),
 - (c) the right under section 94 not to be unfairly dismissed, or
 - (d) the right under section 135 to a redundancy payment.

...

(6) Agreement between a company and an individual that the individual is to become an employee shareholder is of no effect unless, before the agreement is made—

(a) the individual, having been given the statement referred to in subsection (1)(c), receives advice from a relevant independent adviser as to the terms and effect of the proposed agreement, and

(b) seven days have passed since the day on which the individual receives the advice.

(7) Any reasonable costs incurred by the individual in obtaining the advice (whether or not the individual becomes an employee shareholder) which would, but for this subsection, have to be met by the individual are instead to be met by the company.

s.230

(1) In this Act “employee” means an individual who has entered into or works under (or, where the employment has ceased, worked under) a contract of employment.

(2) In this Act “contract of employment” means a contract of service or apprenticeship, whether express or implied, and (if it is express) whether oral or in writing.

(3) In this Act “worker” (except in the phrases “shop worker” and “betting worker”) means an individual who has entered into or works under (or, where the employment has ceased, worked under)—

(a) a contract of employment, or

(b) any other contract, whether express or implied and (if it is express) whether oral or in writing, whereby the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual;

and any reference to a worker’s contract shall be construed accordingly.

Equality Act 2010

S.83(2): „Employment means – a) employment under a contract of employment, a contract of apprenticeship or a contract personally to do work“.