NINE PROPOSALS FOR THE REFORM OF THE LAW ON UNFAIR DISMISSAL

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executive summary

This study examines the current British legislation on unfair dismissal, including the forthcoming Employment Act 2002 reforms. It argues that further key reforms are necessary to implement fully the internationally-recognised social right not to be unfairly dismissed and to remove unjustifiable limits on the statutory right. The nine key reforms for consideration are:

- extension of protection against unfair dismissal beyond the legal classification of “employees” to all workers.

- extension of protection to all workers regardless of age, but with provision for individual retirement age agreements to be excluded.

- elimination of the judge-made doctrine of “frustration”, which deprives some workers, particularly those who fall ill, of protection against unfair dismissal.

- elimination of the one-year qualifying period before a worker can claim unfair dismissal.

- revision of the statutory test of fairness, which as a result of judicial interpretation permits employers to carry out harsh dismissals.

- improvements to the statutory disciplinary procedures introduced by the Employment Act 2002, to ensure employees are not dismissed without a fair hearing.

- improving employers’ workplace disciplinary and grievance procedures to reduce the number of unfair dismissal claims reaching the tribunals.
- a new formula for calculating how much compensation is awarded, so that compensation for the manner of dismissal is included in successful unfair dismissal claims.

- more effective and punitive sanctions against employers who dismiss workers unfairly for reasons involving interference with other basic social rights recognised by the European Union.
The cover picture shows a Critchley Labels rally during the CWU recognition dispute in South Wales.

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