



Article by Paul Donovan

## Air time in the general election

The vulnerable position of those working in the so called gig economy is likely to be an issue fighting for airtime in the upcoming general election debate.

The growing sector, including jobs like cab and delivery drivers, has been increasingly staffed by those classified as self-employed. The number of people now classified as self-employed has risen by 26% over the past decade to 4.8 million or 15% of the workforce. Self-employment has been promoted to employees on the back of the need to pay less tax and making savings in other ways. In reality, the device enables the employer to escape responsibilities like paying redundancy, the national minimum wage, sick and holiday pay.

And whilst self-employment is presented as a choice, in many instances the employee is virtually forced into that form of employment status by unscrupulous employers keen to avoid their responsibilities.

A recent landmark case saw a ruling that Uber drivers must be classified as workers, rather than independent contractors, thereby gaining the basic employment rights denied

under self-employment status. Uber has been granted a right to appeal, which will be heard on 27 September. The GMB are confident, though, that the original employment tribunal hearing ruling will be upheld.

*“Whilst we fully respect the higher court’s interest in this extraordinarily important case about bogus self-employment, we remain 100% confident that the courts will uphold the original judgment that these drivers have employed worker status,” said Maria Ludkin, legal director at GMB.*

More cases, where the nature of self-employment is coming under closer scrutiny are working their way through the courts. Government too is concerned about the growth of self-employment status, largely due to the decrease in tax revenue resulting. The TUC recently estimated that £4 billion

a year was being lost from the gig economy as the result of a combination of lost tax and the need to pay in work benefits. Chancellor Philip Hammond tried to claw back some tax, with his ill-fated attempt to increase National Insurance payments for the self-employed. The measure sought to increase tax on the employee, whilst ignoring the role of unscrupulous employers in using the self-employment status as a way to get round employer responsibilities. Hammond was made to withdraw the proposal, amid howls of protest from across the political spectrum.

The government though is sure to look for other ways to recoup the tax take being lost through self-employment. More pressure though from the trade union movement will be required to ensure that those being forced into this form of employment status are not being exploited in terms of low pay and the loss of their most basic employment rights.

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## The Scottish Law Commission: tenth programme of law reform

The Scottish Law Commission has launched a public consultation on the law reform work that it should carry out in the future.

The Commission is seeking views on which areas of Scots law are most in need of reform. Reform may be needed because the law is causing difficulties in practice, for example where the law is unfair, unclear, unduly complex or out-of-date.

The Commission's remit covers all of Scots law; it extends to reserved and devolved areas of the law.

Most of the Commission's work is carried out under Programmes of Law Reform, approved by Scottish Ministers. Each Programme runs for a specified period of several years, and sets out a number of law reform projects which the Commission will examine during that period. Work carried out by the Commission has resulted in major new laws passed by the Scottish Parliament and the UK Parliament.

The Commission is now preparing its next Programme of Law Reform, the Tenth Programme. This is due to start in 2018.

# Call for 'decently paid' maternity leave

Statutory maternity pay for UK mothers is among the worst in Europe, with only Ireland and Slovakia having worse "decently paid" entitlements. The definition of decently paid is two-thirds of a woman's salary or more than £840 a month.

The UK's maternity system was one of the most generous in the world and most mothers could take up to 39 weeks of guaranteed pay, nearly three times the EU minimum requirement of 14 weeks.

The TUC argues that statutory maternity pay should be at least as much as the minimum wage so mothers do not have to return to work prematurely.

*"It's a shocking fact that the UK is only the 22nd out of 24 countries when it comes to decently paid maternity leave," said Tony Rupa, CWU Head of Legal Services. "It's absurd that far too many new mums have to return to work earlier than they should just to make ends meet and pay the bills."*

## What are your rights?

Most employed mothers are entitled to 52 weeks' maternity leave. Statutory maternity pay for eligible women is usually paid at 90% of their weekly wage for the first six weeks, with the remaining 33 weeks at £139.58 a week or 90% of their weekly wage, whichever is lower. Women who earn less than £112 a week are not eligible for statutory maternity pay; instead most can claim maternity allowance.

While some companies have more generous schemes, the vast majority of women in the UK received statutory maternity pay. Employers then claim this back from the government. Whilst the UK stands out as having a relatively long period of maternity leave but a relatively low amount of pay, shared parental leave should be more flexible so parents can take their leave in smaller chunks, rather than all at once.

## European league table of 'decently paid' maternity leave

- UK comes 22nd out of 24
- Croatia comes top, with six months
- Poland, Hungary, Czech Republic are next, with more than four months
- Estonia, Italy, Spain, Belgium, Denmark, France, Malta, and Switzerland offer more than three months



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