

Labour Law

Third Edition

Labour Law, now in its third edition, is a well-established text which offers a comprehensive and critical account of the subject by a team of prominent labour lawyers. It examines both collective labour relations and individual employment rights, including equality law, and does so while having full regard to the international labour standards as well as the implications of Brexit. Case studies and reports from government and other public agencies illuminate the text to show how the law works in practice, ensuring that students acquire not only a sophisticated knowledge of the law but also an appreciation of its purpose and the complexity of the issues which it addresses.

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CAMBRIDGE
UNIVERSITY PRESS

Cambridge University Press & Assessment
978-1-009-61212-8 — Labour Law
Hugh Collins, K. D. Ewing, Aileen McColgan
Frontmatter
[More Information](#)



CAMBRIDGE
UNIVERSITY PRESS

Shaftesbury Road, Cambridge CB2 8EA, United Kingdom

One Liberty Plaza, 20th Floor, New York, NY 10006, USA

477 Williamstown Road, Port Melbourne, VIC 3207, Australia

314–321, 3rd Floor, Plot 3, Splendor Forum, Jasola District Centre, New Delhi – 110025, India

103 Penang Road, #05–06/07, Visioncrest Commercial, Singapore 238467

Cambridge University Press is part of Cambridge University Press & Assessment,
a department of the University of Cambridge.

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www.cambridge.org

Information on this title: www.cambridge.org/highereducation/isbn/9781009612128

DOI: 10.1017/9781009612111

First edition © Cambridge University Press 2012

Second and third editions © Hugh Collins, K. D. Ewing and Aileen McColgan 2019, 2026

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When citing this work, please include a reference to the DOI 10.1017/9781009612111

First published 2012

Second edition 2019

Third edition 2026

Cover image: JohnnyGreig / E+ / Getty Images.

A catalogue record for this publication is available from the British Library

A Cataloging-in-Publication data record for this book is available from the Library of Congress

ISBN 978-1-009-61212-8 Hardback

ISBN 978-1-009-61207-4 Paperback

Additional resources for this publication at www.cambridge.org/labourlaw3

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Preface

This textbook aims to provide a comprehensive study guide for students in labour law or employment law courses. It is divided into twenty chapters, corresponding approximately to a full-year university course. It includes both a comprehensive discussion of collective labour law issues as well as individual employment law disputes. For shorter or more focused courses, teachers may prefer to concentrate on some of the chapters or parts of the book and will find that each chapter is largely self-contained. As well as providing a description and analysis of the law in the United Kingdom of Great Britain (with the exception of Northern Ireland), in the spirit of the *Law in Context* series, the textbook offers criticisms of the law drawn from different perspectives and disciplines. Most chapters also include brief contextual vignettes, often based on examples drawn from the news, which should provide a stimulus to classroom discussion. Tables of Cases, Statutes, Statutory Instruments, EU Instruments, ILO Instruments and Other International Instruments are available online at www.cambridge.org/labourlaw3

The third edition of this book has retained the same organisation of chapters as the first. As before, responsibility for the different chapters has been divided unevenly: Collins: Chapters 1, 3–7, 10, 11 and 18–20; Ewing: Chapters 2, 8 and 12–17; and McColgan: Chapter 9.

Since the previous edition, which described the law as it stood on 1 January 2019, perhaps the most significant events have concerned Brexit. In accordance with the terms of the withdrawal treaties, however, most of the employment laws that originated with the European Union have been retained for the time being at least. Furthermore, although decisions of the Court of Justice of the European Union are no longer binding on UK courts, the transitional legislation modified national legislation in several respects in order to ensure that important decisions of principle that had been made by the Court of Justice were enacted.

The new edition contains extensive discussion of recent cases in the UK courts. These include controversial decisions about employment status in the Supreme Court involving the drivers for Uber and Deliveroo. In a path-breaking decision, the Supreme Court reconsidered basic principles of the contract of employment when it tackled the employer's policy of fire and

rehire, which is used to impose worse terms and conditions, by holding the employer, Tesco, to its express promises of a permanent pay increase by awarding an injunction against dismissals.

The Human Rights Act 1998 has been slowly increasing its influence on labour law as the relevance of the European Convention on Human Rights to employment and discrimination has been approached in a more systematic manner. In *Secretary of State for Business and Trade v. Mercer*, for instance, the Supreme Court issued a declaration that the legislation on the right to participate in the activities of a trade union was incompatible with Article 11 on freedom of association because it provided inadequate protection against detriments imposed by employers against lawful strikers. Convention rights have also been used to challenge the personal scope of legislation and the correct interpretation of statutory provisions including the Equality Act 2010. Once Convention rights are engaged in the interpretation of domestic law, the courts often have to consider complex questions of proportionality in order to determine whether a decision is compatible with Convention rights.

As we were completing the text of this new edition, the Conservative government unexpectedly called an early election, leading to the election of a new Labour government. As promised in its manifesto, the new government has published a Bill, the Employment Rights Bill, which contains numerous and significant proposals for amendments and additions to the current law. Since these proposals will have to be developed further and are likely to take a considerable time to pass through Parliament, there is no attempt in this edition to discuss in any detail how the law might change. From time to time, however, it is noted that the regulation of particular issues such as ‘day-one rights’ and ‘zero-hours contracts’ will almost certainly change in the next year or two.

We take this opportunity to renew our thanks to those already acknowledged in the preface to the first edition. On this occasion, we would like to record our debts specifically to Daniel Blackburn (ICTUR), Alan Bogg (Bristol), Nicola Countouris (UCL), Anne Davies (Oxford), Ruth Dukes (Glasgow), Kate Ewing, Michael Ford KC (Bristol), Mark Freedland (Oxford), Lord Hendy KC, Carolyn Jones (Institute of Employment Rights), Ewan McGaughey (KCL), Virginia Mantouvalou (UCL), Sarah Paterson (LSE), Tonia Novitz (Bristol), Hannah Reed (formerly TUC, now Unite the Union), Joo-Cheong Tham (Melbourne), and Jeff Vogt (Solidarity Center, formerly International Trade Union Confederation). We are grateful to the editors of this series and the publishers at Cambridge University Press for their encouragement for revising the book and their patience in awaiting its delivery.

We have endeavoured to state the law as it stood up to 1 October 2024, though minor amendments were possible during copyediting to include new decisions of senior appeal courts.

Abbreviations

ACAS	Advisory Conciliation and Arbitration Service
ACTTS	Association of Cinematograph, Television and Allied Technicians
APEX	Association of Professional, Executive, Clerical and Computer Staff
ASLEF	Associated Society of Locomotive Engineers and Firemen
BALPA	British Airline Pilots Association
CAC	Central Arbitration Committee
CJEU	Court of Justice of the European Union
CWU	Communication Workers Union
EA 2010	Equality Act 2010
EAT	Employment Appeal Tribunal
EC	European Community
ECHR	European Convention on Human Rights and Fundamental Freedoms
ECtHR	European Court of Human Rights
ECJ	European Court of Justice
EFTA	European Free Trade Association
ERA 1996	Employment Relations Act 1996
ET	Employment Tribunal
FBU	Fire Brigades Union
HRA 1998	Human Rights Act 1998
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labour Organization
ITF	International Transport Workers Federation
NALGO	National and Local Government Officers' Association
NATSOPA	National Society of Operative Printers and Assistants
NEU	National Education Union
NUJ	National Union of Journalists
NUM	National Union of Mineworkers
NUPE	National Union of Public Employees

OECD	Organisation for Economic Co-operation and Development
POA	Prison Officers’ Association
POEU	Post Office Engineering Union
RMT	National Union of Rail, Maritime and Transport Workers
TFEU	Treaty on the Functioning of the European Union
TGWU	Transport and General Workers’ Union
TUC	Trades Union Congress
TULRCA 1992	Trade Union and Labour Relations (Consolidation) Act 1992
UCATT	Union of Construction, Allied Trades and Technicians
UKSC	Supreme Court of the United Kingdom
URTU	United Road Transport Union
USDAW	Union of Shop Distributive and Allied Workers