



# Employment Relations Act 2004

## 2004 CHAPTER 24

### PART 3

#### RIGHTS OF TRADE UNION MEMBERS, WORKERS AND EMPLOYEES

##### *Other rights of workers and employees*

#### **37 Role of companion at disciplinary or grievance hearing**

- (1) For subsection (2) of section 10 of the Employment Relations Act 1999 (c. 26) duty of employers to permit workers to be accompanied at disciplinary and grievance hearings) substitute—

“(2A) Where this section applies, the employer must permit the worker to be accompanied at the hearing by one companion who—

- (a) is chosen by the worker; and
- (b) is within subsection (3).

(2B) The employer must permit the worker’s companion to—

- (a) address the hearing in order to do any or all of the following—
  - (i) put the worker’s case;
  - (ii) sum up that case;
  - (iii) respond on the worker’s behalf to any view expressed at the hearing;
- (b) confer with the worker during the hearing.

(2C) Subsection (2B) does not require the employer to permit the worker’s companion to—

- (a) answer questions on behalf of the worker;
- (b) address the hearing if the worker indicates at it that he does not wish his companion to do so; or

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**Changes to legislation:** There are currently no known outstanding effects for the  
Employment Relations Act 2004, Section 37. (See end of Document for details)

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- (c) use the powers conferred by that subsection in a way that prevents the employer from explaining his case or prevents any other person at the hearing from making his contribution to it.”
- (2) In section 11(1) of that Act (complaint to employment tribunal), for “10(2)” substitute “ 10(2A), (2B) ”.
- (3) In section 12 of that Act (right not to be subjected to a detriment or dismissal)—
  - (a) in subsections (1)(a) and (3)(a) for “10(2)” substitute “ 10(2A), (2B) ”; and
  - (b) after subsection (6) add—
    - “(7) References in this section to a worker having accompanied or sought to accompany another worker include references to his having exercised or sought to exercise any of the powers conferred by section 10(2A) or (2B).”

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**Commencement Information**

**II** S. 37 in force at 1.10.2004 by S.I. 2004/2566, art. 3(a) (with art. 8)

**Changes to legislation:**

There are currently no known outstanding effects for the Employment Relations Act 2004, Section 37.