

20.11.17

18 Senator S.Y. Mézec of the Minister for Social Security regarding the banning of exclusivity clauses in zero-hours contracts (OQ.338/2020):

When will the Minister implement the decision made by the States in adopting zero-hours contracts, P.92/2016, that exclusivity clauses in zero-hours contracts should be banned?

Deputy J.A. Martin of St. Helier (The Minister for Social Security):

On 16th November 2016, the Assembly agreed in principle to ban the use of exclusivity clauses in zero-hour contracts. The second half of the proposition set a requirement to bring forward legal changes. That part of the proposition was withdrawn during debate. The effect of an exclusive clause is to prevent an employee on zero-hours contracts from being able to work for another employer, even if the first employer has no work for them to offer. While I have been at Social Security, I cannot find any evidence of the need to prioritise this over other employment law areas. I have asked the Jersey Advisory Council and Citizens Advice and have confirmed that this is not an issue they have concerns about. Zero-hours employees have exactly the same employment protection as those employees on other types of contracts. We are different from the U.K.

4.18.1 Senator S.Y. Mézec:

The decision of the States was clear, it was that exclusivity clauses in zero-hours contracts should be banned. Is the Minister in her previous answer indicating that she is unilaterally overruling that States decision and not taking the action? Admittedly it was not her brief at the time, but her office has been instructed to do it by the Assembly.

Deputy J.A. Martin:

It is one of those awkward propositions. The first part was accepted and then the part that says to bring forward legislation was dropped during the debate. With all the other legislation in the pipeline and having to plan, if I have a problem, if I can find a problem, I have tried to find this problem. I did try to find a problem when Deputy Southern was there with me as Assistant Minister. I cannot find a problem so I do not want to waste law drafting time for something that is not a problem.

4.18.2 Deputy M. Tadier:

Does the Minister agree with exclusivity clauses in zero-hour contracts?

Deputy J.A. Martin:

Absolutely not. If I thought they were happening, being abused and happening, I would legislate. We went to J.A.C.S. (Jersey Advisory and Conciliatory Service) and said: "What is the worst thing that you are getting?" because we thought it would be some form of zero-hour contract. It was rest breaks and annual leave and we are out to consultation on that. If I can find proof and I can improve the lot of the worker, I will do so.

4.18.3 Deputy G.P. Southern:

Nonetheless, this Assembly instructed the Minister to do something and the Minister has failed to do so. Can she tell the Assembly why that has occurred apart from: "I have been a bit busy"?

Deputy J.A. Martin:

If the Deputy had listened, I did not say I had been a bit busy. I have been a bit busy trying to find the evidence to see if they are being abused by the exclusivity in zero-hour contracts. I am told they are not. Chambers have told me. They advise all their people who are with Chamber not to use them, they are abusive, so they are not being used.

4.18.4 Senator S.Y. Mézec:

The Assembly has cast its verdict that exclusivity clauses in zero-hours contracts ought to be banned. It is not for the Minister to overrule that or find some justification. The instruction from the Assembly is clear. So my question to the Minister is: would she like to volunteer a deadline by which this change ought to be made or would she prefer me to bring it back to the Assembly, as it was my proposition originally, to do so and enforce a timeline, which might not be the most appropriate one given the rest of her work programme?

Deputy J.A. Martin:

Not today. I can bring a timeline when I can look at this. It will not be next year. I have too much legislation coming forward and some that has gone backwards. So that is about the time I can do. The Senator will have to bring the evidence to the Assembly that it is needed.