

STATES OF JERSEY



ZERO-HOURS CONTRACTS: REGULATION (P.100/2013) – AMENDMENT

Lodged au Greffe on 17th September 2013
by the Minister for Social Security

STATES GREFFE

1 PAGE 2 –

After the words “to request” delete the words “the Chief Minister to work with”.

2 PAGE 2, PARAGRAPHS (c) AND (d) –

For paragraphs (c) and (d) substitute the following paragraph –

“(c) subject to the findings and conclusions of the investigations conducted in accordance with paragraphs (a) and (b), and subject to the outcome of consultation with stakeholders, to bring forward for approval such draft legislation as is deemed necessary to restrict any proven misuse of zero-hours contracts.”

MINISTER FOR SOCIAL SECURITY

REPORT

The main reasons for this proposed amendment to the Proposition of Deputy G.P. Southern of St. Helier are as follows:

- The Minister for Social Security (the ‘Minister’) has responsibility for the relevant legislation (the Employment (Jersey) Law 2003) and so, with the agreement of the Chief Minister, the responsibility has been attributed solely to the Minister.
- The Statistics Unit is independent of the Chief Minister and there is no requirement for the Chief Minister to have specific oversight of the collection of this data.
- Deputy Southern states in his accompanying report that the Proposition asks the Chief Minister to “*consider whether regulation is needed, and if so, to bring such regulations*”. The Proposition in fact asks the Chief Minister to create a regulatory system to control zero-hours contracts, irrespective of whether any need to do so has been established by parts (a) and (b), and irrespective of whether the use of such contracts is genuine. We must identify what the issues are before deciding if, and how, those issues might appropriately be tackled.
- Paragraph (c) of Deputy Southern’s Proposition would require the Minister to work with the Jersey Advisory and Conciliation Service (JACS). This would be replaced in the new paragraph (c) with a requirement to consult stakeholders generally. Whilst JACS input will be valuable, other stakeholders would be consulted, including trade unions and employers’ associations.

The President of the Jersey Chamber of Commerce and Unite’s Regional Officer for Jersey have publicly expressed their opposing perspectives to this Proposition; on the one hand, defending the correct use of such contracts as allowing employers to offer vital jobs¹, and on the other hand, by calling for zero-hours contracts to be abolished².

Valid zero-hours contracts remove mutuality of obligation so that work is offered and accepted on a casual basis. Zero-hours contracts have been criticised because of the lack of certainty that they provide to employees but, when used appropriately, such contracts can provide flexibility for both employees and employers.

JACS has cautioned that using a zero-hours contract is unlikely to enable an employer to avoid their obligations under the Employment (Jersey) Law 2003. Even in the case of a genuine zero-hours contract, employees have employment rights, including the right to be paid the minimum wage and receive holiday pay (which is often given as rolled-up holiday pay). Where a zero-hours contract is misused, an Employment Tribunal is likely to see through the written terms of the contract to the reality of the situation.

¹ www.jerseychamber.com/news/president-s-message---august

² www.thisisjersey.com/business/2013/09/06/union-on-attack-over-zero-hours-contracts-abuse/

There is concern in the UK about the increasing use of zero-hours contracts in many areas of the economy. The UK's Office for National Statistics (ONS) has estimated that the number of people working under a zero-hours contract arrangement in December 2012 had grown by 100,000 to 250,000 since 2009³. Research undertaken by the Chartered Institute of Personnel and Development (CIPD)⁴ and Unite⁵ has led to estimates that the actual number may be between one and 5.5 million.

The UK Government is currently reviewing the use of zero-hours contracts and an information-gathering exercise, including consultation with stakeholders, is expected to conclude in September 2013. The outcome of that exercise is likely to be of relevance to the investigation undertaken in Jersey.

The States of Jersey Statistics Unit intends to investigate issues relating to zero-hours contracts through its suite of business and household surveys. Such work will involve surveying businesses to estimate the overall scale and sectoral distribution of the use of zero-hours contracts in Jersey, and will also aim to measure the proportion of workers engaged on such contracts who were actually employed within a given time period as well as the average numbers of hours worked. It is anticipated that a complementary perspective will be gained by also surveying households. Such an approach will aim to examine subjective and practical issues for individuals who are engaged on zero-hours contracts.

The report accompanying the Proposition recognises that it will take some time to achieve statistically significant information. The Chief Statistician anticipates that the timescale for producing statistically robust results is approximately 12 to 15 months, i.e. by the end of the calendar year 2014. Those results will form the basis for us to consider what further action should be taken and in what timeframe.

Financial and manpower implications

The Deputy has stated that there are no financial or manpower implications arising from this Proposition. It is anticipated that an investigation into the extent to which zero-hours contracts are used, as described in paragraph (a), can be contained within departmental resources. An impact study, as described in paragraph (b), however, is expected to be achieved by commissioning independent research. Until the scope of the impact study has been more clearly defined and data has been collected in accordance with paragraph (a), it is not possible to estimate the cost of paragraph (b). The proposed amendment to the Proposition brings no additional resource implications.

³ www.ons.gov.uk/ons/guide-method/method-quality/specific/labour-market/articles-and-reports/index.html

⁴ www.cipd.co.uk/blogs/cipdbloggers/b/mark_beatson/archive/2013/08/22/Zero-hours-working.aspx

⁵ www.unitetheunion.org/news/research-uncovers-growing-zero-hour-subclass-of-insecure-employment/