

Zero hours contracts proposal in Jersey - exclusivity to become unenforceable

Insights - 23/05/2022

Earlier this year, the Social Security Minister lodged a proposition that would prevent employers from requiring zero hours contract employees to work exclusively for their business. This proposition was in response to a States Assembly decision in 2021 that exclusivity clauses in zero hours contracts should be "banned".

The amendment to the Employment Law will come into force on 27 May 2022. This means that employers will no longer be able to:

- (a) stop a zero hours employee from being employed by another business; or
- (b) require a zero hours employee to obtain the employer's permission to be employed by another business.

Any such term in an employment contract will not be enforceable. We understand that similar provisions have been introduced in the UK and the Isle of Man.

Zero hours contract defined

The draft amendment defines a "zero hours contract" as a contract of employment where the employee may work for the employer from time to time but there is no minimum requirement for the employee to do any work for the employer.

That definition is based upon the existing definition in the Control of Housing and Work (Exemptions) (Jersey) Order 2013.

While "exclusive" zero hours contracts are thought to be rare in Jersey, a requirement for employer consent to obtain a second job might be more commonplace. Businesses should be aware that, if such terms are currently included in zero hours contracts, they will become unenforceable from 27 May 2022.

Forthcoming review of zero hours contracts

A wider review of zero hours contracts is due to be undertaken as part of the Government Plan 2022-2025 to ensure that those working under zero hours contracts are protected under Jersey's employment legislation. This might result in further changes to the law. We will follow progress in this matter and update you as the review continues.

Zero hours contract employees in Jersey have more extensive employment protection than their counterparts in the UK and a number of decisions of the Jersey Employment and Discrimination Tribunal have clarified this point. We intend to provide a more detailed client briefing on this subject.

View the regulation here.

If you have any questions please contact one of our Employment Law team who will be happy to assist.

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