

'Good Jobs' Podcast: The Future of Zero-Hours Contracts

Emma: Hello and welcome back to the second episode in our mini-series on the proposed Good Jobs Employment Rights Bill in Northern Ireland. I'm Emma Grossmith, I'm a Managing Associate in Lewis Silkin's Belfast office.

Emmie: I'm Emmie Ellison, a Senior Associate in the team. If you're new to this series, in our first episode, Ciara Fulton and Paul Gillen gave a high level overview of the Department for the Economy's response to the recent Good Jobs Bill consultation.

Today, Emma and I are going to take a closer look at the proposed changes to the laws on zero hour contracts in Northern Ireland. These proposals are probably the biggest change under the theme A of the consultation and there's quite a lot to discuss, so let's get going.

Emma: Yes, thank you, Emmie. It's probably fair to say that zero hours contracts have been something of a hot topic for some years now. For anybody who's not familiar these are contracts where workers are not guaranteed any minimum hours of work, but their working hours can fluctuate greatly from one week to the next. These type of contracts are casual contracts and they give lots of flexibility on both sides, but by definition they are uncertain and they do not provide any guaranteed level of income for the worker.

Emmie: The use of zero-hour contracts has been on the rise in Northern Ireland and I suppose that's partly due to the pandemic and partly due to the ongoing cost of living crisis. I read that the Department for the Economy has estimated that in 2024 there were around 16,000 people in Northern Ireland on these contracts, particularly common among women, students and immigrants.

They've also been in the press quite a lot in recent years because they can sometimes be open to abuse. And I suppose that's one of the reasons why the Department for the Economy wants to make changes to the rules about how they're used.

Emma: It's certainly fair to say that zero hours contracts have had a bit of a bad press recently, but it is important not to forget that they are ideal for some sorts of workers. They do give a foot in the door to people who trying to break into the jobs market, perhaps for the first time.

They can also give access to work for people who find it otherwise difficult to commit to permanent or fixed regular hours, such as those who have caring commitments for older relatives, younger relatives or something else, or if they've got particular health conditions which might vary, or even students who are looking to supplement their hours. They can give people who might not otherwise be working at all the chance to get into can be a very useful and flexible side hustle for those who want to add a bit of income to on top of their existing jobs. So, there are lots of good reasons to have them and that's why the Department for the Economy is not wanting to ban them outright. But what it is wanting to do is to clamp down on what

it's described as "exploitative practices" and to strike a slightly better balance between giving employers flexibility and providing workers with security that they need to live their lives.

Emmie: Yeah, exactly. Let's talk a bit about how they plan to do that. First up, there's the proposed right for zero or no hour workers to request what's called a banded hours contract. Emma, can you explain what that is?

Emma: Yes, so banded hours contracts were something which we saw introduced in the Republic of Ireland over five years ago now. So, it wasn't entirely surprising to see that this was part of the proposals from the Department for the Economy to make changes for zero hours contracts in Northern Ireland.

The Banded Hours contract idea is that if you're a worker who is on a zero hours or a low hours contract, but you're consistently and regularly working more hours than that zero or low hours contract, you'll be able to ask your employer to move you onto a Banded Hours contract that more accurately reflects the hours of work you're actually doing.

In the Republic of Ireland there are currently eight different bands, and these range from a minimum of three to six hours per week to a top band of 36 hours or more per week. So, whilst we don't know what the band at hours arrangement is going to look like in Northern Ireland yet, it may well be that it's similar to that. The goal that we have is to make sure that people can request more certainty about their income and their working patterns.

Emmie: Yeah, and it doesn't appear that that is simply a token right to request the banded hours contract, the proposal suggests that employers will only be able to refuse these requests in limited circumstances. It's not yet clear what the circumstances will be, but I suppose using a common sense approach, this might be where work is likely to cease after a certain time.

It's also anticipated that employers will be expected to respond to the requests to move to a banded hours contract within a specified time frame. But again, what that time frame might be hasn't been confirmed. I know you've mentioned Emma, the Republic of Ireland, and we know that in the Republic of Ireland that this is four weeks for employers to respond. It might be something similar in Northern Ireland. It's important to highlight as well that a worker doesn't have to move to this kind of contract. If they want to stay on the zero-hour contract, can do so.

Emma: Yeah, that's right. This is just an option for those who are zero or low hours workers. They don't have to ask for a banded contract if it doesn't suit their life. What we also know is that there may well also be a qualifying period of service before someone could make a request for a banded hours contract. Employment lawyers are quite used to having the idea of a qualifying length of service for certain entitlements and what this looks like, is that somebody will probably have to work for a minimum length of time before they can ask to make the move. It seems likely that may be something in the region of 26 weeks, but we just don't know that's yet to be confirmed. Rolling these type of changes out could be challenging for employers in certain industries who might need to be able to flex up or down their staffing requirements at certain times.

So, we are looking forward to seeing whether there will be any exceptions to the right to request banded hours contracts.

Emmie: Yeah, agree. Zero hour contracts clearly suit the hospitality industry in most cases and banded hours might not fit their business models. For example, a bar worker could do lots of hours in a busy summer and festive period and under the new rules they could then ask for a contract with a higher band of guaranteed hours based on those busy periods. This means that they might get paid then for more hours and quieter months like January, even if there's less work to do and be expected to work when there is less work to do. So, unless the contract bands are wide enough to cover these seasonal changes, it could be hard for these types of employers, particularly in the hospitality industry to manage. There may of course be exceptions for these types of scenarios, but we will have to wait and see the detail.

Emma: Right then, so let's turn to look at the second big change which is proposed for zero hours contracts in Northern Ireland, and this is the proposal to require employers to give reasonable notice of shifts to those who are working on zero or low hours contracts. Once again with this stuff we don't actually know what is meant by reasonable notice as yet so further clarification around that is going to be needed but we do know that the aim is to stop or at least significantly curtail the sort of last minute changes of schedule that can make life and work very unpredictable and difficult for workers on these type of contracts.

Emmie: Yeah, and I think that's the whole point and I think that's a positive and fair development. Perhaps more controversially it's also proposed that workers will be entitled to some compensation if a shift is cancelled or shortened at the last. Again, the details are still to be worked out but the compensation will be proportionate to the cancellation or curtailment, and we don't expect this to exceed what the worker would have earned for that shift.

Emma: This all makes sense. And again, there are likely to be some exceptions, for example, if a shift is cancelled for reasons outside the employer's control, then you know they may not have to pay compensation, such as in circumstances where, I don't know, there's adverse weather or a storm at the last minute, health and safety problems, electricity failure, something like that, which impacts the employer's operations with no notice or very little notice.

On the other hand, if the change is because of the employer's failure to prepare or a mistake in the planning, that's within their control and it seems fair enough that different rules would apply in that case. So, whilst the requirement to give reasonable notice of changes to shifts is very similar to some proposals we've seen across in the rest of the United Kingdom, will in fact be two different sets of laws here.

If you've got operations all over the United Kingdom, you're to want to be quite careful to make sure you're applying the right zero hours legislation. And as we've talked about, the banded hours approach is something that we see in Northern Ireland, but we're not going to see it in the rest of the UK so there will need to be differences.

Emmie: Yeah, and the final and I suppose most unsurprising proposal is the ban on exclusivity clauses in contracts that don't guarantee income above the lower earnings limit which is about £125 per week. This means that workers that are on low or zero or contracts can no longer be prevented from taking on other jobs to make ends meet.

Emma: That seems fair enough, doesn't it? I mean, this is really long overdue. When you look at the rules and the rest of the United Kingdom, exclusivity clauses have been illegal for 10 years so it's time Northern Irish laws caught up on that. And it does seem unfair that if you are not guaranteed any particular hours of

work from your employer, they should, however, have the right to ban you from working for somebody else. That just doesn't pass the sniff test. So yeah, I think this makes sense.

So what does it look like all these proposals will mean for employers in Northern Ireland?

We think the biggest impact is likely to be felt in sectors like hospitality, agriculture and perhaps tourism, where zero hours contracts are more prevalent and they're often genuinely needed to help manage fluctuation in work or perhaps unexpected staff shortages.

Employers in particular in those sectors who will need to get on top of the proposals and start looking at their working practices now. So, if you use zero hours contracts in your business, you'll want to start thinking about reviewing how you use these types of contracts and practice. And ideally, you'll want to make sure that you're calling a spade a spade. And that so far as you're giving people contracts that genuinely accurately reflect what they're actually doing for you. You'll also want to keep very careful records of the hours they work and make sure that you have some sort of system in place to give staff proper notice of shifts or changes to shifts.

Emmie: Yeah, and even at the beginning of employment we need to think about onboarding documents. They might need to be amended to inform staff of their rights to request banded hours contracts. Additionally, any exclusivity clauses from contracts that fall beneath that lower earnings threshold they will need to be removed.

Emma: Yeah, I mean, when I was thinking about these proposals to prepare for this podcast, I asked some of our clients what they felt about the proposals and how it would impact them. What really came through was that they are actually expecting AI to help them out here to make it easier for them to comply with these new obligations. For example, it should be relatively straightforward to use tech to have a look at which of your employees and which part of your business are doing which hours, who's working perhaps hours more regularly that exceed their low or zero hours contracts and then you can perhaps work out which parts of the business don't really need to use those contracts and make changes. Going forward, it should also be easier to automate rotas to ensure that everybody's getting the work that they're entitled to in terms of their perhaps banded hours contracts. And similarly, to send kind of prompt notifications if things to give people good notice of changes to rotas. So generally, what I've heard is that although these proposals are going to put additional responsibilities onto employers, they are also hopeful that technology will help them to answer those, to meet those requirements and streamline their operations. So that's positive.

Emmie: I think it's important to say that there's time. These changes aren't happening straight away. The proposals need to be agreed by the executive. A draft bill isn't expected until early 2026. There also needs to be further consultation on how all of this will work in practice, like what counts as reasonable notice, how much compensation will be calculated and what exceptions might apply.

Emma: Yeah, so we don't know, the devil will be in the detail, but the direction of travel is very clear. There's going to be more protection and more certainty for our zero and low hours workers, but employers will hopefully still have quite a lot of flexibility in terms of managing the workforce and looking into tech solutions to enable them to comply with their new duties.

Emmie: I think that covers everything for today. Thank you for joining us. For more information and resources, please visit our Good Jobs dashboard on our website, which has a breakdown of all the proposals under the Good Jobs consultation alongside articles and insights.



Emma: And don't forget to watch out for our next episode in this series where we'll be looking into some other changes proposed, this time in Theme B of the Good Jobs Bill. And in particular, we'll be looking at the proposed changes to my favourite subject, holiday pay, and the introduction of a new statutory code on the right to disconnect in Northern Ireland.

So, until next time, thank you for listening and take care.