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UPDATE

Zero-hours contracts – July 2016

Update prepared by Carla Benest (Partner, Jersey) and Katie Phillips (Associate, Jersey).

A zero-hours contract can be defined as an arrangement whereby an employee agrees to be available for work as and when required, however, there is no obligation for the employer to provide work and there is equally no reciprocal obligation for the employee to accept it. zero-hours contracts have become increasingly popular in the Channel Islands which culminated in the Jersey Health and Social Security Panel (the Panel) conducting a consultation in 2015 on how they are used and misused in Jersey. This update further discusses the findings of that Panel.

The Panel presented its findings and recommendations to the States of Jersey on 11 July (please click here for a link to the full report). A summary of the key findings and recommendations are as follows:

- zero-hours contracts offer flexibility and can be beneficial for employees and employers where used appropriately. However, the Panel recommended that the Minister for Social Security actively monitor the increasing prevalence of zero-hours contracts in order to further understand why and in what circumstances such contracts are being used;
- zero-hours contracts were common in the following sectors: education, health and other services, hospitality, construction and employment agencies. The Panel recommended that agency workers working for the Social Security department for 12 months or more should be offered permanent positions;
- 77 per cent of respondents had not seen the JACS guide on zero-hours contracts. The Panel recommended the introduction of a Code of Practice to build on the JACS guide;
- 61 per cent of employees employed under a zero-hours contract for at least a year had not had their contract reviewed. The Panel recommended amendments to the Employment (Jersey) Law 2003 (the Employment Law) which would require an employer to conduct a review of the contract where an employee has been working under a zero-hours contract for a continuous period of six months on a regular basis to determine whether it is an appropriate reflection of the hours worked;
- 27 per cent of respondents reported that they were sometimes penalised and 12 per cent said they were always penalised if they turned down work. The Panel recommended the introduction of an accreditation scheme for employers who wished to demonstrate their credentials as good employers;
- 39 per cent of respondents reported being paid less than those carrying out the same role as those who are not employed by way of a zero-hours contract. The Panel recommended that the JACS guide be amended to recommend that employers must pay employees employed under a zero-hours contract the same as those employed as permanent staff;
- two thirds of respondents did not believe that they were eligible to receive paid annual leave. The Panel recommended that inspectors employed by the Social Security department should exercise increased vigilance to ensure employees employed under a zero-hours contract are receiving their additional contractual holiday pay; and
- the Panel recommended amending the Employment Law to allow for a Social Security officer to refer a zero-hours contract to the Jersey Employment and Discrimination Tribunal to determine whether the use of a zero-hours contract was appropriate.

We will keep you updated on any further developments in this area!

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