

**WRITTEN QUESTION TO THE CHIEF MINISTER
BY DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT
ANSWER TO BE TABLED ON TUESDAY 4th JUNE 2013**

Question

Further to assurances given on 14th May 2013 by his Assistant Minister, would the Chief Minister explain precisely how the new control of work and housing legislation will be applied to zero-hour contracts, given that the Employment Tribunal has declared people working in that environment cannot be classed as 'employees'?

As well as increasing compliance and monitoring to ensure that licences are adhered to, what steps, if any, is he is taking to ensure the use of zero-hour contracts is not used by firms as a means of avoiding employment legislation?

Answer

The new Control of Housing and Work (Jersey) Law, 2012, applies to zero hours contracts. The Employment Law naturally deals with a narrow definition that relates to employees who are employed under a contract of employment. In contrast, the new Control of Housing and Work (Jersey) Law applies to a broader spectrum of workers.

In particular, the new law defines "work" in Article 1 as follows:

"work" means any of the following –

- (a) work governed by a contract of employment;*
- (b) engagement in any trade, business, profession or vocation;*
- (c) the holding of an office;*
- (d) engagement by a person in any other activity described in Article 23(1)(c);**

** activity involving work or services performed for, or offered to members of the public, including a section of the public (Article 23(1)(c))*

The Law then goes on to outline in Article 24 that a person starting new work must have a registration card, with new work defined as follows:

(4) A person starts new work for the purposes of this Article –

- (a) if the person works under a contract of employment for a person for whom the person has not previously worked;*
- (b) if the person works under a contract of employment for a person for whom the person has previously worked and the continuity of the period of the person's employment has been broken within the meaning of the Employment (Jersey) Law 2003¹⁵; or*

(c) if there is no contract of employment, the person works in or for an undertaking –

(i) in or for which the person has not previously worked, or

(ii) in or for which the person has previously worked but the length of time which has elapsed since ending that work is such that the person would ordinarily be regarded as starting new work.

Article 27 then provides that:

(1) If the Minister decides to grant a business licence under Article 26(4), the Minister shall specify as a condition of the business licence –

(a) the maximum number (which may be nil) of individuals with Licensed and Registered status respectively who are permitted to work in or for the undertaking; and

(b) if any individuals with Licensed status are so permitted, each description of work which may be done by an individual with that status.

Exemptions under the Law have then been drafted to be introduced by Order, such that an undertaking does not require a licence for a person on a zero hours contract if they are not actually performing any work.

As to compliance with the Employment Law, that is a matter for the Minister for Social Security and the Employment Law, not for the Control of Housing and Work Law, but the structures of the Employment Law, including the Jersey Advice and Conciliation Service and the Employment Tribunal, have been designed to offer advice and a redress mechanism in relation to breaches of the Law, including in relation to any firms using zero-hour contracts as a means of avoiding employment legislation.