

**WRITTEN QUESTION TO THE MINISTER FOR SOCIAL SECURITY
BY DEPUTY G.P. SOUTHERN OF ST. HELIER
ANSWER TO BE TABLED ON TUESDAY 21st JANUARY 2014**

Question

Will the Minister explain what the differences are between the Guernsey and Jersey Employment Laws to which he referred in his response on 2nd December 2013 concerning the use of zero hours contracts in the two islands, and why he considers moving to the Guernsey model would be “going backwards not forwards” and, in doing so, could he indicate whether he has now taken advice from H.M. Attorney General to confirm that his information on the differences between Jersey and Guernsey legislation is correct?

Answer

Deputy Southern asks the Minister to explain the differences between the employment legislation in Jersey and Guernsey concerning the use of zero hour contracts. Having consulted colleagues in Guernsey, the Minister is satisfied that the Island’s employment laws are the same in this respect. As in the UK, the employment legislation does not define or restrict the use of zero hour contracts.

Guernsey’s employment legislation was raised in a supplementary question on 2 December 2013 when Senator Ferguson commented that “*Guernsey has virtually no zero-hours contracts, whatever the industry, and it appears to be a difference in the way the employment law is formulated.*”

The difference that Senator Ferguson was referring to relates to the Employment Protection (Guernsey) Law 1998, as amended. It provides that, where a person is employed under a **fixed term contract of one year or more**, they can be required by their employer to ‘contract out’ of the right to claim unfair dismissal. This means that where an employee is dismissed on the expiry of their fixed term contract, they do not have the right to claim unfair dismissal.

The UK previously had an equivalent provision to Guernsey, in which an employee could be required to ‘contract out’ of their right to claim unfair dismissal and statutory redundancy pay. This was removed in 2002 as a result of the Fixed Term Employees (Prevention Of Less Favourable Treatment) Regulations 2002, which had been prompted by an EU Directive. Guernsey’s 1998 law pre-dates the change in the UK. Jersey’s Employment (Jersey) Law 2003, however, was introduced after the change in the UK and so did not include such a provision. This is the Minister’s reason for believing that such a change to Jersey’s legislation would be “going backwards not forwards”.

Whilst the EU Directive does not apply to Jersey, the resurrection of a 12 year old loophole is unlikely to be internationally acceptable. The practical result would most likely be an increase in the use (and possibly misuse) of fixed-term contracts of one year or more, rather than providing a solution to concerns about the misuse of zero hour contracts.

The Minister is not aware of any figures to demonstrate the extent of the use of zero hour contracts in Guernsey. Guernsey colleagues advise that zero hour contracts do exist, but no issues have been formally raised with the Commerce and Employment Department, as yet, in regard to the inappropriate use of such contracts in Guernsey.

The Minister has not requested the Advice of the Attorney General and does not intend to consider introducing an equivalent provision relating to fixed-term contracts into the Employment (Jersey) Law 2003.