



Northern Ireland
Assembly

Committee for the Office of the First Minister
and deputy First Minister

OFFICIAL REPORT (Hansard)

Race Relations Order 1997 (Amendment)
Order (Northern Ireland) 2012

23 January 2013

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Members present for all or part of the proceedings:

Mr Mike Nesbitt (Chairperson)
Mr Chris Lyttle (Deputy Chairperson)
Mrs Brenda Hale
Mr Alex Maskey
Mr George Robinson

Witnesses:

Mr Fergus Devitt	Office of the First Minister and deputy First Minister
Mr Ken Fraser	Office of the First Minister and deputy First Minister

The Chairperson: The next briefing is on an issue that we have been at on and off for a while. Last year, we had, effectively, to endorse European legislation on equal pay for seafarers in the European Economic Area (EEA). The question arose about whether that was fair and equitable given that many of the seafarers in the local fleet are outwith the EEA and would not benefit from the protections of the European order that we endorsed. We asked officials to look at a couple of things, such as, first, how other EU states dealt with the issue of pay rates for foreign nationals in their fleets and, secondly, the implications for our fishing fleet if we were to extend the equal pay regime to all nationalities. We welcome back Fergus and Ken. Sorry for the delay, gentlemen. Presumably, you want to make a very short opening statement to cover the bases for us.

Mr Fergus Devitt (Office of the First Minister and deputy First Minister): We are very grateful for the opportunity. I will keep it short. You have given the background, Chair, so I will not go over that again.

Significant research has been undertaken, and I understand that the report is now with the Committee. You will see the work that has gone into trying to give a comprehensive picture of that. We have consulted widely to try to get as much information as we can. It appears that differential rates of pay are, in practice, accepted in most major EU maritime nations, and it usually takes account of wage levels and the cost of living in the country of recruitment when establishing rates of pay for seafarers. Even where differential pay has been outlawed, different possibilities seem to be open to shipowners to avoid the legislation that may impact on how much they pay. It is also clear from the research that any legislation here to outlaw nationality-based pay differentials would raise complex legal issues and would have to be very carefully framed. It would be very important not to breach any current EU obligations by reworking existing legislation.

An unintended consequence of legislative change could be to deprive workers from developing nations of relatively well-paid jobs. For example, extending legislation here to end nationality-based pay differentials for all seafarers may well result not in seafarers from outside the EEA and designated states being paid at the same rate as seafarers who are citizens of an EEA country but in them not being employed on vessels here at all.

We acknowledge that the implications of extending the coverage to all nationalities are difficult to predict. However, it is clear that it would impose additional costs on shipowners, and it is likely, given the competitiveness of the market, that shipowners will look to a strategy to minimise their costs. There is some evidence that, for example, the Cunard Line reflagged three of its main ships to Bermuda, and there are different suggestions about how and why that happened.

As to the possibility of amending our legislation to outlaw differential pay, there are concerns about whether a situation where GB had legislation that continued to permit differential pay and Northern Ireland did not would be workable. As you mentioned, Chair, in your previous consideration, you have been particularly interested in the impact of any changes in legislation on our fishing industry, and the paper considers that at some length. It concludes that, whether the Race Relations Order outlaws differential pay for EEA citizens only and citizens of certain designated states or outlaws it for all nationalities, it should not be an issue for the vast majority of the Northern Ireland fishing fleet. Ken and I will be happy to try to answer any questions on this technically complex area.

The Chairperson: Thanks, Fergus. I draw members' attention to page 12 of the briefing and the last two paragraphs under the heading "Costs to cover all nationalities". You say that a GB sample of 229 registered vessels came up with an estimated cost of over £500,000 per vessel per annum to extend protection.

Mr Devitt: Yes.

The Chairperson: I found that quite striking. If you apply that to the 40 vessels registered to Belfast, Coleraine, Derry/Londonderry and Newry, at over £500,000 per vessel, the total cost in additional wages is £21.5 million. What was the average crew number of those 229 GB vessels?

Mr Devitt: We do not have that information, but we can certainly find that out.

The Chairperson: What was the average crew number for the 40 Northern Ireland vessels?

Mr Devitt: Again, we do not have that information, but I imagine that they are quite similar.

The Chairperson: If you do not know, you cannot take £537,000 per vessel per annum, multiply that by 40 and say, robustly, that the cost is £21.48 million.

Mr Devitt: What we have tried to do is give an estimate based on the figures that are available.

The Chairperson: But, if you do not know the crew numbers, you could be comparing apples with pears.

Mr Devitt: What we tried to do was take a logical view that, in broad terms, the sizes of the vessels would be similar.

The Chairperson: But would they be?

Mr Devitt: Well, in broad terms. We can certainly check to see that they are. However, that is what we aimed to do in order to give some type of comparison.

Mr Ken Fraser (Office of the First Minister and deputy First Minister): It has been extraordinarily difficult for us to get any information from shipowners in Northern Ireland. We have written to them, but we have not managed to get very much.

The Chairperson: If the average crew number for the 229 GB vessels is 100 and the average crew number for the 40 Northern Ireland vessels is 10, your figures are way, way out and you do not know

whether that is true or not. You do not know whether the average crew number is 200 because of the big ships that go out of England.

Mr Devitt: As I say, we will check that and see whether we can come back to you with more detailed information.

Mr Maskey: Thanks, Fergus. I do not want to misquote you, but you said something along the lines of companies doing a lot to avoid their legal responsibilities in these matters. I know that some of that is about reflagging and stuff like that and that there is a bigger international legal framework. I am not at all comfortable with the argument that we might do this because, if we do not, we will deny somebody from a low-paying economy an opportunity to get higher wages, even if those wages are much lower than people over here get. I do not think that is our responsibility. It is like saying, "We are doing you a favour. We are letting you work because you will earn more than you would in your home country."

There is a principle involved. In my opinion, it is finding rationale for something that is not a very nice thing to do. For me, the principle has to be that if two people are working on a boat doing the same job, they are paid the same. I think that the numbers here are relatively small. I am not suggesting that it would not be a cost to the industry, but we have never really got a figure for the cost that we can all put our hands on our hearts and say, "That is a realistic figure."

I do not know how we can establish what our obligations or liabilities might be. However, I just find it very difficult to accept that we can have two people working on the back-end of a boat, with one paid more than the other because of their nationality. I do not buy that at all. I do not agree with it. I know people who work on boats. My whole family were Merchant Navy people all their lives. I just find it difficult to rationalise how we can accept that. For me, it is wrong.

Either somebody needs to tell me that we are over a barrel and cannot do anything about it or we do something about it. I am still of a mind that I want to do something about it. I do not think that I can sit here, with hand on heart, and say that this should happen just because somebody from a very poor economy can get a bit of an increase. Do not get me wrong: fair play to them, and I can understand why they would do it. However, in my view, it is just not right.

Mr Devitt: Clearly, the principle of same pay is the position that we would want to be adopted. However, there is another side of it in that there is evidence that Irish Ferries and Cunard, for example, reflagged to try to avoid this position. So, there can be unintended consequences.

The Chairperson: Alex, I take your point 100% about two people on the same boat doing the same job. However, if the consequence is that the boat does not sail because the owner cannot afford it, arguably everybody loses rather than removing the differential that should not have been there.

Mr Maskey: I understand that.

We agreed the statutory regulation here some time ago on the basis that we would revisit it. We asked the Department to revisit it. Has the Department revisited that and come back with a regulation that states the way that we are going to do this? I do not want to misrepresent the Committee, but I thought that there was a fairly strong feeling among Committee members — albeit it was not tested by a vote and people were concerned about the cost to, and viability of, the industry, as you have just referred to, Chair — that they would prefer the Department to come back and say, "We are going to revisit this, and here is what we are likely to do about it." I am not hearing that.

Mr Devitt: The evidence that the Committee has is being considered in the Department in respect of the difficulties that may be caused one way or the other by following through what you are recommending or by not taking any action. That is still under consideration. Quite a lot of research has been done to get us to this position. I take the point about the cost. We will do what we can to try to get as accurate a figure as possible.

Mr Lyttle: As it stands, in Northern Ireland, two people of different nationalities can receive different pay for doing the same job.

Mr Devitt: On a Northern Ireland-registered ship; yes.

The Chairperson: Sailing out of Belfast, Coleraine, Derry/Londonderry or Newry.

Mr Lyttle: If you replaced different nationalities with something else in this context, you get an extremely problematic scenario that we have done a lot of work to try to avoid. This is something that needs to be revisited pretty seriously and pretty quickly.

The Chairperson: Fergus, I would like some assurance about the relative crew sizes listed in those two paragraphs on page 12. Does anybody else have any other queries about the research that they would like to be followed up on? If not, Fergus, I suggest that you take a look at that and come back to us. If you come back to say that you cannot get a definitive, robust answer, we, as a Committee, will revisit it and probably, as a next step, write to the Department to seek an assurance that it is looking at it and on what is being done.

Mr Devitt: Would you be happy for us to write to the Committee with that information?

The Chairperson: Yes; absolutely. Are members content with that?

Members indicated assent.

The Chairperson: Ken and Fergus, thank you very much again. Sorry for the long afternoon; we had a lot of briefings.