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# Anti-Discrimination Legislation and Agency Workers in Northern Ireland

**Note: This Briefing Paper does not constitute legal advice and should not be taken as a substitute for such**

## 1 Introduction

This paper is written in the context of a presentation by the Northern Ireland Council for Ethnic Minorities (NICEM) to the Committee for the Office of the First Minister and deputy First Minister (OFMdfM) on 18 April 2012 in which it was stated that workers who are engaged by employment agencies outside the European Union (EU) are not protected by equality legislation in Northern Ireland<sup>1</sup>. The EU Temporary and Agency Workers Directive (2008/104/EC)<sup>2</sup> provides for greater protections for agency workers and seeks to harmonise standards across the EU.

<sup>1</sup> Committee for the First Minister and deputy First Minister Official Report (Hansard), 'Ethnic Minorities in Northern Ireland', 18 April 2012: <http://www.niassembly.gov.uk/Documents/Official-Reports/OFMdfM/Minutes-of-Evidence/Ethnic%20Minorities%20in%20Northern%20Ireland.pdf>.

<sup>2</sup> EU Temporary and Agency Workers Directive (2008/104/EC): <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:327:0009:01:EN:HTML>.

The EU Directive is implemented in Northern Ireland through the Agency Workers Regulations (Northern Ireland) 2011<sup>3</sup>. The Department for Employment and Learning (DEL) has also launched a consultation on potential changes to employment law, including that relating to recruitment agencies<sup>4</sup>.

This paper investigates potential gaps in anti-discrimination legislation in Northern Ireland relating to the employment of agency workers from outside the EU. There are issues in relation to the employment of agency workers in general, but this paper will focus solely on equality issues in relation to people from outside the EU.

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<sup>3</sup> Agency Workers Regulations (Northern Ireland) 2011: <http://www.legislation.gov.uk/nisr/2011/350/contents/made>.

<sup>4</sup> Northern Ireland Executive Press Release, 'Minister Farry opens discussion on employment law', 1 May 2012: <http://www.northernireland.gov.uk/news-del-010512-minister-farry-opens>.

## 2 Immigration Status

According to the Equality and Human Rights Commission, the basic position is that individuals who are entitled to work in the UK are entitled to all the same employment rights as any other employee<sup>5</sup>. This position is mirrored by guidance for employers from the Equality Commission for Northern Ireland<sup>6</sup>:

*The general rule is that when recruiting staff you should treat migrant workers in the same way as you treat local persons who apply to work for you.*

The rules governing the employment of non-UK or Irish nationals are complex and are excepted matters for Northern Ireland. In brief, nationals from the European Economic Area (EEA)<sup>7</sup>, with the exception of Romania and Bulgaria<sup>8</sup>, have freedom of movement and freedom of labour within the UK. Non-EEA nationals are subject to the Points Based System<sup>9</sup>, which is a complex, tiered system relating to matching immigrants to financial and employment needs categories that is subject to frequent change. The table below summarises these groupings<sup>10</sup>.

**Table 1: Registration Requirements for Non-UK Nationals**

<b>Country Grouping</b>	<b>Immigration Status</b>	<b>Registration Requirements</b>
EEA nationals	Freedom of movement and labour	No registration requirement
Romanian and Bulgarian (A2) Nationals	Freedom of movement; restricted access to the labour market	Accession Worker Card Work Permit
Non-EEA Nationals	Visa requirement; work in the UK by permission only	Points Based System

<sup>5</sup> Equality and Human Rights Commission, 'Managing Employees Who are from Outside the UK':

<http://www.equalityhumanrights.com/advice-and-guidance/before-the-equality-act/guidance-for-employers-pre-october-10/guidance-on-managing-new-and-expectant-parents/managing-employees-who-are-from-outside-the-uk/>.

<sup>6</sup> Equality Commission for Northern Ireland, 'Migrant Workers':

[http://www.equalityni.org/sections/default.asp?secid=3&cms=Employers\\_Recruiting+staff\\_guidance\\_migrant+workers&cmid=129\\_905\\_906\\_915&id=915](http://www.equalityni.org/sections/default.asp?secid=3&cms=Employers_Recruiting+staff_guidance_migrant+workers&cmid=129_905_906_915&id=915).

<sup>7</sup> The EEA consists of the 27 EU Member States plus Iceland, Liechtenstein and Norway.

<sup>8</sup> Workers from these 'A2' countries, which joined the EU in 2007, have transitional restrictions placed upon them, although these restrictions cannot be in place beyond 2014. Restrictions on eight of the ten countries which joined the EU in 2004 ('A8' countries), the Worker Registration Scheme, lapsed in 2011.

<sup>9</sup> See the UK Border Agency website: <http://www.ukba.homeoffice.gov.uk/visas-immigration/working/>.

<sup>10</sup> Derived from Equality Commission for Northern Ireland (2010), *The Role of the Recruitment Sector in the Employment of Migrant Workers: A Formal Investigation*, Belfast: ECNI, p.17.

In the case of agency workers, documentation for entry to the UK is usually organised by the agency, although this is not always the case. Immigration status is important because workers often rely on a single employer for their right to remain in the UK and, being reluctant to complain about treatment for fear of deportation, are vulnerable to abuse.

### 3 Agency Workers in Northern Ireland

This section summarises some of the issues relating to the employment of agency workers that have emerged through research in Northern Ireland. Many of the issues raised relate to agency workers regardless of origin, but agency workers from outside the UK are more vulnerable to discrimination due to their immigration status. Many of the points raised in the research, therefore, are complex and relate to both employment and anti-discrimination legislation and practice. Employment agencies are used because they provide flexibility for both employers and workers of any origin, and they provide employers with appropriately skilled workers while providing access to employment for people from outside the UK who would otherwise have had more difficulty finding work in the UK.

An accurate figure of the number of agency workers in Northern Ireland is not available, however, estimates range between 3% and 4.5% of the workforce<sup>11</sup>. Research for the Department for Employment Learning (DEL) in 2009 indicated that there were 270 recruitment agencies in Northern Ireland, through which more than 22,000 individuals were employed on a temporary basis<sup>12</sup>. Statistics are not available to accurately determine how many of these are non-UK or Irish nationals, however, 'disproportionate levels of non-nationals' are employed by recruitment agencies<sup>13</sup>.

Research published in 2007 indicated that increasing numbers of migrants were seeking work in Northern Ireland through recruitment agencies and growing numbers of employers were recognising the employment of migrant workers as routine<sup>14</sup>.

Agency work is spread unevenly across areas of employment in Northern Ireland. In the survey for DEL mentioned above, greater numbers of respondents by industry were employed in cleaning (18%), production/processing (18%), construction (14%), administration (13%) and hospitality/catering (12%). Research into the Filipino community found that 28% of respondents were employed by an agency, of which 74% were hired by an agency based in the Philippines<sup>15</sup>. A broader survey of 300 migrant workers found that 6% of respondents were employed through a recruitment agency in their home country<sup>16</sup>.

An investigation by the Equality Commission for Northern Ireland into the role of the recruitment sector in the employment of migrant workers found that such workers had different terms and conditions and pay to direct employees, many worked at the minimum wage, worked irregular hours, had little job security and there were language

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<sup>11</sup> DEL Communication, COR/160/12 16 May 2012.

<sup>12</sup> Millward Brown (2009), *The Private Recruitment Sector in Northern Ireland*, Belfast: DEL, p.4: <http://www.delni.gov.uk/index/publications/pubs-employment-rights/private-recruitment-sector-ni.htm>.

<sup>13</sup> 24% of the interview sample for the Millward Brown research were non-UK or Irish nationals, *Ibid.*, p.89.

<sup>14</sup> Neil Jarman and Jonny Byrne (2007), *New Migrant Communities in Northern Ireland*, Belfast: Institute for Conflict Research, p.32.

<sup>15</sup> Northern Ireland Council for Ethnic Minorities (2012), *Bayanihan! The Filipino Community in Northern Ireland*, Belfast: NICEM, p.4: <http://www.nicem.org.uk/eLibrary/publication/bayanihan-research-on-the-filipino-community-in-ni>.

<sup>16</sup> John Bell, Anne Caughey, Ulf Hansson, Agnieszka Martynowicz and Maura Scully (2009), *A Report on the Experiences of Migrant Workers in Northern Ireland*, Belfast: DEL, p.75: <http://www.delni.gov.uk/migrantworkersexperiences>.

and communication issues. It was noted that “irregular hours and lack of security are very much in the nature of temporary agency work”<sup>17</sup>. While there were 14 recommendations for changes to policy and practice, there were none for legislative change in Northern Ireland extending from the investigation.

Migrant workers are also represented differently in different areas of employment. The three areas of health, hospitality/catering and sea fishing are briefly considered below.

### Health

Official statistics indicate that £10,415,434 was spent on non-medical agency staff by Health Trusts between April and September 2011, although gaps in data mean that an accurate figure for the number of agency staff is not available. Of the figures available, the percentage of agency staff employed does not appear to exceed 3.3% of total employees in any one Trust. ‘Non-permanent’ contracts range from 2.5% (Belfast Trust) to 11.58% (Western Trust) of the workforce<sup>18</sup>.

Research with the Filipino community found that 74% of respondents were working in the health sector<sup>19</sup> and other research into the experiences of migrant workers had 5% of 300 respondents who were working in health-related jobs<sup>20</sup>. A further report quotes a total of 812 overseas health staff in Northern Ireland in 2005<sup>21</sup>. The same research found that 32% of 557 survey returns were from non-UK nationals and one residential home healthcare company had over 600 minority ethnic staff; some agencies had demanded fees from workers and 46% of respondents had experienced racial harassment<sup>22</sup>.

### Hospitality/Catering<sup>23</sup>

The Millward Brown research referred to above breaks down respondents for the hospitality/catering industry as 15% of migrant respondents and 11% of ‘national’ respondents<sup>24</sup>. The Bayanihan research found that 12% of respondents were working in hotels, bars and restaurants<sup>25</sup>. Research touching on the Chinese catering industry in Northern Ireland highlighted instances of abuse, such as individuals working to pay

<sup>17</sup> Equality Commission for Northern Ireland (2010), *The Role of the Recruitment Sector in the Employment of Migrant Workers in Northern Ireland: A Formal Investigation – September 2008 – March 2010*, Belfast: ECNI, pp.7, 9.

<sup>18</sup> DHSSPS (2011), *Monitoring of Human Resource Activity: Monitoring Period 1 April 2011 – 30 September 2011*, pp.20, 21, 24, 30, 33: <http://www.dhsspsni.gov.uk/index/hrd/wpu/wpu-monitoring.htm>.

<sup>19</sup> Northern Ireland Council for Ethnic Minorities (2012), *Bayanihan! The Filipino Community in Northern Ireland*, Belfast: NICEM, p.4.

<sup>20</sup> John Bell, Anne Caughey, Ulf Hansson, Agnieszka Martynowicz and Maura Scully (2009), *A Report on the Experiences of Migrant Workers in Northern Ireland*, Belfast: DEL, p.77.

<sup>21</sup> Jennifer Betts and Jennifer Hamilton (2006), *An Investigation into the Nature, Extent and Effects of Racist Behaviours Experienced by Northern Ireland’s Ethnic Minority Healthcare Staff*, Belfast: DHSSPS, p.4: <http://www.dhsspsni.gov.uk/eq-antiracism>.

<sup>22</sup> *Ibid.*, pp.5, 24, 36.

<sup>23</sup> ‘Hospitality/catering’ is taken to include work in restaurants, bars, hotels, etc., including what has been referred to as the ‘night-time economy’.

<sup>24</sup> *Ibid.*, p.90. It cannot be assumed that the sample is directly representative of the industry as a whole, but may be accepted as an indicator.

<sup>25</sup> Northern Ireland Council for Ethnic Minorities (2012), *Bayanihan! The Filipino Community in Northern Ireland*, Belfast: NICEM, p.4.

off debts and vulnerable undocumented workers with poor health and safety provisions<sup>26</sup>.

### Sea Fishing

Official statistics indicate that there were 535 full time and 113 part time seafarers employed in the Northern Ireland fishing industry in 2010<sup>27</sup>, but there is no indication of how many of these are non-UK or Irish nationals. Some sources estimate that there are around 160 Filipino fishermen working in Northern Ireland and reports have noted instances of physical and verbal abuse of migrant fishermen, extremely poor working conditions, poor or erratic payment, lack of safety concerns and coercion. Transit visas are also reportedly misused where a seafarer is engaged to join a vessel in a foreign port, but is either assigned to a different vessel than that on the visa, or is actually working in the UK<sup>28</sup>.

Non-UK seafarers have been regarded as being essential for the continued operation of the sea fishing industry in Northern Ireland, as they bring high skill and experience levels at low cost<sup>29</sup>.

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<sup>26</sup> Les Allamby, John Bell, Jennifer Hamilton, Ulf Hansson, Neil Jarman, Michael Potter and Sorina Toma (2011), *Forced Labour in Northern Ireland: Exploiting Vulnerability*, York: Joseph Rowntree Foundation, pp.41-43:

<http://www.jrf.org.uk/publications/forced-labour-northern-ireland-exploiting-vulnerability>.

<sup>27</sup> Conor McCormack (2011), *The Northern Ireland Agri-Food Sector: Key Statistics – June 2011*, Belfast: DARD, p.14:

<http://www.dardni.gov.uk/index/publications/pubs-dard-statistics/key-statistics-2011.htm>.

<sup>28</sup> Les Allamby, John Bell, Jennifer Hamilton, Ulf Hansson, Neil Jarman, Michael Potter and Sorina Toma (2011), *Forced Labour in Northern Ireland: Exploiting Vulnerability*, York: Joseph Rowntree Foundation, pp.34-5; Northern Ireland Council for Ethnic Minorities (2012), *Bayanihan! The Filipino Community in Northern Ireland*, Belfast: NICEM, p.36.

<sup>29</sup> See HC Deb 30 March 2011 Vol 526 No 142 Col 130WH:

<http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm110330/halltext/110330h0002.htm#11033065000002>; and BBC News 19 July 2011 'Jim Shannon calls for Filipino fishermen to stay in NI': <http://www.bbc.co.uk/news/uk-northern-ireland-14191543>.

## 4 Protection of Agency Workers

The spirit of the EU Agency Workers Directive is to give agency workers a right of equal treatment and pay compared with direct workers<sup>30</sup>. The EU Race Directive<sup>31</sup> applies the principle of non-discrimination broadly, without exceptions for agency workers, to (Article 3.1(a)):

*conditions for access to employment, to self-employment and to occupation, including selection criteria and recruitment conditions, whatever the branch of activity and at all levels of the professional hierarchy, including promotion*

The Agency Workers Regulations (Northern Ireland) 2011<sup>32</sup> came into force on 5 December 2011 and introduced the requirement for agency workers to enjoy the same pay and basic working conditions as directly employed staff after a 12-week qualifying period<sup>33</sup>. However, how these regulations are applied in practice to individual workers is complex<sup>34</sup>.

The conduct of employment agencies is regulated by the Employment (Miscellaneous Provisions) (Northern Ireland) Order 1981<sup>35</sup> and the Conduct of Employment Agencies and Employment Business Regulations (Northern Ireland) 2005<sup>36</sup>, as amended. Guidance by the Department for Employment and Learning (DEL) lists additional legal requirements under which agencies operate, listed at Appendix 1.

Three areas of concern have emerged with regard to anti-discrimination protections for agency workers, which are discussed below.

### 1. Lack of protection due to certain arrangements with agencies

In the case of *Bohill v. Police Service of Northern Ireland*, the Court of Appeal heard the following:

*It appears that in response to requests from the respondent, the appellant's name was included in lists of potential temporary workers compiled by Grafton and forwarded to the respondent on some 13 occasions but upon none of those occasions was the appellant recruited as a temporary worker. For various reasons the appellant has formed the view that his failure to secure such employment was the result of unlawful discrimination upon the ground of age and/or religion and/or political opinion and submitted applications to the Tribunal.*

<sup>30</sup> See Ewan McGaughey (2010), *Should Agency Workers be Treated Differently?* London School of Economics Law, Society and Economy Working Papers 07/2010: [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1610272](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1610272).

<sup>31</sup> Council Directive 2000/43/EC: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0043:en:HTML>.

<sup>32</sup> Agency Workers Regulations (Northern Ireland) 2011: <http://www.legislation.gov.uk/nisr/2011/350/contents/made>.

<sup>33</sup> Access to facilities are from the first day; equal pay after 12 weeks does not need to be granted if the worker has a contract of employment with the agency where there is payment between assignments (the 'Swedish derogation').

<sup>34</sup> See Department for Employment and Learning (2011), *Guidance on the Agency Workers Regulations (Northern Ireland) 2011*, Belfast: DEL:

<sup>35</sup> Employment (Miscellaneous Provisions) (Northern Ireland) Order 1981: <http://www.legislation.gov.uk/nisi/1981/839/contents>.

<sup>36</sup> Conduct of Employment Agencies and Employment Business Regulations (Northern Ireland) 2005: <http://www.legislation.gov.uk/nisr/2005/395/contents/made>.



The Court found that:

*In the event that the appellant had been selected as a temporary worker by the respondent he would have signed a document constituting a contract for services between himself and Grafton limited to the period during which those services were supplied to the respondent. At no time would he have been employed under a contract of service either by the respondent or by Grafton.*

Recognising that such an arrangement with an agency did not come within the jurisdiction of the Fair Employment Tribunal, Coughlin LJ in the Court of Appeal suggested a need for legislative change<sup>37</sup>:

*For the reasons set out above this appeal must be dismissed but the case does seem to illustrate how an agency arrangement may deprive potential employees of important protections against discrimination. Northern Ireland enjoys a well deserved reputation for the early development and quality of its anti-discrimination laws and this is an area that might well benefit from the attention of the section of the office of OFM/DFM concerned with legislative reform.*

While highlighted by a case relating to discrimination, this issue is not confined to agency workers from outside the UK, applying to all agency workers who are subject to discrimination on any ground. Case law has also raised this issue in England and Wales<sup>38</sup>.

## **2. Lack of protection for workers employed by an agency based outside the UK**

DEL has an enforcement role for recruitment agencies in Northern Ireland<sup>39</sup>. The Department has no remit to investigate complaints against agencies outside the UK. The Employment (Miscellaneous Provisions) (Northern Ireland) Order 1981 contains powers to allow the Department to carry out inspections and investigations of complaints arising from non-compliance with the Conduct of Employment Agencies and Employment Businesses Regulations (Northern Ireland) 2005. This legislation only applies to employment businesses and employment agencies whose offices are based in Northern Ireland<sup>40</sup>, although agencies based outside Northern Ireland can be referred to the authorities of other jurisdictions<sup>41</sup>.

Registration of agencies is only required for certain areas of employment designated under national legislation (the Gangmasters (Licensing) Act 2004)<sup>42</sup>. The situation does not appear to differ in Great Britain, but the Protection of Employees (Temporary

<sup>37</sup> *Bohill v Police Service of Northern Ireland* [2011] NICA 2 (13 January 2011): <http://www.bailii.org/nie/cases/NICA/2011/2.html>.

<sup>38</sup> *Muschett v HM Prison Service* [2010] UKEAT/0132/08/LA: <http://www.bailii.org/ew/cases/EWCA/Civ/2010/25.html>.

<sup>39</sup> This is the task of the Employment Agency Inspectorate: <http://www.delni.gov.uk/index/er/eai/complaints.htm>.

<sup>40</sup> DEL Communication COR/160/12 16 May 2012.

<sup>41</sup> Communication from DEL, 8 May 2012.

<sup>42</sup> These are the agriculture, horticultural, shellfish gathering and associated processing and packaging sectors.

Agency Work) Bill<sup>43</sup> in the Republic of Ireland appears to cover agencies based abroad also<sup>44</sup>.

A search of case law did not find any examples of this issue being tested in court.

### **3. Lack of protection for individuals recruited and employed outside the UK on a UK-registered ship**

The race relations legislation in Northern Ireland does not extend protections from discrimination on rates of pay to seafarers recruited outside the UK<sup>45</sup>. In addition, Section 40 of the National Minimum Wage Act exempts mariners who are employed wholly outside the UK and are not ordinarily resident in the UK from the provisions of the Act. The Race Relations Order 1997 (Amendment) Order (Northern Ireland) 2012<sup>46</sup>, currently under consideration by the Northern Ireland Assembly, would provide for the protection of EEA nationals, but not non-EEA nationals<sup>47</sup>, in terms of discrimination regarding rates of pay<sup>48</sup>. This is in response to a Reasoned Opinion (2006/4129) from the European Commission to the UK on 27 January 2011 that it was in breach of the EU Treaty and adjustments have already been made in the rest of the UK<sup>49</sup>.

The International Labour Organisation (ILO) Maritime Labour Convention 2006<sup>50</sup>, which provides for rights and protections for seafarers internationally, has not accrued sufficient ratifications to come into force (26 of a required 30), including non-ratification by the UK. The ILO Work in Fishing Convention 2007 (C188) has only two ratifications and is therefore also not in force<sup>51</sup>. Council Directive 1999/63/EC provides for the organisation of working times for seafarers in EU member States<sup>52</sup>. In May 2012, employers and trades union organisations in the EU signed an agreement to implement in the EU the provisions of the 2007 ILO Convention. The EU social partners intend to ask the Commission to present their agreement to the EU's Council of Ministers in order to implement it through an EU Directive<sup>53</sup>.

<sup>43</sup> Protection of Employees (Temporary Agency Work) Bill 2011:

<http://www.oireachtas.ie/viewdoc.asp?fn=/documents/bills/2011/8011/document1.htm>.

<sup>44</sup> Communication from the Oireachtas 15 May 2012.

<sup>45</sup> See advice from the National Union of Rail, Maritime and Transport Workers, 'Employment Rights for Seafarers':

<http://www.rmt-vulnerable-workers.org.uk/index.php?page=employment-rights-for-seafarers>.

<sup>46</sup> Draft Race Relations Order 1997 (Amendment) Order (Northern Ireland) 2012

<http://www.legislation.gov.uk/nidsr/2012/9780337987717/contents>.

<sup>47</sup> The practice of paying non-EEA nationals below the minimum wage continues on UK-registered ships, for example, 'P&O cruise ship staff paid basic salary of 75p an hour' in *The Guardian*, 01/05/2012:

<http://www.guardian.co.uk/business/2012/apr/29/cruise-firm-performance-bonuses-tips/print>.

<sup>48</sup> This a Statutory Rule subject to affirmative resolution, referred to the Committee for OFDdFM on 17 April 2012:

<http://www.niassembly.gov.uk/Assembly-Business/Legislation/Statutory-Rules/Affirmative-Resolution/>.

<sup>49</sup> Presented by OFMdfM to the Committee for OFMdfM 7 March 2012.

<sup>50</sup> ILO Maritime Labour Convention 2006: <http://www.ilo.org/global/standards/maritime-labour-convention/lang--en/index.htm>.

<sup>51</sup> ILO Work in Fishing Convention 2007: <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C188>.

<sup>52</sup> EU Council Directive 1999/63/EC: <http://www.eu-working-directive.co.uk/directives/1999-seafarers-directive.htm>.

<sup>53</sup> European Commission Press Release 'Working Conditions in Fisheries: Key Agreement Signed by Social Partners' 21 May 2012:

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/12/493&format=HTML&aged=0&language=EN&guiLanguage=en>.

A search of case law did not find any examples of this issue being tested in court.

## Appendix 1: Legal Requirements that Apply to Employment Agencies and Businesses in Northern Ireland<sup>54</sup>

**Employment (Miscellaneous Provisions) (Northern Ireland) Order 1981<sup>55</sup> and Conduct of Employment Agencies and Employment Business Regulations (Northern Ireland) 2005<sup>56</sup>** set the minimum standards that employment agencies based in Northern Ireland have to meet.

**The Gangmasters (Licensing) Act 2004<sup>57</sup>** establishes the Gangmasters Licencing Authority and the licensing of labour providers operating in the agriculture, horticultural, shellfish gathering and associated processing and packaging sectors.

**Race Relations (Northern Ireland) Order 1997<sup>58</sup>** which makes it unlawful to discriminate on the grounds of colour, race, nationality, ethnic or national origins.

**Immigration and Asylum** legislation seeks to prevent illegal working in the UK.

**Sex Discrimination (Northern Ireland) Order 1976<sup>59</sup>** makes it unlawful to discriminate on the grounds of sex or marriage.

**Disability Discrimination Act 1995<sup>60</sup>** makes it unlawful to discriminate against disabled employees or job applicants.

**Employment Rights (Northern Ireland) Order<sup>61</sup>** makes it unlawful to refuse access to employment on the grounds of trade union membership.

**Fair Employment and Treatment (Northern Ireland) Order 1998<sup>62</sup>** makes it unlawful to discriminate on the grounds of religious belief or political opinion.

**Employment Equality (Sexual Orientation) Regulations (Northern Ireland) 2003<sup>63</sup>** makes it unlawful to discriminate against an individual on the basis of sexual orientation.

**Rehabilitation of offenders (Northern Ireland) Order 1978<sup>64</sup>** contains provisions relating to the disclosure of criminal records and issues relating to spent convictions.

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<sup>54</sup> From Department of Employment and Learning (2008), *Conduct of Employment Agencies and Employment Businesses Regulations (Northern Ireland) 2005: A Detailed Guide*, Belfast: DEL, pp.3, 36-38.

<sup>55</sup> Employment (Miscellaneous Provisions) (Northern Ireland) Order 1981: <http://www.legislation.gov.uk/nisi/1981/839/contents>.

<sup>56</sup> Conduct of Employment Agencies and Employment Business Regulations (Northern Ireland) 2005: <http://www.legislation.gov.uk/nisr/2005/395/contents/made>.

<sup>57</sup> Gangmasters (Licensing) Act 2004: <http://www.legislation.gov.uk/ukpga/2004/11/contents>.

<sup>58</sup> Race Relations Order 1997: <http://www.legislation.gov.uk/nisi/1997/869/contents/made>. Section 9 refers to contract workers and Section 10 to defining work 'at an establishment in Northern Ireland'.

<sup>59</sup> Sex Discrimination (Northern Ireland) Order 1976: <http://www.legislation.gov.uk/nisi/1976/1042/contents>.

<sup>60</sup> Disability Discrimination Act 1995: <http://www.legislation.gov.uk/ukpga/1995/50/contents>.

<sup>61</sup> Employment Rights (Northern Ireland) Order: <http://www.legislation.gov.uk/nisi/1996/1919/contents/made>.

<sup>62</sup> Fair Employment and Treatment (Northern Ireland) Order 1998: <http://www.legislation.gov.uk/nisi/1998/3162/contents/made>.

<sup>63</sup> Employment Equality (Sexual Orientation) Regulations (Northern Ireland) 2003: <http://www.legislation.gov.uk/nisr/2003/497/contents/made>.

<sup>64</sup> Rehabilitation of offenders (Northern Ireland) Order 1978: <http://www.legislation.gov.uk/nisi/1978/1908/contents>.

**Gender Recognition Act 2004**<sup>65</sup> makes it unlawful to discriminate against an individual on the grounds of gender reassignment.

**Working Time Regulations (Northern Ireland) 1998**<sup>66</sup> which aim to ensure workers are protected against the adverse effects of working excessively long hours.

**National Minimum Wage Act 1998**<sup>67</sup> which states that workers should receive the minimum wage.

**Civil Partnership Act 2004**<sup>68</sup> which extends parity of treatment to people in same-sex relationships.

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<sup>65</sup> Gender Recognition Act 2004: <http://www.legislation.gov.uk/ukpga/2004/7/contents>.

<sup>66</sup> Working Time Regulations (Northern Ireland) 1998: <http://www.legislation.gov.uk/nisr/1998/386/contents/made>.

<sup>67</sup> National Minimum Wage Act 1998: <http://www.legislation.gov.uk/ukpga/1998/39/contents>.

<sup>68</sup> Civil Partnership Act 2004: <http://www.legislation.gov.uk/ukpga/2004/33/contents>.