

Written Ministerial Statement

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Department for Economy

GOOD JOBS EMPLOYMENT RIGHTS BILL

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Introduction

DR CAOIMHE ARCHIBALD MLA (Minister for Economy): Leas-Cheann Comhairle

Everyone benefits from Good Jobs.

A decent, reliable wage benefits workers and their families.

The flexibility to balance a career with family life means more people can stay in work, giving employers access to a larger pool of people.

More people working in better paid jobs reduces poverty and its associated societal problems, which benefits communities, as well as the public finances.

That is why creating Good Jobs is one of the key objectives in the Executive's Programme for Government.

My Department's Good Jobs agenda involves supporting businesses to become more productive, so that they are in a better position to offer Good Jobs.

It involves building our skills base, so that more people are equipped to take up those jobs.

It also involves strengthening employment legislation.

Last July my predecessor Conor Murphy launched a consultation on a Bill to promote Good Jobs.

The consultation ran for 13 weeks.

Responses were received from 25 industry representative bodies which have a combined local membership of over 18,000 individuals and businesses.

Submissions were received from 19 trade union bodies which together have a membership of around 375,000 workers.

The NUS-USI, which represents over 130,000 students and apprentices in the north of Ireland, also provided its views.

Since the consultation closed on 30 September my Department has been carefully considering the feedback.

Today I am outlining an Employment Bill which will be supported by secondary legislation, statutory Codes of Practice, and guidance.

My proposed Bill contains four themes.

Terms of Employment

The first theme is Terms of Employment.

Zero hours contracts, which provide workers with no guaranteed hours, do not provide a good basis for a stable income.

They should only be used for work that is *genuinely* casual or seasonal.

Under my Bill, people on a zero hours contract will have the right to move to a banded hours contract that reflects their average working hours.

Workers on a zero hours contract will also have the right to reasonable notice of shifts, and the right to compensation if shifts are cancelled or curtailed at short notice.

This package of measures would bring an end to exploitative zero hours contracts, where a person works regular hours but is on a zero hours contract.

Such contracts would only be permissible for work that is genuinely casual or seasonal.

Under the current law, 'workers' are not entitled to the same rights as 'employees'.

This distinction does not apply in many other European economies.

However due to its interaction with the tax system the Executive can not by itself bring an end to this categorisation.

I therefore propose to work with the British Government to end this unhelpful and unnecessary distinction.

In the meantime the Executive can address the fact that only 'employees' are entitled to a written statement of particulars, setting out their terms of employment.

My proposed Bill extends this right to 'workers' and ensures this information is made available to everyone.

It will also be provided from the first day of employment, rather than within two months as is currently the case.

My proposed Bill will also tackle the unscrupulous practice of a perfectly solvent business firing and rehiring workers on less favourable terms.

The practice known as 'fire and rehire' will only be permissible when the business can show it is not viable and the alternative is the loss of jobs.

The legislation will also strengthen obligations on employers to ensure compliance with formal notification procedures when making collective redundancies, and ensure that those responsibilities apply to companies employing people working at sea.

Under this theme I also propose better protection for agency workers.

Agency workers will be provided with clearer information about the terms of their work assignment - such as:

- the name of the company who is employing the worker
- the rate of pay that the worker will receive
- payment dates and intervals and holiday entitlement.

The loophole, known as the “Swedish derogation”, that permits agency workers to receive less pay than their permanent counterparts, even after twelve weeks in the job, will be abolished.

And the enforcement and information sharing powers available to my Department’s Employment Agency Inspectorate will be strengthened.

Pay and Benefits

The next theme is Pay and Benefits.

The emergence of new technologies has meant that the lines between work and home life has become increasingly blurred.

While workers need to be able to switch off from work, there may be a need for businesses to have flexibility to, for example, deliver services to international clients in different time zones.

More clarity is needed in this area to help workers and employers navigate these challenges.

I therefore propose to introduce a statutory Code of Practice on the Right to Disconnect.

My Department will monitor compliance with this Code of Practice and consider if legislation is required in the future.

My proposed legislation will also ensure that tips are passed on to workers in full.

This will give added reassurance to workers in hospitality and service industries that rely on tips.

As part of my legislation all workers will be legally entitled to a payslip which, if they are paid hourly, details the time worked.

The accurate recording of hours worked is already provided for in legislation.

To complement this, I intend to produce guidance for employers and workers articulating clearly these record-keeping requirements.

I propose to increase the reference period used to calculate holiday pay from 12 to 52 weeks.

This will help to avoid seasonal fluctuations and provide a fairer, more robust reference period for both employers and workers.

Voice and Representation

The third theme is voice and representation.

Many countries have a constructive relationship between trade unions and industry bodies, which recognises and promotes the shared interests of workers and employers.

Because workforces that are listened to and respected are more productive, benefiting employers also.

My officials will work with the Labour Relations Agency, trade unions and employers to strengthen the tripartite model of social dialogue.

Together we will introduce a Code of Practice, detailing the behaviours that underpin positive workplace relationships.

The LRA Engagement Forum will be used to promote collective bargaining, with the overarching aim of working towards the target in the EU Adequate Minimum Wage Directive of a collective bargaining coverage rate of 80%. The current collective bargaining coverage varies greatly between the public

and private sectors with 80% of public sector workers having their pay determined by a collective bargaining agreement – this figure falls to 20% in the private sector.

To reach this target across the economy we need to expand trade union membership.

My proposed legislation will therefore give more workers the opportunity to be represented by a recognised trade union, by lowering the recognition threshold from 21 employees in a business to ten employees.

Trade unions will be able to request access to a workplace in order to promote the benefits of trade unions, engage with members, and negotiate with employers on issues such as terms, conditions and pay.

An employer will not be permitted to *unreasonably* withhold access. The rules of engagement on workplace access will be stipulated in guidance.

At the moment, balloting must be conducted on paper, through postal votes.

My proposed Bill will modernise this practice, by permitting trade unions to use electronic balloting.

I will also consider how the existing bureaucratic requirements placed on trade unions when balloting members can be reduced.

Currently trade unions must keep detailed records of members' addresses, jobs and workplaces. Sanctions for administrative error and the provision of incorrect information are unnecessarily severe. My officials will consider in consultation with employers and trade unions what changes can be made to reduce these restrictions on trade unions when balloting their members.

My Bill also proposes to abolish the 12 week time limit on protection against dismissal for employees taking part in official industrial action.

Under the Information and Consultation of Employees Regulations 2005, employees in larger businesses can request information about the business's economic situation; employment prospects; and decisions likely to lead to changes in work organisation or contractual relations.

At least 10% of employees, and at least 15 people, must request a formal information agreement for it to be valid.

I intend to reduce this threshold to 2% of employees, and at least 10 people.

I also intend to ensure that employees of larger organisations who work in smaller offices can avail of a formal information agreement.

Work Life Balance

The final theme is 'work-life balance'.

As much as possible, people should be able to balance their work with their family and private life.

This will allow more people to stay in work, and broaden the pool of staff available to employers.

I propose to legislate to remove the current 26-week qualifying period for employees to request flexible working. Instead, it will be a Day One right.

The process will also be made easier, by removing the requirement for an employee to consider the impact of a flexible working request on the employer. Instead, the onus will be on the employer to state why their decision to refuse an application for flexible working is 'reasonable'.

At the moment only one request for flexible working can be made in a rolling 12-month period. I propose that this is increased to *two* requests each year.

Many people require flexibility in order to care for a loved one.

I propose, in the first instance, a new right for employees with caring responsibilities to take up to one week of unpaid carer's leave every 12 months to care for a family member or dependent with a long-term care need.

My objective is to make carer's leave a paid right.

I therefore propose that my Bill provides my Department with powers to enable a statutory entitlement to paid carer's leave.

This could then be introduced when the Executive can itself afford to fund paid carers leave, or if funding flows from this entitlement being introduced in Britain.

Leas-Cheann Comhairle, some babies are born requiring intensive care due to a premature birth or illness.

This is a hugely stressful time for parents.

For parents whose newborn babies require neo-natal care I plan to introduce a new legal right to up to twelve weeks leave and pay.

I propose to enhance paternity leave protections for employees with a new child (including birth, surrogacy or adoption) by permitting paternity leave to be taken as two separate blocks of one week, or a single block of two weeks.

My Bill will also increase the time in which paternity leave can be taken to 52 weeks from the current 56-day limit.

Through this bill I also propose to enable paternity leave to be taken either before or after a period of shared parental leave, and to reduce the notice period required for paternity leave from its current period of 15 weeks to 28 days.

I also wish for powers to be delegated to make it possible to increase the duration of paternity leave in future, should such an entitlement be introduced in Britain, or if the Executive can afford to fund such an entitlement.

Finally, I propose to enhance protections from redundancy and dismissal for pregnant employees, and for employees who have recently returned to work after a period of maternity, adoption, or six or more weeks of shared parental leave.

Next steps

Today I am setting out an ambitious programme, which will see the biggest upgrade in workers' rights since the Good Friday Agreement.

An end to exploitative zero hour contracts.

Paid leave during neonatal care.

More protections for agency workers.

Stronger trade union rights.

Stronger rights to flexible working.

And a fair distribution of tips.

I have this morning written to the Executive to seek its endorsement for my proposals.

I look forward to this paper being put on the Executive's agenda so that colleagues can come to a collective view.

The Executive's decisions will then be translated into a Bill, which can and should become law within the two years left in this mandate.

As the fine detail of the proposals are refined in legislation there will be further opportunities for engagement with the business community, with Trade Unions, with the Committee, and with the Assembly.

There will then be a phased period of implementation over the next mandate, to give businesses time to prepare and adapt.

My Department, in conjunction with the Labour Relations Agency, will also provide training and support to employers during the transition period.

Leas-Cheann Comhairle, this legislation will provide a sound foundation to create Good Jobs.

I hope that the Executive and this Assembly will support me in paving the road to prosperity.