



Subject:	Motion: Employment Rights (Northern Ireland) Order 1996 – Response from Minister for the Economy
Date:	22nd October, 2021
Reporting Officer:	John Walsh, City Solicitor
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Restricted Reports	
Is this report restricted?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, when will the report become unrestricted?	
After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Sometime in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

Call-in	
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

1.0	Purpose of Report/Summary of Main Issues
1.1	To consider a response to a motion calling for an amendment to the Employment Rights (Northern Ireland) Order 1996, which was passed by the Council at its meeting on 1st June.
2.0	Recommendation
2.1	The Committee is asked to note the response and take such action thereon as may be determined.
3.0	Main Report
	<u>Key Issues</u>
3.1	The Council, at its meeting on 1st June, passed the following motion, which had been proposed by Councillor Lyons and seconded by Councillor Heading:

	<p>"This Council notes with alarm the growing number of employers, especially in the retail, hospitality and aviation sectors, who are making employees redundant before reemploying them on less-favourable terms and conditions; believes that these employers should instead be focused on supporting their employees through this pandemic; agrees with Unite the union and others that this fire-and-rehire practice makes a mockery of workers' rights.</p> <p>The Council, therefore, calls on the Department for Economy to close this legal loophole as a matter of urgency, for example by amending The Employment Rights (Northern Ireland) Order 1996 to specify that such redundancies should automatically be regarded as unfair dismissals."</p>
3.2	A response has been received from the Minister for the Economy, a copy of which is attached.
3.3	The Minister begins by stating that he will continue the work of his predecessors in protecting those immediately affected by the pandemic and outlines the extent of that work. He points out that they took a number of steps to protect workers' rights in respect of ensuring that statutory family-related payments and various statutory entitlements connected with redundancy or the termination of employment were based on normal pay rather than furlough pay.
3.4	The Department had also introduced legislation to allow workers who were unable to take holiday leave as a result of the Covid-19 outbreak to carry over their annual leave into the next two leave years.
3.5	Legislation had also been introduced which had extended vital Health and Safety protections to all workers, something which had previously applied only to employees.
3.6	Significant progress had also been made towards the introduction of Parental Bereavement Leave and Pay in NI, an important new employment right for those parents in work who suffer the loss of a child.
3.7	The Minister goes on to state that, as the focus moves to recovering from the damage inflicted on the economy by the pandemic, his priority is to ensure that workers have jobs to which they can return. His Department's economic recovery action plan will help protect jobs, which, in his opinion, is the most fundamental of all employment rights.

3.8	He then stresses that, in his view, the practice of giving notice and offering a new contract known as 'fire and rehire' should not be used as a negotiation tactic. Using fire and rehire as a tactic to put undue pressure on workers to accept new and often worse terms and conditions or face losing their jobs is unacceptable.
3.9	The Minister warns employers that dismissal and rehire should only be used where there is an existential risk to the business. Even in those circumstances, employers must follow a statutory minimum dismissal procedure, and may have to follow a collective redundancy consultation process if a group of employees is involved.
3.10	He is conscious that any potential measures to address the worst excesses of fire and rehire, including legislation, must be carefully considered to ensure there are no unintended consequences particularly where those measures could lead to more redundancies. His officials will continue to liaise with their counterparts in the Department for Business, Enterprise and Industrial Strategy on this matter.
3.11	The Minister then highlights the need to remember that any employees who believe that they have been unfairly dismissed from the original contract may be able to complain to an Industrial Tribunal, providing they have at least one year's continuous service with their employer. Employees may also be able to claim redundancy if they have at least two years' service.
3.12	<p>The Minister concludes by making reference to the Labour Relations Agency - Workplace Information Service and the Law Centre as valuable sources of assistance/support.</p> <p><u>Financial and Resource Implications</u></p> <p>None associated with this report.</p> <p><u>Equality or Good Relations Implications</u></p> <p>None associated with this report.</p>
4.0	Document Attached
	Response from Minister for the Economy