

Zero Hours Contracts

Zero hour contracts (ZHCs) are a particular type of employment contract that affords flexibility to employers and employees. Specifically, ZHCs are casual work arrangements where employers are not required to provide minimum hours of work, and employees are not obliged to accept any work that is offered to them.

ZHCs are typically used in situations where employers need a temporary workforce or when employers have a variable need for staff. Some examples include:

- Unexpected or last-minute events;
- Temporary staff shortages; and
- On-call or bank work.

EMPLOYMENT STATUS

For the most part, ZHC workers enjoy a 'worker' status with the hiring employer. However, a ZHC worker status may transform into 'employee' status depending on the worker/employer relationship. Some factors to consider when evaluating whether a ZHC worker status has changed (or is in the process of changing) to an 'employee' relationship include whether the worker is subject to some form of discipline or punishment for refusing to accept all work hours offered.

Employment status is important because it determines the obligations of employers and employees in the employment relationship. For example, when work is offered and accepted, ZHC employees are entitled to some of the same benefits as regular workers, including annual leave, minimum wage laws and pay for work-related travel. However, some benefits, such as maternity leave, may not be available to ZHC workers because they accrue in proportion to the number of hours worked. Employers should review specific questions regarding entitlement to these type of benefits on a case-by-case basis.

2015 UPDATE

On 26th May 2015, new ZHC regulations made it illegal for employers to enforce 'exclusivity clauses' in ZHCs. Historically, employers had been using 'exclusivity clauses' to prevent workers from working for other employers. Specifically, the 2015 regulations provide that it is unlawful for employers to dismiss or otherwise impose a detriment on a worker who works for another employer.

To comply with ZHCs, employers should review and eliminate 'exclusivity clauses' that restrict workers from either looking or actually working for other employers.

BEST PRACTICES FOR OFFERING ZHCs

The government encourages businesses offering ZHCs to ensure that their contracts are clear and transparent, and include the following information:

- Whether the individual is an employee or worker and what employment rights he or she is entitled to
- If the individual is an employee, how statutory employment entitlements will be accrued where appropriate (for example, redundancy pay)
- The process by which work will be offered to employees and assurance that they are not obliged to accept work on every occasion if they so wish
- How the individual's contract will be brought to an end, for example, at the end of each work task or with notice given by either party

This summary is provided for general informational purposes only and does not apply to specific circumstances. It does not purport to be a comprehensive analysis of all matters relevant to its subject matter. The content should not, therefore, be regarded as constituting legal advice and not be relied upon as such. In relation to any particular problem which they may have, readers are advised to seek specific advice. Further, the law may have changed since first publication and the reader is cautioned accordingly.

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