

розроблення державних соціальних стандартів, впровадження механізму проведення експертизи законодавчих та інших нормативно-правових актів з питань договірного регулювання трудових відносин та їх відповідності потребам держави і вимогам інтеграції у міжнародні системи соціального розвитку, розробка і впровадження чіткого компенсаційного механізму в разі невиконання законодавчих гарантій.

Ключові слова: соціальна політика, поняття соціальної політики, цілі соціальної політики, правове забезпечення соціальної політики.

Ключевые слова: социальная политика, понятие социальной политики, цели социальной политики, правовое обеспечение социальной политики.

Key words: social policy, definition of social policy, aims of social policy, legal support of social policy.

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ZERO-HOURS CONTRACTS: KEY CHARACTERISTICS

New forms of work and the changing working environment are giving rise to new hazards.

Non-standard employment is an umbrella term for different employment arrangements that deviate from standard employment. They include temporary employment, part-time and on-call work, outsourcing, outstaffing, staff leasing, telework, crowdwork temporary agency work and other multiparty employment relationships.

Many modern workplaces are experimenting with accommodating changes in the workforce and the basic structure of scheduled work. There has been growing public interest in the growth of zero-hours contracts, where people are placed on a contract under which the employer is not obliged to offer regular work.

It is also worth highlighting that zero-hour contracts are where an individual is not guaranteed work and is paid only for the actual hours of work offered by the employer and carried out. Employees have to be available as and when an employer needs them.

Zero-hours contracts often don't reflect the true nature of the employment relationship. Other problems include: 1) employers having complete discretion over working hours; employees must make themselves available for work at their boss's request; they are effectively on call constantly; 2) zero-hours contract employees face great uncertainty about their working hours and income, making it harder to plan their finances and other needs such as childcare; 3) employees have reported being denied bank loans and mortgages because of the lack of guaranteed hours in their contracts; 3) job insecurity triggers stress and anxiety amongst many employees, who have bills to pay and families to support; 4) these employees are much less likely to

receive key employment rights than they are legally entitled to, such as sick and holiday pay; 5) employees who raise workplace issues or are unable to work when required by the employer, will often find their working hours reduced as a form of punishment [1].

Zero-hours contracts seem to have been widely used in industries such as tourism and retail for some time. However, they are being used increasingly across a wider range of sectors. Many teachers, journalists and lawyers are also on zero-hours contracts. Certain groups of people are more likely to be on zero-hours contracts, such as people under 25 or over 65 years of age [2].

It is often argued that zero-hours contracts offer flexibility for both the employer and the employee, but many workers say this is an illusion – it is a one-way flexibility for the employer [3].

Also, zero-hours contracts can be used to provide a flexible workforce to meet a temporary or changeable need for staff. Examples may include a need for employees to cover: unexpected or last-minute events (e.g. a restaurant needs extra staff to cater for a wedding party that just had their original venue cancel on them); temporary staff shortages (e.g. an office loses an essential specialist worker for a few weeks due to bereavement); on-call/bank work (e.g. one of the clients of a care-worker company requires extra care for a short period of time).

These types of contracts are commonly used in retail, fast food restaurants and cinemas, and other sectors that experience fluctuations in demand, such as care work or tourism.

For instance, McDonald's has emerged as potentially the biggest zero-hours employer in the private sector after admitting that it employs 90% of its entire workforce in Britain, or 82,800 staff, on the controversial terms. Zero-hours contracts have been criticized because they offer no guarantee of regular work and no stability of income [4]. However, zero-hours contracts are concentrated in accommodation and food, and health and social work.

It is important to note that the use of casual or on-demand work by declaring zero-hour contracts illegal (Ireland¹ in most cases, and Norway²), limiting the number of working hours that can be 'on request' (Germany³), or restricting the types of situations within which alternating working hours can be applied (Finland⁴) [5, p. 44].

¹ The Employment (Miscellaneous Provisions) Act 2018 outlaws, in most circumstances, the existence of zero-hour contracts. Exceptions are genuine casual work and emergency, on-call services

² On 11 June 2018, the Storting adopted amendments to the Working Environment Act on permanent employment and gave a definition of what permanent employment entails. The aim was to make zero-hour contracts illegal and to give the employee certainty in terms of work and income

³ Employers are no longer allowed to ask employees more than 25% of their weekly working hours "to be on request". If there is no agreement on the total weekly working time, the law takes 20 weekly working hours as a base for calculation

⁴ New legislation was introduced in June 2018. The amendments include, among other things, restrictions on in which situations a system with 'alternating working hours' (i.e. zero-hour contracts) can be applied. In addition, employees' working under zero-hour contracts right to paid sick leave is regulated in the new legislation.

According to analysis from the thinktank Resolution Foundation, employees across the UK are being failed by employers abusing their rights, amid a steady rise in precarious working conditions over the past decade. The report comes against a backdrop of rising use of zero-hours contracts and temporary and agency employment in the years since the 2008 financial crisis [6]. It is widely recognized that the growth in casual employment is contributing to the growth in in-work poverty and the increasing reliance by working people on food banks and pay-day loans.

Zero-hour contracts may be a dream for cost-cutting employers. But they can be a nightmare for employees. Many people on zero-hours contracts are unable to plan for their future and regularly struggle with paying bills and having a decent family life.

Work under non-standard forms of employment contracts can affect employees in a variety of ways. Empirical evidence suggests that de facto earnings of employees in non-standard forms of employment may differ from those of regular employees.

Workers employed under non-standard forms of employment contracts frequently have inadequate employment-based social security coverage, either because they are explicitly excluded from receiving coverage by law or because their short tenure, short contribution periods or low earnings may limit access to such entitlements. Although they are faced with many of the same risks as other workers, because multiple parties are involved, with the contracting agency paying the wages but the user firm giving the instructions, there is greater potential for accidents, even if responsibility for safety and health at the workplace lies with the user firm. Employees in non-standard forms of employment may experience difficulty in joining trade unions or in being covered by collective bargaining agreements [7].

Herewith, collective bargaining can play a vital role in reducing casualisation, protecting vulnerable workers from abuse.

Employment contract for an indefinite period of time should be the most common type of employment agreement. It is important to note that employers who are responsive to the desires and needs of their employees not only have more satisfied staff, but also benefit from their higher degree of motivation in carrying out their work. Improved motivation leads to higher productivity and a higher standard of work, which ultimately benefit the business.

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Ключові слова: форми зайнятості, нестандартні форми зайнятості.

Ключевые слова: формы занятости, нестандартные формы занятости.

Key words: forms of employment, non-standard forms of employment.

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СУДДЯ ЯК СУБ'ЄКТ ТРУДОВОГО ПРАВА

Під суб'єктом права розуміються фізична або юридична особа, що володіють здатністю здійснювати суб'єктивні права та нести юридичні обов'язки. Це особи, що володіють правосуб'єктністю, які можуть бути носіями прав і обов'язків, брати участь у правовідносинах. Трудове право, як і будь-яка інша галузь права, має своє коло суб'єктів, а сфера дії цієї галузі права охоплює неймовірно широкий масив професій та спеціальностей (від робітничих до державницьких), однією з яких є професія судді. Водночас у науці адміністративного права наявні позиції, що передбачають включення унормування праці суддів у сферу дії адміністративно-правового регулювання [1; 2]. Видається, що головною помилкою тих, хто розглядає необхідність унормування праці суддів у межах адміністративно-правового регулювання, є цілковите ототожнення понять «судова влада» (як гілка влади), «суд» (як державний орган), «суддя» (як найманий працівник), насправді об'єднаних виключно єдиною місією здійснення правосуддя.

Судова влада як гілка влади розглядається передусім у межах конституційного права, яке й визнає її самостійність серед інших гілок державної влади. Судова влада є специфічною гілкою державної влади, призначенням якої є розв'язання правових конфліктів та здійснення судового контролю. Суб'єктом здійснення судової влади є суд. З позицій адміністративного права термін «суд» означає особливий державний орган, уповноважений за встановленою законодавством процедурою вирішувати правові конфлікти та здійснювати судовий контроль. Судова влада належить лише судам в особі суддів, які безпосередньо й