



LEGISLATION PROPOSAL

to enact new legislation

☐

to amending existing legislation

☒

1. For the attention of the Chair of the:

- ☐ Economic Development Committee
- ☐ Education Committee
- ☐ Environmental and Natural Resources Committee
- ☐ Public Health Committee
- ☒ Social and Community Development Committee
- ☐ Other:

2. Name of Promoter: Equality and Human Rights Commission (EHRC)

Contact details: Catherine Turner
Catherine@humanrissthehena.org

Tel:22133

3. Background Information

Every year since there has been a human rights office on the island employment has been the biggest single issue. There are many people working in small businesses and particularly for contractors who have never had a contract or received a pay slip. Employees are often afraid they will lose their jobs if they complain, some have.

In addition there is no disciplinary or grievance procedure (required for businesses with over 10 employees).

However the only route to redress at the moment is to the Labour Regulating Authority and the employees are again concerned they will lose their job and have difficulty finding another as they would be labelled a trouble maker.

4. Evidence Relied on

Last financial year 2016/17 the EHRC had 195 people contact us with issues of which 25 involved private sector employment. In almost every case the matter would not have arisen had the employee received a contract and/or payslip that complied with the Employment Rights Ordinance 2012. In at least 12 of those cases the employee had been working for their employer for over 2 years. Often they are dismissed without due process. Detailed figures will be supplied, if required.

5. Details of Proposal
(attach further pages if necessary)

The current legislation reads:

Duties of Labour Regulating Authority

4. It shall be the duty of the Labour Regulating Authority—

- (a) to promote and protect the rights of employees granted under this Ordinance;
- (b) to advise the Governor in Council and any relevant Council Committee on labour protection issues;
- (c) to investigate and determine claims made by employees under this Ordinance; and
- (d) to prepare and publish guidelines on best practice and codes of practice in employment protection for employers, employees and workers.

The proposal is to extend this to allow for random checks to be made by the LRA on matters which fall under the Employment Rights Ordinance.

6. What will happen if no legislation is made

People will continue to be treated badly at work, dismissed for no reason, without due process. They will continue to be denied the paid holiday and public holidays they are entitled to. Shop workers will continue to deductions made for till shortages even for times they were not working.

7. Impact of the proposed legislation

When a complaint about an employer is made either to the EHRC, Public Solicitor, Councillors etc. or directly to the LRA it would be possible for it to be dealt with without even revealing a complaint had been made. Random checks will encourage all employers to keep up to date with regulations and encourage best practice. It will also give an opportunity to gently coach those new to business, or operating here for the first time.

8. Proposed timescales

This is a very small change so the legislation itself could be with LegCo in December. However there will need to be publicity and encouragement for employers to get up to date and for the LRA to plan its work so it should come into force on 1st April 2018

9. Promoter's Signature & date





DECISION OF THE LEGISLATIVE COMMITTEE AFTER CONSIDERATION OF THE PROPOSAL

10. Proposal considered on [date]

11. Officials & guests who discussed the proposal

12.a The Committee recommends no further action because:

or

12.b The Committee recommends that the following be done and the proposal be referred back to the Committee on [date]

or

12.c This is a mandate to the promoter to prepare drafting instructions with the following directions

13. The Committee's proposals for consultation are:

14. This proposal together with an ExCo Memo will be added as an agenda item at the ExCo on [insert date]

15. The ExCo Memo will be prepared by

16. Signature of Chair

17. Date