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## **Providing a route of redress for individuals on zero hours contracts who suffer a detriment due to taking a second job**

**Department for Business, Innovation and Skills**

**RPC rating: validated**

### **Description of proposal**

The Small Business, Enterprise and Employment Act banned the use of exclusivity clauses in employment contracts that guarantee no hours ('zero hours contracts'). Responses from the consultation with stakeholders indicated that the ban on exclusivity clauses would be circumvented by some employers. To help ensure that the ban on exclusivity clauses in zero hours contracts (ZHCs) is effective the Government proposes to use secondary legislation to provide a route of redress via the Employment Tribunal (ET) system for individuals who perceive that their employer has infringed the ban.

### **Impacts of proposal**

The Department explains that compliant employers will face ongoing costs from dealing with cases going through early conciliation, and cases that proceed through to employment tribunals. The Department estimates the average unit costs for employers when responding to early conciliation and tribunal cases is £454 and £3,600, respectively. The estimated annual cost to business is £0.11 million (2014 prices). The Department does not anticipate that there will be any upfront, one-off costs.

### **Quality of submission**

The Department estimates that there are 85,000 private sector workers on ZHCs with exclusivity clauses. This figure is an average of estimates from the Labour Force Survey and the ONS. The Department expects the proposal to result in some of these individuals claiming for redress against their employer. In the absence of more recent evidence, the impact assessment uses data from the BIS Fair Treatment at Work Survey (2008) to arrive at its best estimate that just over 300 claims would go through the employment tribunals each year. Using data from ACAS, the Department estimates that about 80 per cent will go no further than early conciliation, with the remainder going on to become ET claims.

Some costs will be incurred by employers that are non-compliant with employment law. These have not been included within the EANCB estimate. Based on

information from the survey of ET applications and the Court and Tribunal Service, the Department estimates that 32 per cent of employers facing early conciliation cases and ET claims are compliant with the law. The Department explains there will be no upfront one-off costs. Most employers and individuals rarely go through the ET system. The Department therefore assumes that they will familiarise themselves with the process as a case arises. This is in line with other cases seen by the RPC within this policy area.

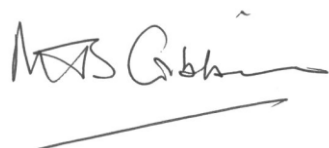
The Department acknowledges the uncertainty regarding the impact of the proposal and where there are data limitations. The Department has provided sufficient and proportionate analysis for the RPC to validate the EANCB figure.

### **Initial departmental assessment**

Classification	In scope
Equivalent annual net cost to business (EANCB)	£0.11 million
Business net present value	-£0.96 million
Societal net present value	-£1.12 million

### **RPC assessment**

Classification	IN
EANCB – RPC validated	£0.11 million
Small and micro business assessment	Not required (fast track low-cost regulation)



**Michael Gibbons CBE**, Chairman