



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

**Submission to the Department for the
Economy on the Employment Rights Bill
Consultation**

September 2024

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Summary of Recommendations

The NI Human Rights Commission recommends that:

- 2.8** the Department for the Economy ensures the Employment Rights Bill reflects CJEU caselaw relating to the Annex 1 Equality Directives, in particular EU Employment Equality (Framework) Directive, in line with the decision of the CJEU in the cases of *WABE* and *Müller*.

- 2.14** the Department for the Economy undertakes a human rights impact assessment of the draft Bill, including particular consideration of Windsor Framework Article 2.

- 2.15** the Department for the Economy builds consideration of Windsor Framework Article 2 and the principles enshrined in the EU Charter of Fundamental Rights into the development and implementation of legislation and policy on employment rights.

- 2.21** the Department for the Economy undertakes regular reviews of new EU laws relating to employment rights, with a view to ensuring employment law in NI reflects at least EU minimum standards, even where not required to do so under the Windsor Framework.

- 2.22** the Department for the Economy considers the enhancement and harmonisation of employment law on the island of Ireland and works towards ensuring North-South equivalence of rights on the island of Ireland.

- 3.7** the Department for the Economy, working with the NI Executive and NI Assembly, urgently bring forward legislation to amend NI law by June 2026, to ensure it keeps pace with those provisions of the EU Pay Transparency Directive that amend and/or replace provisions of the EU Gender Equality (Employment) Directive.

- 3.10** the Department for the Economy, working with the NI Executive and NI Assembly, ensure the Employment Rights Bill amends the definition of discrimination in relevant NI employment equality

law by June 2026, to include “intersectional discrimination” as required by the relevant provisions of the EU Pay Transparency Directive.

3.15 the Department for the Economy works with the NI Executive and NI Assembly, to bring forward urgently legislation to ensure NI employment law is amended by June 2026, as required, to keep pace with the provisions of the EU directives on binding standards for equality bodies which amend and/or replace provisions in the Annex 1 Equality Directives.

3.18 the Department for the Economy analyse the EU Directive on Combating Violence Against Women and consider if, or to what extent, it amends or replaces provisions the EU Gender Equality (Employment) Directive, and therefore engages the keeping pace obligation.

3.19 in addition to any changes required by the keeping pace obligation under the Windsor Framework, the Department for the Economy consider aligning on a voluntary basis with any enhancement to equality and human rights pursuant to the EU Directive on Combating Violence against Women and Domestic Violence.

4.7 the Department for the Economy monitor closely any changes to the EU Employment Equality (Framework) Directive, the EU Racial Equality Directive, the EU Gender Equality (Self-Employment) and EU Gender Equality (Employment) Directives, to ensure that employment law in NI keeps pace with any enhancements to rights, pursuant to Windsor Framework Articles 2 and 13.

4.8 the Department for the Economy reviews the proposed EU Directive on Platform Work and that, in addition to ensuring compliance of NI law with any dynamic alignment obligations arising, that it considers amending NI law on a voluntary basis, to align with other changes that enhance equality or human rights protections and reflect international human rights standards.

- 4.13 the Employment Rights Bill must comply with minimum standards set out in the EU Directive on part-time work, pursuant to Windsor Framework Article 2.**
- 4.20 the 'Swedish Derogation' be abolished, as proposed by the Department (A.40).**
- 4.21 the Employment Rights Bill must comply with minimum standards set out in the EU Directive on Temporary Agency Work, pursuant to Windsor Framework Article 2.**
- 4.26 the Department for the Economy legislates as proposed, to require the provision of a Key Information Document to agency workers, to improve pay transparency and make pay-related information clearer and easier to understand. (A.42-A.45)**
- 4.27 NI Employment law be amended to reflect at least the minimum requirements of the EU Pay Transparency Directive, in terms of access to pay information for part-time and agency workers, prior to employment and during the employment process, in line with Windsor Framework Articles 2 and 13.**
- 5.6 the Department for the Economy considers the EU Minimum Wages Directive to inform the Employment Rights Bill and guidance for improving collective bargaining on wage-setting in NI and that it considers amending NI law on a voluntary basis, to align with changes that enhance equality or human rights protections and reflect international human rights standards.**
- 5.10 the Department for the Economy reviews Northern Ireland public interest disclosure legislation in light of the EU Whistleblowing Directive, and considers amending NI law on a voluntary basis, to align with changes that enhance equality or human rights protections and reflect international human rights standards.**
- 6.6 the Employment Bill must comply with minimum standards laid out in the EU Pregnant Worker's Directive.**

6.12 the Employment Bill must comply with minimum standards laid out in the EU Parental Leave Directive.

6.20 the Department for the Economy ensures that, on a voluntary basis, NI law aligns with those provisions of the EU Work-Life Balance Directive that enhance equality and human rights protections and align with international human rights standards.

1.0 Introduction

- 1.1 The Northern Ireland Human Rights Commission (the NIHRC), pursuant to section 69(1) of the Northern Ireland Act 1998, reviews the adequacy and effectiveness of law and practice relating to the protection of human rights in Northern Ireland (NI). The NIHRC is also required, by section 78A(1) of the Northern Ireland Act 1998, to monitor the implementation of Article 2 of the Windsor Framework.¹ In accordance with these statutory duties, the following advice is submitted to the Department for the Economy to inform its legislative and policy development on employment rights in NI.
- 1.2 The NIHRC bases its advice on the full range of internationally accepted human rights standards, including the European Convention on Human Rights (ECHR), as incorporated by the Human Rights Act 1998, and the United Nations (UN) system and treaty obligations of the Council of Europe (CoE) and United Nations (UN).
- 1.3 The NIHRC advises on the UK Government's commitment, in Windsor Framework Article 2(1), to ensure there is no diminution of rights, safeguards and equality of opportunity in the relevant section of the Belfast (Good Friday) Agreement as a result of the UK's withdrawal from the EU. This is given effect in UK law by section 7A of the EU (Withdrawal) Act 2018. In addition, section 6 of the Northern Ireland Act 1998 provides that the NI Assembly is prohibited from making any law which is incompatible with Windsor Framework Article 2. Section 24 of the 1998 Act also provides that all acts of the Departments should be compatible with Windsor Framework Article 2.
- 1.4 The relevant EU law in the context of employment rights is:
 - EU Racial Equality Directive²

¹ The Windsor Framework was formerly known as the Protocol on Ireland/Northern Ireland to the UK-EU Withdrawal Agreement and all references to the Protocol in this document have been updated to reflect this change. See Decision No 1/2023 of the Joint Committee established by the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community of 24 March 2023 laying down arrangements relating to the Windsor Framework.

² Directive 2000/43/EC, 'Council Directive on Implementing the Principle of Equal Treatment between Persons Irrespective of Racial or Ethnic Origin', 29 June 2000.

- EU Employment Equality (Framework) Directive³
- EU Gender Equality (Employment) Directive⁴
- EU Gender Equality (Self-Employment) Directive⁵
- EU Pay Transparency Directive⁶
- two Directives on EU Binding Standards on Equality Bodies⁷
- EU Parental Leave Directive⁸
- EU Pregnant Worker’s Directive⁹
- EU Directive Concerning the Framework Agreement on Part-time Workers¹⁰
- EU Directive on Temporary Agency Work¹¹
- EU Charter of Fundamental Rights.¹²

1.5 In this submission, the NIHRC will set out its advice based on the consultation’s terms of reference focusing on EU standards in the areas covered by the consultation, some of which are referenced in the consultation.

1.6 When the Employment Rights Bill is drafted, the NIHRC will examine the provisions of the Bill in more detail and may provide further advice.

1.7 Section 2 sets out the framework explaining Windsor Framework Article 2 and the divergence of rights on the island of Ireland. Section 3 provides an overview of the EU developments in the area of

³ Directive 2000/78/EC, ‘Council Directive on Establishing a General Framework for Equal Treatment in Employment and Occupation’, 27 November 2000.

⁴ Directive 2006/54/EC, ‘EU Parliament and Council Directive on the Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation (Recast)’, 5 July 2006.

⁵ Directive 2010/41/EU, ‘EU Parliament and Council Directive on the Application of the Principle of Equal Treatment between Men and Women Engaged in an Activity in a Self-employed Capacity’, 7 July 2010.

⁶ Directive 2023/970/EU, ‘EU Parliament and Council Directive to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms’ 10 May 2023.

⁷ Directive 2024/1499/EU, ‘Council Directive on standards for equality bodies in the field of equal treatment between persons irrespective of their racial or ethnic origin, equal treatment in matters of employment and occupation between persons irrespective of their religion or belief, disability, age or sexual orientation, equal treatment between women and men in matters of social security and in the access to and supply of goods and services, and amending Directives 2000/43/EC and 2004/113/EC’, 7 May 2024; Directive 2024/1500/EU, ‘European Parliament and of the Council of on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation, and amending Directives 2006/54/EC and 2010/41/EU’, 14 May 2024.

⁸ Directive 2010/18/EU, ‘Council Directive implementing the revised Framework Agreement on parental leave’, 8 March 2010.

⁹ Directive 92/85/EEC, ‘Council Directive on the Introduction of Measures to Encourage Improvements in the Safety and Health at Work of Pregnant Workers and Workers who have Recently Given Birth or are Breastfeeding’, 19 October 1992.

¹⁰ Directive 97/81/EC, ‘Framework Agreement on part-time working concluded by UNICE, CEEP and the ETUC (trade unions)’, 15 December 1997.

¹¹ Directive 2008/104/EC, ‘EU Parliament and Council Directive on temporary agency work’, 19 November 2008.

¹² EU Charter of Fundamental Rights.

employment rights outlining overarching principles of equality and non-discrimination as defined by EU standards on equality bodies, intersectional discrimination, and gender equality. Section 4 addresses terms of employment, emphasising EU minimum standards for self-employment, agency work, and part-time work. Section 5 explores voice and representation, focusing on the divergence of rights on the island of Ireland. Section 6 presents EU minimum standards on work-life balance.

2.0 Background

Windsor Framework Article 2

2.1. Windsor Framework Article 2 requires the UK Government to ensure that no diminution of rights, safeguards and equality of opportunities contained in the relevant part of the Belfast (Good Friday) Agreement 1998 occurs as a result of the UK's withdrawal from the EU. This includes an obligation to "keep pace" with any changes made to the six Annex 1 Equality Directives¹³ which improve the minimum levels of protection available, after 1 January 2021.¹⁴

2.2. These EU Directives are the following:

- EU Racial Equality Directive¹⁵
- EU Employment Equality (Framework) Directive¹⁶
- EU Gender Goods and Services Directive¹⁷
- EU Gender Equality (Employment) Directive¹⁸

¹³ These are the Racial Equality Directive (Directive 2000/43/EC, 'Council Directive on Implementing the Principle of Equal Treatment between Persons Irrespective of Racial or Ethnic Origin', 29 June 2000); the Employment Equality (Framework) Directive (Directive 2000/78/EC, 'Council Directive on Establishing a General Framework for Equal Treatment in Employment and Occupation', 27 November 2000); the Gender Goods and Services Directive (Directive 2004/113/EC, 'Council Directive on Implementing the Principle of Equal Treatment between Men and Women in the access to and supply of goods and services', 13 December 2004); Gender Equality (Employment) Directive (Directive 2006/54/EC, 'Directive of European Parliament and of the Council on the Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation (Recast)', 5 July 2006); the Self-Employment Equality Directive (Directive 2010/41/EU, 'Directive of the European Parliament and of the Council on the Application of the Principle of Equal Treatment between Men and Women Engaged in an Activity in a Self-employed Capacity', 7 July 2010); and the Equality in Social Security Directive (Directive 79/7/EEC, 'Council Directive on the Progressive Implementation of the Principle of Equal Treatment for Men and Women in Matters of Social Security', 19 December 1978).

¹⁴ Article 13, Windsor Framework to the UK-EU Withdrawal Agreement.

¹⁵ Directive 2000/43/EC, 'Council Directive on Implementing the Principle of Equal Treatment between Persons Irrespective of Racial or Ethnic Origin', 29 June 2000.

¹⁶ Directive 2000/78/EC, 'Council Directive on Establishing a General Framework for Equal Treatment in Employment and Occupation', 27 November 2000.

¹⁷ Directive 2004/113/EC, 'Council Directive on Implementing the Principle of Equal Treatment between Men and Women in the access to and supply of goods and services', 13 December 2004.

¹⁸ Directive 2006/54/EC, 'EU Parliament and Council Directive on the Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation (Recast)', 5 July 2006.

- EU Gender Equality (Self-Employment) Directive¹⁹
- Gender Equality in Social Security Directive.²⁰

- 2.3. The NI High Court has recently considered Windsor Framework Article 2 in a number of cases. The NI High court has adopted a purposive approach to interpretation of the relevant chapter of the Belfast (Good Friday) Agreement.²¹ The NI High Court has also confirmed that “reading the BGFA as a whole, it is apparent its provisions and protections were broad in scope.”²² The High Court held that, “a narrow interpretation of ‘civil rights’ undermines the forward-facing dimension of the non-diminution commitment in article 2(1)”.²³ The High Court also rejected the argument that the rights and safeguards in the relevant part of the Belfast (Good Friday) Agreement 1998 are frozen in time and limited to the political context of 1998.²⁴ It is the NIHRC’s considered opinion that the chapter represents a wide-ranging commitment to civil, political, economic, social and cultural rights and equality of opportunity.²⁵
- 2.4. The NI High Court has separately reiterated that Windsor Framework Article 2 has direct effect, which can be relied on in the domestic courts.²⁶ The High Court further confirmed that the EU Charter on Fundamental Rights falls within the ambit of Windsor Framework Article 2 and that it “continues to have effect in UK law in circumstances where “Union law” continues to be implemented”.²⁷
- 2.5. The dynamic alignment or ‘keep pace’ obligation includes complying with current and future CJEU case law on relevant employment rights.²⁸ In a joint report with the Equality Commission for NI and the Irish Human Rights and Equality Commission, the Commission has also

¹⁹ Directive 2010/41/EU, ‘EU Parliament and Council Directive on the Application of the Principle of Equal Treatment between Men and Women Engaged in an Activity in a Self-employed Capacity’, 7 July 2010.

²⁰ Directive 79/7/EEC, ‘Council Directive on the Progressive Implementation of the Principle of Equal Treatment for Men and Women in Matters of Social Security’, 19 December 1978.

²¹ *In the Matter of an Application by Martina Dillon and Others for Judicial Review* [2024] NIKB 11, at para 547.

²² *Re NIHRC and Illegal Migration Act* [2024] NIKB 35, at para 70.

²³ *In the Matter of an Application by Martina Dillon and Others for Judicial Review* [2024] NIKB 11, at para 554.

²⁴ *In the Matter of an Application by Aman Angesom for Judicial Review* [2023] NIKB 102, at para 107; *In the Matter of an Application by Martina Dillon and Others for Judicial Review* [2024] NIKB 11, at para 4; *Re NIHRC and Illegal Migration Act* [2024] NIKB 35, at para 70.

²⁵ NI Human Rights Commission and Equality Commission for NI, ‘Working Paper: The Scope of Article 2(1) of the Ireland/ Northern Ireland Protocol’, (NIHRC and ECNI, 2022).

²⁶ *In the Matter of an Application by Aman Angesom for Judicial Review* [2023] NIKB 102, at para 91.

²⁷ *Re NIHRC and Illegal Migration Act* [2024] NIKB 35, at para 65; *In the Matter of an Application by Aman Angesom for Judicial Review* [2023] NIKB 102, at para 93.

²⁸ Article 13(3), Windsor Framework.

highlighted a number of significant CJEU case law developments since 31 December 2020 relating to the interpretation of the Annex 1 Equality Directives, which continue to have implications for how particular legal rules operate in NI.²⁹

2.6. The CJEU caselaw of relevance to the EU Employment Equality (Framework) Directive includes clarification of the concept of disability³⁰ and that there must be close scrutiny of justifications for the exclusion of persons with a disability from certain professional roles.³¹ The Court has also found that differentiating between religious symbols in some circumstances can amount to direct discrimination under Article 2(2) of the Directive, and cannot be justified, except by reference to a narrow list of occupational requirements, rather than by a commercial policy of neutrality.³²

2.7. The CJEU further ruled that the EU Directive must be interpreted as meaning that a rule prohibiting workers from wearing any visible sign of political, philosophical or religious beliefs in the workplace, does not constitute direct discrimination on the grounds of religion or belief, provided that this rule is applied in a general and undifferentiated way.³³

2.8. The NIHRC recommends that the Department for the Economy ensures the Employment Rights Bill reflects CJEU caselaw relating to the Annex 1 Equality Directives, in particular EU Employment Equality (Framework) Directive, in line with the decision of the CJEU in the cases of *WABE* and *Müller*.

2.9. The NIHRC, along with the Equality Commission for NI, has identified a number of measures which they consider amend and/or replace the EU Equality Directives in Annex 1. These include the EU Pay Transparency

²⁹ Article 13(2), Windsor Framework. See Equality Commission for NI, NI Human Rights Commission and Irish Human Rights and Equality Commission, 'Policy Recommendations: European Union developments in Equality and Human Rights: The Impact of Brexit on the divergence of rights and best practice on the island of Ireland' (ECNI, NIHRC and IHREC, 2023).

³⁰ *Szpital Kliniczny im. dra J. Babińskiego Samodzielny Publiczny Zakład Opieki Zdrowotnej w Krakowie*, Case C-16/19, 27 January 2021. The CJEU found that pursuant to Article 1 of the EU Employment Equality (Framework) Directive the definition of 'disability discrimination' should include discrimination between persons with disabilities. It also ruled under Article 2 of the EU Directive that any form of discrimination which is inextricably linked to a protected characteristic amount to direct discrimination, rather than indirect discrimination.

³¹ *TC and UB v Komisja za zashtita ot diskriminatsia and VA ('Jurors')*, Case C-824/19, 21 October 2021; *XX v Tartu Vangla*, Case C-795/19, 15 July 2021.

³² *IX v WABE eV*, Case C-804/18 and *MH Müller Handels GmbH v MJ*, Case C-341/19, 15 July 2021.

³³ *IX v WABE eV*, Case C-804/18 and *MH Müller Handels GmbH v MJ*, Case C-341/19, 15 July 2021.

Directive³⁴ and two EU directives on binding standards for equality bodies.³⁵ These Directives will be explained further below. The Commission is currently reviewing the newly adopted EU Directive on Combating Violence against Women and Domestic Violence,³⁶ to understand if, or to what extent, it amends and/or replaces provisions of the EU Gender Equality (Employment) Directive.³⁷

2.10. For other EU obligations which underpin the rights, safeguards and equality of opportunity in Windsor Framework Article 2, the UK Government commitment to ensure 'no diminution' is measured by the relevant EU standards as they were on 31 December 2020.³⁸

2.11. In addition to the Annex 1 Equality Directives, there are a number of other EU obligations which impact employment and underpin the rights and safeguards in the relevant part of the Belfast (Good Friday) Agreement. For example, key measures that the Commissions has identified so far as falling within scope of Windsor Framework Article 2 include the EU Parental Leave Directive,³⁹ the EU Pregnant Workers Directive⁴⁰ and other safeguards for part-time⁴¹ and agency workers.⁴²

2.12. Further, these EU standards must be interpreted in line with the provisions of the EU Charter for Fundamental Rights. The principles of non-discrimination and equality between men and women overarch all

³⁴ Directive 2023/970/EU, 'EU Parliament and Council Directive to strengthen the application of the principle of equal pay for equal work or work of equal value, between men and women through pay transparency and enforcement mechanisms', 10 May 2023.

³⁵ Directive 2024/1499/EU, 'Council Directive on standards for equality bodies in the field of equal treatment between persons irrespective of their racial or ethnic origin, equal treatment in matters of employment and occupation between women and men in matters of social security and in the access to and supply of goods and services, and amending Directives 2000/43/EC and 2004/113/EC', 7 May 2024; Directive (EU) 2024/1500, 'European Parliament and of the Council of on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation, and amending Directives 2006/54/EC and 2010/41/EU', 14 May 2024.

³⁶ Directive 2024/1385/EU, 'EU Parliament and Council Directive on combating violence against women and domestic violence', 14 May 2024.

³⁷ Directive 2006/54/EC, 'EU Parliament and Council Directive on the Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation (Recast)', 5 July 2006.

³⁸ UK Government, 'UK Government Commitment to No-diminution of Rights, Safeguards and Equality of Opportunity in Northern Ireland' (NIO, 2020), at para 13.

³⁹ Directive 2010/18/EU, 'Council Directive implementing the revised Framework Agreement on parental leave', 8 March 2010.

⁴⁰ Directive 92/85/EEC, 'Council Directive on the Introduction of Measures to Encourage Improvements in the Safety and Health at Work of Pregnant Workers and Workers who have Recently Given Birth or are Breastfeeding', 19 October 1992.

⁴¹ Directive 97/81/EC, 'Framework Agreement on part-time working concluded by UNICE, CEEP and the ETUC (trade unions)', 15 December 1997.

⁴² Directive 2008/104/EC, 'EU Parliament and Council Directive on temporary agency work', 19 November 2008.

aspects of employment rights and will be mentioned throughout this submission.⁴³

2.13. Recent High Court cases have confirmed the enduring role of the EU Charter of Fundamental Rights in domestic law in interpreting the UK EU Withdrawal Agreement and relevant EU law.⁴⁴ Several articles of the EU Charter of Fundamental Rights protect employment rights. For instance, Article 15 provides for the right to work and the freedom to seek employment while Article 16 establishes the right to establish a business. Article 27 specifically provides for the right of information for workers and Article 28 provides for the right of collective bargaining and action.⁴⁵ Protection from unjustified dismissal and the establishment of fair and just working conditions are also provided for in Articles 30 and 31 respectively.⁴⁶

2.14. The NIHRC recommends that the Department for the Economy undertakes a human rights impact assessment of the draft Bill, including particular consideration of Windsor Framework Article 2.

2.15. The NIHRC recommends that the Department for the Economy builds consideration of Windsor Framework Article 2 and the principles enshrined in the EU Charter of Fundamental Rights into the development and implementation of legislation and policy on employment rights.

Divergence of Rights on the island of Ireland

2.16. Given the limited legal obligation for NI equality law to keep pace with any EU changes to six Equality Directives in Annex 1 to the Windsor Framework,⁴⁷ there is the potential for equality and human rights on the island of Ireland to diverge following UK withdrawal from the EU.

⁴³ Articles 21 and 23, EU Charter of Fundamental Rights.

⁴⁴ *SSWP v AT* [2023] EW CA Civ 1307 at para. 82, *Re Angsom's (Aman) Application* [2023] NIKB 102 at para. 94, *Re NIHRC* [2024] NIKB 35 at para. 175. See also T. Lock, E. Frantziou and A. Deb, 'The Interaction between the EU Charter of Fundamental Rights and general principles with the Windsor Framework' (NIHRC, 2024).

⁴⁵ Articles 27 and 28, EU Charter of Fundamental Rights.

⁴⁶ Articles 30 and 31, EU Charter of Fundamental Rights.

⁴⁷ Article 13, Windsor Framework.

- 2.17. Under Article 2(2) of the Windsor Framework, the NIHRC, the Irish Human Rights and Equality Commission and the Equality Commission for NI work together on rights falling within Article 2 that have an island of Ireland dimension. The NIHRC takes the view that long-term North-South equivalence of rights was envisaged by the Belfast (Good Friday) Agreement and is important for the enjoyment of enjoyment of rights on a cross-border basis and access to island of Ireland and cross-border services. It also underpins North-South co-operation, consistent with Windsor Framework Article 11.
- 2.18. The NIHRC, together with the Equality Commission for NI and Irish Human Rights and Equality Commission, (the 'three Commissions'), have identified a number of developments in areas of EU law which have the potential to result in divergence of rights on the island of Ireland.⁴⁸ This includes, for example, the EU Work-life Balance Directive,⁴⁹ and the EU Accessibility Act.⁵⁰ Such EU laws will need to be implemented in law in Ireland, but NI law will not be required to align with them pursuant to the Windsor Framework.
- 2.19. It is recommended that the Department for the Economy keeps track of new and forthcoming EU developments in the area of employment to ensure that NI law aligns with changes that enhance equality or human rights protections and reflect international human rights standards. These measures include the proposed EU Directive on Platform work,⁵¹ the EU Directive on minimum wages,⁵² and the EU Whistleblowing Directive⁵³ discussed in this submission further below.
- 2.20. Prior to the withdrawal of the UK from the EU, in some areas that were not underpinned by EU law, there was already stronger protection and

⁴⁸ Sarah Craig, Anurag Deb, Eleni Frantziou, Alexander Horne, Colin Murray, Clare Rice and Jane Rooney, 'European Union developments in Equality and Human Rights: The Impact of Brexit on the divergence of rights and best practice on the island of Ireland' (ECNI, NIHRC, IHREC 2022); Equality Commission for NI, NI Human Rights Commission and Irish Human Rights and Equality Commission, 'Policy Recommendations: European Union developments in Equality and Human Rights: The Impact of Brexit on the divergence of rights and best practice on the island of Ireland' (ECNI, NIHRC and IHREC, 2023).

⁴⁹ Directive 2019/1158/EU, 'EU Parliament and Council Directive on work-life balance for parents and carers', 20 June 2019.

⁵⁰ Directive 2019/882/EU, 'EU Parliament and Council Directive on the accessibility requirements for products and services', 17 April 2019.

⁵¹ Council of the EU, 'Rights for platform workers: Council and Parliament strike deal', 22 December 2023.

⁵² Directive (EU) 2022/2041, 'European Parliament and Council Directive on adequate minimum wages in the European Union', 19 October 2022.

⁵³ Directive 2019/1937/EU, 'EU Parliament and Council Directive on the protection of persons who report breaches of Union law (Whistleblowing Directive)', 23 October 2019.

safeguards in both Ireland and Great Britain than in NI.⁵⁴ This includes in the areas of gender pay gap reporting as it will be explained further below.⁵⁵

2.21. The NIHRC recommends that the Department for the Economy undertakes regular reviews of new EU laws relating to employment rights, with a view to ensuring employment law in NI reflects at least EU minimum standards, even where not required to do so under the Windsor Framework.

2.22. The NIHRC recommends that the Department for the Economy considers the enhancement and harmonisation of employment law on the island of Ireland and works towards ensuring North-South equivalence of rights on the island of Ireland.

3.0 EU Developments in Employment Rights

3.1 In the area of employment, EU treaties set some overarching principles of equality and non-discrimination reflected in many of the measures referenced above, including the equality directives in Annex 1. The current section gives an overview of recent EU measures that develop these principles further.

EU Pay Transparency Directive

3.2 The EU Pay Transparency Directive came into force on 6 June 2023 and must be transposed by Member States by 7 June 2026.⁵⁶ The Directive aims to strengthen the existing enforcement tools and procedures regarding the rights and obligations and equal pay provisions set out in the EU Gender Equality (Employment) Directive which protects against

⁵⁴ Sarah Craig, Anurag Deb, Eleni Frantziou, Alexander Horne, Colin Murray, Clare Rice and Jane Rooney, 'European Union developments in Equality and Human Rights: The Impact of Brexit on the divergence of rights and best practice on the island of Ireland' (ECNI, NIHRC and IHREC, 2022).

⁵⁵ Equality Commission for NI, NI Human Rights Commission and Irish Human Rights and Equality Commission, 'Policy Recommendations: European Union developments in Equality and Human Rights: The Impact of Brexit on the divergence of rights and best practice on the island of Ireland' (ECNI, NIHRC and IHREC, 2023), at 37-41 and 58-61.

⁵⁶ Directive 2023/970/EU, 'EU Parliament and Council Directive to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms', 10 May 2023.

discrimination in employment on the grounds of gender and is listed in Annex 1 to the Windsor Framework.⁵⁷

- 3.3 The NIHRC and the Equality Commission for NI published a joint briefing paper⁵⁸ providing detailed analysis of the EU Pay Transparency Directive, concluding that the provisions of the Directive⁵⁹ amend and/or replace provisions in the EU Gender Equality (Employment) Directive.⁶⁰ Therefore, NI equality law must keep pace with these changes, further to the UK Government's dynamic alignment obligation pursuant to Articles 2 and 13(2) of the Windsor Framework.⁶¹ To date, the UK Government has not expressed a view on the extent to which the EU Pay Transparency Directive impacts dynamic obligations under Windsor Framework Article 2.
- 3.4 Figures from the Annual Survey of Hours and Earnings show that median hourly earnings (excluding overtime) in NI have been consistently lower for women compared to men.⁶² Even though the earning gap between men and women in NI has reduced over the past 20 years, in 2023 women in NI earned 7.8% less in comparison with men.⁶³ Moreover, the gender pay gap in NI is affected by the 'part-time effect', as part-time employees earn less on average than full-time employees and a higher proportion of part-time employees are women.⁶⁴
- 3.5 As highlighted by the Department for the Economy in the consultation document, there have been requirements on gender pay gap reporting in Great Britain since 2017⁶⁵ and Ireland has enacted the Gender Pay

⁵⁷ Directive 2006/54/EC 'EU Parliament and Council Directive on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast)', 5 July 2006.

⁵⁸ Equality Commission for NI and NI Human Rights Commission, 'Briefing Paper: The EU Pay Transparency Directive: The UK Government's dynamic alignment obligations relating to Windsor Framework Article 2' (ECNI and NIHRC, 2024)

⁵⁹ Apart from a small number of provisions of the EU Pay Transparency Directive that are no longer relevant now that the UK has left the EU.

⁶⁰ Directive 2006/54/EC, 'EU Parliament and Council Directive on the Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation (Recast)', 5 July 2006.

⁶¹ Article 13(3), Windsor Framework.

⁶² NI Statistics and Research Agency, 'Women in Northern Ireland 2020-2021' ([NISRA, 2022](#)).

⁶³ NI Statistics and Research Agency, 'Annual Survey of Hours and Earnings - Employee earnings in Northern Ireland 2023' ([NISRA, 2023](#)).

⁶⁴ NI Statistics and Research Agency, 'Annual Survey of Hours and Earnings - Employee earnings in Northern Ireland 2023' ([NISRA, 2023](#)).

⁶⁵ The Equality Act 2010 (Gender Pay Gap Information) Regulations 2017 (SI 2017/172); Regulations came into force on 6 April 2017 and apply to all private and voluntary sector employers with 250 or more employees in

Gap Information Act 2021. Section 19 of the Employment Act (NI) 2016 would implement pay transparency obligations in NI but it has not yet been brought into effect. This has resulted in a divergence of rights across the island of Ireland with NI falling behind Ireland, as well as Great Britain, with respect to gender pay transparency.⁶⁶

3.6 The EU Pay Transparency Directive aims to give effect to the ‘principle of equal pay’, enshrined in Article 157 of the Treaty on the Functioning of the EU and the prohibition of discrimination laid down in Article 4 of the EU Gender Equality (Employment) Directive, in particular through pay transparency and reinforced enforcement mechanisms.⁶⁷

Implementing the EU Pay Transparency Directive in NI law would lead to greater accountability and transparency by certain employers on gender pay gaps within their organisations. For example, the Directive introduces new obligations on certain employers in terms of pay reporting and joint pay assessments linked to ensuring compliance with the principle of equal pay.⁶⁸ It also introduces enhanced enforcement measures to improve access to justice and enforcement of rights, for example, the right of ‘equality bodies’ to engage in court or administrative procedures in support of workers regarding equal pay discrimination,⁶⁹ and strengthened rights relating to compensation.⁷⁰

3.7 The NIHRC recommends that the Department for the Economy, working with the NI Executive and NI Assembly, urgently bring forward legislation to amend NI law by June 2026, to ensure it keeps pace with those provisions of the EU Pay Transparency

England, Wales and Scotland. Public sector employers with 250 or more employees that are listed in The Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017 (SI 2017/353) are also required to publish information on their gender pay gap. These Regulations came into force on 31st March 2017.

⁶⁶ Equality Commission for NI, NI Human Rights Commission and Irish Human Rights and Equality Commission, ‘Policy Recommendations: European Union developments in Equality and Human Rights: The Impact of Brexit on the divergence of rights and best practice on the island of Ireland’ (ECNI, NIHRC and IHREC, 2023), at paras 4.45-4.46.

⁶⁷ Directive 2023/970/EU, ‘Directive of the European Parliament and of the Council of the EU to Strengthen the Application of the Principle of Equal Pay for Equal Work or Work of Equal Value between Men and Women through Pay Transparency and Enforcement Mechanisms’, 10 May 2023.

⁶⁸ Article 9 and 10, Directive 2023/970/EU, ‘EU Parliament and Council Directive to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms’ 10 May 2023. This includes that, employers with at least 100 workers must provide and report on the pay gap between female and male workers to a monitoring body, all workers and their representatives and remedy any gender pay differences that are not justified by objective and gender-neutral factors.

⁶⁹ Article 15, Directive 2023/970/EU, ‘EU Parliament and Council Directive to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms’, 10 May 2023.

⁷⁰ Article 16, Directive 2023/970/EU, ‘EU Parliament and Council Directive to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms’ 10 May 2023.

Directive that amend and/or replace provisions of the EU Gender Equality (Employment) Directive.

Intersectional Discrimination

- 3.8 NI legislation does not address cases of intersectional or multiple discrimination. Recent developments in EU law that recognise intersectional discrimination have significant implications for NI domestic law, especially in the field of employment rights.
- 3.9 In Article 3, the EU Pay Transparency Directive defines discrimination as including intersectional discrimination, which is based on a combination of sex and a number of other equality ground/s protected under EU equality directives. The EU Pay Transparency Directive recognises that individuals can experience discrimination and inequality based on the intersection of multiple identities, such as race, gender, disabilities, age, and other grounds.
- 3.10 **The NIHRC recommends that the Department for the Economy, working with the NI Executive and NI Assembly, ensure the Employment Rights Bill amends the definition of discrimination in relevant NI employment equality law by June 2026, to include “intersectional discrimination” as required by the relevant provisions of the EU Pay Transparency Directive.**

EU Binding Standards on Equality Bodies

- 3.11 In May 2024, the EU Commission adopted two directives on standards for equality bodies.⁷¹ The directives aim to strengthen equality bodies by setting minimum standards on how they operate in all grounds of discrimination and areas covered by EU equality legislative framework.
- 3.12 Four Annex 1 Equality Directives reference the minimum competencies of equality bodies in their respective field: the EU Racial Equality

⁷¹ Directive 2024/1499/EU, 'Council Directive on standards for equality bodies in the field of equal treatment between persons irrespective of their racial or ethnic origin, equal treatment in matters of employment and occupation between persons irrespective of their religion or belief, disability, age or sexual orientation, equal treatment between women and men in matters of social security and in the access to and supply of goods and services, and amending Directives 2000/43/EC and 2004/113/EC', 7 May 2024; Directive (EU) 2024/1500, 'European Parliament and of the Council of on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation, and amending Directives 2006/54/EC and 2010/41/EU', 14 May 2024.

Directive;⁷² the EU Gender Equality Directive in the field of goods and services;⁷³ the EU Gender Equality Directives in the field of employment⁷⁴ and self-employment.⁷⁵

3.13 The UK Government has recognised that these EU directives fall within the scope of Windsor Framework Article 2.⁷⁶ The development and adoption of EU legislation on binding standards for equality bodies is a significant and important step to ensure that EU equality legislation is better applied, reducing opportunities for any divergence of rights across jurisdictions where such legislation applies, including NI.⁷⁷

3.14 The standards outlined in the EU directives are minimum standards and the NI Executive could introduce legislation that goes beyond these standards, aligned to international human rights standards. These two directives have to be transposed by June 2026.⁷⁸

3.15 The NIHRC recommends that the Department for the Economy works with the NI Executive and NI Assembly, to bring forward urgently legislation to ensure NI employment law is amended by June 2026, as required, to keep pace with the provisions of the EU directives on binding standards for equality bodies which amend and/or replace provisions in the Annex 1 Equality Directives.

⁷² Directive 2000/43/EC, 'Council Directive implementing the principle of equal treatment between persons irrespective of racial or ethnic origin', 29 June 2000.

⁷³ Directive 2004/113/EC, 'Council Directive on Implementing the Principle of Equal Treatment between Men and Women in the access to and supply of goods and services', 13 December 2004.

⁷⁴ Directive 2006/54/EC, 'EU Parliament and Council Directive on the Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation (Recast)', 5 July 2006.

⁷⁵ Directive 2010/41/EU, 'EU Parliament and Council Directive on the Application of the Principle of Equal Treatment between Men and Women Engaged in an Activity in a Self-employed Capacity', 7 July 2010.

⁷⁶ Letter from the Minister of State for NI, Steve Baker MP, to the House of Lords Sub Committee on the Protocol on Ireland/Northern Ireland, 18 September 2022.

⁷⁷ Equality Commission for NI, NI Human Rights Commission and Irish Human Rights and Equality Commission, 'Policy Recommendations: European Union developments in Equality and Human Rights: The Impact of Brexit on the divergence of rights and best practice on the island of Ireland' (ECNI, NIHRC and IHREC, 2023).

⁷⁸ Article 25, Directive 2024/1499/EU, 'Council Directive on standards for equality bodies in the field of equal treatment between persons irrespective of their racial or ethnic origin, equal treatment in matters of employment and occupation between persons irrespective of their religion or belief, disability, age or sexual orientation, equal treatment between women and men in matters of social security and in the access to and supply of goods and services, and amending Directives 2000/43/EC and 2004/113/EC', 7 May 2024; Article 24, Directive (EU) 2024/1500, 'European Parliament and of the Council of on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation, and amending Directives 2006/54/EC and 2010/41/EU', 14 May 2024.

EU Directive on Combating Violence against Women

- 3.16 In May 2024, the EU Directive on Combating Violence against Women and Domestic Violence was adopted.⁷⁹ The Directive constitutes the first piece of EU legislation which specifically addresses these issues. The directive makes particular provision for specialist support for victims of sexual harassment at work⁸⁰ and for managers and supervisors to receive training on how to recognise, prevent and address sexual harassment at work.⁸¹
- 3.17 NIHRC is currently examining the extent to which the EU Directive on Combating Violence against Women and Domestic Violence amends and/or replaces provisions of the EU Gender Equality (Employment) Directive.⁸²
- 3.18 The NIHRC recommends that the Department for the Economy analyse the EU Directive on Combating Violence Against Women and consider if, or to what extent, it amends or replaces provisions the EU Gender Equality (Employment) Directive, and therefore engages the keeping pace obligation.**
- 3.19 The NIHRC recommends that, in addition to any changes required by the keeping pace obligation under the Windsor Framework, the Department for the Economy consider aligning on a voluntary basis with any enhancement to equality and human rights pursuant to the EU Directive on Combating Violence against Women and Domestic Violence.**

⁷⁹ Directive 2024/1385/EU, 'EU Parliament and Council Directive on combating violence against women and domestic violence', 14 May 2024.

⁸⁰ Article 28 and Recital 65, Directive 2024/1385/EU, 'EU Parliament and Council Directive on combating violence against women and domestic violence', 14 May 2024.

⁸¹ Article 36, Directive 2024/1385/EU, 'EU Parliament and Council Directive on combating violence against women and domestic violence', 14 May 2024.

⁸² Directive 2006/54/EC, 'EU Parliament and Council Directive on the Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation (Recast)', 5 July 2006.

4.0. Terms of employment

4.1 This section outlines some key EU minimum standards falling in scope of Windsor Framework Article 2 that must be adhered to in NI domestic law in terms of self-employment,⁸³ part-time⁸⁴ and agency work.⁸⁵

Self-employment

4.2 The consultation highlights the issue of “bogus” self-employment which refers to a situation where a person is contracted as self-employed but is, in reality, a worker. This misclassification can be accidental or intentional and can be challenged in an industrial tribunal.⁸⁶

4.3 As the Department for the Economy has no specific proposals at this stage and is seeking input to shape policy, it’s important to note that EU law on self-employment provides for non-discrimination between social groups or on equality grounds. In addition to the EU Gender Equality (Self-Employment) Directive,⁸⁷ the EU Employment Equality (Framework) Directive,⁸⁸ the EU Racial Equality Directive⁸⁹ and EU Gender Equality (Employment) Directive are relevant.⁹⁰ All of these directives are Annex 1 Equality Directives, and so fall within the keeping pace obligation explained above.

4.4 The EU Employment Equality (Framework) Directive protects against discrimination in employment on grounds of age, sexual orientation, gender and disability.⁹¹ The EU Racial Equality Directive⁹² protects against discrimination on the ground of race and ethnic origin in

⁸³ Directive 2010/41/EU, ‘EU Parliament and Council Directive on the Application of the Principle of Equal Treatment between Men and Women Engaged in an Activity in a Self-employed Capacity’, 7 July 2010.

⁸⁴ Directive 97/81/EC, ‘Framework Agreement on part-time working concluded by UNICE, CEEP and the ETUC (trade unions)’, 15 December 1997.

⁸⁵ Directive 2008/104/EC, ‘EU Parliament and Council Directive on temporary agency work’, 19 November 2008.

⁸⁶ Department for the Economy, ‘The Good Jobs Employment Rights Bill Public Consultation’ (DfE, 2024), at 26.

⁸⁷ Directive 2010/41/EU, ‘EU Parliament and Council Directive on the Application of the Principle of Equal Treatment between Men and Women Engaged in an Activity in a Self-employed Capacity’, 7 July 2010.

⁸⁸ Directive 2000/78/EC, ‘Council Directive on Establishing a General Framework for Equal Treatment in Employment and Occupation’, 27 November 2000.

⁸⁹ Directive 2000/43/EC, ‘Council Directive on Implementing the Principle of Equal Treatment between Persons Irrespective of Racial or Ethnic Origin’, 29 June 2000.

⁹⁰ Directive 2006/54/EC, ‘EU Parliament and Council Directive on the Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation (Recast)’, 5 July 2006.

⁹¹ Directive 2000/78/EC, ‘Council of the EU Directive on Establishing a General Framework for Equal Treatment in Employment and Occupation’, 27 November 2000. See also Letter from the Minister of State for NI, Steve Baker MP, to the Chair of the House of Lords Sub Committee on the Protocol on Ireland/Northern Ireland, 18 September 2022.

⁹² Directive 2000/43/EC, ‘Council Directive on Implementing the Principle of Equal Treatment between Persons Irrespective of Racial or Ethnic Origin’, 29 June 2000.

employment and occupation, among other areas.⁹³ The directive includes conditions for access to self-employment within its scope, prohibiting direct and indirect discrimination as well as harassment.⁹⁴ The EU Gender Equality (Employment) Directive⁹⁵ provides for equality between women and men in employment, work, and pay.

- 4.5 The EU Gender Equality (Self-Employment) Directive provides for the principle of equal treatment and non-discrimination in both the private and public sectors.⁹⁶ It also covers also harassment and sexual harassment that are deemed as discriminatory behaviour. Further, it provides for maternity benefits “enabling interruptions in their occupational activity owing to pregnancy or motherhood for at least 14 weeks” for self-employed female workers and female spouses and life partners referred to in Article 2.⁹⁷

Digital Platform Work

- 4.6 As acknowledged by the Department for the Economy, the proposed EU Directive on Platform Work addresses issues within the scope of the current consultation.⁹⁸ Following inter-institutional negotiations, the proposal for a Directive was adopted in April 2024 by the European Parliament and is subject to formal adoption by the Council.⁹⁹ It would regulate employment rights in the ‘gig economy’ and provide guidance as to when a worker in this context should be treated as an employee and so entitled to greater protections. It will also regulate the use of algorithms by digital labour platforms.¹⁰⁰ Subject to the outcome of the current consultation, the Directive has the potential to increase divergence of rights on the island of Ireland. The NIHRC will consider the human rights implications of the final text of the Directive, including

⁹³ Article 2, Directive 2000/43/EC, ‘Council Directive on Implementing the Principle of Equal Treatment between Persons Irrespective of Racial or Ethnic Origin’, 29 June 2000.

⁹⁴ Article 3, Directive 2000/43/EC, ‘Council Directive on Implementing the Principle of Equal Treatment between Persons Irrespective of Racial or Ethnic Origin’, 29 June 2000.

⁹⁵ Directive 2006/54/EC, ‘EU Parliament and Council Directive on the Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation (Recast)’, 5 July 2006.

⁹⁶ Article 4, Directive 2010/41/EU, ‘EU Parliament and Council Directive on the Application of the Principle of Equal Treatment between Men and Women Engaged in an Activity in a Self-employed Capacity’, 7 July 2010.

⁹⁷ Article 8, Directive 2010/41/EU, ‘EU Parliament and Council Directive on the Application of the Principle of Equal Treatment between Men and Women Engaged in an Activity in a Self-employed Capacity’, 7 July 2010.

⁹⁸ Department for the Economy, ‘The Good Jobs Employment Rights Bill Public Consultation’ (DfE, 2024), at 27.

⁹⁹ European Parliament Legislative Observatory, 2021/0414 (COD), Improving working conditions of persons working through digital labour platforms.

¹⁰⁰ Council of the EU, ‘Platform workers: Council confirms agreement on new rules to improve their working conditions’ 11 March 2024.

any potential interaction with the Annex 1 Equality Directives, given provisions relating to protection from discrimination.¹⁰¹

- 4.7 The NIHRC recommends that the Department for the Economy monitor closely any changes to the EU Employment Equality (Framework) Directive, the EU Racial Equality Directive, the EU Gender Equality (Self-Employment) and EU Gender Equality (Employment) Directives, to ensure that employment law in NI keeps pace with any enhancements to rights, pursuant to Windsor Framework Articles 2 and 13.**
- 4.8 The NIHRC recommends that the Department for the Economy reviews the proposed EU Directive on Platform Work and that, in addition to ensuring compliance of NI law with any dynamic alignment obligations arising, that it considers amending NI law on a voluntary basis, to align with other changes that enhance equality or human rights protections and reflect international human rights standards.**

Part-time workers

- 4.9 The NIHRC along with the Equality Commission for NI have identified the EU Part-Time Work Directive as falling within scope of Windsor Framework Article 2.¹⁰² It bound the UK prior to leaving the EU and there should be no diminution of the minimum standards it requires. The EU Directive implements the Framework Agreement on part-time work agreed between the EU's employers and trade unions.¹⁰³ The Framework Agreement (annexed to the Directive) aims to remove unjustified discrimination against part-time workers and improve the quality of part-time employment.¹⁰⁴ It also encourages the voluntary expansion of part-time work, allowing employees and employers to arrange working hours in a way that suits both parties' needs.

¹⁰¹ European Parliament Legislative Observatory, 2021/0414 (COD), Improving working conditions of persons working through digital labour platforms, Documentation Gateway, Text adopted by Parliament, 1st reading/single reading, 24 April 2024, at Recitals 2, 48, 49 and Article 10.

¹⁰² Directive 97/81/EC, 'Framework Agreement on part-time working concluded by UNICE, CEEP and the ETUC (trade unions)', 15 December 1997.

¹⁰⁴ Clause 1, Directive 97/81/EC, 'Framework Agreement on part-time working concluded by UNICE, CEEP and the ETUC (trade unions)', 15 December 1997.

4.10 Further, the Framework Agreement stipulates that part-time workers cannot be treated less favourably than comparable full-time workers solely due to their part-time status, unless there is an objective justification.¹⁰⁵ Specific employment conditions may be linked to factors such as length of service, hours worked, or earnings level, following a consultation of employers and their trade unions. Any legal or administrative barriers that limit opportunities for part-time employment should be reviewed and, where appropriate, eliminated. Additionally, a worker's refusal to transition between full-time and part-time work should not be considered grounds for dismissal.¹⁰⁶

4.11 In terms of the duties of employers, the Framework Agreement enforced by the EU Directive stipulates that employers should consider the following:

- requests to transfer from full-time work to any part-time work that becomes available;
- requests to transfer from part-time to full-time or to increase working time where the opportunity arises;
- providing timely information on the availability of part-time and full-time jobs.

4.12 The EU Part-Time Work Directive establishes minimum standards that NI domestic employment law must uphold. While these are the baseline requirements, it is advisable for the Department to consider including higher standards or additional safeguards where possible.

4.13 The NIHRC advises that the Employment Rights Bill must comply with minimum standards set out in the EU Directive on part-time work, pursuant to Windsor Framework Article 2.

Agency workers

4.14 According to the Department for the Economy, a gap currently exists in the Agency Workers Regulations (Northern Ireland) 2011,¹⁰⁷ which

¹⁰⁵ Clause 4, Directive 97/81/EC, 'Framework Agreement on part-time working concluded by UNICE, CEEP and the ETUC (trade unions)', 15 December 1997.

¹⁰⁶ Clause 5, Directive 97/81/EC, 'Framework Agreement on part-time working concluded by UNICE, CEEP and the ETUC (trade unions)', 15 December 1997.

¹⁰⁷ Agency Workers Regulations (Northern Ireland) 2011.

jeopardises agency workers' rights to pay parity with other workers at the same workplace after a qualifying period of twelve weeks.¹⁰⁸

4.15 The consultation notes that some operators in the sector exploit this gap by:

- paying agency workers at a lower rate than those performing the same job at the same company, indefinitely, bypassing the twelve-week qualifying period that would otherwise ensure pay parity;
- organising workers' assignments in a way that prevents them from ever qualifying for pay between assignments.

4.16 The NIHRC along with the Equality Commission for NI have identified the EU Directive on Temporary Agency Work as falling within scope of Windsor Framework Article 2. It bound the UK prior to leaving the EU and there should be no diminution of these minimum standards. The EU Directive provides for the principle of equal treatment in Article 5. It stipulates that temporary agency workers should be entitled to the same basic working and employment conditions, for the duration of their assignment, that would apply if they had been recruited directly for the same job.¹⁰⁹ Article 5 also provides for an exemption to be made to the principle of equal treatment, in the case of temporary agency workers holding a permanent contract of employment with an agency, who may continue to be paid in between their assignments.¹¹⁰

4.17 Closing the 'Swedish Derogation' loophole on unequal pay and pay between assignments, as proposed, would be consistent with the objectives of Article 5 and would ensure no breach of Windsor Framework Article 2.

4.18 That principle of equal treatment protects vulnerable groups including pregnant and nursing women as well as children and young people. Equality and non-discrimination on the basis of sex, race or ethnic origin, religion, beliefs, disabilities, age or sexual orientation must be

¹⁰⁸ Department for the Economy, 'The Good Jobs Employment Rights Bill Public Consultation' (DFE, 2024), at 39.

¹⁰⁹ Article 5, Directive 2008/104/EC, 'EU Parliament and Council Directive on temporary agency work', 19 November 2008.

¹¹⁰ Article 5, Directive 2008/104/EC, 'EU Parliament and Council Directive on temporary agency work', 19 November 2008.

taken into account in terms of temporary agency work and coded by legislation, regulations or administrative provisions.

4.19 The EU Directive on Temporary Agency Work, which falls within the scope of Windsor Framework Article 2, sets minimum standards that NI domestic employment law must meet and may be instructive on the matter of addressing the loophole identified in the consultation.

4.20 The NIHRC recommends that the 'Swedish Derogation' be abolished, as proposed by the Department (A.40).

4.21 The NIHRC advises that the Employment Rights Bill must comply with minimum standards set out in the EU Directive on Temporary Agency Work, pursuant to Windsor Framework Article 2.

Pay transparency for agency and part-time workers

4.22 The consultation highlights that most breaches of relevant legislation identified by the Employment Agency Inspectorate involve disputed interpretation of employment terms especially those relating to pay.¹¹¹ Although agencies must meet requirements on employment terms set out in Regulations, the lack of guidelines on presentation leads to inconsistencies and confusion for workers. The consultation seeks views on whether the law should be changed to require the production of a Key Information Document (KID) where all assignment pay details would be included, making it easier for job seekers to understand job conditions, compare offers, and have access to the Employment Agency Inspectorate's contact information for support.

4.23 While the EU Pay Transparency Directive is designed to address gender pay gap and reporting, it creates pay transparency obligations that also apply to temporary agency workers.¹¹² Article 5 requires pay transparency prior to employment in to ensure "informed and transparent negotiation on pay". Further, Article 5 of the Directive stipulates that employers may not ask applicants about their pay history

¹¹¹ Department for the Economy, 'The Good Jobs Employment Rights Bill Public Consultation' (DfE, 2024), at 41.

¹¹² Recital 18, Directive 2023/970/EU, 'Directive of the European Parliament and of the Council of the EU to Strengthen the Application of the Principle of Equal Pay for Equal Work or Work of Equal Value between Men and Women through Pay Transparency and Enforcement Mechanisms', 10 May 2023.

during their current or previous employment relationships and that the recruitment process is led in “a non-discriminatory manner, in order not to undermine the right to equal pay for equal work or work of equal value (the ‘right to equal pay’).”¹¹³

4.24 Articles 6 and 7 of the EU Directive respectively provide for transparency of pay setting and pay progression and the right to information.¹¹⁴ That information should be accessible to persons with disabilities, according to Article 8 of the Directive.¹¹⁵ All of these aforementioned provisions and safeguards provided for by the EU Pay Transparency Directive also apply to part-time workers.¹¹⁶ These provisions should be read in light of Article 27 of the EU Charter of Fundamental Rights, in respect of workers’ rights to information.

4.25 All of these safeguards in relation to transparency around pay, provided for in the EU Pay Transparency Directive must be incorporated in NI domestic law as explained above.

4.26 The NIHRC recommends that the Department for the Economy legislates as proposed, to require the provision of a Key Information Document to agency workers, to improve pay transparency and make pay-related information clearer and easier to understand. (A.42-A.45)

4.27 The NIHRC recommends that NI Employment law be amended to reflect at least the minimum requirements of the EU Pay Transparency Directive, in terms of access to pay information for part-time and agency workers, prior to employment and during the employment process, in line with Windsor Framework Articles 2 and 13.

¹¹³ Article 5, Directive 2023/970/EU, ‘Directive of the European Parliament and of the Council of the EU to Strengthen the Application of the Principle of Equal Pay for Equal Work or Work of Equal Value between Men and Women through Pay Transparency and Enforcement Mechanisms’, 10 May 2023.

¹¹⁴ Articles 6 and 7, Directive 2023/970/EU, ‘Directive of the European Parliament and of the Council of the EU to Strengthen the Application of the Principle of Equal Pay for Equal Work or Work of Equal Value between Men and Women through Pay Transparency and Enforcement Mechanisms’, 10 May 2023.

¹¹⁵ Article 8, Directive 2023/970/EU, ‘Directive of the European Parliament and of the Council of the EU to Strengthen the Application of the Principle of Equal Pay for Equal Work or Work of Equal Value between Men and Women through Pay Transparency and Enforcement Mechanisms’, 10 May 2023.

¹¹⁶ Recital 18, Directive 2023/970/EU, ‘Directive of the European Parliament and of the Council of the EU to Strengthen the Application of the Principle of Equal Pay for Equal Work or Work of Equal Value between Men and Women through Pay Transparency and Enforcement Mechanisms’, 10 May 2023.

5.0. Voice and Representation

5.1 Recent EU measures relevant to voice and representation, are outlined below. The NIHRC is still considering whether, or to what extent, these measures interact with the dynamic alignment obligation arising from Windsor Framework Articles 2 and 13. Even where keeping pace is not required under the Windsor Framework, the incorporation of enhanced minimum standards in NI law could contribute to harmonisation of equality and human rights standards on the island of Ireland.

EU Minimum Wages Directive

5.2 The EU Minimum Wages Directive sets minimum standards and procedural obligations regarding the setting of minimum wages and promotes collective bargaining. It is designed to contribute to a decent standard of living, reduce in-work poverty, promote social cohesion and reduce the gender pay gap and must be transposed by Member States by November 2024.¹¹⁷ The Directive highlights that “women, younger workers, migrant workers, single parents, low-skilled workers, persons with disabilities, and in particular persons who suffer from multiple forms of discrimination, still have a higher probability of being in minimum wage or low wage earners than other groups.”¹¹⁸

5.3 The consultation highlights the lack of meaningful collective bargaining in the private sector in NI and the Department for the Economy requests views on how to improve it.¹¹⁹ While the Commission is still considering the impact of the Directive, it is notable that Article 4 of the Directive requires Member States to “promote the building and strengthening of the capacity of the social partners to engage in collective bargaining on wage-setting, in particular at sector or cross-industry level” and “encourage constructive, meaningful and informed negotiations...on an equal footing” as well as to take actions to protect the exercise of the right to collective bargaining.¹²⁰

¹¹⁷ Article 5, Directive (EU) 2022/2041, ‘European Parliament and Council Directive on adequate minimum wages in the European Union’, 19 October 2022.

¹¹⁸ Recital 10, Directive (EU) 2022/2041, ‘European Parliament and Council Directive on adequate minimum wages in the European Union’, 19 October 2022.

¹¹⁹ Department for the Economy, ‘The Good Jobs Employment Rights Bill Public Consultation’ (DfE, 2024), at 69.

¹²⁰ Directive (EU) 2022/2041, ‘European Parliament and Council Directive on adequate minimum wages in the European Union,’ 19 October 2022.

- 5.4 Article 4 further requires that Member States with a collective bargaining coverage rate below 80% create a framework to support collective bargaining, either through legislation or agreements with social partners. They must also develop an action plan, in consultation with social partners, to progressively increase coverage. This plan should include a clear timeline and specific measures, be regularly reviewed, and updated if necessary. The action plan and any updates must be publicly available and reviewed at least every five years.¹²¹
- 5.5 Research published in 2020 noted that trade union coverage in NI is 53% and the Department would have to develop a strategy to promote collective bargaining if the NI law was updated to reflect this Directive¹²² The report also highlights that increased collective bargaining could address several economic challenges in NI around low productivity and skills underutilisation.¹²³
- 5.6 The NIHRC recommends that the Department for the Economy considers the EU Minimum Wages Directive to inform the Employment Rights Bill and guidance for improving collective bargaining on wage-setting in NI and that it considers amending NI law on a voluntary basis, to align with changes that enhance equality or human rights protections and reflect international human rights standards.**

Public Interest Disclosure

- 5.7 The consultation is seeking feedback on a proposal to require prescribed persons to produce an annual report containing the following: the number of disclosures received, the number of disclosures that prompted further action and a summary of actions taken, the impact of disclosures on the prescribed person's functions and objectives, and an explanation of those functions and objectives. These reports would be made publicly available, six months after the reporting period ends. The

¹²¹ Article 4(2), Directive (EU) 2022/2041, 'European Parliament and Council Directive on adequate minimum wages in the European Union', 19 October 2022.

¹²² Paul MacFlynn, 'The Impact of Collective Bargaining on pay in Northern Ireland - NERI Working Paper Series No. 66' (2022, NERI), at 9.

¹²³ Paul MacFlynn, 'The Impact of Collective Bargaining on pay in Northern Ireland (2020) NERI Working Paper Series No. 66, 21-22.

Department would then compile these reports and present them to the Assembly.¹²⁴

5.8 The EU Whistleblowing Directive¹²⁵ aims to harmonise the level of protection for whistleblowers across the EU and, for instance, requires employers above a certain size to establish internal channels and procedures to enable reporting of actual or potential breaches of EU law.¹²⁶ Articles 11 and 12 require the designation of competent authorities for external reporting. Article 27 provides for annual reporting by Member States which may be of interest in the context of the proposal in the consultation. It requires annual submission of statistics such as the number of external reports received and investigations and proceedings initiated.

5.9 It is important to note that although the EU Whistleblowing Directive was adopted in 2019, its transposition deadline was after UK's withdrawal from the EU. Though not falling within the scope of Windsor Framework Article 2, enhancing rights in line with this Directive would reduce divergence of rights on the island of Ireland.

5.10 The NIHRC recommends that the Department for the Economy reviews Northern Ireland public interest disclosure legislation in light of the EU Whistleblowing Directive, and considers amending NI law on a voluntary basis, to align with changes that enhance equality or human rights protections and reflect international human rights standards.

6.0. Work-life balance

6.1 The Work-life balance theme in the consultation covers flexible working, carer's leave, neonatal leave and pay, paternity leave and protection from redundancy. The UK Government has identified the EU Parental Leave Directive¹²⁷ and the EU Pregnant Worker's Directive¹²⁸ as falling

¹²⁴ Department for the Economy, 'The Good Jobs Employment Rights Bill Public Consultation' (DFE, 2024), at 94.

¹²⁵ Directive 2019/1937/EU, 'EU Parliament and Council Directive on the protection of persons who report breaches of Union law (Whistleblowing Directive)', 23 October 2019.

¹²⁶ Directive 2019/1937/EU, 'EU Parliament and Council Directive on the protection of persons who report breaches of Union law (Whistleblowing Directive)', 23 October 2019.

¹²⁷ Directive 2010/18/EU, 'Council Directive implementing the revised Framework Agreement on parental leave', 8 March 2010.

¹²⁸ Directive 92/85/EEC, 'Council Directive on the Introduction of Measures to Encourage Improvements in the Safety and Health at Work of Pregnant Workers and Workers who have Recently Given Birth or are Breastfeeding', 19 October 1992.

within the scope of Windsor Framework Article 2.¹²⁹ The NIHRC along with the Equality Commission for NI have also identified the EU Directive on Temporary Agency Work as relevant to the no diminution commitment.¹³⁰ These measures bound the UK prior to leaving the EU and there should be no diminution of minimum standards required.

EU Pregnant Worker's Directive

- 6.2 The EU Pregnant Worker's Directive lays out minimum standards in workplace safety and health for pregnant workers, as well as those who have recently given birth or are breastfeeding.¹³¹
- 6.3 The Directive provides that the employer must take necessary steps to adjust the working conditions or hours of a worker to eliminate exposure to health or safety risks. If this is not feasible, the employer should reassign the worker to another job. If reassignment is not possible either, the worker should be granted leave in line with national laws and practices for the period needed to ensure safety and/or health.¹³²
- 6.4 Article 8 sets out a compulsory maternity leave of at least two weeks, with entitlement to a minimum of 14 consecutive weeks of maternity leave, to be taken before and/or after childbirth.¹³³ Ante-natal examinations have to be provided for pregnant workers, without loss of pay.¹³⁴ Article 10 provides safeguards against dismissal from the start of the pregnancy until the end of maternity leave. Article 11 provides for further employment rights protections, requiring payments where the worker's normal role poses a risk to health/safety and no alternative

¹²⁹ NI Office, 'UK Government Commitment to "No Diminution of Rights, Safeguards and Equality of Opportunity" in Northern Ireland: What does it Mean and How will it be Implemented?' (NIO, 2020), at para 13.

¹³⁰ NI Human Rights Commission and Equality Commission for NI, 'Working Paper: The Scope of Article 2(1) of the Ireland/ Northern Ireland Protocol' (NIHRC and ECNI, 2022).

¹³¹ Article 1, Directive 92/85/EEC, 'Council Directive on the Introduction of Measures to Encourage Improvements in the Safety and Health at Work of Pregnant Workers and Workers who have Recently Given Birth or are Breastfeeding', 19 October 1992.

¹³² Article 5, Directive 92/85/EEC, 'Council Directive on the Introduction of Measures to Encourage Improvements in the Safety and Health at Work of Pregnant Workers and Workers who have Recently Given Birth or are Breastfeeding', 19 October 1992.

¹³³ Article 8, Directive 92/85/EEC, 'Council Directive on the Introduction of Measures to Encourage Improvements in the Safety and Health at Work of Pregnant Workers and Workers who have Recently Given Birth or are Breastfeeding', 19 October 1992.

¹³⁴ Article 9, Directive 92/85/EEC, 'Council Directive on the Introduction of Measures to Encourage Improvements in the Safety and Health at Work of Pregnant Workers and Workers who have Recently Given Birth or are Breastfeeding', 19 October 1992.

can be identified.¹³⁵ Although these are the baseline requirements, it is advisable for the Department to also consider implementing higher standards or additional safeguards where feasible.

6.5 Proposals under the consultation seek to enhance redundancy protections for employees by ensuring the additional protection period begins from when a person informs their employer of their pregnancy until two weeks after the pregnancy ends. It would also extend the period of protection from redundancy to 18 months from when the child is born, stillborn, expected to be born, or is placed for adoption.¹³⁶ These proposals meet the general safeguards provided for in Article 10 of the EU Pregnant Workers Directive mentioned above. However, when the Employment Rights Bill is drafted, the NIHRC will examine these provisions in detail.

6.6 The NIHRC advises that the Employment Bill must comply with minimum standards laid out in the EU Pregnant Worker's Directive.

EU Parental Leave Directive

6.7 The EU Parental Leave Directive laid down "minimum requirements designed to facilitate the reconciliation of parental and professional responsibilities for working parents."¹³⁷ The Framework Agreement on parental leave, which is given effect by this Directive, also applied to part-time workers, fixed-term contract workers or persons with a contract of employment or employment relationship with a temporary agency.

6.8 Clause 2 of the Agreement granted male and female workers the individual right to parental leave, due to the birth or adoption of a child, allowing them to care for the child for a period of at least 4 months, before the child reaches a specified age of up to eight years.¹³⁸ It is important to note that to promote more equal leave-taking between parents, at least one of the four months must be granted on a non-

¹³⁵ Article 10, Directive 92/85/EEC, 'Council Directive on the Introduction of Measures to Encourage Improvements in the Safety and Health at Work of Pregnant Workers and Workers who have Recently Given Birth or are Breastfeeding', 19 October 1992.

¹³⁶ Department for the Economy, 'The Good Jobs Employment Rights Bill Public Consultation' (DfE, 2024), at 136.

¹³⁷ Clause 1, Directive 2010/18/EU, 'Council Directive implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC', 8 March 2010.

¹³⁸ Clause 1, Directive 2010/18/EU, 'Council Directive implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC', 8 March 2010.

transferable basis.¹³⁹ All matters regarding income in relation to the Agreement were for determination by Member States though the impact of income on take-up of parental leave was to be taken into account.¹⁴⁰

- 6.9 Clause 5 sets out the principle of non-discrimination as it encompasses the right to return to the same job after parental leave or, if that is not feasible, to an equivalent or similar position. It also required Member States to take the necessary measures to safeguard workers from less favourable treatment or dismissal due to applying for or taking parental leave.¹⁴¹ Clause 6 provided for workers to be entitled to request changes to their working hours and/or patterns of work for a set period of time after parental leave, and for consideration of such requests to take into account workers' and employers' needs.¹⁴²
- 6.10 Proposals by the Department for the Economy aim to give individuals the flexibility to provide care during regular working hours, in addition to existing entitlements such as flexible working, annual leave and unpaid parental leave and allow further opportunity to take time out of work for caring purposes.¹⁴³
- 6.11 Although the UK Government has acknowledged that the EU Parental Leave Directive continues to set minimum standards in NI as part of the no diminution commitment,¹⁴⁴ the Directive has now been superseded for Member States, by the Work-life Balance Directive outlined in the next section.

6.12 The NIHRC advises that the Employment Bill must comply with minimum standards laid out in the EU Parental Leave Directive.

¹³⁹ Clause 2, Directive 2010/18/EU, 'Council Directive implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC', 8 March 2010.

¹⁴⁰ Clause 5, Directive 2010/18/EU, 'Council Directive implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC', 8 March 2010.

¹⁴¹ Clause 5, Directive 2010/18/EU, 'Council Directive implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC', 8 March 2010.

¹⁴² Clause 6, Directive 2010/18/EU, 'Council Directive implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC', 8 March 2010.

¹⁴³ Department for the Economy, 'The Good Jobs Employment Rights Bill Public Consultation' (DfE, 2024), at 110.

¹⁴⁴ NI Office, 'UK Government Commitment to "No Diminution of Rights, Safeguards and Equality of Opportunity" in Northern Ireland: What does it Mean and How will it be Implemented?' (NIO, 2020), at para 13.

EU Work-Life Balance Directive

- 6.13 In 2019, the EU Parliament adopted the EU Work-Life Balance Directive which covers the areas of parents' and carers' leave.¹⁴⁵ The Directive aims to improve access to family leave and flexible work arrangements, encourage a more equal sharing of parental leave between men and women, and to address women's underrepresentation in the labour market. The EU Work-Life Balance Directive¹⁴⁶ repeals and replaces the EU Parental Leave Directive.¹⁴⁷
- 6.14 As the EU Parental Leave Directive is not listed in Annex 1, there is no requirement under the Windsor Framework for NI law to keep pace with this change. However, if the provisions of the EU Work-Life Balance Directive¹⁴⁸ are not implemented in NI legislation, it would result in NI law continuing to mirror the more limited obligations of the EU Parental Leave Directive,¹⁴⁹ even though it has been replaced by the EU Work-Life Balance Directive.
- 6.15 In Article 4, the EU Work-Life Balance Directive provides for paternity leave of 10 working days to be taken on the occasion of the birth of the worker's child, irrespective of their marital or family status and not subject to a period of work or length of service qualification.¹⁵⁰ It is important to note that 10 working days is a minimum standard. Article 4 does not set a maximum period during which the leave should be taken and provides for Member States to consider whether the leave may be taken flexibly. The changes proposed in the consultation provide additional flexibility by allowing paternity leave to be taken as two single blocks of one week or a single block of two weeks, which is welcome.¹⁵¹

¹⁴⁵ Directive 2019/1158/EU 'EU Parliament and Council Directive on work-life balance for parents and carers', 20 June 2019.

¹⁴⁶ Directive 2019/1158/EU 'EU Parliament and Council Directive on work-life balance for parents and carers', 20 June 2019.

¹⁴⁷ Directive 2010/18/EU, 'Council Directive implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC', 8 March 2010.

¹⁴⁸ Directive 2019/1158/EU 'EU Parliament and Council Directive on work-life balance for parents and carers', 20 June 2019.

¹⁴⁹ Directive 2010/18/EU, 'Council Directive implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC', 8 March 2010.

¹⁵⁰ Article 5(2), Directive 2019/1158/EU 'EU Parliament and Council Directive on work-life balance for parents and carers', 20 June 2019.

¹⁵¹ Department for the Economy, 'The Good Jobs Employment Rights Bill Public Consultation' (DfE, 2024), at 136.

- 6.16 Further, Article 5 of the EU Work-Life Balance Directive grants four months of leave to be taken before the child reaches a specified age, ensuring that each parent can exercise their right to parental leave effectively and equally, ensuring that two months of parental leave are not to be transferred.¹⁵² These leave entitlements shall be adapted to the “needs of adoptive parents, parents with a disability and parents with children with a disability or a long-term illness.”¹⁵³
- 6.17 Article 6 of the EU Work-life balance directive provides for carers' leave for up to five working days per year,¹⁵⁴ consistent with the proposal by the Department for the Economy.¹⁵⁵
- 6.18 Article 11 sets out the principle of non-discrimination which should be the basis for all new arrangements suggested by the Department. Article 9 provides for flexible working arrangements such that “workers with children up to a specified age, which shall be at least eight years, and carers, have the right to request flexible working arrangements for caring purposes.”¹⁵⁶
- 6.19 It is the view of the NIHRC that implementing provisions of the Directive, such as those on non-transferable parental leave, would avoid a potential divergence of rights on the island of Ireland and could positively contribute to addressing some of the key barriers to the full and equal participation of women in employment by encouraging an equal sharing of parental leave.¹⁵⁷

6.20 The NIHRC recommends that the Department for the Economy ensures that, on a voluntary basis, NI law aligns with those provisions of the EU Work-Life Balance Directive that enhance equality and human rights protections and align with international human rights standards.

¹⁵² Article 5(2), Directive 2019/1158/EU ‘EU Parliament and Council Directive on work-life balance for parents and carers’, 20 June 2019.

¹⁵³ Article 5(8), Directive 2019/1158/EU ‘EU Parliament and Council Directive on work-life balance for parents and carers’, 20 June 2019.

¹⁵⁴ Article 6, Directive 2019/1158/EU ‘EU Parliament and Council Directive on work-life balance for parents and carers’, 20 June 2019.

¹⁵⁵ Department for the Economy, ‘The Good Jobs Employment Rights Bill Public Consultation’ (DfE, 2024), at 106.

¹⁵⁶ Article 9, Directive 2019/1158/EU ‘EU Parliament and Council Directive on work-life balance for parents and carers’, 20 June 2019.

¹⁵⁷ Equality Commission for NI, NI Human Rights Commission and Irish Human Rights and Equality Commission, ‘Policy Recommendations: European Union developments in Equality and Human Rights: The Impact of Brexit on the divergence of rights and best practice on the island of Ireland’ (ECNI, NIHRC and IHREC, 2023), at 40-42.

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