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It's here at last:
**The 217-Page
Employment
Act**



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April 2007
3rd Edition

Advocates, Solicitors & Attorneys
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april 2007



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Introduction

Welcome to the 3rd edition of our new electronic news review published by Mann & Partners. We hope that the publication is of interest to recipients. Please contact any of the individuals listed on the contact us page with comments for future articles.



Advocate John T Ayccock reviews

the Island's comprehensive new labour law – and finds some family friendly provisions.

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It's here at last: The 217-Page Employment Act

THIS YEAR sees much change in Isle of Man employment law. After years of consultation and debate, the Island's flagship new employment statute has finally kicked in. Actually, it is being triggered in stages during 2007.

This is serious new legislation. The statute itself – the Employment Act 2006 – comprises 217 pages.

Eventually the Employment Act 2006 will sweep away much of the previous local labour law. Conveniently for practitioners, employers and employees alike, the Island's employment law will mostly be found in one – very large – document. But there are other employment law provisions that will remain outside the new Act.

Like most new law requiring changes in business practice, this is being introduced in stages to allow for training and familiarity exercises. In keeping with the complexities of the Act itself, the document enlivening the various parts of the Act is itself fairly complicated and runs to 9 pages.

An interesting year then is promised for 2007. Some parts of the new Act have already been enlivened for instance provisions relating to the Employment Tribunal itself and interpretation provisions at section 173 came into operation on 26 February 2007. Further trigger dates for certain provisions in the Act are 1 April, 1 May, 30 September and 1 December 2007. Transitional provisions set out in a hefty four page schedule apply immediately in an attempt to dovetail implementation of the new rights and remedies.

Employers will have their hands full in dealing with the phasing in of the new provisions. And time is not on their side. Imminently, on 1 May 2007, important changes already take effect relating to a straightforward step nearly all employers will take: the issuing of written particulars to employees. There is nothing new in the law obliging employers to issue written particulars since that was already contained in the Employment Act 1991 but next month sees changes to that law.

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Written particulars are a summary of the principal terms of the contract. They are not necessarily the contract itself but in the absence of a further employment contract are viewed as sound evidence of the terms governing the employment relationship between the parties.

The new Act stipulates further terms that are included in the list of mandatory particulars to be supplied to most employees within four weeks of employment. For instance, such particulars will now need to state the term of employment if not intended to be permanent, the place of work, any collective agreements affecting that employee, details as to work outside the Island and any disciplinary rules and procedures applicable.

Moreover, from 1 May 2007 all new part time employees with four weeks' service will be entitled to provision of the written particulars unlike the previous law which distinguished such rights for part time workers below 8 or 16 hours per week.

Transitional provisions provide that employees do not have to issue particulars to existing part time employees under 16 hours per week (who were not previously entitled to such) unless that employee's job changes or the employee requests such written particulars. But it might be considered good employment practice to issue written particulars to all employees in any event.

The new Act has naturally been followed by a series of orders and regulations which add flesh to the bones of the new law. Thus there are now new regulations dealing with annual leave (including those for agency workers and trainees), adoption leave, maternity leave, parental leave for parents of disabled children, paternity leave, flexible working and part time workers.

In fact, the Island's Department of Trade and Industry has been extremely busy producing associated guides as well as a draft code of practice on disciplinary and grievance procedures which next month will be placed before Tynwald.

Employers and the Manx workforce, not to mention employment practitioners, will therefore need re-education, re-education and re-education.

One area I particularly like about the new Employment Act is the introduction of the right to request flexible working. At present there is no right but from 30 September 2007 employees who satisfy certain conditions relating to service and other responsibilities have a new right to request flexible working in certain circumstances.

The law therefore provides a framework for agreement on flexibility. This might include items such as part time working for parents. In practice, this is a common request. I daresay the majority of working parents have at some time considered

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whether flexible working to fit in with school or nursery hours would be possible. The law is now introducing guidelines for this type of request to be dealt with. It is good to see the law giving practical assistance to employers and employees in what can sometimes be difficult circumstances.

So although some may see new employment law provisions as more red tape, some parts will have immediate practical effect and assistance. Businesses will need to ensure those who deal with human resource matters are familiar with the new provisions. Individuals will be anxious to assert the new rights particularly the family friendly aspects. There will be a settling in period for the new law as is always the case.

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