

REVIEW



MIND THE GAP:
Isle of Man employment law is becoming more distinct from UK.



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November 2024

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Advocate John Aycock of M&P Legal considers how UK employment law reform might impact Manx employers.

Sweeping proposed changes to UK labour law are likely to widen the gap between the Island's employment protection regime and its British neighbour.

The new Labour government has introduced the Employment Rights Bill 2024 with significant reform to employment protection and enhancements to workforce rights. It is important for Island employers to recognise that our legal system is already markedly different to British labour law and, absent any further local changes, that divergence is likely to deepen.

Amongst the 28 separate changes in the UK's new Bill are fundamental shifts such as day one rights to claim unfair dismissal, clamping down on the "fire and re-hire" method of enforcing a change in a contract, guaranteeing minimum number of hours to counteract exploitative zero hour contracts, boosting sick pay and parental leave entitlements, widening collective redundancy requirements and strengthening protection as to maternity dismissals and harassment.

Regardless of the UK's pending changes, the Isle of Man's employment protection framework already deviates in a number of

key aspects. These include the qualifying period for claiming ordinary unfair dismissal (the Isle of Man's period has consistently been one year whereas the UK has varied between one and two years), a very different statutory redundancy pay structure and our transfer of employment contract law is quite different as we do not have the regulations known as TUPE which can grant automatic protection when businesses are transferred.

In addition, our legal process for settling employment claims does not match that of UK. Statutory compromise agreements, whereby an employee can waive their statutory rights, as introduced in the UK in the 1990's do not work in the same way in the Isle of Man; our statutory waivers must be conciliated through Manx Industrial Relations Service. This is an area of law Island employers with UK HR support often overlook.

Tynwald is itself making some changes to the Island's employment protection laws with the Employment (Amendment) Act 2024. That Act will effect various changes to the Employment Act 2006 particularly as to family leave and whistleblowing rights.

The raft of changes Sir Keir Starmer is intending to introduce across the Irish Sea will mean that those Island employers who rely on UK head office HR support will need to be watchful when handling Isle of Man

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employment issues. From the outset of the employment relationship, the drawing up of the contract of employment needs local review because of the Isle of Man's own framework of employment law. Rights during employment and on termination also differ. Even the venue for making claims in the Isle of Man needs attention given that a UK Employment Tribunal can hear certain contractual disputes whereas the Isle of Man's Employment & Equality Tribunal is an arbiter only of statutory rights. In some instances Manx employee claimants might have to consider lodging both Tribunal and High Court claims.

The Isle of Man therefore does not piggyback on the UK's employment laws so employers and employees alike who might find themselves inundated with UK legal updates on their rapidly changing laws should be wary of the widening gap between the two regimes.

John Aycock is head of M&P Legal's employment team and has over 33 years' experience of advising on labour law matters in three different jurisdictions.

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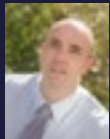
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