



## IOM Employment Rights Summary Booklet

**A revised booklet providing summary details of Isle of Man employment rights for employees has been published by the Department of Economic Development.**

The booklet can be accessed at

<http://www.gov.im/lib/docs/ded/employmentRights/DED/isleofmanemploymentrightsasumm.pdf>

Additional guidance documents for employers can be found at the DED's website

[www.gov.im/ded/employmentRights/](http://www.gov.im/ded/employmentRights/)

## Goalposts moved on UK draft regulations to abolish the Default Retirement Age

**Employers planning to forcibly retire staff over the age of 65 before the abolition of the default retirement age may not now be able to do so.**

Draft regulations provided to Parliament in February indicate that only people who turn 65 between April and September 2011 can still be forcibly retired, and that those aged over 65 are already safe. If the draft wording remains in place this means that some employers who have issued retirement notices due to come into force after 6 April may have to rescind them.

## Welcome to SmartHR's March 2011 E-Newsletter

Our newsletter will be distributed on a monthly basis, providing articles of business interest, HR news / updates and information regarding SmartHR's business solutions. *We hope that you find this newsletter of interest and share it with your colleagues.*

Gail Yeowell Chartered FCIPD, FInstAM(Dip), FCMI  
Managing Director, Smart HR Solutions Limited

## Forthcoming UK employment law changes

**Equality Act 2010 – provisions to allow positive action in recruitment and promotion come into force from April 2011.** The provisions in the Act requiring mandatory gender pay reporting will not be implemented for the time being and the Government will instead develop a voluntary scheme.

**Additional Paternity Leave and Pay – up to 3 months' pay at the statutory rate and 3 months unpaid leave for parents of babies due (and adoptive parents notified of a match) on or after 3 April 2011.** The new right applies where the mother ends her maternity leave early, which allows the father to take the remainder of the leave.

**Flexible Working – the Government is consulting further on whether to extend the right to request flexible working to all employees. As a preliminary measure the right to request flexible working will be extended to parents of children under 18 years old from April 2011.** Currently, in the UK it is only available to parents of children under 17, disabled children under 18 and certain carers.

***Updated template employment policies and forms are available to download from SmartHR's online 'E-HR Shop' at [www.SmartHR.co.im](http://www.SmartHR.co.im)***

**Bribery Act 2010 - delays continue to UK legislation that is due to require employers to have procedures in place to prevent bribery and corruption occurring.**

Firms have expressed their concerns that acceptance of corporate gifts such as bottles of wine, event tickets, hospitality etc. could expose them to accusations of bribery. Further guidance is expected to be issued shortly and it is expected that when guidance is issued it will be followed by a 3 month notice period before the Act is implemented.

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## IOM Work Permits... Did you know?

**It is an offence, punishable with a fine up to £2,500 or custody for up to 3 months or both:**

- for a person who is not an Isle of Man worker to undertake, or become or be engaged in, any employment in the Isle of Man; or
- for a person to employ any person who is not an Isle of Man worker in any employment in the Island;

except under and in accordance with the terms and conditions of a work permit.

An employer has a defence if s/he genuinely believed that the person he or she employed was an Isle of Man worker and took all reasonable steps to verify that belief.

**It is an offence, punishable with custody for up to 6 months a fine up to £5,000, or both, if any person**

- knowingly or recklessly makes a false statement for the purpose of obtaining a permit; or
- impersonates a person who has been granted a permit; or
- misrepresents to an employer that he or she is the holder of a permit or does not require a permit.

For this purpose 'employment' includes self-employment.

**The next meetings of the Work Permit Committee are scheduled to be:**

- **Tuesday 8th March 2011 and Tuesday 22nd March 2011**

## IOM Work Permit Consultation

The Department of Economic Development has released a consultation document outlining proposed changes to modernise existing work permit law. The intention is to make legislative improvements and consultees are invited to provide their views on the **Control of Employment Bill and Regulations 2011**. The consultation document is available from the DED's website <http://www.gov.im/lib/docs/ded/consultations/201102consultationv3.pdf> and consultation is open until Friday 25 March 2011.

### **Key proposed changes are:**

- An IOM worker for the purposes of the Bill will be someone who has at any time been ordinarily resident in the IOM for an unbroken period of at least 5 years;
- Ability for the Department to authorise, subject to certain conditions, a person working in a specified capacity where the employment of a particular person may be in the national interest;
- Exempting secondary school teachers;
- It details criminal convictions which are relevant to the issuing, renewing or revoking a work permit (a person or spouse of a permit holder with a relevant criminal conviction will no longer be exempt);
- It provides wider details on matters that the Department must or may take into account when deciding whether or not to grant, renew or revoke a work permit (includes ability of person or any relevant person to speak English);
- Only people directly interested in the decision can make an appeal to the Work Permit Appeal Tribunal;
- The basis for making an appeal to the Work Permit Appeal Tribunal is clarified;
- Changing the constitution of the Work Permit Appeal Tribunal – currently there is a Chairman and two panels of side members. It is proposed that this is changed to allow for a Chairman and a panel of Deputy Chairmen, one of whom can be selected to take the Chairman's place where required;
- It will be illegal for an employer to receive from a worker or deduct from a worker's wages a fee for a work permit;
- Employers will be required to notify the Department when employees leave their employment;
- Express powers are given for certain authorities e.g. police, to share employment information with the Department for specified purposes.

# SmartHR E-Newsletter

March 2011

Issue 3

**BOOK NOW** as limited places are available on the following 'skills workshop' training courses:

## MANAGING ABSENCE

17 March – 9am to 4.30pm

## COACHING & FEEDBACK SKILLS

24 March – 9am to 12.30pm

## MANAGING DISCIPLINE & GRIEVANCES

7 April – 9am to 4.30pm

## MANAGING STRESS

14 April – 9am to 12.30pm

*These courses are a cost effective way of improving people management skills*

Call Gail on 619619  
or email  
[gail@SmartHR.co.im](mailto:gail@SmartHR.co.im)  
to find out how SmartHR  
can add value to your  
business and help you  
improve your people  
management practices

## SPECIAL FEATURE: CORPORATE MANSLAUGHTER

### First UK conviction for corporate manslaughter

Cotswold Geotechnical Holdings Ltd, a *small* Midlands engineering company, has become the first organisation to be charged, convicted *and fined £385,000* under the new offence of corporate manslaughter.

The company was found guilty on 15 February 2011 of ignoring health and safety guidance, using dangerous working practices and causing the death of an employee left working alone in a 3.5 metre deep trench that collapsed.

Companies are guilty of corporate manslaughter if the way their senior management team organises activities leads to a gross breach of H&S law that results in death. Penalties include unlimited fines, orders to remedy management failures and publicity orders to raise awareness of convictions under the Corporate Manslaughter and Corporate Homicide Act 2007 (in force since April 2008).

Cases are prosecuted by the Health and Safety Executive (HSE) which expect companies to have better policies and practices in place.

***Sentencing guidelines indicate that fines will “seldom be less than £500,000 and may be measured in millions”***

A fatality at work could result in an HSE investigation, criminal charges, civil claims and coroner inquests. It is important that HR and Managers manage any internal processes; particular your Company's Disciplinary Procedures, including internal investigations, as any misconduct identified will require disciplinary action and potentially termination of employment.

The impact on the remaining employees such as psychological trauma and low morale will also need to be considered and well managed.

Where employees consider or suspect that management practices have not changed following a fatal incident they may consider bringing a Whistleblowing claim. This will also need to be managed carefully.

*Ensure you have suitable policies and procedures in place and that appropriate training is put in place for these to be managed well.*

In conjunction with the Institute of Directors, HSE has published guidance for directors on their responsibilities for health and safety - '[Leading health and safety at work: leadership actions for directors and board members](#)' (INDG417) [450KB] . The guidance sets out good practice for directors, addressing them in language and style they will find authoritative and convincing, informing Boards and their members in the public, private and third sectors, as to how to provide leadership in health and safety so as to help their organisation meet its legal obligations as an employer under the Health and Safety at Work etc. Act 1974 and gain the business benefits arising from effective, sensible health and safety management.

## Miscellaneous News

- **Lord Davies report sets FTSE 100 employers a voluntary quota to increase the number of women on Boards to 25% by 2015.**
- **People earning more than £150k will not be subject to the UK Government's immigration cap. High earners will be allowed into the UK without it counting towards the monthly limit for skilled workers that will be introduced in April 2011. Tier 2 visas will be limited to 20,700 per annum for non-EU skilled workers. There will be 4,200 places for the first month of the new system in April, followed by 1,500 each month thereafter. Businesses who want to bring in skilled workers to the UK will have to show that they have advertised the position before applying for a certificate of sponsorship. Applications will be ranked on a points based system according to occupation and skills shortage areas will be given the highest score. Highest scoring applicants will be granted permission to enter the UK per month, with unsuccessful applicants or unused places transferring to the next month.**



SmartHR can assist businesses in many ways:

- Strategic HR planning/audits/healthchecks
- Adhoc/interim HR projects
- Retained HR support – onsite & offsite
- Updating/creating HR policies & procedures
- Contracts of employment
- Employment documents e.g. letters, forms
- Employee handbooks & induction processes
- Performance management/appraisal systems
- Process improvements
- Managing absence
- Succession planning
- Managing discipline & grievances
- Management development/skills workshops
- Approx. 250 template HR documents are available to be purchased & downloaded from SmartHR's E-HR Shop at [www.SmartHR.co.im](http://www.SmartHR.co.im)

SmartHR is delivering the following 'Skills Workshops' in order to enhance people management performance:

10 Mar – Effective Team Meetings (1/2 day)

17 Mar – Managing Absence (1 day)

24 Mar – Coaching & Feedback Skills (1/2 day)

7 Apr – Managing Discipline & Grievances (1 day)

14 April – Managing Stress (1/2 day)

21 Apr – Effective Time Management (1 day)

19 May – Negotiating & Influencing (1 day)

26 May – Effective Appraisals & Objective Setting (1 day)

23 & 24 June – Train the Trainer (2 days)

7 July – Managing Performance (1 day)

14 July – Managing Performance Problems (1 day)

Further details can be found on the Events Page at [www.SmartHR.co.im](http://www.SmartHR.co.im)

