



Statutory Document No. 103/07

THE EMPLOYMENT ACT 2006

**THE ANNUAL LEAVE (AGENCY WORKERS AND TRAINEES)  
ORDER 2007**

*Approved by Tynwald*

*21<sup>st</sup> March 2007*

*Coming into operation*

*30<sup>th</sup> September 2007*

In exercise of the powers conferred on the Department of Trade and Industry by section 162 of the Employment Act 2006<sup>1</sup>, and of all other enabling powers, the following Order is hereby made:—

**1. Citation, commencement and interpretation**

(1) This Order may be cited as the Annual Leave (Agency Workers and Trainees) Order 2007 and, subject to section 175(1) of the Act, shall come into operation on the 30th September 2007.

(2) In this Order —

"the Act" means the Employment Act 2006;

"agency worker" means an individual who —

- (a) is supplied by a person ("the agent") to do work for another ("the principal") under a contract or other arrangements made between the agent and the principal; but
- (b) is not, as respects that work, a worker, because of the absence of a worker's contract between the individual and the agent or the principal; and
- (c) is not a party to a contract under which he undertakes to do the work for another party to the contract whose status is, by virtue of the contract, that of a client or customer of any profession or business undertaking carried on by the individual;

"the annual leave provisions" means the following provisions of the Act —

- (a) section 167(1) and (2) (annual leave regulations), and
- (b) sections 62 (detriment) and 167(5) to (9), so far as they relate to regulations under section 167(1) and (2);

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<sup>1</sup> 2006 c. 21  
Price 65p

"educational institution" includes any university, college, school or other educational establishment;

"relevant training" means work experience provided pursuant to a training course or programme, training for employment, or both, other than work experience or training—

- (a) the immediate provider of which is an educational institution or a person whose main business is the provision of training, and
- (b) which is provided on a course run by that institution or person.

## **2. Application of annual leave provisions to agency workers**

The annual leave provisions shall apply to an agency worker as they apply to workers —

- (a) as if there were a worker's contract for the doing of the work by the agency worker made between him and —
  - (i) whichever of the agent and the principal is responsible for paying him in respect of the work; or
  - (ii) if neither the agent nor the principal is so responsible, whichever of them pays him in respect of the work, and
- (b) as if that person were the agency worker's employer.

## **3. Application of annual leave provisions to certain trainees**

The annual leave provisions shall apply to a person receiving relevant training, otherwise than under a contract of employment, as if —

- (a) that person were a worker, and
- (b) the person whose undertaking is providing the training were his employer.

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2007

*Secretary MTH*  
Minister for Trade and Industry

## EXPLANATORY NOTE

*(This note is not part of the Order.)*

This Order extends the power to make regulations under section 167(1) and (2) of the Employment Act 2006, which relates to annual leave, to cover agency workers and certain trainees; it also states who is to be treated as an agency worker's or trainee's employer for that purpose.

