

Amendments to general employment law made by the Equality Act 2017

Introduction

Following the announcement of Royal Assent, on 18th July 2017 the [Equality Act 2017](#) ('the Act') has been phased in with the last of the substantive provisions coming into operation in January 2020.¹

In addition to the main equality provisions contained in the Act itself the Act has made a number of amendments to -

- the [Redundancy Payments Act 1990](#),
- the [Shops Act 2000](#),
- the [Minimum Wage Act 2001](#),
- the [Employment Act 2006](#) and
- the [Control of Employment Act 2014](#)

Some of the amendments are related to the main equality provisions while others are not.

The sources of these amendments are as follows –

- Section 103 [The Tribunal: constitution, functions and transition] of the Equality Act which repealed Part XII [Resolution of disputes relating to employment] of the Employment Act 2006 (other than sections 156 [The Employment and Equality Tribunal] and section 159 [Enforcement of awards of the Employment and Equality Tribunal] both of which sections are replaced by substituted sections);
- Schedule 22 to the Act [Employment Legislation – Miscellaneous Amendments];
- Schedule 24 to the Act [Repeals]; and
- The Equality Act 2017 (Appointed Day) (No. 5) Order 2018.

This document sets out the changes to general employment law which came into operation from 20th July 2017 to 1st January 2020.

¹ The Act was brought into operation through the following Appointed Day Orders - The [Equality Act 2017 \(Appointed Day\) \(No. 1\) Order 2017](#); The [Equality Act 2017 \(Appointed Day\) \(No. 2\) Order 2017](#); The [Equality Act 2017 \(Appointed Day No. 3 and Transitional Provisions\) Order 2017](#); The [Equality Act 2017 \(Appointed Day No. 4\) Order 2018](#) and The [Equality Act 2017 \(Appointed Day\) \(No. 5\) Order 2018](#)

Notes:

1. On 1st January 2019 the Employment Tribunal became the Employment and Equality Tribunal so prior to that date the term "Tribunal" is to be taken as meaning "the Employment Tribunal" and after that date "the Employment and Equality Tribunal".
2. This document contains a number of hyperlinks to Acts of Tynwald. Acts may be amended from time to time and amendments made by subsequent legislation will be incorporated into the text of the original Act. The Attorney General's Chambers update all Acts when they are amended and current versions of Isle of Man Acts can be found on the Government online legislation website at legislation.gov.im. These notes contain hyperlinks to the text of Acts as amended up to 31st January 2020.

Summary of main changes made to general employment law from 20th July 2017 to 1st January 2020

Except where noted, changes apply to the [Employment Act 2006](#). The most important changes are as follows -

No.	Change	Date came into operation (in chronological order)
1.	Both the Employment Act 2006 and the Redundancy Payments Act 1990 have been amended in order to update the framework of payments made by the Treasury from the Manx National Insurance Fund to employees of insolvent etc. employers. The criteria for payments has been amended so as to accommodate certain part-time employees and the maximum amount that Treasury will take into account when compensating employees has been limited to £540 for each week's pay.	20th July 2017
2.	Provisions which cover business transfers in the Redundancy Payments Act 1990 have been extended to ensure that service provision changes, i.e. where outsourcing or insourcing activities have taken place, definitely fall within the overall framework governing the transfer of a business. The new provisions ensure that an employee who is transferred in the course of outsourcing or insourcing is in the same position as if there had been a transfer of the business.	20th July 2017
3.	The Redundancy Payments Act 1990 has been amended to give the Treasury powers to abolish or modify redundancy rebates by order. Such rebates are paid to small employers out of the Manx National Insurance	20th July 2017 (but no order has been

	Fund. An order would require the approval of Tynwald.	made to date)
4.	<p>Various changes have been made to the Control of Employment Act 2014 –</p> <p>(a) A new category of 'Isle of Man worker' has been created. A person is an Isle of Man worker if he or she is the grandchild of a person who (a) was born in the Island, and (b) was ordinarily resident in the Island for an unbroken period of at least 5 years immediately following the birth.</p> <p>(b) New enabling powers have been inserted in the Act giving the Department for Enterprise powers to restrict its application to particular kinds of employment and applicants etc. In addition, the Department's powers to exempt employments etc. have been expanded.</p> <p>(c) Spouses and civil partners of certain persons from outside the European Economic Area have been given a right, upon application, to an automatic 1 year permit.</p> <p>(d) There is a new order making power to amend the Act to confer on persons who are living together as if they were spouses, one of whom is an Isle of Man worker and the other is not, such rights as the Department considers appropriate. Such an order requires the approval of Tynwald.</p>	20th July 2017 ² .
5.	Changes have been made to the Tribunal remedy where an employer fails to issue or update a written statement to an employee.	1st January 2018
6.	Changes have been made to the Tribunal remedy where an employer fails to issue pay statements to an employee.	1st January 2018
7.	A 6 year cut off point has been imposed in respect of claims for unlawful deductions.	1st January 2018
8.	Maximum compensation awarded by the Tribunal in detriment ³ cases has been limited to the sum of the basic award and compensatory award in unfair dismissal cases.	1st January 2018
9.	A dismissal for a spent conviction etc. under the Rehabilitation of Offenders Act 2001 has been added to the	1st January 2018

² Note the following secondary legislation was subsequently laid before or approved by Tynwald – (i) the [Control of Employment Regulations 2017](#); (ii) the [Control of Employment \(Cohabiting Partners of Isle of Man Workers\) Order 2017](#) and (iii) the [Control of Employment Regulations 2018](#).

³ In the case of an employee 'detriment' is action less than dismissal such as demotion. In the case of a worker other than an employee detriment can include termination of the contract.

	categories of automatically unfair dismissals. (In addition to such a dismissal being automatically unfair the usual qualifying period and upper age limit to bring an unfair dismissal claim has been disapplied in such a case).	
10.	<p>The qualifying period and upper age limit to bring an unfair dismissal claim have been disapplied in the following cases. These are –</p> <p>(a) where the dismissal is because of, or is connected with, the employee’s membership of HM Reserve Forces. This is in line with changes made in the UK by the Defence Reform Act 2014; and</p> <p>(b) where the reason for the dismissal is because of, or is connected with, the employee’s political affiliations or opinions.</p> <p>In neither case, however, is a dismissal on one of these grounds automatically unfair.</p>	1st January 2018
11.	<p>Exclusivity clauses in zero hours contracts have been prohibited.</p> <p>The Department for Enterprise has been given powers to regulate such contracts. Any Regulations would require the approval of Tynwald.</p>	1st January 2018 (but no Regulations have been made to date)
12.	The restrictions on contracting out of employment rights has been harmonised across employment statutes (the Redundancy Payments Act 1990, the Shops Act 2000, the Minimum Wage Act 2000, and the Equality Act 2017) so that, in employment cases, the only exception to the non contracting out rule is a conciliated settlement concluded with the assistance of an Industrial Relations Officer.	20th July 2017 to 1 st January 2019
13.	<p>The Employment Tribunal, established under the Employment Act 2006, has been replaced by the Employment and Equality Tribunal, which is established under the Equality Act.</p> <p>In consequence, references to the Employment Tribunal throughout the employment statutes have been replaced by references to the Employment and Equality Tribunal.</p>	1 st January 2019
14.	<p>The Employment (Sex Discrimination) Act 2000 has been repealed as have sections 125 – 127 of the Employment Act 2006 (and cross references to them) which covered dismissal on grounds of race, religion or sexual orientation (all of these provisions having been superseded by provisions covering discrimination on these grounds in the Equality Act).</p> <p>At the same time new section 124A, which has been inserted in the Employment Act 2006, provides that a</p>	1 st January 2019

	dismissal on grounds of a protected characteristic under the Equality Act is automatically unfair.	
15.	The previous requirement that the only permissible purpose for exercising the statutory right to request flexible working was to care for a defined dependant has been removed and the enabling powers for making regulations have been simplified.	1 st January 2020 (New Regulations are to be brought forward early in 2020).
16.	The exclusion on employees over retirement age claiming unfair dismissal has been removed (because age is a protected characteristic in the Act).	1 st January 2020
17.	The basic award in unfair dismissal cases has been capped at 26 weeks' pay.	1 st January 2020
18.	The exclusion on employees over retirement age claiming a redundancy payment has been removed (because age is a protected characteristic in the Act). A redundancy payment has been capped at 26 weeks' pay.	1 st January 2020

More detailed information as to the provisions brought into the operation is shown in the three tables below.

Table 1: Changes made by (i) section 103 of the Equality Act to the Employment Act 2006 and (ii) the Equality Act 2017 (Appointed Day) (No. 5) Order 2018

Section of Employment Act 2006	Change made
Employment Act Part XII [Resolution of disputes relating to employment] and Schedule 3 [The Employment Tribunal]	Part XII and Schedule 3 have been repealed by Section 103(2) of the Equality Act other than sections 156 and section 159 which have been replaced by substituted sections (see below). The effect of the changes is that the Employment Tribunal, which had been established under the Employment Act 2006, has been replaced by the Employment and Equality Tribunal, which is established under the Equality Act.
Employment Act 2006 s. 156 [Employment and Equality Tribunal]	Section 103(2)(b) of the Equality Act has substituted a new section 156 "the Employment and Equality Tribunal" in place of the previous section "the Employment Tribunal".
Employment Act 2006 s. 157 [Conciliation]	The section has been repealed. (It has been replaced by Section 104 [Conciliation] of the Equality Act).
Employment Act 2006 s. 158 [Recoupment of benefit]	The section has been repealed. (It has been replaced by Section 117 [Recoupment of benefit] of the Equality Act).
Employment Act 2006 s. 159 [Enforcement of awards etc. of the Employment and Equality Tribunal]	The Equality Act 2017 (Appointed Day) (No. 5) Order 2018 has substituted a new temporary section 159 [Enforcement of awards etc. of Tribunal] in place of the previous section, the effect of which is to allow the Tribunal to grant execution for awards ordered by the Tribunal.
Employment Act 2006 s. 160 [Appeals]	The section has been repealed. (It has been replaced by Section 127 [Repeals] of the Equality Act).

Table 2: Changes made to employment law by Schedule 22 to the Equality Act [Employment Legislation – Miscellaneous Amendments]

Paragraph number in Schedule 22 of the Equality Act	Act and section(s) amended or inserted	Effect of amendment or insertion
2.	Employment Act 2006 s.1(2) [Refusal of employment on trade union grounds etc.]	Paragraph 2 has replaced a reference to the former Employment Tribunal in section 1(2) of the Employment Act 2006 with 'Employment and Equality Tribunal'.
3	Employment Act 2006 s. 9(1) [Written statements etc.]	Paragraph 3 has amended section 9(1) of the Employment Act 2006 to correct a cross reference.
4	Employment Act 2006 s. 17 [References and determination by Tribunal where written statements or pay statements have not been issued by employers]	<p>Paragraph 4 has re-enacted section 17(8) with amendments. Section 17 enables an employee to complain to the Tribunal if his or her employer fails to issue or update a written statement or issue an itemised pay statement. The main changes to the provision have been as follows:</p> <ul style="list-style-type: none"> • In the case of a complaint under this section it is no longer necessary for an employee to make a written request to the employer that he or she be given a written statement as a pre-condition of receiving an award. This is because the requirement to issue a written statement is an important long established statutory requirement. • A distinction is made between a case where particulars have been issued but are incomplete and a case where they have not been issued at all. In the former case an award will be limited to a maximum of 2 weeks' pay and in the latter case to a maximum of 4 weeks' pay. • Previously the Tribunal had to order an employer who had not issued particulars or who had issued incomplete particulars to pay an award of at least 2 weeks' pay to the employee. Under the revised provision the Tribunal has discretion as to whether or not to

		<p>make an award in the case where particulars have been issued but are incomplete (and could thus, for example, choose to make no award where the employer has not complied with the statutory duty in some minor respect).</p> <ul style="list-style-type: none"> • The remedy for breach of the statutory duty to issue a pay statement(s) has been made consistent with the remedy for breach of the duty to issue written particulars. So where an incomplete statement has been issued the Tribunal may make an award of up to 2 weeks' pay; where no statement has been issued the Tribunal must make an award of 2 weeks' pay and may make an award of up to 4 weeks' pay if just and equitable.⁴ • There is a new provision allowing the Department for Enterprise to prescribe exceptions or to make modifications to the general rules in respect of payments to be made by employers to employees. An order or any regulations would require the approval of Tynwald.
5	Employment Act 2006 s. 18 [Tribunal's duty re. absence of written statements (in cases other than those under s. 17)]	<p>Paragraph 5 has re-enacted section 18(2) with amendments. Previously, under section 18 the Tribunal was required to make an award of 2-4 weeks' pay to the employee in certain proceedings (other than under section 17 of that Act), where it found that the employer had failed to issue or update a written statement.</p> <p>The main changes to the provision have been as follows:</p> <ul style="list-style-type: none"> • As in the case of the amendment to section 17 of the 2006 Act, a distinction is made between the case where particulars have been issued but are incomplete and the case where they have not been issued at all. In the former case an award is to be limited to a maximum of 2 weeks' pay and in the latter case to a maximum of 4 weeks' pay. • Previously the Tribunal had to order an employer who had not issued particulars or who had issued incomplete particulars to pay an award of at least 2 weeks' pay to the employee. As in the amendment to section 17, the Tribunal is given discretion as to whether or not to make an award in the case where particulars have been issued but are incomplete. • Whereas previously the Tribunal was only to make an award in the case where it found in

⁴ Previously, where the employer had not issued a pay statement and the Tribunal found that there has been an 'unnotified deduction' from pay it could order the employer to pay the employee a sum not exceeding the aggregate of any unnotified deductions during the 13 week period preceding the date of the application to the Tribunal.

		<p>favour of the employee in respect of his or her principal complaint to the Tribunal (for example, an unfair dismissal claim), under the revised provision whether or not the employee succeeds in his or her original complaint ceases to be a criterion for an award if the employer was in breach of the statutory duty to issue or update a written statement.</p> <ul style="list-style-type: none"> • There is a new provision allowing the Department for Enterprise to prescribe exceptions or to make modifications to the general rules in respect of payments to be made by employers to employees. An order or any regulations would require the approval of Tynwald.
6	Employment Act 2006 s. 25 [Complaints to Tribunal re. unlawful deductions etc.]	Paragraph 6 has amended section 25, which deals with complaints to the Tribunal by workers when an employer has made an unlawful deduction or received an unlawful payment from a worker's wages. The Tribunal is prohibited from making any award in respect of a deduction or payment made more than 6 years before a complaint was made.
7, 9 10 and 11 and Schedule 24 paragraph 1(m)(i) to (iii)	Employment Act 2006 s. 66(1)(b), 99-101 [Flexible working]	Paragraphs 7, 9, 10 and 11 together with Paragraph 1(m)(i) to (iii) in Schedule 24 [repeals] have updated the right to request flexible working. In particular, the previous requirement that the only permissible purpose for exercising the statutory right to request flexible working was to care for a defined dependant has been removed and the enabling powers for making regulations have been simplified. New regulations, to be made under the modified enabling powers, will require the approval of Tynwald.
8	Employment Act 2006 s. 72 [Remedies in detriment cases]	<p>Paragraph 8 has amended section 72 to limit the amount of compensation that can be awarded to a worker who has suffered a detriment⁵ (including termination of his or her contract) to the sum of the basic award and the compensatory award that can be awarded to an employee on a finding of unfair dismissal.</p> <p>The limit does not apply where the detriment is for a health and safety reason or for making a protected disclosure (in keeping with the two exceptions in Part X of the Employment Act 2006 where the usual compensatory award limit in unfair dismissal cases does not apply).</p>
12	Employment Act 2006 s. 105 [Interpretation of terms used in Part VIII of	Paragraph 12 has re-enacted section 105(1), which defines terms used in Part VIII of the Employment Act 2006, to widen the definition of "employer" for the purposes of that Part of the Act.

⁵ See footnote 3

	the Act, (Disciplinary and Grievance Procedures)]	
13	Employment Act 2006 s. 107 [Rights of employee in period of notice)	Paragraph 13 has amended section 107 to remove an anomaly. Previously section 107 provided that Schedule 2 of the Act [rights of employee in period of notice] was to apply. That schedule provides for employees who are on maternity leave to be paid during the notice period. However, section 107(3) provided that the Schedule was not to apply where the notice to be given by the employer was at least 2 weeks more than the statutory notice period. This created an anomaly whereby an employee working for an employer whose notice period was more than 2 weeks longer than the statutory notice period was not entitled to receive pay in the notice period if she was on (unpaid) maternity leave when given notice. The amendment has removed the anomaly by disapplying section 107(3) in the case where an employee has an entitlement under any other enactment to the benefit of the terms and conditions of employment despite her absence.
14 and Sch 24 paragraph 1(m)(iv)	Employment Act 2006 s. 124A [Dismissal on grounds of protected characteristic] and 124B [Dismissal on grounds of spent conviction] (New sections)	Two new cases have been added to the categories of automatically unfair dismissals. These are as follows – <ul style="list-style-type: none"> • A dismissal for a spent conviction under the Rehabilitation of Offenders Act 2001. (Such protection does not, however, apply to those employments which are excluded from protection under the Act (for example, doctors, accountants) by virtue of an order made under that Act). • A dismissal on grounds of a protected characteristic under the Equality Act 2017.⁶
15 and Sch 24 paragraph 1(m)(v)	Employment Act 2006 s. 128 [Dismissal on ground of redundancy]	Paragraph 15 has provided that it is automatically unfair to select an employee for redundancy if the reason for selection is because the employee in question – <ul style="list-style-type: none"> • has a “spent” conviction under the Rehabilitation of Offenders Act 2001 (but such protection does not apply to those employments which are excluded from protection

⁶ Sections 125, 126 and 127 [dismissal for discrimination on the grounds of race, religion and sexual orientation] of the Employment Act were simultaneously repealed. (But note that by virtue of Sch. 1 para 5 of the [Equality Act 2017 \(Appointed Day\) \(No. 5\) Order 2018](#) until an order under section 160 [Application of the Act to Manx ships, aircraft etc. and those employed aboard them] of the Equality Act is made and comes into operation, persons employed aboard a Manx ship, aircraft or hovercraft continue to enjoy the same rights as they would have done under both the Employment (Sex Discrimination) Act 2000 (which covers discrimination on the grounds of sex and marriage and civil partnership) and these otherwise repealed provisions concerning discrimination in the Employment Act 2006).

		<p>under the 2001 Act); or</p> <ul style="list-style-type: none"> • has a protected characteristic under the Equality Act 2017.⁷
16(a)	Employment Act 2006 s. 130(5) [Selective dismissal or re-engagement arising out of industrial action etc.]	Paragraph 16 has made 2 consequential numbering amendments to section 130.
17(2)	Employment Act 2006 s.132 [Qualifying period and upper age limit]	Paragraph 17 has re-enacted section 132 with amendments. The paragraph has removed the previous exclusion on employees over retirement age claiming unfair dismissal (because age is a protected characteristic in the Equality Act).
17(3) and Sch 24 paragraph 1(m)(vi)	Employment Act 2006 s. 132(2) [Qualifying period and upper age limit in unfair dismissal cases]	<p>The following additions have been made to the list of exceptions in section 132(2) whereby the usual requirements to bring an unfair dismissal case, i.e. for the employee to have one year's continuous employment with the employer (and previously to be below the employer's usual retirement age etc. (see 17(2) above)) are disapplied –</p> <ul style="list-style-type: none"> • a dismissal because the employee in question has a spent conviction under the Rehabilitation of Offenders Act 2001; • a dismissal related to a protected characteristic under the Equality Act 2017.⁸
17(4)	Employment Act 2006 s. 132(2) [Qualifying period and upper age limit in unfair dismissal cases]	<p>The qualifying period (and the previous requirement to be below the employer's usual retirement age etc.) have been disapplied in two further cases in section 132(2). These are –</p> <ul style="list-style-type: none"> • firstly, where the dismissal is because of, or is connected with, the employee's membership of HM Reserve Forces. This is in line with changes made in the UK by the Defence Reform Act 2014; • secondly, where the reason for the dismissal is because of, or is connected with, the employee's political affiliations or opinions. <p>It may be noted that in neither case will a dismissal on one of these grounds be automatically</p>

⁷ Sections 128(12), (13) and (14) [redundancy on the grounds of race, religion and sexual orientation] of the Employment Act were simultaneously repealed.

⁸ See footnote 6 above.

		unfair; the effect of the provision is intended only to give the Tribunal jurisdiction to hear the case where the employee has less than a year's continuous employment.
18	Employment Act 2006 s.140 [Compensation for unfair dismissal]	Paragraph 18 has corrected an incorrect cross reference.
19 and Sch 24 paragraph 1(m)(vii)	Employment Act 2006 s. 142 [Calculation of basic award etc.]	<p>Paragraph 19 together with Paragraph 1(m)(vii) of Sch 24 [repeals] has amended section 142 to change the basis of calculation of the basic award in unfair dismissal cases. Previously the award was calculated on the basis of 1 week's pay times the number of years of continuous employment up to the effective date of termination. Paragraph 19 has amended the calculation basis as follows:</p> <ul style="list-style-type: none"> • Subsections (3) and (4), which provide for the reduction and extinguishment of the award, where the effective date of termination is after the employee's 64th birthday, are repealed. (This is because age is a protected characteristic in the Act). • The number of years of continuous employment to be used in the calculation has been capped at 26. (This is to balance the effect of removing the upper age limit of the award).
20	Employment Act 2006 s. 144 [Limit of compensatory award etc.]	Paragraph 20 has amended section 144 to replace the amount of the compensatory award to reflect the present amount which was set by the Employment (Maximum Amount of Awards) Order 2016 . In addition, the Department's order making powers have been amended so that when a new maximum amount is set by order it may be inserted at section 144.
21	Employment Act 2006 s. 145 [Acts which are both unfair dismissal and discrimination]	Paragraph 21 has replaced a previous reference to the repealed Employment (Sex Discrimination) Act 2000 in section 145 with a reference to the Equality Act.
22	Employment Act 2006 s.147 [Insolvency of employer]	<p>Paragraph 22 has re-enacted section 147(1) with amendments. That sub-section required the Treasury to pay certain debts due on the "relevant date" to an employee whose employment had ceased and whose employer was insolvent. The sums were payable out of the Manx National Insurance Fund but only if the employer had made or was liable to make class 1 national insurance contributions in respect of the employee.</p> <p>The re-enacted section 147(1) has removed that condition, the effect of which had been to</p>

		<p>exclude some part-time workers whose earnings fell below the point at which they are liable to pay NI contributions (“the primary threshold”) from entitlement to compensation.</p> <p>New subsection 147(1A) has made any payments made by the Treasury subject to various conditions which are specified, namely: section 150 [Restriction on payment in certain cases] and section 153 [Subrogation of Treasury], so that the Treasury takes over the rights to claim in the bankruptcy or liquidation for any amount which it has paid out. In addition, as in the UK, debts owed to employees by their former employer (arrears of pay, payment in lieu of notice, accrued holiday pay and compensation for unfair dismissal) have been made subject to the maximum of a week’s pay (presently £540 per week⁹) which applies to statutory redundancy payments and certain other Tribunal awards.</p>
23	Employment Act 2006 s.148 [Cessation of business of employer]	Paragraph 23 has re-enacted section 148(1) with amendments. It makes similar provision to section 147, [Insolvency of employer], where the employer is not insolvent but has ceased to carry on business in the Island. As in the case of section 147, a new subsection (1A) imposes various conditions etc. on payments to be made by the Treasury.
24	Employment Act 2006 s.149 [Payment of unpaid contributions to occupational pension scheme etc.]	Paragraph 24 has re-enacted section 149, which makes similar provision to section 147(1) in relation to unpaid employees’ or employers’ contributions to an occupational pension scheme or personal pension scheme, with stylistic improvements. As in the case of sections 147 and 148 various conditions etc. are imposed on payments to be made by the Treasury.
25	Employment Act 2006 s.153 [Subrogation of Treasury]	Paragraph 25 has replaced references to the former Department of Social Care in section 153 with references to the Treasury to take account of the transfer of functions from the former to the latter.
26	Employment Act 2006 s. 164 [Restrictions on contracting out]	Paragraph 26 has made consequential amendments arising from the repeal and re-enactment of Part 12 [Resolution of disputes relating to employment] of the Employment Act 2006 by the Equality Act.
27	Employment Act 2006 s.166A [Regulation of zero hours contracts] (New	<p>Paragraph 27 has inserted new section 166A. This –</p> <ul style="list-style-type: none"> • has made unenforceable any term of a zero hours contract prohibiting a worker from

⁹ See: The [Employment \(Maximum Amount of a Week’s Pay\) Order 2016](#)

	section)	<p>doing work or performing services under another contract or any other arrangement or from doing so without the employer’s consent (“exclusively clauses”); and</p> <ul style="list-style-type: none"> • has enabled the Department for Enterprise to make regulations about zero hours contracts. For this purpose the section contains extensive enabling powers. In particular, the regulations may make provision - <ul style="list-style-type: none"> - modifying zero hours contracts; - imposing financial penalties on employers; - requiring employers to pay compensation to zero hours workers; - conferring jurisdiction on the Tribunal or the High Court; and - conferring rights on zero hours workers. <p>To date DfE has not made any Regulations.</p>
28	Employment Act 2006 s. 171(1)[Codes of practice]	<p>Paragraph 28 has made a consequential amendment to section 171 arising out of the Equality Act and has removed the Department for Enterprise’s power to issue codes of practice relating to discrimination and equality of opportunity. This is in order to remove any overlap with section 157 of the Equality Act which gives the Council of Ministers powers to issue codes of practice in connection with any matter addressed by that Act.</p>
29(2)(a) and (4)	Employment Act 2006 s.173 [General Interpretation – definition of Crown employment etc.]	<p>Paragraph 29(2)(a) and (4) have amended section 173 to update the definition of “Crown employment”.</p> <p>The effect of Section 173(1) and (4A) is to remove certain employees from the definition of “Crown employment”. The affected employees are manual employees who prior to 1 September 2015 were employed by a Department or a Statutory Board under Whitley Council terms and conditions. Under Article 4 of the Public Services Commission (Classes of Employees) Order 2015 these employees became employees of the Public Services Commission on 12 September 2015.</p> <p>Under section 173 employees of the Public Services Commission fall within the definition of “Crown employment” but under paragraph 3 of Schedule 4 [Treatment of special categories</p>

		<p>of worker – Crown employment] Crown employees are excluded from certain employment rights.¹⁰ The 2015 Order therefore had the unintended effect of excluding the affected employees from a number of employment rights.</p> <p>The effect of the amendment has been to remove these employees from the definition of Crown employment and thus restore their access to all employment rights.</p>
29(2)(b) – (d) and (4)	Employment Act 2006 s.173 [General Interpretation]	<p>Paragraph 29(2)(b) – (d) and (4) have amended section 173 to update the definition of certain other terms used in the Employment Act 2006. Notably -</p> <ul style="list-style-type: none"> • Paragraph 29(2)(b) –(d) has updated the definition of “public authority”, “the Employment Acts” and “the Tribunal”. • Paragraph 29 (4) has substituted a new the definition of “successor” at section 173(5) so that it is consistent with section 11 [Transfer of Business] and 11A [Service provision change] of the Redundancy Payments Act 1990 as amended (see further below).
30	Employment Act 2006 s. 174 [Subordinate legislation: general provisions] para. 3	Paragraph 30 has amended section 174(3) so that powers conferred on the Department for Enterprise to make subordinate legislation are extended to a maker of subordinate legislation other than the Department (for example, it is the Treasury rather than the Department for Enterprise which makes regulations on recoupment of benefit).
31	Employment Act 2006 Schedule 1 [Tribunal’s duties in cases other than Section 17]	Paragraph 31 has updated the list of jurisdictions in Schedule 1 in respect of which the Tribunal has a duty under section 18 of that Act to establish whether or not an employer is in breach of the duty to issue or update a written statement of employment particulars and where there is a breach, to award between 2-4 weeks’ pay to the employee in certain circumstances.
32	Employment Act 2006 Schedule 4 [Treatment of special categories of worker] para.1	Paragraph 32 has amended paragraph 1 of Schedule 4 to remove an exception which is no longer required following amendments to Part XI of the Employment Act [Insolvency and cessation of business of employer].

¹⁰ Crown employees are excluded from the right to a minimum period of notice, rights in the period of notice and rights in relation to the insolvency or cessation of business of their employer.

33(2)- (4)	Employment Act 2006 Schedule 5 [Computation of period of employment] para. 8	<p>Paragraph 33(2) – (4) has amended paragraph 8 of Schedule 5, which deals with the rules of continuous employment where there is a change of employer, as follows:</p> <ul style="list-style-type: none"> • In order for the legislation to be in step with changes to section 11 of the Redundancy Payments Act 1990 [Transfer of business] paragraph 8(2) of the Schedule, which deals with the transfer of a trade, business or undertaking, has been broadened to include the transfer of part of a trade, business or undertaking. • In addition, a note has been added to paragraph 8(2) to clarify that a transfer of a business from one person to another for the purposes of which a person is employed may apply regardless of whether the business which is being transferred has been carried on by the person’s employer. • New paragraph 8(2A), states that the rules of continuous employment which apply where there is a change of employer also apply where there is a service provision change under section 11A of the Redundancy Payments Act 1990. • New paragraph 8(6) has provided that where an employee of a Department, Statutory Board or an office of the Government, who is not an employee of the Public Services Commission, is transferred to another Department, Statutory Board or office he or she will retain his or her continuous employment built up with the first employer.
33(5)	Employment Act 2006 Schedule 5 [Computation of period of employment] para. 13	Paragraph 33(5) has amended paragraph 13 of Schedule 5 to update references to social security legislation and, in particular, to omit references to class 1 National Insurance contributions in order to remove a previous requirement which had the effect of excluding some part-time workers from being able to accumulate “continuous employment” ¹¹ for employment protection purposes in certain circumstances.
33(6)	Employment Act 2006 Schedule 5 [Computation of period of employment] para. 16	Paragraph 33(6) has inserted new paragraph 16 in the Schedule. This has provided a new power to amend the Schedule, which is technical in nature, by order. Such an order would require the approval of Tynwald.
34(2)	Employment Act 2006	Paragraph 34(2) has substituted paragraph (8)(3)of Schedule 6 in order to remove reference

¹¹ Some employment rights are conditional upon an employee having worked a qualifying period of continuous employment, for example one year’s continuous employment is generally required to bring a claim of unfair dismissal (though there are exceptions to this rule).

	Schedule 6 [Calculation of normal working hours and a week's pay] para. 8(3)	to remuneration on suspension on medical grounds as there is no provision in Isle of Man employment law covering suspension on such grounds.
34(3)	Employment Act 2006 Schedule 6 [Calculation of normal working hours and a week's pay] para. 10	Paragraph 34(3) has amended paragraph 10 of Schedule 6 [maximum amount of a week's pay] in order to add payments made by the Treasury under section 147 [insolvency of employer] and section 148 [cessation of employer's business] to the list of payments which are subject to the maximum amount of a week's pay. In addition, the maximum amount of a week's pay has been updated to substitute the present amount, £540, set by the Employment (Maximum Amount of a Week's Pay) Order 2016 , for an earlier amount, previously contained at paragraph 10.
34(4)	Employment Act 2006 Schedule 6 [Calculation of normal working hours and a week's pay] para. 13	Paragraph 34(4) has inserted new paragraph 13 in the Schedule. This has provided a new power to amend the Schedule, which is technical in nature, by order. Such an order would require the approval of Tynwald.
35(2)	Redundancy Payments Act 1990 s. 11 [Transfer of trade, business or undertaking or part of trade, business or undertaking]	Paragraph 35(2) has amended section 11 of the Redundancy Payments Act 1990 to clarify the intended meaning of the section and, in particular, that the scope of the section includes the transfer of a business from one person to another for the purposes of which a person is employed regardless of whether the business which is being transferred has been carried on by the person's employer. This subparagraph also defines "business" as including a trade or undertaking; and part of a business, trade or undertaking.
35(3)	Redundancy Payments Act 1990 s. 11A [Service provision change]	Paragraph 35(3) has inserted new section 11A concerning service provision changes into the Act. The new section is intended to ensure that service provision changes, i.e. where outsourcing or insourcing activities take place, definitely fall within the overall framework governing the transfer of a business. The new provision has ensured that an employee who is transferred in the course of outsourcing or insourcing is in the same position as if there were a transfer of the business.
35(4)	Redundancy Payments Act 1990 s. 15 [Domestic servants] para. (1)	Paragraph 35(4) has made a consequential amendment to section 15(1) which flows from new section 11A.

35(5)	Redundancy Payments Act 1990 s. 25 [Payments out of the Manx National Insurance Fund to employees] para.(2)	Paragraph 35(5) has amended section 25(2) to remove a previous requirement that an employee claiming a payment from the Manx National Insurance Fund in the event of the employer's insolvency must have been subject to Class 1 national insurance contributions. The effect of this is that some part-time employees, previously excluded from eligibility to receive payments from the Fund have become eligible.
35(6)	Redundancy Payments Act 1990 s. 33 [Application to employment not under contract of employment]	Paragraph 35(6) has made a numerical correction to section 33 and updated references to social security legislation.
35(7)	Redundancy Payments Act 1990 s. 38 [Restriction on contracting out]	Paragraph 35(7) has amended section 38 which prohibits employees from contracting out of the rights conferred by the Act. The amendment has made a new exception in the case of an agreement which is concluded with the assistance of an industrial relations officer. This has made the position consistent with other Isle of Man employment law.
35(8)	Redundancy Payments Act 1990 s. 40 [General power to amend Act]	Paragraph 35(8) has amended section 40 to give the Treasury enabling powers to abolish or modify redundancy rebates by order. Such rebates are paid to small employers out of the Manx National Insurance Fund. An order would require the approval of Tynwald.
35(9)	Redundancy Payments Act 1990 s. 46 [Interpretation]	Paragraph 35(9) has redefined "Tribunal" to mean "Employment and Equality Tribunal".
35(10) and Sch 24 paragraph 1(g)(i) to (iv)	Redundancy Payments Act 1990 Schedule 1 [Calculation of redundancy payments]	Paragraph 1(g)(i) has removed the exclusion on employees over retirement age claiming a redundancy payment (because age is a protected characteristic in the Equality Act). Paragraph 35(10) has substituted a new paragraph for Schedule 1 of the Redundancy Payments Act 1990 to change the basis of the calculation of a redundancy payment. The changes to be made are the same as those made to the basic award in unfair dismissal cases (see para 19 [basic award etc.] above). Sch 24 para 1(g)(ii) to (iv) has made consequential repeals, including in respect of section 13 [Exclusion or reduction on account of pension rights].
35(11)	Redundancy Payments Act 1990 Schedule 5 [Death of employee or employer]	Paragraph 35(11) has made a consequential amendment to paragraph 7 of Schedule 5, which flows from new section 11A (see above).

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36(2)	Shops Act 2000 s.1 [Interpretation]	The Department for Enterprise has been given a new power to amend the definition of “retail trade or business” in section 1(1) by order. Such an order requires the approval of Tynwald.
36(3)	Shops Act 2000 section 11 [Interaction with Employment Act 2006 etc]	Section 11 of the Shops Act has been updated to remove references to age, which are no longer relevant.
36(4)	Shops Act 2000 s.13(4) [Employer’s duty to give explanatory statement] and the heading to section 18 [Complaints to the Tribunal]	References to the Employment Tribunal in section 13 and the heading to section 18 have been replaced with references to the Employment and Equality Tribunal.
36(5)	Shops Act 2000 s.19 [Remedies]	Section 19 has been amended to limit the amount of compensation that can be awarded to a shopworker who has suffered a detriment to the sum of the basic award and the compensatory award that can be awarded to an employee on a finding of unfair dismissal. ¹²
36(6)	Shops Act 2000 s.20 [Restrictions on contracting out of Part III of the Act]	Section 20 has been amended to allow an exception to the non contracting out rule in the case of an agreement which is concluded with the assistance of an Industrial Relations Officer. This has made the law in respect of contracting out consistent with other Isle of Man employment law.
36(7)	Shops Act s. 22 [Application of other employment law to the Shops Act]	Section 22, which concerns the relationship of the Shops Act to other employment statutes, has been substituted by a new updated section.
37(2)	Minimum Wage Act 2001 s.4(1) [Exclusion of, and modifications for, certain classes of person from entitlement to the	Under Section 4 of the Minimum Wage Act 2001 the Department for Enterprise may make regulations preventing specified categories of persons from qualifying for the minimum wage or prescribing an hourly rate for the minimum wage other than the single hourly rate. The amendment has broadened the previous category of persons over the age of 25 who are attending a course of further education who require attendance for a period of work

¹² See footnote 3 above.

	minimum wage]	experience to include a course of higher education.
37(3)	Minimum Wage Act 2001 s.21(7)(b) [Tribunal remedies]	Section 21(7)(b) has been amended to limit the amount of compensation that can be awarded to a worker who has suffered a detriment (including termination of his or her contract) to the sum of the basic award and the compensatory award that can be awarded to an employee on a finding of unfair dismissal. ¹³
37(4)	Minimum Wage Act 2001 s.37 [Voluntary workers]	Section 37 has been amended to make additional provision about voluntary workers. Voluntary workers are a special class of workers who are exempt from the Act. Paragraph 37(4) has amended section 37 of the Act to broaden the type of expenses which can be paid to voluntary workers without triggering entitlement to the minimum wage to include expenses which are incurred in order to enable the voluntary worker to perform his or her duties and are reasonably so incurred. As with expenses incurred in the performance of duties, both expenses which have actually been incurred and expenses which have been reasonably estimated as likely to be or to have been so incurred can be paid to voluntary workers without triggering entitlement to the minimum wage. New subsection (1A) has provided that accommodation expenses cannot be paid to voluntary workers. The effect of this amendment has been to maintain the previous treatment of accommodation expenses under the Act. Whilst accommodation expenses cannot be paid, under section 37 such accommodation as is reasonable in the circumstances of the employment can be provided directly to voluntary workers without triggering entitlement to the minimum wage.
37(5)	Minimum Wage Act 2001 s.47(1)	"Tribunal" in section 47(1) has been redefined to mean "Employment and Equality Tribunal".
38(2)	Control of Employment Act 2014 s. 4 [Isle of Man workers]	Paragraph 38(2) has amended section 4 of the Control of Employment Act 2014 (CEA) to create a new category of Isle of Man worker for the purposes of the Act. Under new subsection 8A a person is an Isle of Man worker if he or she is the grandchild of a person who — (a) was born in the Island, and (b) was ordinarily resident in the Island for an unbroken period of at least 5 years immediately following the birth.

¹³ See footnote 3 above

38(3)	Control of Employment Act 2014 s.6 [Restrictions on employment]	Paragraph 38(3) has amended section 6 to give the Department for Enterprise an order making power to restrict the application of the CEA to particular kinds of employment; to particular industries or occupations, to particular sectors of the economy of the Island; or to the employment of particular descriptions of persons (for example, those who have previous convictions). Such an order would require the approval of Tynwald.
38(4)	Control of Employment Act 2014 s.7 [Exemptions]	Paragraph 38(4) has amended section 7 to broaden the Department for Enterprise's powers to make work permit exemptions by order.
38(5)	Control of Employment Act 2014 s.9 [Spouse or civil partner of permit holder etc.]	<p>Under section 9, where a work permit holder or exempt person is engaged in permanent, regular full-time employment (referred to as "the primary employment"), his or her spouse or civil partner is, upon application, entitled to a work permit, often referred to as "a spouse/civil partner permit". A spouse/civil partner permit is granted for a year at a time, beginning with the date on which it is granted or renewed and it can be used in any employment.</p> <p>Paragraph 38(5) has amended section 9(1)(b) of the Act to extend the right to a spouse / civil partner permit to spouses and civil partners of persons from outside the European Economic Area who are working in the Isle of Man by virtue of an "immigration employment document". The Department for Enterprise may prescribe exceptions to the general rule.</p>
38(6)	Control of Employment Act 2014 s.14 [Appeals to Tribunal]	Paragraph 38(6) has re-enacted section 14 to clarify that a decision to grant a permit but in terms which differ from those in respect of which a person applied for the permit (e.g. where a permit is granted for a shorter period than the applicant sought) is subject to appeal.
38(7)	Control of Employment Act 2014 s.24 [Regulations etc.]	<p>Paragraph 38 (7) has amended section 24 to provide the Department for Enterprise with order making powers to amend the CEA to confer on persons who are living together as if they were spouses, one of whom is an Isle of Man worker and the other is not, such rights as the Department considers appropriate. Such an order requires the approval of Tynwald.</p> <p>Paragraph 38(8) and (9) have made some consequential amendments to the same section.</p>

Table 3: Repeals made to employment law by Schedule 24 to the Equality Act [Employment Legislation – Miscellaneous Amendments] other than those included in tables 1 or 2.

Paragraph number in Schedule 24 of the Equality Act [Repeals]	Act and section(s) repealed	Effect of repeal
Paragraph 1(i)	Employment (Sex Discrimination) Act 2000	The whole of the Act has been repealed (because superseded by provisions covering discrimination on the grounds of sex, marriage and civil partnership in the Equality Act 2017). ¹⁴
Paragraph 1(j)	Minimum Wage Act 2001 subsection (2)(b) of section 43 [Restrictions on contracting-out]	In the Minimum Wage Act 2001, subsection (2)(b) of section 43 has been repealed in order to remove so called “compromise agreements” as an exception to the non-contracting out of employment rights rule. This has made the position consistent with all other Isle of Man employment law, i.e. the only exception that is permitted is in the case of a conciliated settlement concluded with the assistance of an Industrial Relations Officer.
Paragraph 1(m)(viii)	Employment Act 2006 s 172 [Publication of employees’ rights]	Section 172 has been repealed as the requirement to publish information in newspapers has been superseded by technological developments.
Paragraph 1(ix)	Employment Act 2006 Schedule 5, [continuous employment rules] para 14(2)(b)	A provision which concerned the repealed Employment (Sex Discrimination) Act 2000 has been repealed.
Paragraph 1(m)(x)	Employment Act 2006 Schedule 7 [Transitional provisions and savings]	Paragraphs 14 to 19 of Schedule 7 have been repealed. These are old transitional provisions which are now redundant.

¹⁴ But see footnote 6 above as regards transitional protection for seafarers in the period before the making of an order under section 160 (Manx ships etc.) of the Equality Act is made which extends rights under the Act to seafarers.

	paras. 14-19	
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