

Statutory Document No. 2020/0168

*Employment Act 2006*

FLEXIBLE WORKING REGULATIONS 2020

*Approved by Tynwald:**19 May 2020**Coming into Operation in accordance with regulation 2*

The Department for Enterprise makes the following Regulations under sections 99 and 102(3) of the Employment Act 2006.

1 Title

These Regulations are the Flexible Working Regulations 2020.

2 Commencement

If approved by Tynwald¹ these Regulations come into operation on 1 June 2020.

3 Interpretation

In these Regulations —

“**the 2006 Act**” means the Employment Act 2006;

“**electronic communication**” has the same meaning as in the Electronic Transactions Act 2000; and

“**flexible working application**” means an application under section 99 of the 2006 Act (statutory right to request flexible working).

4 Application, revocation and saving

- (1) These Regulations apply to a flexible working application made on or after 1 June 2020.
- (2) The Flexible Working Regulations 2007² are revoked, subject to paragraph (3).
- (3) In relation to a flexible working application made before 1 June 2020 —
 - (a) the Flexible Working Regulations 2007 continue to apply³; and

¹ As required by section 175(1) of the Employment Act 2006.

² SD 96/2007.

- (b) sections 66 (detriment for requesting flexible working), 99 (statutory right to request flexible working), 100 (employer's duties in relation to application under section 99), 101 (complaints to Tribunal) and 122 (flexible working) of the 2006 Act⁴, as they had effect immediately before 1 January 2020, continue to apply.

5 Entitlement to make an application

- (1) For the purposes of section 99 of the 2006 Act, an employee is a qualifying employee if he or she —
 - (a) is employed by the employer (irrespective of the duration of employment); and
 - (b) is not an agency worker.
- (2) Any qualifying employee is entitled to make a flexible working application.

6 Form of application

A flexible working application must —

- (a) be in writing;
- (b) state whether the employee has previously made any such application to the employer and, if so, when; and
- (c) be dated.

7 Date when application is taken as made

- (1) A flexible working application is taken as made on the day it is received.
- (2) Any such application is received at the time of its receipt unless the contrary is proved —
 - (a) if sent by electronic communication, determined in accordance with section 2 of the Electronic Transactions Act 2000 (time and place of dispatch and receipt of electronic communication);
 - (b) if sent by post, on the day on which it would have been delivered in the ordinary course of post; or
 - (c) if it is delivered personally, on the day of delivery.

³ The Flexible Working Regulations 2007 continue to apply by virtue of section 58(5)(d) of the Legislation Act 2015.

⁴ Sections 66, 99, 100 and 101 of the 2006 Act were amended by paragraphs 7, 9, 10 and 11 of Schedule 22 to the Equality Act 2017.

8 Compensation

For the purposes of section 102 of the 2006 Act (remedies) the maximum amount of compensation is 8 weeks' pay⁵ of the employee who presented the complaint under section 101 of the 2006 Act.

MADE 21 APRIL 2020

LAURENCE SKELLY
Minister for Enterprise

⁵ A week's pay is calculated in accordance with Schedule 6 to the Employment Act 2006 and subject to the limit in paragraph 10 of that Schedule.

*EXPLANATORY NOTE**(This note is not part of the Regulations)*

These Regulations revoke and replace the Flexible Working Regulations 2007.

They provide that an employee is entitled to make a flexible working application irrespective of the duration of the person's employment provided that the employee is not an agency worker.

They also make provision for: the form which such an application must take; when an application is taken to be made; and for the maximum amount of compensation that the Employment and Equality Tribunal can award in relation to a complaint that an employer has failed to deal correctly with such an application.