



# Wessex Synod

## *Employment Newsletter Summer 2007*

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*Please share this newsletter with your Church Secretary and other members of your church who are involved in employment matters.*

*To print and conserve the amount of paper used, at Print, select Properties, then select A5 paper in the Main menu, then select Page Layout menu, click on Double-sided and Folded booklet boxes, then OK.*

### **a** Recent Legal Changes

- ◆ Statutory Maternity Leave is extended to all female employees i.e. no qualifying period is required. Early returnees have to give 8 weeks' notice to the employer, but "keeping in touch" days are encouraged
- ◆ Statutory Maternity Pay, maternity allowance and Statutory Adoption Pay periods increased from 6 months to 9 months for due dates from April 2007 onwards
- ◆ Extension of the right to request flexible working to employees who are, or who expect to be, caring for an adult. See **Issue Under the Spotlight** for more details
- ◆ Information and Consultation of Employees Regulations 2004 applies to all organizations with more than 100 employees from April 2007 (and include a duty to consult on changes to occupational and personal pensions)
- ◆ Employment Equality (Age) Regulations outlaw direct and indirect discrimination on the grounds of age. Compulsory retirement before age 65 will be unlawful unless the employer can justify it objectively. Employees have the right to request working beyond retirement age. Denial must be justified objectively by the employer

### **b** Future Legal Changes

- ◆ Statutory Maternity Pay, maternity allowance and Statutory Adoption Pay periods expected to increase to 12 months from 2009/10
- ◆ Regulations to provide fathers and adoptive fathers with up to 6 months paternity leave, if the mother returns to work before the expiry of leave entitlement
- ◆ Current review of the Dispute Resolution Regulations (are not working effectively) may produce redrafted regulations in the near future
- ◆ Redefinition of Employment Equality (Sex Discrimination) Regulations: to deal more effectively with sexual harassment, vicarious liability, pregnancy discrimination and continuity of employment benefits during maternity leave
- ◆ Removal of the Working Hours Waiver (declaration that the employee wishes to work in excess of 48 hours per week on average) is still on hold
- ◆ Minimum statutory holiday entitlement increases from 20 days to 24 days per year from 1<sup>st</sup> October 2007. Further increase to 28 days anticipated from 1<sup>st</sup> October 2008. *(Note that the contract must state that public holidays are included in the entitlement if the statutory minimum is the employer's policy. The majority of employers add public holidays to the minimum)*
- ◆ Data Protection Act will be fully enforceable from 24<sup>th</sup> October 2007 i.e. manual filing systems must comply fully with regulations from that date
- ◆ National Minimum Wage increases from 1<sup>st</sup> October 2007:
 

Adult rate	£5.52 p hr
Development rate	£4.60 p hr
16-17 year olds	£3.40 p hr
- ◆ Information and Consultation of Employees Regulations 2004 will apply to all organizations with more than 50 employees from April 2008
- ◆ In 2011, the retirement age is expected to be reviewed to consider whether the default of age 65 or any age is still necessary. (In response to a recent challenge to a retirement age of 65 in a Spanish collective agreement, the Advocate General in the European Courts of Justice found no breach of the European Age Discrimination Directive, and noted that retirement is to be distinguished from dismissal)

## **C** Health and Safety

- Employers have a general duty under section 2 of the Health and Safety at Work etc Act 1974 to ensure, so far as is reasonably practicable, the health, safety and welfare of their employees at work. People in control of non-domestic premises have a duty (under section 4 of the Act) towards people who are not their employees but who use their premises
- Ban on smoking in enclosed public places (premises and vehicles), including workplaces, comes into force on 1<sup>st</sup> July 2007. Notices of a defined size and content are required to be displayed at every entrance. Fines or fixed penalties will be applied. The website [www.smokefreeengland.co.uk/resources/guidance-and-signage.html](http://www.smokefreeengland.co.uk/resources/guidance-and-signage.html) provides signs, posters and policy that can be printed off

- New regulations on the control of asbestos came into force in November 2006, consolidating and updating previous regulations. They strengthen worker protection and increase provision for maintenance workers who risk accidental or low intensity exposure to asbestos fibres
- Employers with over 5 employees must have a written health and safety policy available to all employees
- Under Working Time Regulations, employers must ensure that workers are able to take at least the statutory minimum rest break i.e. 20 minutes during the day for those working more than 6 hours (for 16-17 year olds, a break of at least 30 minutes of they work more than 4.5 hours)
- Since October 2006, the law on Fire Safety changed, emphasising risk assessment and reduction and fire prevention. Fire certificates will no longer be issued. More detailed guidance is available from [www.communities.gov.uk/index.asp?id.=1162101](http://www.communities.gov.uk/index.asp?id.=1162101)
- Updated *Workplace Health, Safety and Welfare: a guide for managers* is available free at [www.hse.gov.uk/pubns/indg244.pdf](http://www.hse.gov.uk/pubns/indg244.pdf)
- Food hygiene: new regulations came into force in 2006. Organisations providing food on a regular basis (free or paid for) should register with the local authority environmental health department, who will arrange an inspection at determined intervals. The Food Standards Agency provide more detailed guidance at [www.food.gov.uk/foodindustry/regulation/hygleg/hyglegresources/sfbb/sfbbcaterers](http://www.food.gov.uk/foodindustry/regulation/hygleg/hyglegresources/sfbb/sfbbcaterers)



## **d** Issue under the Spotlight

### **Flexible Working for Carers**

Employees who are, or expect to be, caring for an adult may make the following requests of their employer:

- to change the hours they work
- to change the times when they are required to work
- to work from home

Include part-time work, flexi-time, staggered hours, compressed hours, job sharing, annual hours, term time work.

#### *Definition of Carer*

- Married to, or is the partner or civil partner of, the adult who requires care
- Related to the adult who requires care
- Neither of the above, but lives at the same address as the adult who requires care

#### *Definition of Relative*

Includes parents, parents-in-law, adopter, adult child, adopted adult child, siblings, siblings in law, uncles, aunts, grandparents and includes step and half blood relationships.

### *Definition of Care*

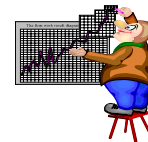
Not defined. Guidance states that the employee will need to be involved in substantial and regular care for it to be sufficient to request flexible working. Employers must therefore treat on a case by case basis.

### *Qualifying Conditions*

Employee must have 26 weeks' continuous employment and make no more than ONE request for flexible work conditions for the purpose of care in a 12-month period.

### *Employer's Response*

Either agree to the request or provide clear business grounds in writing for denying the request and advise the employee of the appeal procedure. Failure to follow correct procedure risks the employee bringing a claim and an award of up to 8 weeks' pay. Take care that indirect sex discrimination is not claimed also, as the majority of carers are female.



## **E** Current Statistics

- Earnings Threshold for the employer to have to deduct PAYE and NIC: £100.00 per week from April 2007
- Lower Earnings Limit (LEL) is £87.00 per week from April 2007. This is the minimum level for the employee to qualify for benefits
- The employer must keep a record of payment, if earnings are at or above LEL but below Earnings Threshold i.e. between £87-100.00 per week
- National Minimum Wage from 1<sup>st</sup> October 2006:
  - Employees aged over 21 yrs, £5.35 p hr
  - Employees aged 18-21 yrs. or 22+ on accredited training £4.45 p hr
  - Employees aged 16 & 17 yrs. £3.30 p hr
- Statutory Parenting (Maternity, Paternity, Adoption) Pay: standard rates are £112.75 per week (or 90% of average earnings if less) from April 2007
- Retail Price Index rose 4.5% to April 2007
- Consumer Prices Index rose 2.8% to April 2007
- UK Average Earnings Index rose 3.5% to March 2007