

Administration of the Employment Relationship

By Siobhan Robins-Morris

Industrial Relations Officer, BEC

While many of the underlying principles behind the Employments Rights Act (ERA) are fundamental to the modern day human resource and industrial relations framework, there are a number of organizations who have a great deal of ground to cover in order to become compliant with the legislation. To us in the fields of HR and IR, especially those of us in more progressive organizations, some of the stipulations of the legislation seem elementary, but are critical, in particular those items which relate to the administration of the employment relationship. However, there are a number of organizations which have been operating without these documents and therefore need to be aware of what is necessary to become compliant. Fundamentally, the Act considers three major areas:

- The statement of employment particulars – i.e. the contract of employment
- The itemized pay slip
- Standard disciplinary procedures

Within the past decade most persons would not have commenced work with an organization without receiving a contract of employment. At the beginning of the employment relationship, a written document outlining the terms of the employment relationship must be provided to the employee for their agreement and signature. Within Part 1V of the ERA, the items which should be included in the employment contract are listed, and include: the name of the employee, the name and address of the employer, the date when employment begins/ began, the job title, the scale or rate of wages, or the method of calculating

wages, the intervals at which the wages are paid, the normal working hours, notice periods, place of work, including all the possible locations the employee can be assigned. The preceding is merely a snapshot of the items outlined within the legislation. Also, it is important to note that the legislation provides the minimum standards, and if an organization wishes to include additional terms and conditions within their contract they are free to do so.

It was once acceptable for a contract to be either written or verbal, once there was an agreement between the two parties, a contract existed. With the proclamation of the legislation all employment contracts must be written. The legislation further states that if at any time during the course of the employment relationship, any of the employee's terms or conditions change, they must be issued with a written statement of changes outlining such, for example a change in job title or salary.

The second requirement of the Act is the issuing of itemized pay slips to all employees. Part IV, Section 17 states that "an employee has the right to receive from his employer, at or before the time at which any payment of wages is made to him, a written, itemized pay statement." The section continues by stating that the statement should include particulars of:

- The gross amount of wages
- The amounts of any variable or fixed deductions from the gross amount, and the purposes for which those deductions are made;
- The net amount of wages payable ; and
- The date of payment and the dates of the pay period.

The final requirement of the Act as it relates to the administration of the employment relationship relates to the disciplinary process. The Fourth Schedule

of the Act outlines a number of rules which should be taken into account when discipline is contemplated, as follows:

- Disciplinary action must be applied progressively in relation to a breach of discipline
- Except in cases of gross misconduct, an employee should not be dismissed for his first breach of discipline
- As it relates to a breach of discipline not amounting to gross misconduct, an employee should be warned and given reasonable time to make correction; and oral/ written warnings should be utilized before stronger forms of disciplinary action are implemented
- Where a period of 12 months or more elapses after a written warning is given, it should be expunged from the employee's record.

Additionally, the section outlines standard disciplinary procedures, as well as modified disciplinary procedures. Organizations with a rich industrial relations legacy have been engaged in these types of systems for several years and have established codes of conduct which have the progressive element built into them.

It is clear to see from the foregoing that at the crux of being compliant with the ERA, companies must place renewed emphasis on documentation. Keeping copious records and following the established principles of progressive discipline are key to the administration of the employment relationship. Many organizations have already been practicing many of the elements of this, and have clearly established systems outlined in their company policy documents, handbooks, and in some cases collective agreements which encapsulate both their obligations and responsibilities and those of their staff. For those organizations who are not fully compliant with the legislation, it is important to tackle one area at a time and communicate with your employees the changes

that are being made to ensure compliance, as well as engaging them to actively participate in the process.