

## Taking on a new employee

The following sheet gives a summary of the regulations affecting employers. It is intended to point you in the right direction and is not a comprehensive summary of the law.

There are a number of information/advice services you can access to make yourself fully aware of your obligations as an employer.

- The Advisory, Conciliation and Arbitration Service (ACAS): Tel: 08457 47 47 47
- The National Minimum wage helpline: 0845 6000 678
- DTI employment relations website: <http://www.dti.gov.uk/er/index.htm>
- Inland Revenue new employers helpline: 0845 6070143

The law places greater responsibility on larger companies than on small businesses. In some cases, statutory regulations do not apply for company with a small number of employees but we have included some that you may wish to follow, as an example of best practice.

### 1. CONTRACT OF EMPLOYMENT

#### What are the legal requirements?

You must

- provide a new employee with a written statement of employment particulars **within 2 months** of taking them on

You are not legally required to issue a **written contract** of employment but writing down the terms of the contract can help avoid disagreements later.

#### How do I get it right?

The written statement must cover

- the employer's name
- the employee's name
- the job title or a brief job description
- the date employment began, the place of work and the address of the employer
- the amount of pay and the interval between payments
- hours of work
- holiday pay entitlement
- sick pay arrangements
- pension arrangements
- notice periods
- where the employment is not permanent, how long the job is expected to last
- disciplinary, grievance and appeal arrangements
- a note stating whether or not a pensions contracting out certificate is in force

You are not legally obliged to include **disciplinary rules** if you have fewer than 20 employees but it can be useful to include them anyway. You should include the name of the person the employee should go to if they have a grievance.

## 2. PAY

### What are the legal requirements?

You must:

- pay employees:
  - in accordance with their contract of employment
  - at least the **National Minimum Wage**
- pay men and women equally for doing work of equal value
- not make deductions from wages without prior written agreement.
- give employees itemised pay statements
- pay as appropriate: statutory sick pay; statutory maternity pay; pay for lay-offs, pay for medical/maternity suspension.

### How do I get it right?

- **THE MINIMUM WAGE :**

Main (adult) rate for workers aged 22 and over £5.35/hr

Development rate for workers aged 18-21 inclusive £4.45/hr

Workers aged 16-17 inclusive: £3.30/hr

Older workers can receive development rate for the first 6 months in a new job if they are receiving *accredited training*. e.g. NVQ's. One-off training e.g. chainsaw certificate does not count as accredited training.

#### **Piece work**

Workers must receive the minimum wage even if they are doing piece work.

- **ITEMISED PAY STATEMENTS**

Must show:

- the gross amount of wages
- the amount and purpose of any variable or fixed deductions
- net wages payable
- where the net amount is paid in different ways (e.g. piece work/ hourly rate) the amount and method of each part payment.

See Appendix 1. for an example of a pay slip.

### 3. INDUCTION & TRAINING

#### What are the legal requirements?

You must :

- provide instruction in health and safety

#### How do I get it right?

Ensure employees know:

- the health and safety rules
- any special hazards
- whether there are there non-smoking areas
- whether alcohol is prohibited

You are not legally obliged to give any other specific induction but good introductory information helps get new recruits get off to a good start:

Introduce new recruits to other employees and make them feel welcome. They will want to know a great deal about the business – information mentioned at the interview may need to be repeated, such as:

- What is the job and how does it fit into the rest of the organisation?
- What are the terms and conditions of employment and in particular how, when and where do employees get paid?
- Who will be 'in charge'? The new recruit's immediate boss should always be involved in the induction process.
- What are the company rules?
- Where are the toilets, first aid facilities, etc?
- What is the system for reporting in sick: Whom should they notify ? When? When is a medical self-certificate sufficient? When will a doctor's certificate be necessary?
- Will employees need special clothes? Will they be provided by the employer? Who will be responsible for cleaning?
- General administration – who is in charge of wages, personal records etc
- Use of company facilities: e.g. Are private telephone calls permitted?
- Do employees have to take holiday at specific times – summer shutdown, between Christmas and New Year, etc?

### 3. WORKING HOURS

#### What are the legal requirements?

You must :

- Comply with working time regulations

#### How do I get it right?

- You must take all reasonable steps to ensure that workers are not required to work more than an average of 48 hours a week, unless they have signed an opt-out.

- Working time includes travelling where it is part of the job and job-related training but not travelling between home and work, lunch breaks, evening classes or day-release courses.
- You must keep records to show that the weekly working time limit is complied with. You may be able to use records maintained for other purposes, such as pay sheets, or you may need to make new arrangements.
- You must keep an up-to-date record of workers who have agreed to work more than 48 hours a week.
- Records must be kept for 2 years.

#### **4. PAID ANNUAL LEAVE**

##### **What are the legal requirements?**

- Every worker is entitled to four weeks' paid annual leave. This right runs from the first day of their employment: there is no minimum qualifying period.
- The leave entitlement under the regulations is **not** additional to bank holidays. There is no statutory right to take bank holidays off.
- Workers must give the employer notice that they want to take leave.
- Employers can set the times that workers take their leave, for example for a Christmas shutdown.
- If a worker's employment ends, he or she has a right to be paid for the leave time due and not taken.

##### **How do I get it right?**

- Check how much leave workers receive and whether it is enough.
- Ensure workers receive a week's pay for each week of leave.
- Keep records of leave taken to avoid disagreements.

#### **5. STAKEHOLDER PENSIONS**

##### **What are the legal requirements?**

You must:

- offer a stakeholder pension if you have 5 or more employees

##### **How do I get it right?**

- choose a registered stakeholder pension scheme, having consulted with your employees – there are lots to choose from - just look out for the advertisements!
- provide employees with basic information about the scheme
- offer payroll deductions from an employee's earnings
- maintain records of employee deductions and payments to the scheme.

## 6. EMPLOYER'S LIABILITY INSURANCE

### What are the legal requirements?

You are responsible for the health and safety of your employees while they are at work.

You must

- Take out proper insurance to protect you against your liability for accidental injury, death or disease to employees.

### How do I get it right?

- Take out employer's liability insurance
- Ensure it is renewed annually
- If you employ sub-contractors you may be responsible for their health and safety. Check that you have adequate insurance cover for this.

## 7. PUBLIC LIABILITY INSURANCE

### What are the legal requirements?

- If you are working as a contractor you should take out public liability insurance. This is not a legal obligation but many organisations will not employ you unless you have it. You may be asked to provide evidence of cover before starting work.

## 8. TAX AND NATIONAL INSURANCE

### What are the legal requirements?

- If you employ anybody, either full or part time, you are responsible for deducting income tax and National Insurance from their wages. You must also pay the **employer's contribution** for National Insurance.

### How do I get it right?

- Tell your local tax office when you take someone on. They are in the phone book under **Inland Revenue!** They will send you documents which show how much you should take out of each employee's wages and where to send the money.
- You must record each employee's earnings and tax and National Insurance contributions, and inform your local tax office of these amounts each year.
- National Insurance is paid in two parts. You must pay one part and your employee pays the other part, which you must deduct from his/her wages.
- You will also have to make arrangements for paying your own tax and National Insurance.
- If someone works only for your business, they are usually regarded as being an employee, not a subcontractor. If you employ them as a self-employed subcontractor you risk being liable for all the tax and National Insurance contributions you would have paid if they had been your employee – even if you have been paying them an enhanced rate, assuming they were paying their own tax. Don't risk it – it can be a very big bill!



**APPENDIX 1.**

Example pay slip

Employer's name and address: _____			
Employer's PAYE reference: _____			
Employee: _____			
NI number: _____			
Pay slip for period (date): _____			
Hourly rate	£	Gross pay	
Hours Worked		NI contribution	
Payment		Tax deducted	
CASH/ CHEQUE			
Date		Net pay	