

SUPPORT@WORK

E Bulletin September 2007

National Minimum Wage - Increase

On 1st October 2007 the National Minimum Wage will increase as follows. The adult rate (workers aged 22 and over) will go up from £ 5.35 to **£ 5.52** per hour.

The development rate for 18 to 21 year olds will increase to £ 4.60. The development rate for 16 to 17 year olds will increase to £ 3.40.

The rate for the accomodation offset will increase to £ 30.10 per week.

New Regulations - Statutory Annual Leave

New Regulations will raise statutory paid annual leave from the current entitlement of 4 weeks in two instalments.

On 1st October 2007 statutory annual leave will increase to 4.8 weeks and from 1st April 2009 to 5.6 weeks.

The new Regulations do not give a statutory right to public holidays. All statutory holidays will have to be negotiated with employers.

As the change comes within a lot of people's annual leave year their statutory entitlement will be increased by the appropriate fraction. If the annual leave year runs from 1/1/07 to 31/12/07 the entitlement will increase from 4 to 4.2. If the annual leave year runs from 1/4/07 to 31/3/08 the entitlement will increase from 4 to 4.4 weeks.

Under the new Regulations employers are obliged to provide a written statement to em-

ployes on how their contract/ entitlement will change when the new Regulations come into operation.

Until April 2009 employers are permitted to make payments in lieu of the increase.

In contrast with the current four week entitlement the additional entitlement may, by agreement, be carried over in to the following leave year.

For more information on all the details contact Support@Work at 5563006 or at info@etuc.org.uk.

We would be happy to organise training sessions for your staff on the new rules.

Support@Work Helpline

Here is a sample of some recent phone calls to Support@work asking questions about rights at work. Our answers follow.

Q) *I am a single parent and I am working full time. My child care payments have increased and it is no longer worth working 35 hours per week. I would like to work 25 hours per week. If I ask for a reduction in my working week is my employer obliged to agree?*

A) You should inform your employer of your request in writing and explain why you wish a reduction in your working week. Your employer is obliged to consider your request seriously and investigate whether it is possible to meet your request. Your employer is obliged to make a reasonable decision. If your employer does not think that your request can be granted then I would contact your trade union or an employment

rights worker to discuss what further you can do.

Q) *I wish to take my annual holidays during the fortnight of the Edinburgh Trades in July. How should I apply for my leave and do I have a legal right to the Trades if I wish to take them?*

A) You have to apply for your leave in writing specifying your preferred dates. The employer has a right to refuse your request for business operational reasons. You do not have a statutory right to the Edinburgh Trades. Some groups of Edinburgh workers, by custom and tradition have a contractual right to the Trades fortnight.

Q) *My wife is scheduled to have a major operation soon. After the operation she will probably be off work convalescing for two months. She will not be able to take the kids to and from school. I work full time and to deal with the kids I will have to start work later and finish earlier. Am I entitled to the temporary change in hours?*

A) If you apply for the change in hours, stating in detail the reasons, your employer will be obliged to grant you your request as it constitutes a domestic emergency. Your employer can reduce your pay in line with your reduced working week.

Worker or Employee?

Your rights at work will often depend on whether you are classed as a ‘worker’ or an ‘employee’. Employees enjoy extra rights to those of workers. Sometimes home workers and sessional staff are not employees of the company that gives them work and therefore they do not have a contract of employment. Instead the agreement they have is called a contract of services and they are classed as workers.

Your employer may say that you are self-employed. This is another way of saying you are not an employee.

A ‘worker’ is not ‘legally’ the same person as someone who is self employed. A worker may have rights that a self employed person is not entitled to such as the right to paid holidays. Below is a checklist on some key criteria to distinguish employees and workers:

Employee

Employer requires you to work specific hours. Employer pays you specifically for these hours worked.

Employer will lay down their obligations under law.

Employer will state that you will carry out the work personally.

Employer will supply all tools and equipment. Employer will pay tax and national insurance (N.I.) (Note: many workers also have these deducted, so this alone does not prove you are an employee).

An employee will have a written agreement that is a “Contract of Employment”?

Worker

Employer only offers and pays for work when needed.

A worker can decide when to work and turn down work.

A worker may provide their own work equipment.

A worker may pay and work out their tax and N.I.?

A worker may have a written agreement that includes the term “contract for services”?

In a legal sense a ‘worker’ is a fairly rare animal. Most so called workers, even if they have a contract of services, are probably employees.

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