

## **PAYMENT AND WAGES**

### **Minimum Wage**

The National minimum wage rate for adults over 22 years of age is £5.73 per hour. There are lower rates for persons under this age.

The vast majority of adult workers in the UK are entitled to the minimum wage. There are exemptions for part time casual workers and agency workers, individuals who are genuinely self employed certain voluntary workers and workers based permanently outside of the UK.

There are special methods for calculating the National minimum wage for particular types of workers in unusual circumstances e.g. in the case of the workers who are paid per piece of work. The minimum wage is based on a fair piece rate which allows the average worker to receive the minimum wage. In the case of workers who provide certain tasks but without any specific hours or periods, a daily average of the realistic daily numbers of hours is computed.

### **Records and Enforcement**

An employer is legally obliged to keep records to prove compliance with the National minimum wage. The burden is on the employer to prove compliance. Records must include details of gross payments, payments for overtime and absences. It is a criminal offence to refuse to pay an MMW or fail to keep records or to falsify records.

If workers are paid well above the National minimum wage, the pay records for PAYE and National insurance should suffice. If workers work a significant amount of hours during their pay period, it is necessary to ensure and prove by records that the National minimum wage requirement is complied with.

HMRC (the Revenue) is responsible for enforcing the National minimum wage. Workers can request their pay records at any time. HMRC have powers to police compliance with the NMW and may visit and take appropriate records. They may serve an enforcement notice if there is failure to comply. Failure to comply with the enforcement notice leads to a penalty of double the amount of the NMW.

### **General pay obligations**

An employer must issue a written itemised pay statement at or before the time of payment. The itemised pay statement must show gross salary, deductions, net salary and a breakdown of part payments. Each payment need not include the amount and purpose of every deduction but if it does not, then a standing statement must be given every 12 months.

Details of change in the deductions must be notified in writing and an amended statement of fixed deductions must be made which will be valid for another 12 months (unless changed again).

### **Maternity & Parental Pay**

Statutory maternity pay is paid for 39 weeks at a rate of 90% of the average weekly earnings for the first 6 weeks. The remaining 33 weeks are paid at £117.00 per week or 90% of average weekly earnings whichever is lower. Statutory paternity pay may arise if the parent has responsibility for the child's upbringing

### **Sick Pay**

Unlike the case in Ireland, there is a statutory sick pay scheme. The minimum is specified by law although there may be higher payments agreed in the employment contract.

Statutory sick pay does not apply in respect of sickness or absences of three days or less. It does not apply to employees who are not Class 1 National Insurance contributors or employees whose earnings are less than £90.00 a week or employees who claim state incapacity benefit or severe disabled allowance.

Statutory sick pay is to be paid to employees who cannot work for more than 4 more days in a row including weekends because of illness or disablement. The maximum period of SSP is 28 weeks in any one period of sickness. The SSP rate is £75.40 per week. It is recoverable by set off against income tax and NIC contributions payable to the Revenue.

### **Guaranteed Pay**

Employees who are employed for certain kind of works may be entitled to fall back or guaranteed pay if they are not in fact required due to some unexpected circumstance. There is an entitlement to guaranteed payment up to a maximum of 5 days in any three month period. It is based on the normal working hours by the guaranteed hourly rate subject to an upper limit for any one day.

### **Holiday pay**

Employers are obliged to allow each worker paid annual leave equal to 4.8 weeks (24 days) if the employee works a five day week. Employees must take 4 weeks and their remaining 4 days may be carried over to the next leave year. From 1st April 2009 employees will be entitled to 5.6 weeks paid annual leave, none of which may be paid in lieu. Any untaken leave can be paid for at the time employment ends.

The rate of holiday pay is generally the normal rate for the employee. Extra leave, over and above the statutory minimum, can be at whatever rate is agreed.

### **Payroll deduction**

Deductions from pay must be made in accordance with certain conditions. They should be allowed in the contract employment. There are certain circumstances where deductions can be made without consent but they are strictly limited.

Certain deductions must be made by law. These include PAYE and National Insurance Contributions. There are other deductions that may be required such as deductions required under a Court Order to enforce payment of a debt.

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This Guide is intended as an overview and broad outline of the matters covered in it. Its purpose is to inform and raise awareness. We are happy to offer specific legal advice on particular circumstances.

This Guide should not be relied on as a substitute for comprehensive legal advice with reference to the particular circumstances.

While we have taken due care in the preparation of this publication, we do not accept legal liability as a result of any reliance placed on anything in this Guide. The reader should rely only on specific legal or taxation advice.

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