

Child and Young Workers

The employment of children and young people in the United Kingdom is regulated by statutory legislation including the EU Young Workers' Directive. This state, inter alia, that a 'child' is a young person of less than 15 years of age or is still subject to full-time schooling under national law. Whereas a 'young person' is an adolescent of at least 15 years of age but less than 18 years of age who is no longer subject to compulsory full-time schooling under national law.

Young workers who are under the compulsory school age (16 in the UK), such as paperboys and girls, are not entitled to statutory paid leave under the Working Time Regulations 1998. Nonetheless, the Children and Young Persons Act 1933 states that child workers have a period free of work and are therefore entitled to at least two consecutive weeks without employment during school holidays.

The Children (Protection at Work) Regulations 1998 increased from 13 to 14 the age at which a child may be employed in any work (other than as an employee of her or his parent or guardian in light agricultural or horticultural work on a non-regular basis). Likewise, the Young Workers' Directive prohibits work by children under the age of 14 but specific exceptions apply which allow children under 14 to be employed in cultural and advertising activities as well as in 'light work' or to participate in training schemes; in addition, the national law of a Member State within the EU may lower the age to do so to 13. Before employing a young person, the employer must make a risk assessment, taking into account the child's inexperience, lack of awareness of risks and immaturity, the fitting and layout of the workplace, exposure to physical, etc.

The Working Time (Amendment) Regulations 2002 prohibit young workers between school leaving age and 18 from working more than 40 hours a week or working more than 8 hours in any one day or from working certain hours at night. Young workers between 16 and 18 are entitled to a rest break of at least 30 minutes where the young worker's daily working time is more than four and a half hours. However, certain sectors such as bars and restaurants are exempt from these Regulations.

All workers are entitled to be paid the National Minimum Wage if they are over the school-leaving age and work or ordinarily work in the United Kingdom.
The National Minimum wage rates for the year from 01 October 2010 are:
for 16 to 17-year-olds is: £3.64;
for 18 to 20-year-olds is: £4.92;
apprentices who (i) are employed under a contract of apprenticeship, or who are engaged under Government arrangements in England, Scotland, Northern Ireland and Wales and (ii) are within the first 12 months of that employment or engagement or who have not attained the age of 19, will receive a national minimum wage of £2.50 per hour.
(The National Minimum Wage Regulations 1999 (Amendment) Regulations 2010, SI.2010/1901 in force 01.10.2010).

Entitlement to a redundancy payment: an employee must have been continuously employed by her or his employer for two years or more to be entitled to a statutory redundancy payment. Therefore an employee who started work at 16 would not qualify for such a payment until he or she was 18 and had completed at least two continuous years of employment with her or his employer before being dismissed for the reason of redundancy. A

statutory redundancy payment is calculated on the basis of the employee's age and the number of years employed. For each year of employment under the age of 22 (subject to at least two years' continuous employment), an employee is entitled to a statutory redundancy payment of ½ week's (capped) pay.

Apprentices: those who are either (i) under the age of 19 or (ii) are above the age of 19 and in the first year of their apprenticeship are not eligible for the National Minimum Wage at any of the three age-banded rates. A 'contract of employment' includes a contract of apprenticeship.

Government-run and EU-funded schemes offering work placements: most trainees, particularly those undertaking government-sponsored training schemes, will not have any sort of legal contract with those providing them with training. For those who do have a contract, if its main purpose is one of training and the work content is only secondary, the contract will be one of training, not of employment. Hence, those participating in schemes such as the 'Entry to Employment' programme for 16 to 18-year-olds or schemes funded partly or wholly by the European Social Fund are not entitled to the National Minimum Wage. Work experience or a trial period may be paid period of employment but, if unsure, ask whether it will be paid or unpaid.

Discrimination: all employees and workers, including those on work experience, volunteers and apprentices as well as those seeking or undergoing vocational training, are entitled to protection from unlawful discrimination on the reasons of sex, disability, race, age, religion or belief and sexual orientation. Regarding age discrimination, employers who recruit or offer work based on age or personal qualities such as 'mature and experienced' or 'must have a minimum of (so many) years of experience' may be liable for an act of indirect discrimination under the Employment Equality (Age) Regulations 2006. If the applicant is the best qualified in comparison to the other applicants but he or she is nonetheless refused employment by the employer, the applicant would have reasonable grounds for making a claim to an employment tribunal for unlawful discrimination for the reason of age.

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