

EMPLOYING STAFF FOR THE FIRST TIME

When you are thinking about employing staff for the first time, the thought of making sure that you comply with the legal requirements can be very off-putting. This guide has been designed to give you a quick introduction to the basics of employment and the key things you need to think about.

Register as an employer with HM Revenue and Customs

You normally need to register as an employer with HM Revenue and Customs (HMRC) when you start employing staff, or using subcontractors for construction work. This ensures that you deduct tax and National Insurance contributions from an employee's wages. The following guidelines apply about registering:

- You can register up to 4 weeks before you pay your new staff
- You must register before the first payday
- It can take up to 2 weeks
- You can't register more than 2 months before you start paying people
- You must register if you're employing yourself, eg as the only director of a limited company.

<https://www.gov.uk/register-employer>

Employment Insurance

You need employers' liability insurance as soon as you become an employer. Your policy must cover you for at least £5 million and come from an authorised insurer. It covers claims from employees who've been injured or become seriously ill as a result of working for you. If you have Public Liability Insurance it can be a small increase in your premium for cover.

Pay

You need to decide how much you are going to pay your new person. You must pay your employee at least the National Minimum Wage, and from April 2016, the national Living Wage for everyone over the age of 25. The rates are usually updated every October.

The current rate is:

| Age | Over 25 | 21 -24 | 18-20 | Under 18 | Apprentice* |
|----------------------|---------|--------|-------|----------|-------------|
| Rate (Oct 15) | £7.20 | £6.20 | £5.30 | £3.87 | £3.30 |

*This rate is for apprentices aged 16 to 18 and those aged 19 or over who are in their first year. All other apprentices are entitled to the National Minimum Wage for their age.

Types of Employment

Permanent full time : for employees who will be working for you on a permanent basis and will be paid a salary (weekly or monthly) or on an hourly rate. Full time hours are usually around 35-40 hours per week which may include a shift pattern. A working week may be more hours but should

not contravene the European Working Time Directive (see FAQs). Contractual terms will be set out in the written statement of employment.

Permanent part time: a permanent contract for someone working fewer hours than your usual full time week. The benefits and contractual terms will be the same as for a permanent full time employee but pro-rated based on the hours worked.

Fixed Term: a temporary employment contract which lasts for a specific length of time; usually to cover a specific project or for a defined length of time, such as a summer season or for maternity leave cover. Terms and conditions such as pay rate and holiday entitlement should be equitable with permanent employees. We would suggest that fixed term contracts should be no longer than one year and that you should avoid issuing concurrent contracts for the same role for lengthy periods of time.

Zero Hours or casual worker: this contract waters down the mutual obligation between employer and employee by allowing the employer to require the employee to come to work without guaranteeing to provide work to the employee. Key points to note include:

- the employer is not obliged to provide any minimum working hours, and
- the worker is not obliged to accept any work offered.
- most zero hours contracts will give staff 'worker' employment status. They may have the same employment rights as regular workers, although they may have breaks in their contracts, which affect rights that accrue over time.
- zero hours workers are entitled to annual leave, the National Minimum Wage and National Living Wage and pay for work-related travel in the same way as regular workers.

Written Statement of Employment

You do not need to have a long legal contractual document, but if you are employing someone for more than one month, you are required to give them a written statement containing details of the job (including terms and conditions) within two months of their start date.

A written statement must include at least:

- the business's name
- the employee's name, job title or a description of work and start date
- if a previous job counts towards a period of continuous employment, the date the period started
- how much and how often an employee will get paid
- hours of work (and if employees will have to work Sundays, nights or overtime)
- holiday entitlement (and if that includes public holidays)
- where an employee will be working and whether they might have to relocate
- if an employee works in different places, where these will be and what the employer's address is
- how long a temporary job is expected to last
- the end date of a fixed-term contract
- notice periods

- collective agreements
- pensions
- who to go to with a grievance
- how to complain about how a grievance is handled
- how to complain about a disciplinary or dismissal decision

The written statement doesn't need to cover the following (but it must say where the information can be found):

- sick pay and procedures
- disciplinary and dismissal procedures
- grievance procedures

Check if you need to automatically enrol your staff into a workplace pension scheme

All employers will have to provide a workplace pension for eligible staff by 2018. This is called 'automatic enrolment'. You will need to find out when you'll need to start enrolling people - it depends how many people are on your payroll. This is known as your 'staging date'.

You must enrol and make an employer's contribution for all staff who:

- are aged between 22 and the State Pension age
- earn at least £10,000 a year
- work in the UK
- You don't have to enrol an employee if they give you proof of their lifetime allowance protection

Use The Pensions Regulator's Duties Checker to find out what you need to do and when you need to do it.

How much you must pay: You must pay at least 1% of your employee's 'qualifying earnings' into your workplace pension. This will rise to 3% in 2019 if approved by Parliament.

You can work out 'qualifying earnings' as either:

- the amount an employee earns before tax between £5,824 and £42,385 a year
- their entire salary or wages before tax

You must deduct contributions from your staff's pay each month. You'll need to pay these into your staff pension scheme by the 22nd day (19th if you pay by cheque) of the next month.

Legal right to live and work in the UK

You are responsible for ensuring your employees have the right to work in the UK. You need to see their original passport /visa/birth certificate and take a copy for your records. Other documents may also be valid - you can use this online tool to find out which documents need to be produced to prove eligibility to work <https://www.gov.uk/legal-right-work-uk>.

Other important checks may be required for certain jobs. For example, working with vulnerable people or with children or in healthcare requires a Disclosure and Barring Service (DBS) check.

<https://www.gov.uk/disclosure-barring-service-check>

Decide how you will organise Payroll

There are plenty of accountants that can offer a payroll service to you who but for a small number of employees it is possible to run it yourself. If you decide to run payroll yourself, you need payroll software to report to HM Revenue and Customs (HMRC). The software will help you with tasks like:

- recording your employees' details
- working out your employees' pay and deductions
- reporting payroll information to HMRC
- working out how much you need to pay HMRC
- calculating statutory pay, eg maternity or sick pay

HMRC tests payroll software to check it can report PAYE information online and in real time (RTI). You can choose from free payroll software (if you have fewer than 10 employees) and paid-for software that has been tested and recognised by HMRC.

<https://www.gov.uk/payroll-software/overview>

If you opt to outsource payroll services then make sure you set up a process for confirming any changes to pay, hours worked , sickness absence etc that may affect the monthly pay run.

Records

Make sure you keep basic personnel records for your staff. The following information is helpful as a start:

- Full name and contact details
- Emergency contact details
- Job title, pay rate and hours worked
- Absence tracker – for holiday, sickness absence etc

Frequently Asked Questions

I only want to bring someone in part time, do I have to follow the same rules?

Yes, part time workers have the same employment rights as a permanent full time employee and should receive a written statement of employment. Their pay and benefits should be equitable to full time employees.

I want to have a casual arrangement; can I have my new employee on a zero hour contract?

For truly casual arrangements, such as short term seasonal work to cover peaks and troughs in activity or where your requirements cannot be planned in advance then a zero hours contract may be suitable. If however, you can plan your requirements in advance and know the length of time you will need someone, then a fixed term contract or part time permanent contract may be more appropriate.

Can I employ a family member?

- Yes, it is possible to employ family members but you must remember to::
- avoid special treatment in terms of pay, promotion and working conditions
- make sure tax and National Insurance contributions are still paid
- follow working time regulations for younger family members
- have employer's liability insurance that covers any young family members
- check if you need to provide them with a workplace pension scheme

What are the rules of the Working Time Regulations?

These regulations provide rights to:

- a limit of an average 48 hours a week on the hours a worker can be required to work, though individuals may choose to work longer by "opting out"
- paid annual leave of 5.6 weeks' a year
- 11 consecutive hours' rest in any 24-hour period
- a 20-minute rest break if the working day is longer than six hours
- one day off each week
- a limit on the normal working hours of night workers to an average eight hours in any 24-hour period, and an entitlement for night workers to receive regular health assessments.

There are special regulations for young workers, which restrict their working hours to 8 hours per day and 40 hours per week. The rest break is 30 minutes if their work lasts more than 4.5 hours. They are also entitled to two days off each week.