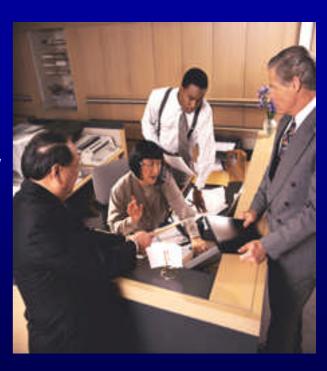


What employers need to know when employing people



This publication is brought to you by Aaron Wallis Sales Recruitment. If you would like to contact us you will find our details on the last page.





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Introduction

If you are intending to employ staff you will need to know about the regulations relating to taking on an employee. This publication is intended to help business understand these requirements and to minimise the problems of finding out how to comply with them. In particular, you need to be aware of the law on:

- Equal Opportunities
- Employee Rights
- Minimum Pay
- Working Hours
- Health and Safety
- PAYE (income tax) and National Insurance
- Statutory Sick Pay
- Statutory Maternity Pay.

Equal Opportunities

Race

Jobs, training and promotion must be open to all regardless of colour, race, nationality, ethnic or national origin, sex, marital status or to anyone undergoing or who has undergone gender reassignment.

Discrimination is unlawful in all but a few cases e.g. for genuine occupational qualification and in private households.

Disability

You must not discriminate against disabled people (for example, in recruitment or promotion procedures) and may have to make reasonable adjustments for disabled staff (for example, to their employment conditions or workplace). From 1 October 2004, employers with less than 15 employees were brought under the scope of the Disability Discrimination Act for the first time. For more information see our publication *IP 270:- Disability Discrimination*.

Age

In line with the EU Directive, the Government has introduced legislation to combat age discrimination in employment and vocational training from 1 October 2006.

Sex

Discrimination is unlawful in all but a few cases e.g. where a person's sex is a genuine occupational qualification for a job (for example for reasons of privacy or decency, modelling clothes, acting).

Employee Rights

Terms and Conditions of Employment

If employed for more than one month, you must give your employee (within 2 months) a written statement of main employment particulars. The statement must include main terms and conditions including pay, holidays, details of notice and disciplinary procedures.

Part-Time workers

Part-time employees now have new rights. You must not treat them less favourably than comparable full-timers who work for you. You can treat part-time workers differently only if it is necessary and appropriate to achieve a real business aim (and you might have to prove that in an employment tribunal). The rules apply to all contractual benefits, including:

- Rates of pay
- Access to pension schemes and their benefits
- Access to training and career development
- Holiday entitlement
- Sick and maternity pay
- Selection criteria for promotion, transfer and redundancy.

Transfer of Undertaking (on Sale or Merger) of a Business

Employees' terms and conditions are preserved when a business or an undertaking (or part of one) transfers to a new employer.

Employers are required to consult either representatives of an appropriate recognised trade union or elected representatives of any employees affected by a transfer.

Fair and Unfair Dismissal

To claim unfair dismissal, employees must generally have completed a year's service but no qualifying service is needed if the dismissal is for certain reasons.

Sex Discrimination Update

Although not mentioned in the Sex Discrimination Act, discrimination because of pregnancy is regarded as direct sex discrimination and is unlawful.

The Employment Equality (Sex Discrimination) Regulations 2005 have clarified the position that had been laid down in case law that less favourable treatment of women on grounds of pregnancy or maternity leave is unlawful sex discrimination. The new regulations are also designed to help businesses spot indirect sexual discrimination and harassment.

ACAS revises discrimination guide

ACAS has revised its discrimination booklet to help businesses understand and tackle discrimination in the workplace. It now contains a sample equality policy and practical checklists for use in preventing discrimination.

To access "Tackling discrimination and promoting equality – good practice guide for employers" visit: www.acas.org.uk/publications/B16.html

Check if your staff are legal

An Employer Verification Service has been set up to provides employers with a service to check the entitlement to work for individuals who do not have the relevant documentation when seeking employment and to support employers in complying with immigration laws when employing migrant workers.

The service is available at: www.employingmigrantw orkers.org.uk/



Notice Period

For continuous employment of more than one month but less than two years, one week's notice must be given unless a longer period is stated in the employment contract.

For continuous employment of two years or more, at least two weeks' notice must be given unless a longer period is stated in the employment contract.

After two years' continuous employment, one additional week's notice for each further complete year is required. After 12 years of continuous employment a minimum of 12 weeks notice is required.

Union Membership

Employees have the right to belong or not to belong to a union, and the right not to be refused employment on the grounds of trade union membership or non-membership. Workers also have a statutory right to be accompanied by a fellow worker or a trade union official during disciplinary and grievance hearings.

Redundancy

Notification Obligations			
Under 20 Employees	More than 20, but less than 99 Employees	More than 99 Employees	
There is no obligation to notify redundancy	Must give at least 30 days notification	Must give at least 90 days notification	

If the employee has at least two years' continuous service and is over 18 years, they have a redundancy entitlement. This varies according to age.

If you are going to make at least 20 employees at one establishment redundant over a period of 90 days or less you must consult either representatives of a recognised independent trade union or other elected representatives of those affected.

Illegal Working

Employers risk prosecution if they employ illegal workers. You can avoid this risk by making simple checks on new employees. Ask to see a P45, P60 or payslip showing a

NI Number - or one of a range of other specified documents. You need to keep copies of the documents in most cases.

Since 1 May 2004, employers are required to make changes to the checks they make on potential new employees before they offer them a job. Employers will no longer be able to use the National Insurance number on a document as their only reasonable check. The checks must be completed before an employee starts work for the employer.

Maternity and Parental Leave

Employees expecting babies are entitled to 18 weeks ordinary maternity leave (previously 14 weeks). If they have at least one year's service, they are also entitled to additional maternity leave.

Employees with at least one year's service are entitled to 13 weeks parental leave for each child aged under 5 on or after 15 December 1999 up until the child's fifth birthday. (Similar rights apply to adoption.)

Employees are entitled to reasonable time off to deal with an emergency involving a dependent.

Stakeholder Pensions

If you have five or more employees you must give them access to a stakeholder pension scheme, unless they are exempt. You must make payroll deductions of an employee's contribution into their stakeholder pension if they ask you to do so.

Pay and Tax Equal Pay

Men and women must get the same pay for the same or like work and for work of equal value.

National Minimum Wage

The minimum wage is a legal right which covers almost all workers above compulsory school leaving age. There are different minimum wage rates for different groups of workers as follows:



The main rate for workers aged 22 and over. On 1 October 2007, this rate was set at £5.52 an hour.

Employee checks from 1 May 2004

The following steps must be taken for every new potential employee from 1 May 2004.

- Employees must check and copy one (or two depending on the nature of the documents) of a list of original documents.
- Employers must carry out reasonable steps when checking all the documents, which have been provided by the potential employee.
- Employers should take a photocopy or take a scan of any documents accepted. For scans they must use only a "Write Once Read Many" software package.
- The lists of acceptable documents, and more details on the checks required can be found in the Home Office guidance document: "Changes to the law on preventing illegal working" at www.ind. homeoffice.gov.uk

Government gets tough on employers of illegal workers

The Immigration Asylum and Nationality Act came into force in three stages during 2006. Its provisions tackle illegal working through a civil penalties scheme for employers that introduces fines of up to £2,000 per illegal employee, custodial sentences of up to twoyears and unlimited fines for those found knowingly to use or exploit illegal workers.

Further measures to increase fines and checkups on business that employ workers illegally come into force in February 2008. Employers who negligently hire illegal workers could be fined up to £10,000 per illegal employee; and those who knowingly hire one face unlimited fines and a custodial sentence.





The accredited training rate for workers aged 22 and over who are receiving accredited training in the first six months of a job with a new employer. On 1 October 2007, this rate was set at £4.60 an hour.



The development rate for 18-21 year olds. On 1 October 2007, this rate was set at £4.60 an hour. This rate can also apply to workers aged 22 and over during the first 6 months in a new job with a new employer who receive at least 26 days accredited training. After that, they become entitled to the full minimum wage.



The development rate for 16-17 years olds. On 1 October 2007, this rate was set at £3.40 an hour.

Since April 2005, the fair piece rate has been set to 120% of the minimum wage at which point most homeworkers will receive the minimum wage.

For agricultural workers, minimum rates of pay apply set by the Agricultural Wages Board.

PAYE (Pay As You Earn)

When you take on your first employee, you should inform the HM Revenue & Customs (HMRC) New Employer's Helpline on 0845 60 70 143. They will arrange for a PAYE scheme to be set up and send to you a new employer's starter pack.

You must obtain a P45 form for each employee or arrange for a P46 to be completed.

You must also make the necessary PAYE (and national insurance) deductions and submit them monthly to the HMRC Accounts Office. (If your average monthly payments for the current year are low, you may be able to pay quarterly – check with us for details).

The HMRC will tell you if you have to make Students' Loans deductions.

National Insurance Contributions (NICs)

For employees aged 16 or over, employer and employee NICs become payable once earnings exceed the Earning Threshold – check with us for the latest figures. If you are a registered company, there are special NIC rules for the directors.

Statutory Maternity Pay (SMP)

Maternity Pay: Tell employees how you wish to be told about maternity absence

If the employee is not entitled to SMP she should claim State Maternity Allowance instead. If the employee is entitled to SMP.

Issue form SMP1.

Pay SMP and keep records of payment made.

Statutory Sick Pay (SSP)

Sick Period			
Under 4 consecutive days	Four consecutive days or more		
	If the employee is entitled to SSP	If the employee is not entitled to SSP, they may claim State Incapacity Benefit instead.	
No SSP action needed.	Pay SSP in the same way as wages and keep records of payments made and dates of sickness absence lasting at least 4 consecutive days.	Issue form SSP1.	

Itemised Pay Statements

All employees must be given itemised pay statements showing deductions, tax credits and student loans deductions.

Working Hours

Limits on Working Time

Employees have rights on average weekly working hours and night-working. They are also entitled to rest periods, breaks and paid annual leave. The law gives adolescent workers extra protection.

If the floor area is less than 280 sq m there are no restrictions on small shops' Sunday opening hours. Larger shops may open for any six continuous hours between 10am and 6pm. Retail employees have statutory rights related to Sunday working.

Changes to Statutory Pay and Incapacity Benefit from October 2006

In line with the Age Discrimination legislation that came into force from 1 October 2006, age restrictions relating to Statutory Pay will be abolished.

For SMP & SPP: People under 16 will be entitled to SMP & SPP if they are employed in any qualifying week that commences on or after 1 October 2006 and meet the employment and earnings conditions of entitlement.

For SAP: Although the lower age limit is removed from the legislation, it is not envisaged that SAP will be payable to anyone under the age of 21 as this is the minimum age to adopt and this is not altered by this legislation.

For SSP: Anyone age 65 or over who is sick and unable to work on 1 October 2006 will qualify for SSP – subject to meeting all the other qualifying conditions - even if they are part way through a Period of Incapacity for Work (PIW).

Incapacity Benefit:

The 52 week linking rule will be replaced by a 104 week period for all those leaving benefit for work or training (but not following a Personal Capability Assessment disallowance).



Driving

There are limitations on driving hours within certain periods.

Insurance and Health & Safety

Insurance

All employers must take out Employer's Liability Insurance and display the certificate issued by the insurer.

Health & Safety

You should check with the Health and Safety Executive (HSE) for your responsibility regarding health and safety of employees. You must also register your business with either the HSE (most factories, workshops etc.) or your local authority (most offices, shops, catering businesses).

Operating Your PAYE Scheme

Operating the Pay As You Earn (PAYE) system has become increasingly complicated in recent years for many employers.

Employers' responsibilities have increased with the introduction of statutory sick pay (SSP) and statutory maternity pay (SMP), with the popularity of lump-sum payments, and with the ever-increasing complexity of the benefit in kind rules.

From 6 April 1996, employers' obligations have increased with the introduction of self-assessment. This requires employers to meet formal deadlines and to provide all employees with forms P60 and with details of the taxable amount of their benefits in kind. As a result, only businesses with a small number of employees will want to ignore the advantages of computerised payroll software.

The PAYE rules are lengthy and complex. They are contained in the 'Income Tax (Employment) Regulations'. A great deal of useful information is contained in the HMRC's 'New Employers Starter Pack' (P4) on both Income Tax and National Insurance. If you're thinking of taking somebody on as an employee and you'd like some information before becoming an employer or as soon as

you've taken on your first employee, contact the HMRC New Employers' Helpline on 0845 60 70 143.

Useful information for employers is available on the HMRC Employers Pages on the Internet.

www.hmrc.gov.uk/employers/index.htm.

Calling the HM Revenue & Customs Helpline

The details you will need to have ready when you first call the HMRC Helpline are:



About your business

- Business name
- Trading address
- Line of business you are in
- Names and addresses of any business partners



About your employees

- The date you took on (or will be taking on) your first employee(s).
- How many employees you will have.
- The date you intend to pay them for the first time.
- How often you intend to pay them.



About your payroll

- The address from which your payroll is run
- Name, address and telephone number of anybody who looks after your payroll.



Limited companies and limited liability partnerships (LLPs) only

- The Registered Office address, Company Registration Number and the date of incorporation.
- The names, addresses, private telephone numbers and National Insurance numbers of the company directors (Designated Members in the case of LLPs).

Insurance set to rise as businesses face NHS bills

From April 2005, the Government has activated a dormant clause in the Health and Social Care Act 2003 which requires businesses, charities and voluntary organisations to repay the NHS any costs - up to £34,000 incurred in treating injured employees or customers who have successfully claimed compensation. This is in addition to compensation costs. Insurance premiums are expected to rise by 5 to 10 per cent as a result.

Source: ACCA



Employment Contracts

Written Statements

Employers are legally required to give employees a written statement of certain particulars of their employment within two months of the employee starting work. Although this statement covers what would normally be in a Contract of Employment, it is not actually a contract between the employer and employee.

An employer doesn't have to provide a written contract (a statement of particulars is all that is required) to its employees - even if it does issue a contract, it may not necessarily cover all the details of the employment. Most employees in the UK do not have written contracts.

So far as written statements are concerned, employers are obliged to give one to employees in all cases except the following:

- Where continuous employment is less than one month;
- Mariners, being persons employed as masters or seamen on seagoing British ships having gross registered tonnage of 80 tons or more or skippers or seamen of fishing boats;
- Where an employee is engaged in work wholly or mainly outside Great Britain unless the employee ordinarily works in Great Britain and the work outside Great Britain is for the same employer.

Alternatives to a written statement of particulars can take the form of:

- A written contract of employment, which contains all the terms and conditions legally required.
- Notice given to an employee referring him/her to a document, which is accessible during working hours and which contains all the terms and conditions legally required.

Employees will often call the written statement of terms and conditions their "contract of employment" and it may be the only form of written terms that they hold. Although its status is not that of a contract, the terms will be construed as strong evidence of the terms of the contract. There have been cases, however, where terms contained in a written statement were not conclusively found to be terms of the

contract and of course these may be overruled by the implication of the parties' conduct in the matter.

Contracts of Employment

The Contract of Employment is one of the most important documents in the employee/employer relationship:

- It establishes the contractual relationship between the employer and employee and provides crucial written evidence in cases taken to an Industrial Tribunal.
 - It improves the morale, loyalty and efficiency of a workforce since employees know exactly where they stand.
- It formally establishes the standards required and expected in the employment relationship.

A written statement of particulars can constitute a written contract if that is the intention of both employer and employee - but an employee's signature on the written statement of particulars doesn't convert that written statement into a contract. The distinction is significant: if a contract of employment is written neither party can bring evidence to show that the terms of the contract are inaccurate. However, if the employee has only been given a written statement of particulars then the accuracy of the statement is open to challenge.

Useful Links – The Employers' Gateway

The Government provides plenty of information to help employers to understand their obligations under the law. Please visit the following website for more details: www.dcsf.gov.uk/employers/index.shtml

Whether you are an employer looking for advice or wish to find out about government policy, the links below should help you find what you need.

Age Discrimination in Employment

www.acas.org.uk/media/pdf/s/3/ Age_and_the_Workplace.pdf Information on Age Discrimination.

ACAS launches free online Employment Contract training

ACAS has developed a free online learning package to help businesses and organisations understand and put together contracts of employment in the workplace.

Announcing the package on 6 December 2004, John Taylor, the ACAS Chief Executive said: "It makes sense to get the employment contract right at the beginning. This online learning package will help employers to develop appropriate polices and procedures to get it right. Using ACAS good practice will help stop problems developing in the first place."

The course covers topics such as:

- contracts of employment;
- written statements:
- varying a contract of employment;
 - understanding contractual issues;
- your employee's rights on pay.

The new online learning package is available at www.acas.org.uk/ elearning.

Other free online learning packages include discipline and grievance, managing absence, information and consultation and handling redundancies.



Age Diversity Policy website

www.agepositive.gov.uk/good_practice/inde x.asp

Good Practice for Employers.

Business Practical Advice

www.businesslinkgov.uk

A DBERR website aimed at providing practical business advice to small and medium sized businesses.

Connexions

www.connexions.gov.uk

Connexions is the UK Government's strategy to ensure every young person gets the best start in life.

Department for Business, Enterprise and Regulatory Reform

www.berr.gov.uk

DBERR brings together functions from the former DTI and the Better Regulation Executive, previously part of the Cabinet Office. DBERR's websites offer a range of information for consumers, small businesses, employees, anyone with an interest in the world of work and many others.

Department for Work and Pensions

www.dwp.gov.uk

The DWP was formed on 8 June 2001 following restructuring of the former DfEE and DSS.

Department for Children, Schools & Families Statistics

www.dcsf.gov.uk/rsgateway

The Department's Analytical Services Division produces a wide range of statistics covering education, training and life-long learning, many of which form part of National Statistics.

Education Business Links

www.dcsf.gov.uk/ebnet

A DCSF website highlighting the Education Business Links agenda.

Employment Rights & Regulations

www.berr.gov.uk/employment/employment-legislation/employment-rights/index.html Regulatory Guidance from the Department for Trade & Industry.

Employment Service

www.jobcentreplus.gov.uk/JCP/index.html The official UK Government Employment Service website.

European Social Fund

http://ec.europa.eu/employment_social/esf2000/introduction_en.html

A Europa website detailing ESF programmes including application forms and documentation.

Equality Direct

www.equalitydirect.org.uk

This provides a confidential advice service for business on equality issues. It comprises an England-wide telephone advice service and supporting Internet website. It aims to give businesses practical, down-to-earth advice to help resolve particular issues or improve employee relations and people management practices more generally.

Foundation Degrees

www.foundationdegree.org.uk

Foundation degrees are a new higher education qualification designed together with employers to meet the demand for highly skilled people who know their subject and can apply it in the workplace.

Illegal Workers

www.ind.homeoffice.gov.uk

This site lists the checks employers must perform on all potential employees in the Home Office guidance document: "Changes to the law on preventing illegal working".

Health and Safety Commission

www.hse.gov.uk

The Health and Safety Commission is responsible for health and safety regulation in Great Britain. The Health and Safety Executive and local government are the enforcing authorities who work in support of the Commission.

Free help for Small Businesses on parent's rights

On 18 March 2005, ACAS launched a free elearning package to help employers deal with working parents' rights in the workplace.

Women make up almost half of the working population and many workers are also parents and have specific employment rights. Employers need to know what is expected of them and what they need to do to make sure they treat their staff fairly.

ACAS' newest e-learning package offers step by step guidance to help with such topics as:

- maternity rights and pay
- paternity leave and pay
- adoption leave and pay
- parental leave
- time off to help dependents and
- the right to request flexible working.

For more information on the new package visit www.wiredgov.net/WGlaunch.aspx? ARTCL=30616

To access the new elearning packages, complete the free registration process at: www.acas.org.uk/elearni ng/index.asp



HMRC - Income Contingency Loans

www.hmrc.gov.uk/csl/index.htm
This site contains information on how
repayments of student loans are collected and
describes the employer's role in the process.

Investors in People

www.investorsinpeople.co.uk How to improve business performance and manage people better.

Learning and Skills Council

www.lsc.gov.uk

The Learning and Skills Council has taken on the functions of the Training and Enterprise Council (TEC) network and the funding responsibilities of the Further Education Funding Council.

Minimum Wage

www.tiger.gov.uk/nmw

This government website provides information on the national minimum wage, and an easy to use "ready-reckoner" to calculate the minimum wage for an employee.

Modern Apprenticeships

www.apprenticeships.org.uk Modern Apprenticeships are available in over 80 different sectors of industry and commerce.

National Training Awards (NTAs)

www.nationaltrainingawards.com

Winning a National Training Award brings with it prestige, national recognition and high profile publicity.

National Training Organisations (NTOs)

www.ssda.org.uk

National Training Organisations (NTOs) are employer-led bodies which are responsible for the development of skills to meet the business needs of employment sectors throughout the UK. There are many industry specific NTO websites. The above link will take you to the Skills for Business website from which sector specific sites can be found.

National Vocational Qualifications (NVQs)

www.dcsf.gov.uk/nvq

This website is designed to give you a background to NVQs - why they exist and how they can help individuals and key players in the employment, training and qualifications world.

New Deal

www.newdeal.gov.uk

New Deal has been created to help unemployed people into work by closing the gap between the skills employers want and the skills people can offer.

Small Business Service

www.sbs.gov.uk

The Small Business Service is a DBERR agency that provides information on government support services and funding to foster enterprise and business growth.

Time Off for Study or Training

www.dcsf.gov.uk/tfst

Details of certain employees rights to time off for study.

Working in the UK

www.workingintheuk.gov.uk

This website provides information about the rules for foreign nationals who want to work legally in the UK.

Work Permits (UK)

www.workpermits.gov.uk

The Home Office's Immigration and Nationality Directorate administers the Work Permit Scheme. This service allows employers based in Great Britain to employ people who are not nationals of a European Economic Area country and are not entitled to work in this country.



Further Information

This guide is for general interest - it is always essential to take advice on specific issues. We believe that the facts are correct as at the date of publication, but there may be certain errors and omissions for which we cannot be responsible.

If you would like to receive further information about this subject or other publications, please call us – see our contact details on the next page.

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Aaron WallisSales Recruitment

Aaron Wallis hopes that you have found this document useful. Aaron Wallis is a specialist sales and marketing recruitment business that is innovative, values led and aims to offer a brilliant service to employer and candidate clients.

Aaron Wallis recruitment services include:

- **Database Recruitment**
- Assessment Centres
- Search and Selection
- Advanced Skills Testing

- Contract and Interim
- Response Management
- **Executive Research**

Aaron Wallis also offer Added Value Services that include:

- Independent CV Verification
- Recruitment Training
- Coaching & Mentoring

- Sales Training, Sales Training Needs **Analysis**
- Occupational Psychologists

CANDIDATE JOBSEEKERS: Aaron Wallis offers to candidate clients a unique Career Advice Centre dedicated specifically to Sales professionals. Their Career Tools section covers CV Hints, Interview Tips, advice on interview preparation, goal setting tools and templates, presentation skills development, improving reading of body language and more. Visit the Career Tools section of www.aaronwallis.co.uk to find out more and to sign up to their Sales 'Career Success Masterclass', a unique 15 day coaching development programme designed to enhance your performance at interview. NEW FOR 2008 this also includes FREE MP3 audiobook downloads.

EMPLOYERS: For employer clients Aaron Wallis offers a unique sales recruitment services that is proven to significantly increase 'On the job performance' by incorporating competency interviewing, psychometric profiling and skills/ability testing into the process. The inclusive Aaron Wallis service is backed by a unique 12 MONTH REBATE SCHEME and their service is delivered at a FIXED Price per assignment, allowing you to remain in control of your recruitment budget.

Aaron Wallis is a committed independent recruiter that is based from their HQ in Central Milton Keynes. Aaron Wallis are members of the REC (the industry regulatory body), the AER (Association of Executive Recruiters) and various local Chambers and focus groups.

For more information call 01908 764280 or visit www.aaronwallis.co.uk

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