

Employment Contracts - Legal Duties of Employers

If you decide to take on someone to work for you they will usually be an employee (even if they work part-time or for a fixed period or project) and as such you are obliged to:

- Let them have some basic written information on their terms of employment when they start work (e.g. holidays, sick pay rights, pension rights (especially regarding stakeholder pensions), notice entitlement, pay, pay review, etc., etc.). It is advisable to consult your solicitor about employment contracts - some important terms of employment are implied (e.g. confidentiality during employment but not afterwards).
- Remember that it is illegal for an employer to discriminate on grounds of race, sex, religion or disability either in advertising/recruiting or in day-to-day running of the business (whether the discrimination is positive or negative) and soon that will extend to age and sexual orientation discrimination.
- Pay for employers' liability insurance (normally available quite cheaply from any reputable commercial insurer) and display in your business premises an up-to-date cover note for this insurance.
- Account to the Inland Revenue for tax payable by the employee ("PAYE") as well as National Insurance Contributions ("NICs")(you must register with the Inland Revenue and failure to comply with the requirements can mean you or the business being liable for you employee's tax/NICs. You must also pay the employer's contribution towards NICs. You must also give employees a pay statement showing total gross pay, deductions and net pay.
- Clearly display a notice under the Health & Safety at Work, etc. Act in your place of business and comply with Health and Safety regulations which dictate minimum standards for fire precautions and other safety issues (e.g. lighting, VDU's, seating, etc.) - for details, contact the Health and Safety Executive at Rose Court, 2 Southwark Bridge, London, SE1 9HS (020 7717 6000) - www.hse.gov.uk.
- Pay statutory sick pay (you may get some back by deducting it from NICs payments in limited circumstances) and allow pregnant employees time off for ante-natal care, pay statutory maternity pay and, in most cases, keep open their job following maternity leave. Fathers will now be entitled to limited paternity leave too.
- To provide some form of basic pension for employees ("stakeholder pensions").
- Sole traders, sub-contractors and partners are not employees but 'sole traders' and 'partners' are if you trade through a limited company.
- If you allow employees to use email and/or the Internet at work (whether for personal use or not), it is vital to have an email & Internet use policy. These should be tailored to your business needs yet comply with the Human Rights Act 1998 and the Regulation of Investigatory Powers Act 2000.
- There are restrictions on the number of hours an employee may be forced to work and you must give a minimum of 4 weeks' paid leave every year.
- There is a statutory minimum wage depending upon age of the employee.
- Remember that if you have employee problems the law is strict about having to give verbal and written warnings except in special cases (the law also sets out certain standards including e.g. minimum notice periods for dismissal) so do not consider dismissing an employee without first taking legal advice. Even though you feel you may be in the right, the law is weighted in favour of employees and the upper limit on claims is now around £65,000 so there is a great deal at stake if you get it wrong.

Please note: this is not an exhaustive list of laws applying to employees.

NEED TO KNOW MORE?

For further information on trade mark protection, contact Maitland Kalton. Should you prefer to telephone, call us on +44 (0)207 278 1817.

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