

Your right to the Minimum Wage

by
**Primus Personnel and
Vulnerable Workers Project**

The Minimum Wage is set on the 1st October every year. The rate that you are entitled to depends on how old you are. The current rates set in October 2007 are £5.52/hour for 22 year olds and above, £4.60/hour for 18-21 year olds and £3.40/hour for 16 to 17 year olds.

In October 2008 these rates will increase to £5.73/hour for 22 year olds and above, £4.77/hour for 18-21 year olds and £3.63/hour for 16 to 17 year olds.

Who is entitled

All workers are entitled to be paid, at least, the minimum wage. Agency workers, home workers, part-time workers, casual workers, pieceworkers and foreign workers are all entitled to the minimum wage.

However, there are a few exceptions. If you are an apprentice under 19 or you are 19 or over and in the first year of your apprenticeship then you will not be entitled to the minimum wage. Nor will you be entitled to the minimum wage if you are on a Government funded work placement or training scheme.

A number of workers are classed as self-employed. Employers sometimes use this calling someone 'self-employed' to get around their employment rights obligations including having to pay the minimum wage. If your employer classes as 'self-employed' but you carry out the work personally you are entitled to be paid the minimum wage. Only if you are genuinely self-employed, that is, in business on your own account are you not entitled to the minimum wage.

Pay statements

All workers are entitled to a pay statement. This should show, at a minimum, your rate of pay before deductions are made (your 'gross pay'), what deductions have been made (these include statutory deductions such as tax and National Insurance) and you pay after deductions have been made (your 'net pay'). Your pay statements can be important as evidence if you make a complaint about not getting paid the minimum wage.

Deductions

Sometimes an employer will make deductions from your wages to pay for a service that they have provided such as transport or lunches. The employer can only make these deductions if you agree to use the service that the employer is providing. For

instance, if you use your own transport, or make your own arrangements to get to work, then the employer should not make any deductions from your wages.

If the employer provides accommodation they are allowed to make a deduction to pay for your rent. This is called an 'accommodation offset'. The most an employer can take from your wages to pay for your accommodation is £30.10 a week. The accommodation also has to meet certain minimal standards. You can contact your Local authority if you think that these standards are not being met.

Enforcement

The Minimum Wage is enforced by Minimum Wage Enforcement Officers who work for the HMRC. Enforcement Officers can inspect employers' pay records and order the employer to pay wages up to the minimum wage for the entire workforce going back 6 years for workers who they find have been paid less than the minimum wage. Enforcement Officers will not disclose who made the initial complaint.

Workers also have the right to make a complaint to an employment tribunal. You have to reveal your identity if making an employment tribunal claim and any award will only be made to those who make a complaint. You have to make a complaint within 3 months of when you were last underpaid.

The most common reasons why workers do not get paid the minimum wage are that the employer

- a) Does not pay for all the hours worked
- b) Makes deductions from wages that they are not entitled to make (see above)
- c) Fails to list you as a worker and paying 'off the books'
- d) Makes threats or intimidating behaviour.

The next article will look at practical ways to make a complaint about being paid less than the minimum wage that increases the probability of making a successful claim and reduces the risk of repercussions from the employer.

Vulnerable Workers Project
TUC/BERR working with building services workers in Tower Hamlets and the City