



Employer Factsheet

2021-2022

As a Director of your company, employing staff may be a necessity, but can often seem to be a minefield with so much to consider.

This factsheet is intended to be a handy guide for new employers, with some basic information for you to refer to and advise on what you need to be looking out for.





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Contracts



Always create an employment contract for your new employee. Without one, there is nothing to legally dictate what the terms of service are and, although you might think your agreement is obvious to both parties, should anything go wrong you would be in a 'their word against yours' scenario. There are plenty of examples of free standard contracts online so just ask Mr Google!

As a bare minimum, the contract should contain information on a job description, start date, length of contract, pay rate and frequency, hours, holiday entitlement and termination process.

It does not need to include information on sick procedures or disciplinary and grievance processes.

More information is available here
<https://www.gov.uk/employment-contracts-and-conditions>

Eligibility to work



Always be 100% certain that your prospective new employee has the right to work in the UK. Get it wrong and you could find yourself forking out for a £20,000 fine. A costly error! Always therefore ensure you have seen, and retain, evidence of right to work BEFORE your employee starts work!

All British Citizens are of course eligible to work here, so a UK passport is all you need to see. Do not accept a UK driving licence though as this is not a guarantee of nationality!

EU/EEA Nationals can also live and work in the UK without any conditions if they entered the country before the end of December 2020. From 1st July 2021, EU/EEA Nationals will need to have applied for settled status to enable them to continue living and working in UK. Any EU or EEA National seeking to enter UK to live and work for the first time after 1 January 2021 must apply in advance for a visa.

Non UK, non-EU Nationals must have a current (i.e. not expired) national passport showing their visa or residence permit which grants them permission to be in UK and work. Many people in this category have a credit card sized Biometric Residence Permit (BRP) which evidences their right to live and work in UK.

DBS check

Depending on the type of work, your employee may need to provide a Disclosure and Barring Service (DBS) check. This is essentially a background check to ensure your employee is suitable to carry out the work, and is primarily used when working with vulnerable adults or young people. The check is easily carried out online.

More information is available here

<https://www.gov.uk/dbs-check-applicant-criminal-record>

Employer's liability insurance

When employing staff you must hold valid Employer's Liability Insurance up to a level of £5 million. This covers you for compensation costs and legal fees should an employee or ex-employee sue for illness or injury caused by their work. You need to display your insurance certificate for staff to see.

Health & Safety



Employers have a duty to protect the health and safety of their employees. You are required to assess risks and take all practicable steps to avoid operating in an environment which may cause harm or risk injury or damage to health.

More information is available here
<http://www.hse.gov.uk/simple-health-safety/index.htm>

Pay

Pay is always likely to be the most problematic and potentially divisive area of employer-employee relations! It is vital therefore that everything is done absolutely correctly and there is 100% clarity with the employee over their terms of service.

National Minimum Wage (NMW) exists to protect workers from exploitation. There are various NMW rates in operation (most of them based on the age of the employee) ranging from £4.30 per hour for an employee working on apprentice terms, to £8.91 per hour for an employee aged 25 or over. These rates generally change on 6 April every year so it is vital that you remain aware of the minimum rate you can legally pay.

An employer must agree the pay period and method with the employee. Make sure you are all on the same page as to whether they will be paid weekly or monthly, and on what day. Also, will you be paying them in cash or by bank transfer.

Every employee is entitled to an itemised payslip which shows how the pay is calculated and all deductions, as well as the pay period and tax code used.



Pay

Ensuring your new employee is correctly inducted into your company and payroll system is very important.

You need to make sure that HMRC are aware of the new employment in order that all tax and NI liabilities you deduct are correct and allocated to the right individual. It is also very important that HMRC are aware of the end of the employee's previous employment(s) or else that tax code allocated issued will be incorrect and too much tax lie likely to be deducted.

Tell your employee that their previous employer(s) have to issue a P45 to signify the end of that employment. When issued, HMRC receive a an electronic copy of the P45 thereby ensuring that their tax affairs are kept up-to-date.

HMRC have a useful online check list for new starters here
https://public-online.hmrc.gov.uk/lc/content/xfaforms/profiles/forms.html?contentRoot=repository:///Applications/PersonalTax_A/1.0/SC2&template=SC2.xdp



PAYE TAX AND TAX CODES



Making sure the employee is on the correct tax code is essentially a personal tax issue and therefore the responsibility of the employee themselves.

A general rule of thumb for the employer is that the employees starting tax code when they join you should be the same as that shown on their P45 from their last employer. In addition, the year to date earnings and tax paid figures should be entered into your payroll software to ensure continuity.

The tax code is a number followed by (and sometimes, if in Scotland, preceded by!) a letter. The number, if multiplied by 10 gives the total amount of tax free pay an employee can earn in a tax year without being subject to any tax. For example, a tax code 1257L allows £12,570 of earnings tax free. The tax-free allowance changes every year in the Government's budget.

A common misconception is that an employee can earn £12,570 in a tax year before they have to have any tax deducted. This is not so. The annual allowance is divided into 12 monthly portions so every month so the first £1,047.50 of earnings every month is tax-free and anything above that is taxed.

PAYE TAX AND TAX CODES

There are 2 types of tax code

1

One is termed cumulative which adjusts the tax paid every time a payroll is run. It considers the taxable earnings and tax paid in the tax year to date and calculates the tax for that payroll. The payroll system is effectively considering the earnings for the point in the tax year and estimating your earnings for the full 12 months. This is the figure it bases your tax payment on, with the objective of the employee reaching the end of the tax year having paid the right amount of tax.

2

The other is called week/month 1 which simply looks at the taxable earning each time the employee is paid and calculates the tax based only on that payroll and not on the total figures for the year to date.

If no P45 is available, it is safest placing your employee on a 0T tax code which does not allow any tax free pay meaning the employee cannot underpay tax. The employee should then call HMRC to get a correct tax code notice issued to the employer. Once a correct tax code is received and applied, any tax overpaid is refunded, usually by the employee underpaying tax in their wages to compensate.

PAYE (or 'income') tax is charged at 20% on all earnings above the tax-free threshold of £12,570, up to the higher rate threshold of £50,270. Above £50,270 and up to £150,000 of annual earnings, 40% tax is charged. If you are lucky enough to earn over £150,000, the surplus will be taxed at 45%.

NATIONAL INSURANCE

All employees under State Pension age are liable to pay National Insurance. You as the employer must deduct NI from the employee's payroll at source and report the deductions and submit the monies to HMRC.

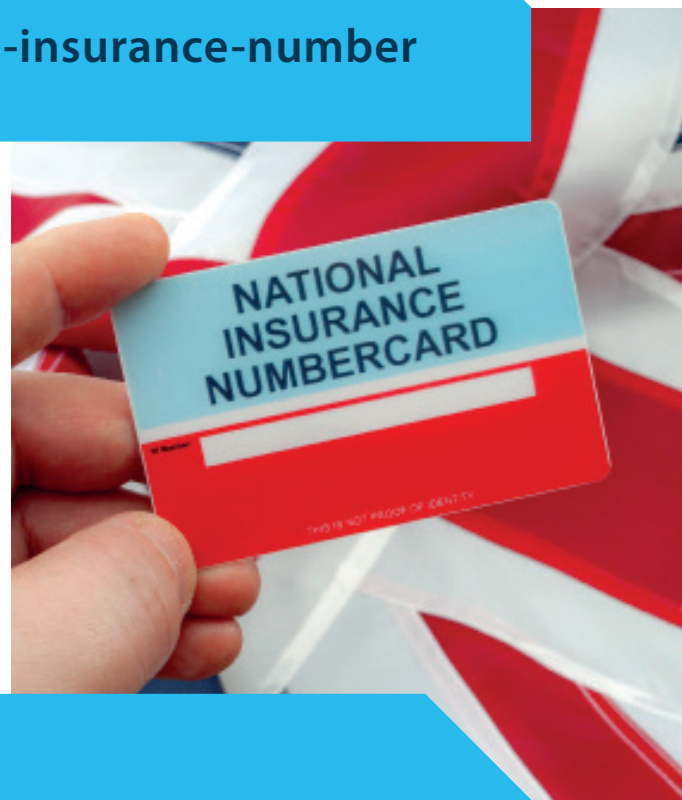
All employees must have a unique National Insurance number which is usually issued to UK residents at the age of 16. New arrivals to the UK need to apply for a National Insurance number.

This link tells you how

<https://www.gov.uk/apply-national-insurance-number>

Employees NI is charged at 12% of eligible earnings between £797 and £4,189 a month.

As an employer, you are also liable to pay a National Insurance contribution to HMRC on behalf of the employee. Currently this is calculated at 13.8% of eligible earnings between £737 and £4,189 a month.



More information is available here

<https://www.gov.uk/national-insurance>



WORKPLACE PENSION

Every employer is obliged to enrol all their employees aged between 22 and State Pension age in a workplace pension scheme. This known as 'auto-enrolment'. If you are younger than 22 and earn at least £6,240 you can elect to opt in to a pension scheme.

Only employees earning £10,000 a year who are ordinarily working in the UK must be included.

Enrolment criteria are available here

<https://www.gov.uk/workplace-pensions/joining-a-workplace-pension>

The employer is responsible for choosing an appropriate pension scheme.

Some advice on how to choose a provider is available here

<https://www.thepensionsregulator.gov.uk/en/employers/new-employers/im-an-employer-who-has-to-provide-a-pension/choose-a-pension-scheme>

WORKPLACE PENSION

You as the employer have the option of deferring the enrolment of a new employee by 3 months from their start date. This helps with the problem of de-registering a new employee who joins you but leaves soon after.

Once you have enrolled an employee, they have the option of opting out of the scheme, which they must do directly with the supplier not via the employer. The pension provider will notify you of a successful opt out and you can then cease deducting contributions from pay.

If the employee opts out of the pension within the first month after enrolment, any deductions you have made can be refunded to the employee. The employer cannot coerce the employee to opt out.



- The employee's contribution rate is currently 5% of eligible pay. However, they receive tax relief on this which effectively reduces their contribution to 4%.
- The employer also makes a contribution to the pension. This currently stands at 3% of the eligible pay.
- All accredited payroll softwares will enable automatic calculations of workplace pension deductions.

HOLIDAY ENTITLEMENT AND PAY



Every worker is entitled to a minimum of 20 working days holiday per year. In addition, the entitlement is for 8 Public Holidays which are usually accepted to be New Years Day, Good Friday, Easter Monday, Early May Bank Holiday, Late May Bank Holiday, Late August Bank Holiday, Christmas Day and Boxing Day. Should the worker be required to work on a Public Holiday a day off in lieu should be honoured.

28 days annual holiday divided by 12 months gives a monthly accrual of holiday of 2.33 days. You are not obliged to grant more days off than have been accrued during the leave year. For example, at the end of month 6, half of the annual entitlement of 28 days would have been earned, i.e. 14 days. In practice however, most employers would allow an employee to anticipate holidays not yet earned. If the employee does not end up working enough of the leave year to cover the holidays taken, the employer would be justified in deducting from final salary for the number of holidays taken but not earned.

SICK PAY

Your employees are entitled to statutory sick pay (SSP) if they are forced to be absent from work. The first 3 days of sickness/absence are deemed qualifying days. Days 4 and 5 can be self-certified by the worker. After that, a doctor's certificate is necessary to be able to claim SSP.



You can find a self-certification form here
https://public-online.hmrc.gov.uk/lc/content/xfafoms/profiles/forms.html?contentRoot=repository:///Applications/PersonalTax_iForms/1.0/SC2&template=SC2.xdp

The SSP rate changes regularly. At time of writing, it stands at £96.35 per week. This is payable for up to 28 weeks. If the absence continues beyond 28 weeks the employer must send the employee form SSP1. They may be able to claim state benefits after this time.



MATERNITY LEAVE AND PAY

Your employee is entitled to be paid maternity pay provided they meet certain qualifying criteria.

In short, to qualify for maternity pay paid by the employer, the employee must have been employed for 26 weeks leading up to the 15th week before the expected date of confinement. The best way to work this out is to start with the due date and work back 41 weeks. If you employee was employed on the resulting date, then they are entitled. If not, they can still claim Statutory Maternity Allowance through the Jobcentre Plus service and the employer must give them a SMP1 form.

Maternity pay is paid for up to 39 weeks. It is calculated as 90% of the employee's average earnings (before tax), payable for 6 weeks. After that it is 90% of average weekly earnings or £151.97, whichever is lower, for 33 weeks.

**The rules are quite complicated and can be found here
<https://www.gov.uk/maternity-pay-leave>**

**The employer can usually reclaim 92% of the SMP paid. More
information on the criteria and method for this can be found here
<https://www.gov.uk/recover-statutory-payments>**

PATERNITY LEAVE AND PAY

Paternity leave is allowable for a period of 1 or 2 weeks taken consecutively. It must be completed within 56 days of the birth.

Statutory Paternity Pay for eligible employees is either £151.97 a week or 90% of their average weekly earnings (whichever is lower). Tax and National Insurance need to be deducted.

More information is available here

<https://www.gov.uk/employers-paternity-pay-leave>

SHARED PARENTAL LEAVE AND PAY

An employee and their partner can share up to 50 weeks of leave and 37 weeks of pay between them.

More information is available here

<https://www.gov.uk/shared-parental-leave-and-pay>

WORKING TIME REGULATIONS

The working time regulations exist to protect workers against being forced to consistently work long hours.

There are some exceptions, but generally employers cannot make an employee work more than 48 hours a week. This figure is normally averaged over 17 weeks. For example, the employee could agree to work 60 hours one week but should not then work more than 36 hours the week after.

The employee is entitled to opt out of the regulations allowing them to work as many hours as they wish.

Employees under 18 cannot work more than 8 hours a day or 40 hours a week.

More information is available here
<https://www.gov.uk/maximum-weekly-working-hours>

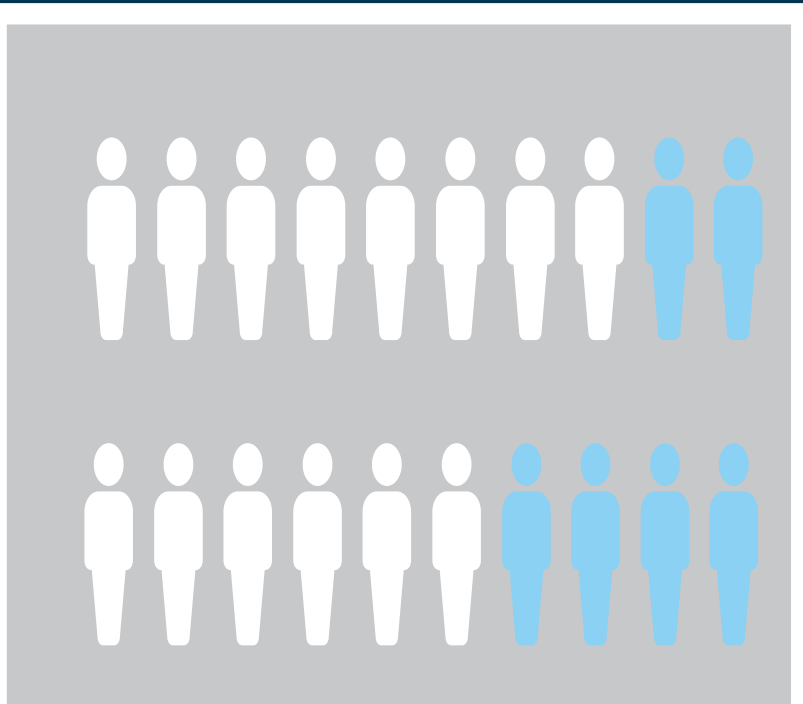


REST BREAKS



Workers over the age of 18 are entitled to breaks during their working day.

The statutory breaks are 20 minutes if they work more than 6 hours, 11 hours rest between working days, and an uninterrupted 24 hours between working days each week or 48 hours every two weeks.



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