

EQUALITY ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 16: General and Miscellaneous

Schedule 9: Work: exceptions

Part 2: Exceptions relating to age

Retirement: paragraph 8

The national minimum wage: apprentices: paragraph 12

Effect

828. This paragraph deals with apprentices. It enables an employer to pay an apprentice who is not entitled to the national minimum wage (any apprentice who is under 19 or in the first year of his apprenticeship) less than an apprentice who is entitled to the national minimum wage (any apprentice who is 19 or over and not in the first year of his apprenticeship). Employers cannot rely on this exception, however, if they do not base their pay structure on the national minimum wage legislation.

Background

829. This paragraph is designed to replicate the effect of the exception in regulation 31 of the 2006 Regulations.

Examples

- It is lawful for an employer to pay an apprentice who is under the age of 19 or in the first year of his apprenticeship at a lower rate than an apprentice who is 19 or over and not in the first year of his apprenticeship. For example, based on the 2009/10 rates:
 - an 18 year old apprentice is not entitled to the minimum wage;
 - a 19 year old apprentice in the first year of his apprenticeship is not entitled to the minimum wage;
 - a 19 year old apprentice in his 2nd year of apprenticeship is entitled to £4.83 per hour based on the National Minimum Wage Rate for 18-21 year olds.
- So it is lawful to pay an 18 year old apprentice and a 19 year old apprentice in the first year of her apprenticeship £5 per hour and to pay a 19 year old in the second year of his apprenticeship £5.50 per hour.