

Minimum Wage - Approved Training

The Employment (Minimum Wage) (Jersey) Regulations, 2004 (the 'Minimum Wage Regulations'), and the Employment (Minimum Wage (Jersey) Order, 2007, make the necessary provisions to set the minimum wage and the trainee rate under the Employment (Jersey) Law 2003.

The Minister intends that the availability of a training period of up to two continuous years, along with clearer criteria for payment of the trainee rate, should encourage employers to create new trainee positions. In addition, the opportunity for progression within two years of formal training could also encourage employees, particularly young employees, to take up trainee positions.

When is an employee a trainee?

A trainee may be paid a lower minimum wage rate per hour - the trainee rate - for up to two years whilst they are undertaking 'approved training' in a new job. The Minimum Wage Regulations require that, to qualify as 'a trainee' an employee must -

1. Be over age 16.
2. Be in the first 2 years of their employment in a particular job (not necessarily with a new employer).
3. Be undergoing 'approved training' any time during the first 2 years in that job.
4. Be undergoing 'approved training' for that particular job.
5. Have a written training agreement with their employer.

What qualifies as approved training?

The Minimum Wage Regulations provide that 'approved training' means training of a description or class that is approved in writing by the Minister for Social Security. Part 1 and Part 2 of this report set out the descriptions and classes of training that are approved by the Minister. The Jersey Advisory and Conciliation Service will provide guidance and advice.

The types of training that are appropriate for any particular employee will depend on many factors, including their experience and skills, the nature and complexity of the job, the financial and manpower resources of the employer, and the availability of certified training courses, accreditation and qualifications (whether inside or outside of Jersey). The Minister's intention is that employers of different sizes and in different sectors should have sufficient flexibility, whilst ensuring that employees are paid the lower trainee rate only if they are being provided with relevant, formal training.

An employee is undertaking 'approved training' for the purposes of the Minimum Wage Regulations if the training meets the requirements of Part 1 and Part 2 below.

Part 1 - Description of 'approved training'

To be described as 'approved training', training must meet all of the following criteria:

- i. A written schedule of training is agreed between the employer and the employee before employment commences.
- ii. Training is directly relevant to the employee's particular job.
- iii. Training is of a sufficient quality, regularity and duration to enable the employee to reach the required standard (however an employee is not required to reach the required standard within the maximum two year trainee period).
- iv. The employer is responsible for ensuring that training is taking place and that the employee is undertaking the training.
- v. Training is provided at no cost to the employee.
- vi. It is reasonable in the circumstances (including the employer's size and administrative resources) for the employer to regard the training that is being provided to an employee as 'approved training'.

Part 2 - Classes of 'approved training'

1. Training is of a class that is 'approved' by the Minister for the purposes of the Regulations only if it is **formal training**. Formal training should include the following;

- A pre-determined purpose or objective that relates to the work performance of the employee
- A defined curriculum, structure or schedule of training sets out the knowledge, skills and competences to be learned
- Time and/or resources are set aside for training
- Training outcomes are assessed or validated (with or without certification) against pre-defined standards or benchmarks
- Trainee achievement is recorded and documented.

2. The following are examples of training that may be provided as formal training. A course or schedule of formal training may include a combination of these types of training.

i. Internal and external formal training

Training delivered by employees of the organisation, e.g. supervisors or internal experts, or training delivered by persons who are not part of that organisation, e.g. training providers, colleges and trade associations.

ii. Certified and non-certified formal training

Certified training that leads to, or could lead to, a locally or nationally recognised standard or qualification that is externally verified, e.g. GNVQ, 'A' Level, City and Guilds, formal apprenticeship. Where formal training does not lead to certification or a qualification, training outcomes might be assessed or validated, for example, by an employee portfolio or record of achievement, observation or simulation, rather than written tests, e.g. where a training programme is developed by a trade association to meet the specific needs of an industry.

iii. Initial and continuing formal training

A short course may be required at the start, or at certain defined stages, of employment, e.g. health and safety training. Or, training may continue for a longer period and does not necessarily need to be completed within the maximum 2 year trainee period.

iv. On-the-job and off-the-job formal training

On-the-job training might include formal mentoring relationships, where the trainee works side-by-side with an experienced employee, for example in service-related training such as preparing food, an internship or apprenticeship. Off-the-job training might include classroom based instruction either inside the workplace, e.g. web-based training, or outside the workplace, e.g. community course, seminar, college day-release.

v. Specific and general formal training

Specific training increases the productivity of employees in a particular business, e.g. sales training relating to specific product lines. General training is likely to provide transferrable skills that would be useful in other businesses, e.g. customer services, communications or leadership training. General training would include training that is provided under a scheme or programme that is designed and provided for the purpose of improving an individuals' employability.

Note – Only formal training is 'approved training' for the purpose of the Regulations. Training that is informal can usually be identified by the following characteristics;

- Training objectives are unstructured or undefined
- Training is incidental or spontaneous rather than being planned
- Training is carried out in the normal course of the employee's work through daily interactions (e.g. showing an employee how to use a piece of equipment)
- Training outcomes are not formally overseen or supervised
- Training achievements are not tested, assessed or recorded.