

Public Petitions Committee: PE1317 Rights of School Age Workers April 2010

Introduction

The Federation of Small Businesses is Scotland's largest direct-member business organisation, representing around 20,000 members. The FSB campaigns for an economic and social environment which allows small businesses to grow and prosper.

We welcome the opportunity to submit our comments to the Public Petitions Committee on their investigation into the rights of school age workers and also the distribution of tips to those workers.

The FSB works closely with schools across Scotland to encourage young people to view entrepreneurship and self-employment as an alternative when they leave full time education.

The legal position

The *Children (Protection at Work) (Scotland) Regulations 2006* limit the number of hours per week that any child below the minimum school leaving age (16) can work during term time to 12 hours.

Employers who want to employ children or young people under that minimum school leaving age are required to get a permit from their local authority. The permit must be signed by the employer and one parent.

If an individual is under 18, the law states that that person must not work more than eight hours a day or more than 40 hours per week. The individual must have twelve hours rest between each working day and two rest days per working week. Individuals are also entitled to a 30 minute rest break when they are working longer than four and a half hours. There are also special limits on the hours a 16-18 year old can work at night.

Employment in small businesses

The FSB has a large number of member businesses who rely on part time and seasonal staff. Many of these businesses employ school age people.

The FSB believes that young people should regard working in any sort of business as not just a means of earning money, but also as a means of gaining valuable work experience, before beginning full time employment.

Tourism and hospitality are important sectors within the Scottish economy and are important employers especially in more rural and remote areas.

Small employers have to deal with many of the regulations that a larger business would have an HR department to deal with. It is important to remember that most employers have a strong commitment to treat their staff fairly, and with dignity and respect. The law exists to ensure that is upheld. While the FSB accepts that some bad practice examples may exist from employers, we are not aware of any evidence suggesting that the regulations are routinely breached. However, we are happy to discuss further with the Scottish Government if additional evidence of a problem emerges.

We believe that existing legislation is sufficient to protect those under the age of 16 and for those over the age of 16; we believe that the employee should be aware of their rights, as well as their responsibilities within the workplace.

Tips

At a UK level, the FSB has welcomed the closing of the loophole that allowed larger businesses to use tips as a way of topping up wages and keeping costs down. The FSB has quoted internal research that showed that 99 per cent of its members passed on all tips to staff.

The national minimum wage is in part there to create a level playing field between employers, and so the FSB supported moves to stop larger employers from abusing the good will and generosity of customers to subsidise their low wages. Customers leave tips in recognition of the service they have received and so it is only right that the reward should be passed in full to the individual who has provided that service.

Conclusion

The complexity and rate of change of employment law can sometimes be difficult for small businesses to absorb. These businesses already spend approximately 28 hours per month filling in forms. This is often a disincentive cited by businesses for not employing anyone at all.

While the FSB would not endorse or support the poor employment practices of any small employer, as we stated in our comments above, it

is important to remember how much pressure a small employer is under and the many demands they have on their time. They are responsible for the pay, holiday entitlement and general well being of their staff; as well as running their business, winning contracts and customers that keep the business afloat.

Small businesses generally treat their employees well and are often very flexible employers. We would not like to see significant new burdens imposed on these individuals and believe that through good employer/employee relations, a reasonable balance can be struck which allows a young person to focus on their academic studies, while at the same time allowing the business owner to get the necessary level of commitment from his staff.

The FSB supports passing on in full all tips that are earned by members of staff within a business.

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