

# EQUALITY ACT 2010

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## 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: young workers: paragraph 11**

##### Effect

825. This paragraph allows employers to base their pay structures on the National Minimum Wage Act 1998 and the National Minimum Wage Regulations 1999 (“the 1999 Regulations”). Employers cannot rely on this exception, however, if they do not base their pay structure on the national minimum wage legislation.
826. This will allow employers to continue to use the development bands of the national minimum wage without the threat of legal challenge on the grounds of age discrimination.

##### Background

827. 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 16 to 21 year olds a lower rate of minimum wage than that given to adults, when based on the development bands set out in 1999 Regulations. For example, based on the 2009/10 rates:
  - 16-17 a rate of £3.57 per hour
  - 18-21 a rate of £4.83 per hourwhereas the national minimum wage for those 22 and over is £5.80.
- Rather than pay the amounts stated by the 1999 Regulations, this paragraph also permits an employer to base its pay scales on the development bands and so, for example, it may pay 16-17 year olds £4 per hour, 18-21 year olds £5 per hour and those over 22 £6 per hour.