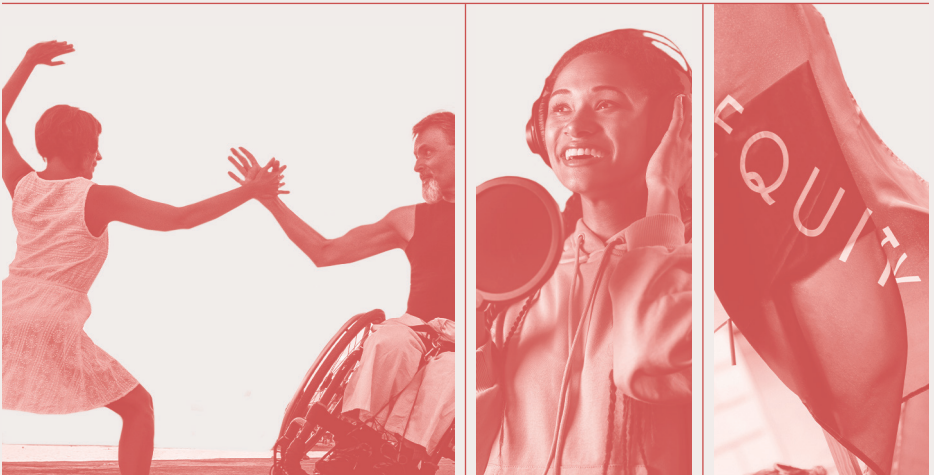


EQUITY



PROFESSIONALLY MADE PROFESSIONALLY PAID



In 2014, Equity launched the Professionally Made, Professionally Paid campaign. Since then, the work we have done to help our members enforce their statutory rights (such as the National Minimum Wage and holiday pay) along with efforts we've made to encourage more engagers to use Equity agreements has put millions of pounds into the pockets of members and fellow professionals. But there's still much more to do. This guide sets out what the problems are and how we can tackle them.

For workers This guide will help you get to grips with your rights at work. This matters, because if you don't know what your rights are then it's easier for exploitative engagers to take them away from you. There's also information in here about how you can be involved in combating low and no pay in our industries and how seek further advice.

For engagers The information in this guide will help you understand what your statutory obligations are to performers and stage managers.

For everybody Together, we can continue to ensure that workers in our sector are paid for the work they do and have their basic rights respected in the workplace. Get involved!

What's the problem?

Low and no pay is a serious issue in sections of the entertainment industry. Emerging professionals are regularly told that they should expect to work for free in order to establish their careers, or that poor terms and conditions of employment are just 'how it is' in this industry. Aside from theatre, Equity members working on student and independent films, TV, music videos, in dance, as singers and models have all faced requests to provide their professional services for low or no pay. Equity believes that this is an unfair and unsustainable trend which is damaging to the industry. Equity members are skilled professionals who deserve to be paid for the work they do, just like workers in every other sector of the economy.

Whilst Equity have made great strides to improve the industry, our members are still frequently being denied their statutory employment rights. Importantly, low and no pay perpetuates inequality, disproportionately impacting on disabled and global majority populations and those from lower socioeconomic backgrounds. Asserting your rights is not just about you – it's protecting others from future exploitation.

Isn't unpaid work illegal?

Yes! The National Minimum Wage Act 1998 makes it illegal to pay adult workers less than the minimum wage, with a small number of exceptions relating to the Armed Forces or genuine volunteer work. There are no special exemptions for the entertainment industry.

The right to the National Minimum Wage depends on being categorised a 'worker' in employment law terms. That means there will be some circumstances where Equity members are not covered. These include instances where you are genuinely self-employed, or where you are participants in a genuine collaborative partnership structured such that nobody is technically working for anybody else.

It's important to remember that just because entertainment industry workers are most commonly categorised as self-employed for tax and national insurance purposes, it doesn't automatically follow that they are genuinely self-employed and not a 'worker' for the purposes of employment law. The genuinely self-employed workforce that do not hold worker status in law are excluded from a number of statutory rights workers have access to – including the right to holiday pay and the National Minimum Wage.

A spate of recent employment tribunal claims has highlighted the spread of bogus engagements by organisations that aim to deny workers their statutory rights by incorrectly designating them as freelance contractors, for example, under a 'contract for services' model.

When assessing whether or not someone is a worker or not, the test is the reality of the job and not the label chosen by the engager in the contract.

How do I determine my employment status?

Employment status is not a matter of choice – it's a matter of law. This means that even if you have signed a contract that states you are not a worker and therefore not entitled to holiday pay and the National Minimum Wage, if you should be defined as a worker then you are still entitled to it.

You can test your worker status by thinking about these questions:

- Are you expected to do the work personally? Do you have a genuine, unrestricted right to provide a substitute to do the work?
- Do you have significant control over how, where and when the work is done?
- Are you genuinely obliged to perform the work asked of you and will there be negative repercussions if you don't?



This is not an exhaustive list and there are a number of other important considerations, so always contact Equity for advice. We treat all calls as confidential and will not tell your employer you have contacted us without your strict permission.

If you are engaged as a performer or as stage management for a theatre or film production, you will typically hold 'Limb B' worker status in employment law (under the Employment Rights Act 1996). This means you are likely to be self-employed for tax and national insurance purposes but, nevertheless, considered a worker in law – granting you important rights.

If you work as a director or designer, then you will typically be categorised as self-employed for the purposes of employment rights. Please visit www.equity.org.uk/directorsanddesigners for further information, and creative team specific information and resources.

What are my rights as a worker?

Working time regulations

You can generally expect maximum weekly hours of work, the right to certain rest breaks, minimum rest between working days, weekly or fortnightly rest days and an entitlement to annual leave. www.legislation.gov.uk/ukxi/1998/1833/contents/made

Paid holiday

You can expect the right to paid holiday. If this is not possible to take because it is a short engagement, or taking annual leave is impractical, you can expect holiday pay in lieu. This accrues from day 1 of any engagement in which you hold worker status. You should expect salary and holiday pay to be set out separately and not 'rolled-up'. For more information see the Government guidance in the link below:

www.gov.uk/holiday-entitlement-rights/holiday-pay-the-basics

Health and safety

You should expect that the engager makes a 'suitable and sufficient' assessment of risks to workers/employees. Under the Management of Health and Safety at Work Regulations 1999, the minimum an engager must do is:

- Identify hazards (potential causes of injury or illness in the work)
- Determine the likelihood that someone could be harmed and the seriousness of the risk
- Take action to eliminate the hazard, or if this isn't possible, to control the risk

Your engager must also have employer liability insurance covering you. See the guide below for more info: www.hse.gov.uk/pubns/hse40.pdf

You should also expect minimum standards in respect of lighting, cleanliness, ventilation, drinking water, washing and changing facilities, and toilets. See the following legislation for more info: www.legislation.gov.uk/ukxi/1992/3004/regulation/21/made

In exceptional circumstances relating to health and safety, workers have important rights under Section 44 of the Employment Rights Act 1996 which means that they have the right not to be subjected to any detriment if they stop work and/or refuse to return to work or carry out the aspects of that work which are dangerous, when they reasonably believe there is serious and imminent danger which they do not believe they could reasonably be expected to avert.

We recommend contacting an Equity official as soon as you have any concerns about health and safety in the workplace.

See the link below for more info: www.hse.gov.uk/simple-health-safety/risk/index.htm

Pensions entitlement

Under the Pensions Act 2008, you should expect to be auto-enrolled into a company pension scheme, where eligible, at the point of meeting (or expecting to meet) minimum earning thresholds. It's possible for employers to lawfully postpone pension enrolment by up to three calendar months if they properly comply with regulatory requirements. However, a worker can also ask to be enrolled from day one or an earlier point in the engagement. See the [Pensions Regulator](#) website for more information.



What can I do to help?

Let your colleagues working in the industry know about the importance of worker status and encourage them to seek support from Equity if it appears they are being denied their rights in law. Most importantly, be ready to assert your rights and support your colleagues in asserting their rights. The best way for us to improve terms and conditions in the sector is by having an educated, empowered and galvanised membership.

Importantly, if you are worried about missing out on work before an offer is accepted, then you can assert most, if not all, of your rights at the end of the engagement as long as a claim or ACAS Conciliation is lodged within approximately three months of 'the last act of detriment'. It's vital if we want to improve working terms and conditions in the industry that you stand up and be counted.

Encourage producers to use industry collective agreements through appropriate membership or to negotiate and agree an Equity House Agreement. Where appropriate, producers can also ensure individual productions are placed on an Equity Fringe Agreement which protects them from liabilities and provides sensible and fair conditions to protect the workforce and the production itself. For more information for producers, go to: <https://www.equity.org.uk/getting-involved/campaigns/professionally-made-professionally-paid-for-producers-and-engagers/>

Check out our website for more information or [email pmpp@equity.org.uk](mailto:email_pmpp@equity.org.uk)

Holiday Pay

For guidance on how to calculate your holiday entitlement or work out holiday pay in lieu owed, please see the Holiday Pay guidance on our website: www.equity.org.uk/holiday

**To all artists: good work
To all workers: good art
To all people: Equity**



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