

Legal insights: Early work experience

By Attorney at Law Suhendra Leon (sleon@bzselaw.com)

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Last December the Ombudsman of the Netherlands publicized a report regarding the difficulties students of the Caribbean islands face when going to study in the Netherlands. I was also one of these students who left their native island, to study in the Netherlands when I was 19. This report was an eye-opener, because the different problems mentioned in the report, were also recognizable from my own student days. Despite the setbacks, I was able to complete my studies. Besides my parents parenting, and my character I accredit this to the fact, that during my years in high school I held different part-time jobs, that helped me develop skills needed in the grown-up world I encountered in the Netherlands.

Thus, in my opinion, having a part-time job during the high school years will help build character and develop young professionals. In this article I will elaborate on the legal aspects of employment of minors and of age teenagers, with the aim to enthuse employers over this possibility.

The law defines a minor as a person that has not reached the age of eighteen. Article 1:234 of the Civil Code determines that minors are competent to engage in legal actions as long as they have permission of their legal representative, unless the law determines otherwise.

Article 7A:1613f of the Civil Code indicate that minors are competent to enter into an employment relationship with authorization of their legal representative. This authorization can be given verbally or in writing. As the doom thinkers that lawyers are, I would recommend to always request written permission. If there is no written authorization there is still no need to worry as article 7A:1613g of the Civil Code further determines that if the minor has worked for four weeks, it is presumed that it had verbal permission to enter into the employment agreement.

Not all minors are allowed to work. Employment regulation 2000 (Arbeidsregeling 2000) makes it clear in article 18 that children, minors till 15 years of age, are not permitted to work. Juveniles, 16- and 17-year-olds, can work as long that the work is not performed in the nightly hours. More specific article 20 states, the work may not be performed before 7:00 am or after 19:00 pm. Furthermore, in article 21 it is stated that dangerous work cannot be performed by juveniles.

The employment decree juveniles (Arbeidsbesluit Jeugdige Personen) give a list of work that is considered dangerous. In summary work with heavy machinery, chemical substances, construction and with dangerous animals is prohibited.

Article 7A:1614f of the Civil Code contains a stipulation that I consider heavily antiquated for obvious reasons if you read the introduction to this article. It stipulates that if the authorization of the legal representative state that payment of the salary can only be to the legal representative and if the legal representative object to direct payment to the minor, the salary has to be paid to the legal representative of the minor.

To be clear 18-year-olds are adults and do not require any permission to enter into an employment agreement.

An important factor for employers may be that the minimum wage for 16- and 17-year-olds is 65% of the minimum wage for adults and the minimum wage for 18-year-olds is 75% of the minimum wage for employees. Although in my opinion this fact doesn't have to be the determinant factor, it makes it attractive to employ these young people.

The determinant factor in my view is that as an employer you will have a flexible (pool of on call) employees, that may be of assistance when needed (as long as it does not interfere with their formal education) that are quick, eager and that most of the time are better in following instructions than your more aged employees. These employees are particularly suitable as servants in restaurants, in shops, as receptionists, as data entry employees, doing other (light) administrative work and digital work as this group is also tech savvy.

Formal education is important, but it is also important to acquire additional skills that are acquired in a working environment by having responsibilities, having to manage time, engaging with people of other age groups and (cultural) backgrounds.

Don't wait till you are of island to study, to start developing yourself as a responsible adult. This is also a call to companies that value the development of the future workforce of the island to offer these opportunities (when these difficult financial times are over).