



BIS | Department for Business
Innovation & Skills

**NATIONAL MINIMUM WAGE GUIDE
FOR EMPLOYERS**

Almost everyone who legally works in the UK is entitled to receive at least a minimum level of pay. This is called the national minimum wage. Make sure you know your workers' rights. For information and advice from someone who can help call the Pay and Work Rights Helpline on 0800 917 2368.

The amount is set by law. It goes up on 1 October each year.

From 1 October 2009 the rates are

Workers aged 22 and over	£5.80
Workers aged 18-21	£4.83
Workers aged 16-17	£3.57

Generally you must pay all your workers at least the appropriate minimum wage. This includes home-workers, agency workers, part-time workers, casual workers, pieceworkers and foreign workers. It does not matter how much experience they have.

There are a small number of workers who aren't eligible for the minimum wage. These are outlined on page 6.

Tips and the national minimum wage

From 1st October 2009 the use of tips, service charges, gratuities and cover charges can no longer be used to make



up national minimum wage pay. This may mean that from 1st October 2009 you may have to think about how you currently administer PAYE and NICs for your workers.

See further information on taxes, returns and payroll go to www.businesslink.gov.uk/employment

Making sure your workers get the minimum wage

Sometimes it may not be clear if someone is being paid the minimum wage, for example if they are not clearly paid an agreed amount per hour. But as an employer you must ensure the payments you make to workers are at least equal to the minimum wage for the hours they work. This can be checked by dividing the gross pay for a particular period (known as the pay reference period) by the hours worked.

Not all of the money you pay your worker can be counted towards their minimum wage pay.

Money which cannot be counted includes:

- Additional money over and above basic pay for overtime or shift work
- Allowances (e.g. for hazardous conditions or cost of living)
- Reimbursement of expenses incurred in the performance of the job (e.g. travel)
- Reimbursement of the cost of equipment to do the job (e.g. uniform, tools).



Money which can be counted includes:

- Basic pay (including tax and National Insurance contributions)
- Bonuses
- Commission.

Sometimes people may be paid by the amount of work they do or for specific tasks instead of the hours they work. Under the law you must still pay your workers a certain rate if this applies to them.



For further information call the Pay and Work Rights helpline on **0800 917 2368** or go to www.businesslink.gov.uk/payandworkrights The Pay and Work Rights helpline offers advice about the minimum wage to employers and workers. All calls are treated in confidence.

What happens if workers are underpaid?

New changes to the law:

What you need to know.


From April 2009 employers who do not pay the correct minimum wage will be issued with an automatic penalty of up to **£5,000**. You will have to pay this penalty even if the underpayment was a mistake. The most serious cases could be subject to **an unlimited fine**.

There is also a new way of calculating arrears for workers who have been underpaid. This means liable employers will have to pay arrears to their workers at the current minimum wage rate, even when this is higher than the rate at the time of the underpayment.





If you are unsure, call the Pay and Work Rights helpline in confidence on **0800 917 2368** or visit www.businesslink.gov.uk/payandworkrights




You can also use the NMW entitlement, rate and arrears checker, an interactive tool to help you decide if a worker is or was entitled to the national minimum wage, and if so at what rate, and whether arrears may be due for a pay reference period in the past. You can find the tool at www.businesslink.gov.uk/nmw

HM Revenue and Customs (HMRC) are responsible for enforcing the law on the national minimum wage and they will follow up complaints from workers or other sources. HMRC officers may also visit employers to check the minimum wage is being paid.

Deductions from pay

Deductions which you make to cover the cost of an item or expenses, for example uniforms, transport or meals, do not count towards minimum wage pay. If you make deductions for these things then your workers' pay after the deductions must still be at least the minimum wage.

You can take into account for national minimum wage purposes rent (up to a certain limit) deducted by yourself for accommodation. You can charge the worker for accommodation which you provide for them and count a certain amount of that deduction for rent towards their minimum wage pay. The amount of rent deducted that



counts towards the minimum wage changes on 1 October each year. From 1 October 2009 it is £4.51 per day or £31.57 per week.

For further information about accommodation charges or other deductions call the Pay and Work Rights helpline on **0800 917 2368** or go to www.businesslink.gov.uk/payandworkrights

Workers who do not qualify for the minimum wage

Some workers do not qualify for the minimum wage or only qualify after a set period of time. This includes:

- Apprentices under the age of 19
- Apprentices aged 19 or over in the first year of their apprenticeship
- Students on a work placement forming part of a UK higher or UK further education course if the work placement is for less than one year
- Those taking part in the European Union's Leonardo da Vinci, Youth in Action programme, Comenius Assistants or those on the Erasmus programme
- Individuals on some DWP back-to-work schemes.

There may be other reasons why workers aren't entitled to the minimum wage. If you are unsure contact the Pay and Work Rights helpline.



For advice or to find out more about the minimum wage

- check www.businesslink.gov.uk/payandworkrights
- submit a general enquiry form to the Pay and Work Rights helpline available from payandworkrights.direct.gov.uk
- call the Pay and Work Rights helpline on Freefone **0800 917 2368**. The Pay and Work Rights helpline offers advice about the minimum wage to employers and workers. All calls are treated in confidence. Open 8am until 8pm Monday to Friday and 9am until 1am on Saturday. The helpline can take calls in a range of languages using a language line facility. To help us improve the quality of our service your call may be monitored or recorded. This is for internal training purposes only.



Are agency workers entitled to the national minimum wage?

Agency workers are entitled to the national minimum wage and to some other rights at work.

There are also laws about the way employment agencies and employment businesses operate. The law covering employment agencies and employment businesses is enforced by the Employment Agency Standards (EAS) Inspectorate. The EAS Inspectorate investigates relevant complaints about employment agencies and employment businesses.



For advice or to find out more about employment agency standards

- check www.berr.gov.uk/employment
- call the Pay and Work Rights helpline on **0800 917 2368**. Open 8am until 8pm Monday to Friday and 9am until 1pm on Saturday.

Other employment issues

There are other basic workplace standards which you must ensure you provide. These include paid holiday, limits on working hours, protection against discrimination and the right to a safe and healthy working environment.

For advice or to find out more about other protections at work

- check www.businesslink.gov.uk/employment
- call Acas on **08457 47 47 47**.

The information contained in this leaflet is intended to provide general guidance only. It should not be regarded as a complete and authoritative statement of the law.

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