



Beginners Guide to National Minimum Wage

Who gets it?

All workers are covered by it—even pieceworkers!

The NMW applies to all individuals who are classed as workers, regardless of whether they are salaried, paid hourly, do piecework, teamwork or work from home.

There are a few exceptions; the genuinely self-employed, young people under the school leaving age (ie 16) unless they are agricultural workers, apprentices under 19, students who are placed with employers and undertake work experience as part of a higher education course (but not simply working during a university gap year) and family members working in a family business. NMW does not stop applying - if you work, you are entitled to receive it.

How much is it?

This depends upon how old the employee is and whether or not they are in a formal apprenticeship. The table of ages and rates is shown overleaf.

The Apprenticeship Rate will apply to those apprentices who are under 19 or those that are aged 19 and over but in the first year of their apprenticeship.



The development rate, which applies to workers aged 18-20 inclusively, is also payable to workers aged 21 or over who are in the first 6 months of a new job with a new employer and receiving accredited training.

How does it change?

If you have a young employee then the change from one rate to another normally takes effect from the day of their 18th or 20th birthday. The only exception is if the employee is a trainee undertaking accredited training (ie Modern Apprenticeship) in which case the apprenticeship rate applies and the change to a higher rate applies from the end of the 12 month period of training or the date of the birthday whichever is the later.

When does it start?

It starts when a young person is of school leaving age, which is defined in England as the last Friday of June in the school year in which that person is 16 years old. The rules are slightly different in Northern Ireland and Scotland.

A Reminder

If you are not paying the NMW it is your staff who will complain...but the government in the form of HMRC who will enforce it!

Agricultural minimum wage

The agricultural minimum wage is slightly different and provides minimum rates for different skill grades. This guide only shows Grade 1 rates...but there are 6 grades.

Accommodation offset

If you provide accommodation for your employees then you can offset a small amount for each day that it is provided. For 2010 this was £4.51 and if this is relevant to you then please check for the current rates



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Implementation date	Apprentice rate		Young workers rate	Development rate	Standard rate	Annual Salary Equivalent	Agricultural Grade 1	Agricultural Grade 2
	Under 16		16 to 18	18 to 20	Over 20	40hr week	School age	16+
April 1999	exempt	exempt	exempt	3.00	3.60	7,488		3.69
June 2000	exempt	exempt	exempt	3.20	3.60	7,488		3.69
October 2000	exempt	exempt	exempt	3.20	3.70	7,696		3.73
October 2001	exempt	exempt	exempt	3.50	4.10	8,528		4.10
October 2002	exempt	exempt	exempt	3.60	4.20	8,736		4.30
October 2003	exempt	exempt	exempt	3.80	4.50	9,360		4.50
October 2004	exempt	exempt	3.00	4.10	4.85	10,088		4.85
October 2005	exempt	exempt	3.00	4.25	5.05	10,504		5.05
October 2006	exempt	exempt	3.00	4.45	5.35	11,128		5.35
October 2007	exempt	exempt	3.40	4.60	5.52	11,482	2.76	5.52
October 2008	exempt	exempt	3.53	4.77	5.73	11,918	2.87	5.74
October 2009	exempt	exempt	3.57	4.83	5.80	12,064	2.91	5.81
October 2010	exempt	2.50	3.64	4.92	5.93	12,334	2.98	5.95
October 2011	exempt	2.60	3.68	4.98	6.08	12,646	3.05	6.37

Rates correct at October 2011 (note that agricultural wages change in April each year and in October each year for other workers).

Record Keeping

Employers are required to keep 'sufficient records' to prove the hours worked and the wages paid and you should keep them for at least 6 years. Failing to keep record, or keeping false records are criminal offences!

There is no specific guidance on what 'sufficient records' are. However the burden of proof is on the employer to prove that they have paid enough! If you have a proper payroll system, then you are probably already recording the hours worked and the wages paid. If not, change the system so that you have enough of a record.

Any employee has the right to see a copy of the record as it relates to them. However, they need to request this in writing and the employer must produce the record within 14 days. Also an HMRC enforcement officer may visit a business and inspect or photocopy the records.

As with all such things, the time to make sure you are getting it right is now! Not after you have been asked to produce them to an employment tribunal! Failing to produce a record, when asked, leaves the employer liable to a fine of 80 times the national minimum wage (80 x £6.08 = £486.40)

and you may also be subject to criminal prosecution.

Enforcement

The Inland Revenue are the main enforcement agency and they have 16 regional teams for this. Enforcement is also by the employment tribunals, or by an employee going to a civil court and lodging a claim. There are penalties for getting it wrong and also larger fines for criminal offences. The basic penalty is 50% of the arrears of underpayment...but there is a minimum penalty of £100 and a maximum penalty of £5,000 for underpayments dealt with before going to court. The more serious cases can be taken to the Crown Court (there are six criminal offences you could be charged with!) and the Crown Court can set much stiffer penalties!

Directors and small employers

The national minimum wage applies to everyone. It is United Kingdom Law. There are no exceptions. However, BERR issued some guidance when the NMW first came in, to the effect that they would not target directors of small companies but were more concerned with larger employers.

Also, company directors are office

holders not workers, so if a company director does not have a contract of employment (which would classify them as a worker) then the NMW does not apply to them.

Caveat

This Beginners Guide is no substitute for proper professional advice and no liability is accepted by Jonathan Vowles Chartered Accountants for any action or inaction taken as a result of reading this leaflet.

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