


Enforcing the National Minimum Wage



The majority of employers in the UK pay their workers at least the National Minimum Wage, but a small proportion fail to do so - which is illegal. This briefing explains our approach to ensuring that the national minimum wage is paid, and how we return arrears to workers.

Who is entitled to the national minimum wage?

The vast majority of employed workers in the UK are entitled to at least the national minimum wage.

An employed worker is normally someone who:

- is not self-employed
- has someone tell them at any time what to do, where to carry out the work or when and how to do it
- has some form of contract, either verbal or written
- is not undertaking a work placement as part of further or higher education
- is not a volunteer
- does not work in a way that falls under a very limited set of exceptions to the national minimum wage.

In 1999, the Inland Revenue was appointed by the Department of Trade and Industry (now the Department of Business, Innovation and Skills) to enforce the minimum wage on its behalf, and HMRC continues to do so today. Over the past 14 years, we have identified more than £49 million which should have been paid as wages and returned it to around 203,000 workers.

Those who are paid the minimum wage can be the most vulnerable in society. Across the country we have helped workers in a number of sectors, including cleaners, shop workers, apprentices, migrant workers from other countries and hairdressers to receive the wages they are entitled to. This ranges from just £1 per worker to many thousands of pounds.

What is the national minimum wage?

The current rates at October 2012 are:

- £6.19 an hour for workers aged 21-years-old and over
- £4.98 an hour for workers aged between 18 and 20
- £3.68 an hour for workers aged between 16 and 17, and
- £2.65 for apprentices under 19, or over 19 and in the first year of their apprenticeship.

Our enforcement of the national minimum wage

Complaints

The Pay and Work Rights Helpline refers any relevant complaints from workers to us. No employer is too big or too small to be investigated. A single complaint from a worker is all that is needed. National minimum wage compliance officers have access to the full range of our systems, so they can carry out detailed investigations.

If workers are found to be owed money, we issue a notice of underpayment to the employer. In 2011-12 we served 879 notices to employers detailing how much they owed their workers. The majority of enquiries are settled when employers receive this notice.

Our ultimate sanction is prosecution, but in the majority of cases we do not have to resort to criminal proceedings. To date eight employers have been convicted of offences under the national minimum wage act. Instead of prosecuting employers we use other methods to recover what is owed. In 2011-12, a total of 72 cases were referred for civil debt pursuit ensuring that money employers legally owed their workers was paid.

Employers have the right to appeal against a notice of underpayment, and every year a small number of employers will exercise this right. The notice is appealed to an employment tribunal. In 2011-12 we successfully defended 90 per cent of employer's appeals to employment tribunals.

How we assess the risk of non-compliance

There are several employment sectors that we have identified as having a high risk of not complying with the national minimum wage. We use the very latest tax compliance techniques and technologies to risk assess employers, as well as highlighting new, emerging sectors, or sectors where we may not have received a worker complaint. These risk campaigns are run in addition to reviewing every complaint we receive and supporting our existing complaint-driven work by targeting the highest risk employers.

A high-profile approach to enforcement

We know we can influence how employers and workers behave through publicity. Increased awareness of how the national minimum wage operates due to the publicity can lead to an increase in voluntary compliance among these groups. We have set up a dynamic response team, to work on our highest profile cases. They work in joint task forces with, among others, The United Kingdom Border Authority (UKBA), the Metropolitan Police, and local authorities. Their past activities have included targeting London fashion week, unannounced visits with UKBA and targeting non-compliance before the London 2012 Olympic Games.

Who does what?

There are several departments and organisations involved in the enforcement of the national minimum wage.

They are:

- Department for Business, Innovation and Skills have responsibility for national minimum wage policy
- Pay and Work Rights Helpline is a national phone line run on behalf of five government enforcement bodies. They receive complaints from workers and direct those complaints to the right agency
- Low Pay Commission makes recommendations about the national minimum wage, including any changes in the rates, and conducts research to support their recommendations
- Gangmasters Licensing Authority (GLA) regulates businesses that provide workers to the fresh produce supply chain. Labour providers who supply workers to a relevant sector have to apply for a gangmasters license. The GLA will check to see if the proposed business complies with the National Minimum Wage Act before issuing a licence to allow the labour provider to become a Gangmaster
- HMRC enforces the national minimum wage.

To find out more

- Find out more about the national minimum wage at www.gov.uk/your-right-to-minimum-wage
- Further information on the Low Pay Commission can be found at www.lowpay.gov.uk
- Learn more about the national minimum wage compliance strategy at www.bis.gov.uk/assets/biscore/employment-matters/docs/10-678-nmw-compliance-strategy