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The national minimum wage

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This implementation of the National Minimum Wage was in 1999 and was introduced by the Labour Party. It had been party policy since 1986.

Prior to the National Minimum Wage, there were a number of mechanisms of wage controls that were specific to individual industries and these were gradually dismantled and the Trade Union Reform and Employment Rights Act 1993 abolished the 26 wage councils that had previously protected about 2,500,000 low paid workers.

Trade Union membership had been declining prior to the National Minimum Wage and this also contributed to the perceived need for a mechanism to regulate pay for lower paid workers.

There are some exclusions: people who are employed as au pairs, share fisherman, unpaid volunteers and prisoners. People who work through agencies are included so the agencies charges must not reduce the workers basic entitlement.

The hours that are used to calculate national minimum wage pay have to be those that are in the 'pay reference period' and the rate of pay for hours should not fall below the National Minimum Wage. Sometimes pay does not contractually refer to 'hours' and the time actually worked has to be calculated.

Under the National Minimum Wage Regulations 1999, workers are entitled to be paid the national minimum wage for all time spent working. The issue of what constitutes working time for workers who "sleep-in" has been complicated and there is now case law that says where a worker sleeps in their place of work and is provided with suitable facilities for sleeping, they will only be entitled to payment for those hours in which they are "awake for the purpose of working". This decision has been appealed against by the Trade Union Unison and the final Supreme Court ruling is expected later this year. This issue has been uncertain for nearly two decades.

If any worker is paid on average less than the NMW over their pay reference period, they will be entitled to a pay rise to ensure NMW compliance. They may also be able to pursue a claim for back pay. However, because working patterns vary enormously between individuals; this will need to be considered on a case-by-case basis.

Since the National Minimum Wage was introduced, it has risen faster than average earnings and inflation. In 2019 it is estimated there were 2 million workers paid at or below the minimum wage. This is 7% of all workers. The Low Pay Commission estimates that 48% of jobs that pay at or below the NMW are in retail, hospitality, cleaning and maintenance.

Current rates

These rates are for the National Minimum Wage. The rates change every April.

Year	25 and over	21 to 24	18 to 20	Under 18	Apprentice
April 2020	£8.72	£8.20	£6.45	£4.55	£4.15

An apprentice aged 22 in the first year of their apprenticeship is entitled to a minimum hourly rate of £4.15.

Apprentices are entitled to the minimum wage for their age if they are aged 19 or over and are in the second year of their apprenticeship.

For further support with this or any other HR issue, BVNA members can call the BVNA Advisory Service Helpline on 01822 870270 or email AdvisoryService@bvna.co.uk

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