

Who must get the National Minimum Wage?

Workers

Most adult workers in the United Kingdom must be paid at least the national minimum wage. If an individual has a contract of employment s/he is a worker. Even if s/he does not have a contract of employment, they are workers if they are doing working personally for someone else (under a “worker’s” contract) and are not genuinely self-employed. The contract does not need to be written; it may be an implied contract or an oral contract. People such as home workers, agency workers, casual labourers, part-time workers and workers on short-term contracts are all entitled to the national minimum wage. It does not matter how a worker is paid – by the month, week, day, session, hour or some other way.

Agency workers

If someone is supplied by an agent or agency to do work for somebody else, he will count as a worker and must receive at least the national minimum wage. In most cases it will be clear who the contract is with: the agency itself or the agency’s client to whom the worker is supplied. But sometimes this may be unclear. In such cases, the agency worker will still be entitled to the national minimum wage and the employer is whoever pays him.

Disabled workers

The entitlement to the national minimum wage applies to all workers regardless of individual levels of ability, productivity or effectiveness. So

if a disabled person is a 'worker' (see above) then they must be paid at least the national minimum wage. But some disabled people undertake work-related activities for therapeutic reasons. Where these people are undertaking a purely therapeutic activity with no contractual obligation to work or right to any payment or other reward, they will not count as workers and will not be entitled to the national minimum wage. The DTI has produced an information note "The Minimum Wage and Therapeutic Work" which can be obtained from the DTI at <http://www.dti.gov.uk/files/file11883.pdf>.

Voluntary workers

Volunteers (who provide their time and effort completely freely) need not be paid the national minimum wage because they do not have any contractual arrangement and therefore are not classed as workers. But some people who consider themselves "volunteers" could still potentially count as "workers" because they receive some sort of payment or benefit in kind. These workers need not be paid the national minimum wage if:

- they work for a charity, voluntary organisation, charity shop, school, hospital or similar body; and they receive only reasonable expenses, relevant training and/or subsistence (but not money for subsistence). Regular payments are likely to give the volunteer the right to the national minimum wage. However, a genuine "honorarium" in the form of a gift with no obligation and of a reasonable amount is not likely to give the volunteer the right to the national minimum wage; or
- they are placed by a charity or similar body with another charity or similar body and they also receive money for subsistence: for example, voluntary workers who have been placed with a hospital or charitable care home by a charity which specialises in such placements, and who are provided with some money to cover living expenses.

Example 2: Voluntary workers

1. A member of a charity who helps out from time to time at jumble sales for no pay and under no obligation is not entitled to the national minimum wage. S/he does not have any form of contract and does not count as a "worker".
2. A worker for a community group who has set hours and is paid a wage is entitled to the national minimum wage. S/he fits the definition of a worker and whether the employer in such cases is a charity or voluntary organisation is irrelevant.

3. A volunteer worker in a hostel with charitable status who receives free accommodation and food as well as expenses for any travel undertaken as part of the job, but who does not receive any monetary payments, is not entitled to the national minimum wage.
4. The volunteer who works in a hostel but who receives cash payments such as a regular wage is likely to be entitled to the national minimum wage.

Extract from the DTI 's: A Detailed Guide to the National Minimum Wage.

Go to <http://www.dti.gov.uk/employment/pay/national-minimum-wage/index.html> for further information.

National Minimum Wage Rates

The national minimum wage sets hourly rates below which pay must not be allowed to fall. The rates set are based on the recommendations of the independent Low Pay Commission. From 1 October 2006 they are:

Main (adult) rate for workers aged 22 and over

£5.35 per hour (£5.52 from October 2007)

Development rate for workers aged 18-21 inclusive*

£4.45 per hour (£4.60 from October 2007)

*NB: The development rate can also apply to workers aged 22 and above during their first 6 months in a new job with a new employer and who are receiving accredited training.

Development rate for workers aged 16-17 (above compulsory school leaving age)

£3.30 per hour (£.40 from October 2007)

Fair Piece Rates

From October 2004, the Government proposed that employers have to pay their workers the minimum wage for every hour they work or a fair piece rate which, from April 2005, was increased to 120% of the minimum wage. Further guidance can be found at

<http://www.dti.gov.uk/employment/pay/national-minimum-wage/Fair-Piece-Rates-Guides-2004/page12575.html>

To check on how the National Minimum Wage applies, use the [Business Link](#) website or telephone the **National Minimum Wage Helpline on 0845 6000 678**. This is also the number for workers to ring if they think they are being underpaid and wish to make a complaint. You can also email the helpline: nmw@inlandrevenue.gov.uk

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LVSC's Personnel, Employment Advice and Conciliation Service

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