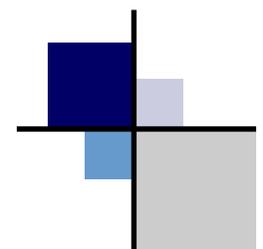




## A Worker's Guide to the Minimum Wage



### Example 1

A worker aged 45, takes a job paid £9.00 an hour for a 152 hour month (£1,368). The employer also provides accommodation and board for which he charges the worker £1,000 a month. Statutory deductions are made for POAT, MST and RPC (£96 a month in this example).

Net pay is therefore £272.

For the purposes of minimum wage calculations, 50% of the board and accommodation costs are added onto net pay (up to a maximum of £90.60 per week). In this example board and accommodation is charged at £392.60 (£90.60 x 52 / 12)

Total pay for minimum wage calculations is therefore £272 + £96 + 392.60 = £760.60

Hours worked per month are 152. Hourly wage equates to £5.00 which is below the minimum wage and the employer must take action to adjust the wage.

### Example 2

A worker normally receives £1,000 a month. In December she applies for, and receives a £300 loan from her employer. Her employer subsequently deducts £300 in January to repay the loan. Assuming that the whole of the standard pay of £1,000 counts towards national minimum wage pay, the loan is treated as follows:

	December	January
Money received	£1000 + £300 loan	£1000 - £300 repayment of loan
Total Amount that counts towards MW pay	£1,300	£700
	£1,000	£1,000

The deduction is ignored in January as it was already paid in December. Hence the worker continued to receive MW pay throughout the whole period.

### How do I access my records?

You should speak to your employer in the first instance and ask to see your records at a time and place that is convenient for you both. You can view the records by yourself or take someone with you.

If your employer refuses you access, you can issue them with a 'production notice' requesting to see your records. Your employer must respond within 7 days of your request, giving you reasonable written notice of a place and time when you can view your records (which must be within 14 days of when they received the production notice, or can be at a later time agreed by you both), or they can give you a written refusal notice explaining why they consider the request to be unreasonable.

### What can I do if I think I am not being paid the Minimum Wage or my employer won't allow me access to my records?

You should always try to resolve the issue with your employer in the first instance.

If you are refused access to your records, are not being paid the minimum wage, or suffer a detriment (including dismissal) relating to the minimum wage then you may be able to take action against your employer.

A claim can be taken to the Civil Summary Court for breach of the minimum wage legislation, or unfair dismissal and victimisation if you feel you have been mistreated because you are not receiving the minimum wage, or you have suffered as a result of attempting to establish if you are receiving the minimum wage.

The burden of proof is on your employer to prove you have been paid the minimum wage.

**For more information or advice please contact the Taxation Office:  
Tel: +(500) 28470  
Email: [general@taxation.gov.fk](mailto:general@taxation.gov.fk)**

# The Minimum Wage

The National Minimum Wage (MW) is the minimum pay per hour workers who have a contract with their employer (either verbal or in writing) are entitled to by law.

## Who is entitled to the Minimum Wage?

Most types of workers are entitled to the MW, including:

- Full and part-time workers
- Temporary workers, casual workers and those on short-term contracts
- Apprentices
- Trainees or workers who are under probation aged 16 years and over
- Family members aged 16 years and over who have entered a contractual relationship with their relative as an employer
- Students aged 16 years and over who undertake work
- Commission workers
- Agency workers (paid by employer)
- Home workers (unless running their own business)
- Employees of Ministry of Defence (MoD) contractors
- Volunteers with the Falkland Islands Defence Force (FIDF)
- Disabled workers (excluding those on Falkland Islands Government supported schemes)
- Workers from outside the Falkland Islands
- Workers working outside FI who usually work within the FI but are temporarily working outside of FI
- Offshore workers (working within FI territorial waters regardless of location of employer)
- Seafarers employed within Falkland Island territorial waters (excluding fishermen).

## Who is **not** entitled to the Minimum Wage?

Those not entitled to MW include:

- People under 16 years of age
- Self-employed
- Work-experience students undertaking experience as part of their course which doesn't exceed 1 year
- Trainees on Government funded courses (excluding Apprenticeships)
- Serving members of the British Armed Forces
- Fishermen
- Prisoners and those serving Community Service
- Family and friends where jobs are informal arrangements without a contract
- Unpaid volunteer workers

## What is the Minimum Wage rate?

Workers aged **16 and 17** are entitled to receive the *Minimum Wage for Young People* £3.10 per hour

Workers aged **18 and over** are entitled to receive the *Adult Minimum Wage* £5.05 per hour

**All workers must be paid at least the minimum wage from the 1<sup>st</sup> December 2013.** Your employer cannot ask you to work for less than the minimum wage and you cannot sign away your right to receive the minimum wage.

The Working credit scheme may be available to assist those aged 16+ who are in employment, but have household earnings below the tax threshold.

## Will the Minimum Wage rates change?

The Minimum Wage Legislation will be reviewed at least every 12 months. Following this review, changes **may** made to:

- The minimum wage for adults
- The minimum wage for young persons or
- Both minimum wages.

Any changes to the rates will be published in the Gazette and employers will have 3 months to comply.

## What counts as Minimum Wage pay?

Start with what you actually receive, i.e. your net pay. Ignore any tips or salary advances but include bonuses, commissions or performance pay. Add on the statutory deductions from your wage, MST, POAT, RPC and any payments from your wage to cover the service charge, plus any deductions for misconduct or poor work, or for pensions or savings schemes. There is no need to include anything for any benefits.

An allowance is made for employers providing board and accommodation (if it is charged to the worker), up to 50% of the charge/deduction of board and accommodation to a maximum of £90.60 a week (an employer can charge or deduct more than this maximum from a worker's pay, but this excess amount will not count towards MW pay).

## What does not count as minimum wage pay?

Tips, an advance of wages, loans, special allowances (such as on-call payments or working unsociable hours), expenses and benefits in kind are excluded in the calculation of the hourly wage.

## What should my employer be doing?

It is your employer's duty to pay you the minimum wage.

They must keep on record (either on paper, on computer or by some other means) records such as contracts, payslips and agreements. Other records such as payments made including overtime and shifts, absences for sick leave or holiday, and any deduction of payment for board and accommodation should also be kept. Your employer may ask you for information for the purposes of updating your records and for recording the number of hours you work which you must provide to them. The records held by your employer will be used to confirm that you are being paid at least the minimum wage.