



Employers Guide to Minimum Wage—2024

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 **aged 16 years and over** are entitled to the MW:

- Whether working full or part-time
- Temporary workers, casual workers and those on short-term contracts
- Apprentices, Trainees and students who undertake work
- Those working under probation
- Family members who have entered a contractual relationship with their relative as an employer
- 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 Falkland Islands (FI) and those who usually work within the FI but are temporarily working outside of FI
- Offshore workers (within FI territorial waters regardless of employer's location)
- Seafarers employed within FI territorial waters (excluding fishermen).

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

- People under 16 years of age
- Self-employed
- Work-experience students working as part of their course up to 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

From 1st January 2024 the new minimum wage rate is £8.57 per hour.

You cannot ask your workers to work for less than the minimum wage and a worker cannot sign away their right to receive the minimum wage.

From 1st January 2016. Young workers (16 and 17 year olds) must be paid the same rate as persons aged 18 and over.

Will the Minimum Wage rates change?

The Minimum Wage Legislation will be reviewed at least every 12 months, and changes **may** be made to the minimum wage.

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

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What counts as Minimum Wage pay?

Start with a workers net pay. Ignore any tips or salary advances but include bonuses, commissions or performance pay. Add on the statutory deductions such as MST, POAT, RPC and any payments to cover the service charge, plus any deductions for misconduct or poor work, or for pensions or savings schemes. Any benefits can be ignored.

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.

What do I need to do?

It is your duty as an employer to pay the MW.

You must keep records (paper, or electronic form) including contracts, payslips and agreements. This information must be accessible on request and kept for **at least 6 years**.

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 provided by the employer should also be kept.

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 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.

When calculating minimum wage, 50% of the accommodation costs are added onto net pay, up to a maximum of £90.60 per week. In this example this is £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, meaning the hourly wage is only £5.00, below the MW. The employer must take action to adjust the wage.

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Example 2

A worker normally receives £1,000 a month. In December she receives a £300 loan from her employer. Her employer subsequently deducts £300 in January to repay the loan. In calculating the MW the loan is treated as follows:

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

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

Why do I need to keep records?

Records will confirm the worker has been paid at least the minimum wage. Every worker has a right of reasonable access to their records. They can view these alone, or with another person.

You are entitled to ask the worker for information relating to their work for the purposes of your record keeping, and the worker is under a duty to provide you with that information (e.g. timesheets).

What if I am not paying the minimum wage?

If you are not paying the minimum wage, or refuse the worker access to their records, or they suffer detriment ?? (including dismissal) relating to the minimum wage, the worker may take action against you as the employer.

The worker can issue a 'production notice' to see their records which you must respond to within 7 days, giving reasonable written notice of a place and time for the worker to view their records within a further 7 days, (or a later time by mutual agreement), or a written refusal notice explaining why you consider the request to be unreasonable.

If the issue is unresolvable, a claim can be brought to the Civil Summary Court for breach of the MW legislation, including related unfair dismissal and victimisation.

The burden is on **you** as the employer to prove you have paid your workers the MW.

This guide has been written in general terms, it does not have any legal force or bind the FI Government Taxation Office in any way. It should be read in conjunction with the Minimum Wage Ordinance 2013 and associated legislation and regulations.