

LBCA Chartered Accountants

National Minimum Wage

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The national minimum wage

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Introduction

The national minimum wage (NMW) sets minimum hourly rates that employers must pay their workers. It covers almost all workers in the UK and is divided into three rates that apply to workers of different ages. This guide provides a basic overview of the NMW and explains the role of HM Revenue & Customs in enforcing it.

The rules in this area can be complicated, so at various stages this guide also provides links to other sources of information. These will give you the greater detail needed to calculate NMW requirements for individual workers.

National minimum wage - the three rates

There are three different national minimum wage (NMW) rates, which are usually updated in October each year. The rates that apply from 1 October 2009 are as follows:

- for workers aged 22 years or more - £5.80 per hour
- for workers aged 18 to 21 inclusive - £4.83 per hour
- for workers aged under 18 (but above compulsory school age) - £3.57 per hour

[Check an archive of NMW rates for earlier years on the HM Revenue & Customs \(HMRC\) website - Opens in a new window.](#)

Who's entitled to the national minimum wage?

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Almost all workers who work in the UK are entitled to the national minimum wage (NMW). But there are some groups who aren't entitled, including:

- self-employed people
- apprentices under the age of 19
- apprentices aged 19 or over - but only for the first year of their apprenticeship
- children who are still of compulsory school age

It makes no difference to a worker's entitlement to the NMW whether they work for you full time or part time, or whether they are an agency worker, a temporary or casual worker, a piece worker or a home worker.

National minimum wage - the basics and who is entitled to it

Which payments count towards the national minimum wage?

National minimum wage (NMW) pay is calculated in a certain way. Many of the payments that you make to a worker will count towards their NMW pay, but some won't. For example, a worker's basic pay (before deductions of tax and National Insurance) counts towards NMW pay, but any payments for expenses do not count.

For a full list of what does and doesn't count towards NMW pay, see our related guide below.

National minimum wage - what counts as NMW pay, benefits in kind and accommodation

How many hours has your worker worked?

Every worker who's entitled to the national minimum wage (NMW) must be paid at least their NMW rate on average for every hour worked in each pay reference period. (The pay reference period is the interval at which you pay them - such as weekly or monthly, but it cannot be longer than a calendar month.)

This means that to work out how much you're required to pay a worker, you need to calculate how many hours they have worked. For NMW purposes, there are four different types of work, and there are different rules for calculating the number of hours worked for each of these.

The four types of work are:

- time work
- salaried hours work
- output work
- unmeasured work

For full details of how the NMW applies to each type of work, read our related guide below.

National minimum wage - hours for which the NMW must be paid

Record keeping

You must keep records that show you pay at least the national minimum wage (NMW) to anyone who works for you and is entitled to it. If you pay your workers well above the minimum requirement, then it's likely that your standard payroll and other business

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records will be sufficient for this purpose.

HM Revenue & Customs compliance officers are entitled to ask you to produce your records for inspection. In certain circumstances, you must also produce your records if one of your workers asks to see them because they believe they're not being paid the NMW. You are required to keep records relating to the NMW for at least three years. But it's a good idea to keep them for six years (five years in Scotland) in order to show that you have paid at least NMW rates if a civil claim is brought against you.

National minimum wage - record-keeping, calculating arrears and enforcement

Calculating arrears

If you realise you haven't paid a worker at least the national minimum wage (NMW) requirement, then you must work out and pay the arrears to the worker.

From 6 April 2009 you must calculate any arrears using a formula that includes the current NMW rate. This means that you may end up paying more than you would have if you had paid the correct amount to start with.

See our page on [calculating national minimum wage arrears from 6 April 2009](#) in our guide on national minimum wage - record-keeping, calculating arrears and enforcement.

Enforcement and penalties

HM Revenue & Customs (HMRC) enforces the national minimum wage (NMW). From 6 April 2009, if HMRC finds you have underpaid the NMW they will issue a notice of underpayment. This will show the arrears you must pay to your workers and the penalty you must pay to HMRC.

The penalty is 50 per cent of the total underpayment that has occurred from 6 April 2009. This figure will be shown separately on the notice of underpayment. There is a minimum penalty of £100 and a maximum of £5,000. If you pay the arrears and the penalty within 14 days of the date on which the notice of underpayment is served, you only need to pay half of the penalty.

If you receive a notice of underpayment you have a right of appeal. You can appeal against:

- HMRC's decision to issue a notice of underpayment
- any requirement imposed by the notice of underpayment

Details of how and where to appeal will be included with the notice of underpayment.

Understanding national minimum wage law

Paying national minimum wage - further help

If you need more help and advice about paying the national minimum wage, you can contact the Pay and Work Rights Helpline. The helpline is open from 08.00 to 20.00, Monday to Friday (excluding bank holidays), and 09.00 to 13.00 on Saturdays.

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Related guides on
businesslink.gov.uk

Use our interactive tool to check that you are complying with national minimum wage law | National minimum wage - the basics and who is entitled to it | National minimum wage - what counts as NMW pay, benefits in kind and accommodation | National minimum wage - hours for which the NMW must be paid | National minimum wage - record-keeping, calculating arrears and enforcement | Understanding national minimum wage law |

Related web sites you might find useful

[NMW rate archive - from HMRC - Opens in a new window](#)

[Paying the minimum wage to agricultural workers - information from the Department for Environment, Food and Rural Affairs - Opens in a new window](#)