

# National Minimum Wage

## THE LAW

**United Kingdom (England, Wales, Scotland and Northern Ireland)**

The National Minimum Wage Act 1998

Employers throughout the United Kingdom to pay their workers a statutory national minimum wage (NMW). The applicable NMW rate will vary depending on the worker's age.

## CURRENT RATES

Rates are adjusted yearly and typically applicable from 1 October of each year.

**Rates From 1 October 2013**

£6.31	the main rate for workers age 21 and older
£5.03	the rate for workers age 18–20
£3.72	the rate for workers age 16–17
£2.68	the apprentice rate, for apprentices younger than 19 or for apprentices who are 19 or older and in the first year of their apprenticeship

There are several issues employers need to be aware of regarding NMW, including when a worker is entitled to NMW, how NMW is calculated, and the requirements for recordkeeping and reporting.

## WHO IS ENTITLED TO NMW?

A worker is entitled to the NMW if he or she has a contract of employment or a contract to perform work or provide services for the employer, is not self-employed, and has ceased to be of compulsory school age. This includes part-time workers, casual labourers and agency workers. The employment contract does not need to be in writing; it can be an implied or oral contract as well.

For more information on who is entitled to the NMW, please see <https://www.gov.uk/national-minimum-wage-rates>.

## WHAT COUNTS AS NMW PAY?

In order to comply with the National Minimum Wage Act 1998, a worker's average hourly pay over a pay reference period must be equal or greater than the NMW. The pay reference period is the period of time over which a worker is paid. For instance, if a worker is paid weekly, then his or her pay reference period is one week. Incentive pay (commissions) and bonuses count towards the NMW pay, but payments such as loans, pension payments and redundancy payments do not. Benefits such as meals, fuel and car contributions also do not count.

How an employer calculates NMW for workers will depend on the type of work the worker is engaged in. There are four types of work for NMW purposes:

1. Time work—paid according to the number of hours worked
2. Salaried-hours' work—paid for a pre-determined number of hours a year and contractually entitled to an annual salary for those hours that is paid in equal instalments

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3. Output work—paid according to each piece produced or task performed with no fixed hours of work
4. Unmeasured work—paid a set amount for a task or for working a certain length of time, such as a week

For information on how to calculate NMW for specific types of employees, please see <https://www.gov.uk/minimum-wage-different-types-work>.

## **RECORDKEEPING AND REPORTING REQUIREMENTS**

Employers are legally required to keep records to show that they are meeting NMW requirements. However, for the majority of employers, existing payroll and business records are sufficient. Officers of the HM Revenue and Customs (HMRC) have the authority to enter any premises used in the employer's business and ask to check NMW records. Paying workers less than the NMW, failing to preserve records or refusing access to the records may result in criminal prosecution.

Workers have the right to access their NMW records if they have reasonable grounds to believe that they have not been paid accordingly. They must make a written request, and the employer must produce the records within 14 days.



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