

BIS | Department for
Business Innovation & Skills

**The National Minimum Wage
Regulations 2009**

Final Impact Assessment

JUNE 2009

Summary: Intervention & Options

Department /Agency: BIS (formerly known as BERR, Department for Business, Enterprise and Regulatory Reform)	Title: Final impact Assessment of amendment to the National Minimum Wage regulations 2009	
Stage: Final	Version: Final	Date: 08 June 2009
Related Publications:		

Available to view or download at:

<http://www.berr.gov.uk/files/file51722.pdf>

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What is the problem under consideration? Why is government intervention necessary?

The National Minimum Wage (NMW) is part of the government's strategy to provide fair standards in the workplace by avoiding potential exploitation of workers by employers who in the absence of a NMW would undercut competitors by paying unacceptably low wages. The NMW came into force in April 1999 and since then the NMW rates have been updated annually. The government has accepted the Low Pay Commission's (LPC) recommendations on the new October 2009 rates for the NMW. This impact assessment also looks at amending exemptions of the NMW to cover Erasmus students and Comenius assistants.

What are the policy objectives and the intended effects?

The NMW sets a wage floor below which pay cannot fall ensuring fair standards in the workplace. The aim when setting the rates is to help the low paid through an increased minimum wage, while making sure that we do not damage their employment prospects by setting it too high. Extending the NMW exemption to Erasmus students and Comenius assistants will bring the treatment of these groups in line with others on the European Union Lifelong Learning programme.

What policy options have been considered? Please justify any preferred option.

The NMW policy targets an improvement in the wage rates of those earning low wages. The NMW rates are reviewed by the independent LPC annually. The LPC carries out a wide ranging consultation on the operation of the NMW and takes account of the economic position before recommending rates. DIUS and BERR have carefully considered amending exemptions to the NMW to cover Erasmus students and Comenius assistants.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? The government has again asked the Low Pay Commission to monitor, evaluate and review the National Minimum Wage and its impact. The LPC will be producing an annual report as usual.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister:

Pat McFadden, Minister of State (Business)

..... Date:

Summary: Analysis & Evidence

Policy Option:	Description:
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COSTS	ANNUAL COSTS	Description and scale of key monetised costs by 'main affected groups' Business - £0 million cost from proposed 2009 rates.
	One-off (Transition) Yrs	
	£ 0 million 1	
	Average Annual Cost (excluding one-off)	
	£ £0 million 1	Total Cost (PV) £ 0 million
Other key non-monetised costs by 'main affected groups'		

BENEFITS	ANNUAL BENEFITS	Description and scale of key monetised benefits by 'main affected groups' Workers - £0 million benefit from the proposed 2009 rates.
	One-off Yrs	
	£ 0 million 1	
	Average Annual Benefit (excluding one-off)	
	£ £0 million 1	Total Benefit (PV) £ 0 million
Other key non-monetised benefits by 'main affected groups'		

Key Assumptions/Sensitivities/Risks

We assume that the NMW would have increased by average earnings, excluding bonuses (in the absence of any regulation) and this assumptions leads to a £0million impact on costs and benefits. The cost and benefits are transfers.

Price Base Year 2009	Time Period Years 1	Net Benefit Range (NPV) £ 0	NET BENEFIT (NPV Best estimate) £ 0
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What is the geographic coverage of the policy/option?	UK			
On what date will the policy be implemented?	1 st Oct 2009			
Which organisation(s) will enforce the policy?	HMRC			
What is the total annual cost of enforcement for these organisations?	£			
Does enforcement comply with Hampton principles?	Yes			
Will implementation go beyond minimum EU requirements?	No			
What is the value of the proposed offsetting measure per year?	£			
What is the value of changes in greenhouse gas emissions?	£ Negligible			
Will the proposal have a significant impact on competition?	No			
Annual cost (£-£) per organisation (excluding one-off) (n/Q = not quantifiable)	Micro NQ	Small NQ	Medium NQ	Large NQ
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)
Increase of £ 0	Decrease of £ 0	Net Impact £ 0

Key: Annual costs and benefits: Constant Prices (Net) Present Value

A: Strategic overview

Existing Government initiatives

NMW uprating

The NMW was introduced in April 1999. The rates have increased in a number of steps annually, most recently in October 2008. The adult minimum wage rate has increased from £3.60 in April 1999 to £5.80 (to come into effect in October 2009). The development rate of the NMW has also increased from £3.00 in April 1999 to £4.83 (to come into effect in October 2009). The 16-17 year olds rate was only introduced in October 2004 and has increased from £3.00 to £3.57 (to come into force in October 2009).

Amending NMW exemptions

The European Union Lifelong learning programme (LLP) aims to support member states policies on employability, lifelong learning and social exclusion by providing opportunities for mobility between member states, including work experience placements.

Authors of the LLP took the decision to move higher education participants in vocational training from the Leonardo Da Vinci Programme into the Erasmus programme in order to keep all higher education activities together. An exemption was created in 2007 through the National Minimum Wage Regulations 1999 (Amendment) Regulations 2007 - for participants in Leonardo. It does not cover those taking part within Erasmus – although the intention was to include this group.

Comenius Assistants are one stream of the Comenius Programme, which is part of the LLP. They can come from all LLP countries (EU, EFTA-EEA, Turkey, Overseas Territories) and work as classroom assistants within UK schools for between 13 and 45 weeks, for up to 16 hours per week (spread across up to three UK schools). Comenius Assistants receive stipend support (intended to contribute towards travel and living costs) from the Comenius National Agency of their home country of up to 6,224 euros for the first 13 weeks, and up to 271 euros per week thereafter.

Comenius Assistants are selected by the Comenius National Agency of their home country. Their hosting schools in the UK are selected by the UK Comenius National Agency, the British Council. Hosting schools are not required to pay a wage to the Comenius Assistants.

Comenius Assistants are thus work placements in exactly the same way as are the work placements carried out under the EU's Leonardo da Vinci Programme. Hence Comenius assistants should also be subject to the same exemption as participants in Leonardo.

The scope of this policy change is relatively small and further details can be found in annex C.

B: The issue

NMW uprating

Decisions on the NMW rates are made by the government following consideration of recommendations by the independent LPC. The LPC reports contain a large body of evidence and analysis on the impact

to date of the NMW. The evidence and data collected and produced by the LPC have been used to inform this IA¹.

Consultation

Within government

BERR has been working closely with DIUS and HM Treasury.

Public consultation

The LPC consulted a range of stakeholders including employee and employer organisations to recommend new updated NMW rates. A full list of those consulted can be found in the LPC report².

C: Objectives

Background

NMW uprating

The purpose of the NMW is to create a minimum pay level and thus to protect workers from unacceptably low rates of pay. The NMW forms part of the government's policies to make work pay, alongside other measure particularly tax credits.

Decisions on the NMW rates are made by the government following consideration of recommendations by the independent LPC. This year the LPC were given a few months longer to prepare their report so that more recent economic data could be examined compared to previous years.

D: Options identification

Options

NMW uprating

The LPC in their latest report to the government have recommended the following NMW rates:

Adult rate (for workers aged 22+)	£5.80
Development rate (for workers aged 18-21)	£4.83
16-17 year olds rate	£3.57

The LPC has recommended this latest rate rise after a wide ranging consultation and careful consideration of economic evidence and the impact on the employment prospects of low paid

¹ National Minimum Wage , Low Pay Commission report 2009 (<http://www.lowpay.gov.uk/lowpay/report/pdf/7997-BERR-Low%20Pay%20Commission-WEB.pdf>)

² National Minimum Wage , Low Pay Commission report 2009 (<http://www.lowpay.gov.uk/lowpay/report/pdf/7997-BERR-Low%20Pay%20Commission-WEB.pdf>)

workers. The government has accepted this recommendation and the new NMW rates will come into force in October 2009.

The government accepts the LPC's analysis, that these proposals represent an acceptable balance between maintaining and enhancing the value of the NMW and preserving employment prospects for many of the most vulnerable workers. The LPC's analysis is set out in their report.

E: Analysis of options

Costs and Benefits

NMW uprating

The NMW is now a recognised part of employment practices and implementation costs of administering the proposed increase will be minimal.

Business sectors affected

All sectors are affected by the NMW, although agriculture has its own minimum wage machinery. The agriculture minimum wage rate for grade 1 workers over the compulsory school age is £5.74 and the pay rates for Grade 2-6 workers is £6.26 per hour³. In practice, the impact of the NMW is most felt in a number of sectors: retail; hospitality; cleaning and security; social care; manufacture of textiles, clothing and footwear; and hairdressing. In their report, the LPC paid particular attention to these sectors.

Number of potential workers covered by the NMW uprating

The latest data relating to the low paid jobs in the UK relates to Spring 2008. The data shows that at that time:

- an estimated 1.4 million jobs held by those aged over 21 were paid below the proposed October 2009 NMW adult rate of £5.80.
- an estimated 0.14 million jobs held by those aged between 18 and 21 were paid below the proposed development rate of £4.83 for October 2009.
- an estimated around 36,000 16-17 year olds were earning less than £3.57 – the proposed rate for 16-17 year olds from October 2009.

The numbers of jobs that are actually covered by the proposed increases in October 2009 will depend upon what has happened, and is likely to happen, to the wages of workers in the period between Spring 2008 and October 2009.

The adult and development rates of the NMW were increased to £5.73 and £4.77, respectively, in October 2008, and it is assumed that these changes fed through into earnings for all workers earning below those levels. We are assuming full compliance with the NMW⁴. The vast majority of businesses are compliant with NMW.

Increase in NMW rates from October 2009

³ Further details on the agricultural minimum wage can be found at <http://www.defra.gov.uk/farm/working/agwages/pdf/awo08.pdf>

⁴ It is very difficult to measure the precise level of non-compliance using ASHE data as there are exemptions from paying the NMW. The Low Pay Commission include a chapter on this issue in their annual report <http://www.lowpay.gov.uk/lowpay/report/pdf/7997-BERR-Low%20Pay%20Commission-WEB.pdf>

In this IA, our main assumption is that the hourly pay of all those earning less than the October 2009 rates increases in line with average earnings growth (measured by the Average Earnings Index excluding bonuses) between Spring 2008 and October 2009. This is based on an average increase using actual data for the period April 2008 to February 2009,⁵ and a forecast rate of increase thereafter derived from the HM Treasury comparison of independent economic forecasts.⁶

On this assumption, around 950,000 workers will be covered by the proposed October 2009 NMW uprating. This comprises of around 30,000 16-17 year olds; around 100,000 18-21 year olds, and around 0.82 million workers aged 22 and over.⁷ Of the around 1 million covered by the NMW uprating, around two-thirds will be women.

Impact on labour costs of uprating

The impact of the upratings on wage and labour costs also depends upon the assumptions made about the likely path of wage increases between October 2007 and October 2008.

The methodology for estimating the increase in wage costs for the uprating is as follows:

- We calculate the additional average hourly uplift in pay that is required to bring all those jobs paying less than the October 2009 proposed rates onto the minimum wage. The size of this average increase will depend on the assumption made about what happens to earnings in these low paid jobs between October 2008 and October 2009. It is assumed that there is full compliance with the October 2008 rate⁸. Multiply this average increase per hour by the average number of hours worked by those workers affected. The latest data⁹ shows average hours worked per week excluding overtime was 26.0 hours for low paid 16-17 year olds; 24.7 hours for low-paid adults (22 and over) and 26.9 hours for low-paid 18 to 21 year olds¹⁰;
- Multiply by 52 weeks per year.
- Multiply by the number of potential beneficiaries (see above).

To go from the total wage bill to total labour costs, we add 15 per cent to take account of the cost to employers of National Insurance and any other non-wage benefits (such as pension contributions) that are linked to wages. We use a figure of 15 per cent, which is less than the 21 per cent figure used in other IAs, because low-paying jobs are likely to be associated with smaller non-wage benefits.

It should be noted that the IA only considers the direct impact of the uprating. This means we have not accounted for additional costs to employers or benefits to workers (earning above the NMW) as a result of the uprating.

The size of the average hourly increase in pay that employers are required to pay to comply with the minimum wage policy depends on the assumption made about what happens to low-paid earnings between April 2008 and October 2009. We assume that in the absence of any uprating, earnings would have risen in line with average earnings (excluding bonuses).

⁵ Average earnings (including bonuses) grew by 2.2% April 2007 -January 2008. ONS Average Earnings Index (LMNQ).

⁶ Source: <http://www.hm-treasury.gov.uk/d/200904forecomp.pdf>

Independent average forecast for AEI growth in 2008 was 4.0 per cent in March 2008.

⁷ This is calculated by deflating the October 2009 proposed rates by actual and forecast headline average earnings growth (excluding bonuses).

⁸ Although full compliance with the October 2008 rates indicate presumed minimum rates of pay of £5.73/£4.77, we need to maintain a constant price base. So, we deflate these presumed minima to take account of 6 months of earnings growth between April and October 2008 under the AEI scenario.

⁹ Source: April 2008 Annual Survey of Hours and Earnings.

¹⁰ Low pay defined by hourly pay excluding overtime in April 2008 for all ages earning less than or equal to the October 2009 minimum wages, deflated by 18 months AEI growth to give equivalent April 2008 rates.

Costs for a typical business

The proposed changes to the October 2009 rates represent an increase of 1.2 per cent on the current rate for adults; 1.3 per cent for 18 to 21 year olds and 1.1 per cent on the current rate for 16-17 year olds. Those employers with staff currently paid at or close to the minimum wage will therefore see the earnings of these workers increase by an amount less than the expected growth rate of average earnings (excluding bonuses). At the time of writing this IA HM treasury independent forecasts made in April 2009 forecasted a 2.2% growth rate in average earnings (including bonuses)¹¹. However, most workplaces do not employ people at or near current NMW rates and therefore will be unaffected.

Under our assumption that low pay wages would have risen in line with average earnings (excluding bonuses) in the absence of an uprating the estimated **cost impact of the 2009 rates is assumed to be zero.**

BERR has conducted some sensitivity analysis of the counterfactual assumption used in this IA and concluded that if the adult NMW was increased by around 2.4% to £5.87 this would start to impose an additional cost on business.

Benefits

Increase in minimum wage rates in October 2009

The aggregate additional benefit for workers is expected to be neutral in the year commencing October 2009. This is because the minimum wage will rise less than the expected average earnings growth.¹²

F: Risks

The estimates of costs and benefits presented in this impact assessment are necessarily based upon a number of assumptions which are subject to uncertainty. If our counterfactual assumption that wages would have increased by average earnings (excluding bonuses) turns out to be incorrect and instead wages would have increased by an amount lower than the increase in the NMW this would place a cost on business.

G: Enforcement

The NMW is enforced by the HM Revenue and Customs. HMRC respond to complaints about situations where workers may not be being paid NMW. They also visit employers identified through risk assessment. Individuals may also make a complaint to an Employment Tribunal that their employer has not paid them the NMW. Employers found to have underpaid their workers NMW are required to pay arrears (at the current NMW rates) to their workers and may be subject to a penalty.

H: Recommendation and summary table of costs and benefits

NMW uprating

¹¹ To note independent forecasters only forecast average earnings including bonuses hence we assume in this IA that this forecast will be the same for average earnings excluding bonuses.

¹² IA calculations assume on average hours worked per week of 25.1 for adults, and 27.2 for 18-21 year olds and 31.3 for 16-17 year olds. ASHE 2008. We also assume that the NMW would have grown in-line with Average Earnings if there was no uprating.

Table 1 below, shows the effect on the aggregate wage bill and labour costs of the October 2009 uprating under the assumption that in the absence of any uprating, low-paid earnings would have risen in line with average earnings (excluding bonuses).

Table 1: Impact of the October 2009 uprating on aggregate wage and labour costs (assumes low-paid earnings rise in line with average earnings, (excluding bonuses))

Increase in wage bill for proposed 2009 rates	£0 million
Percentage increase in economy's total wage bill due to uprating	0.0%
Increase in labour costs for proposed 2009 rates	£0 million

Source: BERR estimates, based on ONS sources.

Table 1 shows that employers face no additional cost (over and above what they would in any case have to pay their workers) because the NMW is not rising faster than average earnings (excluding bonuses) in October 2009.

Amending NMW exemptions

Exempt Erasmus students seeking work placements and Comenius assistants (classroom assistants within UK schools) from payment of the National Minimum Wage.

I: Implementation

The new NMW rates and amendments to the NMW exemptions will apply to pay reference periods beginning on or after 1 October 2009. HMRC investigate complaints about situations where workers may not be being paid the NMW and also investigate companies where HMRC believe there is a high risk of non-compliance.

J: Monitoring and evaluation

The government has asked the LPC to monitor, evaluate and review the NMW and its impact, with particular reference to the effect on pay, employment and competitiveness in the low paying sectors and small firms; the effect on different groups of workers, including different age groups, ethnic minorities, women and people with disabilities and migrant workers and the effect on pay structures. The report is due by the end of February 2010.

Information on enforcement is set out in the government's evidence to the LPC. The evidence is published on the BERR website and copies are placed in House Libraries.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes/No	Yes/No
Small Firms Impact Test	Yes/No	Yes/No
Legal Aid	Yes/No	Yes/No
Sustainable Development	Yes/No	Yes/No
Carbon Assessment	Yes/No	Yes/No
Other Environment	Yes/No	Yes/No
Health Impact Assessment	Yes/No	Yes/No
Race Equality	Yes/No	Yes/No
Disability Equality	Yes/No	Yes/No
Gender Equality	Yes/No	Yes/No
Human Rights	Yes/No	Yes/No
Rural Proofing	Yes/No	Yes/No

Annex A

Coverage estimates of the 2009 uprating by sex and Government Office region

BERR estimates that around 950,000 to a million workers are covered by the October 2009 uprating of the National Minimum Wage (NMW). The lower range of this estimate is based on 1p pay bands from the ONS' Annual Survey of Hours and Earnings (ASHE) 2008, and takes account of actual and forecast average earnings growth (excluding bonuses) between April 2008 and October 2009. The higher range reflects uncertainty. Of the workers estimated to be covered, around two thirds will be women.

Table A1. Number of workers that are covered by the October 2009 National Minimum Wage uprating by age and sex

	Male	Female	Total
16-17	20,000	10,000	30,000
18-21	60,000	40,000	100,000
22 and over	270,000	540,000	820,000
Total	350,000	600,000	950,000

Source: BERR estimates based on ONS' Annual Survey of Hours and Earnings (ASHE) 2008

Note: These data are based on 1p pay bands from the ONS ASHE and take account of actual and forecast average earnings inflation between the period Spring 2008 and October 2009; ASHE 1p pay bands measure number of jobs; therefore coverage estimates assume workers do not hold more than one job at the NMW. Figures have been rounded to the nearest 10,000. Numbers may not sum to total due to rounding.

Coverage estimate by country and Government Office region are also provided (Table A2).

Table A2. Number of workers that are covered by the October 2009 National Minimum Wage uprating by country and government office region

Country or region	Coverage estimate
Wales	50,000
Scotland	80,000
Northern Ireland	40,000
England	770,000
North-East	60,000
North-West and Merseyside	110,000
Yorkshire & Humberside	100,000
East Midlands	80,000
West Midlands	110,000
Eastern	90,000
London	70,000
South East	100,000
South West	70,000
United Kingdom	950,000

Source: BERR estimates based on ONS' Annual Survey of Hours and Earnings (ASHE) 2008

Note: These data are based on 1p pay bands from the ONS ASHE and take account of actual and forecast average earnings inflation between the period Spring 2008 and October 2009; ASHE 1p pay bands measure number of jobs; therefore coverage estimates assume workers do not hold more than one job at the NMW. Figures have been rounded to the nearest 10,000. Numbers may not sum to total due to rounding.

Annex B

SPECIFIC IMPACT TESTS

1. Competition Assessment

The NMW provides a floor for wages and therefore ensures that firms cannot compete against each other by driving down wages to unacceptable levels. Most of the sectors where the impact of the NMW is felt are characterised by large numbers of relatively small firms. To the extent that the NMW increases labour costs, these are borne by all employers in a sector. It is therefore unlikely that the NMW creates significant barriers to entry.

We have fully considered the questions posed in The Office of Fair Trading competition assessment test¹³ and conclude that clarifying the exemptions for those participating in employment programmes, extending work trials or uprating the NMW is unlikely to hinder the number or range of suppliers or the ability and incentive for businesses to compete. Although the effects of extended work trials alone are expected to be small, it supports an increase in labour supply, increasing the efficiency of the supply side of the labour market.

Table A1. Competition assessment.

Question: <i>In any affected market, would the proposal..</i>	Answer
..directly limit the number or range of suppliers?	No
..indirectly limit the number or range of suppliers?	No
..limit the ability of suppliers to compete?	No
..reduce suppliers' incentives to compete vigorously?	No

Source: BERR

2. Small Firms Impact Test

The LPC's remit required them to consider the impact of the NMW on small firms. Their recommendations were based upon extensive analysis and gathering of evidence, including evidence received from, and discussion with, small businesses and their representatives.

3. Equality Impact Assessment

NMW uprating

In line with better regulation best practice and the Equalities Duties we have considered the impact of the NMW uprating on minority groups.

Who will be affected?

The Low Pay Commission has carefully monitored the position of women, ethnic minorities and people with work limiting disabilities in relation to the NMW uprating.

Gender

¹³ http://www.offt.gov.uk/shared_offt/reports/comp_policy/oft876.pdf

There is a higher prevalence of women in part-time roles and low-paying sectors, which suggests that the National Minimum Wage upratings plays a more important role in raising women's wages than men's. Although, the NMW is still important for men on or around the NMW. The gender pay including and above the middle of the earnings distribution is largely independent of the NMW. However, towards the lower end of the distribution the reduction in the gender pay gap is most obvious, declining from 11.6 per cent in 1998 to 7.1 per cent in 2008 – lowest decile.

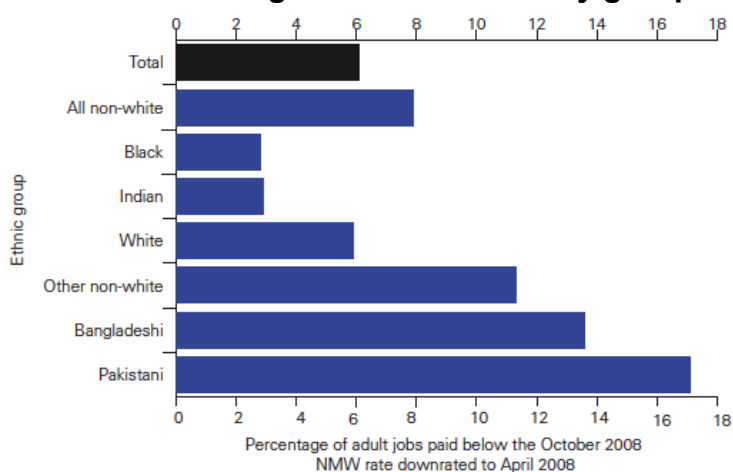
The general reduction in the gender pay gap since 1998 provides evidence that the minimum wage is having a greater impact on women's earnings than men's.

We estimate that around 600,000 women will be covered by the October 2009 upratings.

Ethnicity

Workers from the ethnic minorities are more likely to be employed in the low paying sectors as compared to their white counterparts. There is evidence that the minimum wage has significantly reduced the pay gap at the lowest decile. An estimate by the LPC suggests that the proportion of ethnic minority adults covered by the October 2008 minimum wage uprating was around 8 per cent which is 2 percentage points higher than for white adults.

Coverage of the minimum wage for ethnic minority groups UK, 2008



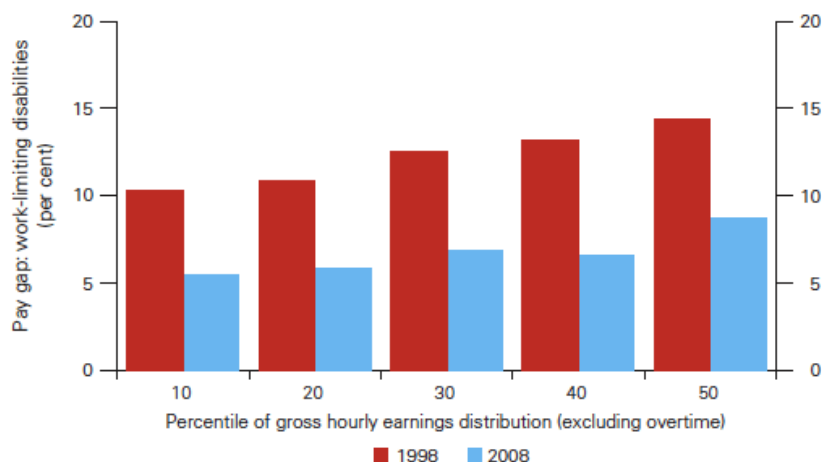
Source: ONS estimates based on LFS microdata, not seasonally adjusted, UK, Q2 2008.

Note: Covered employees defined as adults (aged 22 and over) earning less than £5.63 in April 2008

Work limiting Disability

The LPC have estimated that 4.3 per cent of people with a work-limiting disability were paid at minimum wage in the second quarter of 2008 compared with 3.1 per cent of all workers. The chart below shows that a pay gap exists, that is median hourly earnings for people with a work limiting disability are lower than for workers without a disability. There is evidence that the minimum wage has caused a reduction in the pay gap at each of the lowest five deciles.

Pay gap for people with work limiting disabilities compared with people without work-limiting disabilities, UK, 1998 and 2008.



Source: LPC estimates based on LFS microdata, not seasonally adjusted, UK, spring seasonal quarter 1998 and Q¹ calendar quarter 2008

Consultation with stakeholders in relation to the October 2009 uprating of the NMW

The LPC conducted a broad consultation when preparing their report. They consulted with individuals; businesses; groups representing each of the low-paying sectors and employer unions. The LPC carried out two formal written consultations and spent two days taking oral evidence from stakeholders. In addition, the LPC visited different parts of the UK to hear from those who are directly affected by the NMW. The increase in the NMW is unlikely to have any additional intentional specific impact in terms of race, gender and disability as it is a broad policy and is targeted at a broader group of people (paid at or below the NMW) rather than any specific minority group.

Removal of barriers which hinder equality

The NMW policy is a broad policy and is designed to have a positive impact on all workers in low paid sectors regardless of their gender, race or disability. Therefore the current NMW uprating is unlikely to create any barriers to equality in terms of gender, race and disability. The LPC¹⁴ have concluded that women, ethnic minority groups and people with work-limiting disabilities have become more involved in the labour market over the last ten years and there is no evidence of an adverse impact on their employment due to the minimum wage.

¹⁴ National Minimum Wage, Low Pay Commission report 2009 (<http://www.lowpay.gov.uk/lowpay/report/pdf/7997-BERR-Low%20Pay%20Commission-WEB.pdf>)

Annex C

Amending NMW exemptions

Government is seeking to exempt Erasmus students seeking work placements and Comenius assistants (classroom assistants within UK schools) from payment of the National Minimum Wage.

Exempting Erasmus students seeking work placements and Comenius assistants will bring the treatment of these groups in line with others on the EU's Leonardo da Vinci Programme. Their initial exclusion from the NMW exemptions was unintentional. Amending this 'loophole' will also reduce the risk of legal challenge in the European Court of Justice.

The option considered in this impact assessment is to amend Regulation 3(12) of the National Minimum Wage Regulations 1999 so that Erasmus students seeking work placements and Comenius assistants are exempted from NMW pay. This was the original intention of the amendments to the NMW regulations that were made in 2007. This option will bring Erasmus students and Comenius assistants in line with the treatment of all those on the European Union Lifelong Learning Programme. The costs and benefits of this option have been considered against a 'do nothing' baseline.

Costs

There is no cost implication to the public or private sector to the exemption of higher education students participating in Erasmus work placements, and of Comenius assistants, from the NMW. Participants in these programmes, which are intended to offer students an opportunity of some work experience abroad, receive a grant from the European Commission. Employers providing work placements are not required to pay a wage but may, if they choose to, supplement this grant.

Benefits

Exempting Erasmus students seeking work placements and Comenius assistants will bring the treatment of these groups in line with others on the EU's Leonardo da Vinci Programme. Their initial exclusion from the NMW exemptions was unintentional. Amending this 'loophole' will also reduce the risk of legal challenge in the European Court of Justice.

These exemptions will allow providers of 'work placement schemes' for Erasmus students and Comenius assistants more flexibility in the pay rate offered and reduces the risk of these schemes being withdrawn on the grounds of cost. In total DIUS estimate that each year around 1,500 Erasmus students and 200 Comenius assistants will be covered by the exemptions.

Equality assessment

This policy change will affect all Erasmus students seeking work placements and Comenius assistants regardless of their gender, race or disability. Therefore we have concluded that it is unlikely to create any barriers to equality in terms of gender, race and disability.

Department for Business, Innovation and Skills www.berr.gov.uk
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