

**EXPLANATORY MEMORANDUM TO**  
**THE NATIONAL MINIMUM WAGE REGULATIONS 1999 (AMENDMENT)**  
**REGULATIONS 2010**

**2010 No. 1901**

1. This explanatory memorandum has been prepared by the Department for Business Innovation and Skills and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 The National Minimum Wage Regulations 1999 (Amendment) Regulations 2010 (“the Regulations”) amend the National Minimum Wage Regulations 1999 and come into force on 1 October 2010.

2.2 The Regulations increase the hourly rate of the National Minimum Wage (NMW) for adults and provide that 21 year olds must be paid at least this rate. They also increase the hourly rates for 18-20 year olds and 16-17 year olds and increase the maximum amount for living accommodation that is allowed to count towards pay for NMW purposes (the “accommodation offset”).

2.3 Apprentices who are either aged under 19, or who are over 19 and in the first year of their apprenticeship, do not currently qualify for the NMW. The Regulations provide that these apprentices will in future be entitled to a new hourly rate.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

**4. Legislative Context**

4.1 The Regulations implement recommendations contained in the 2010 report of the Low Pay Commission (“the LPC”). The LPC is an independent body which assisted with the introduction of the NMW and which has the continuing function under the National Minimum Wage Act 1998 of reporting on matters relating to the NMW that are referred to it by the Secretary of State.

**5. Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

**6. European Convention on Human Rights**

Edward Davey, the Minister for Employment Relations, Consumer and Postal Affairs has made the following statement regarding Human Rights:

In my view the provisions of the National Minimum Wage Regulations 1999 (Amendment) Regulations 2010 are compatible with the Convention rights.

## **7. Policy background**

- *What is being done and why*

7.1 The NMW was introduced on 1 April 1999 and creates an obligatory threshold pay level. The intention is to protect workers from unacceptably low rates of pay.

7.2 Decisions on NMW rates and other related matters are usually based on recommendations made by the LPC. The LPC carries out a wide-ranging consultation and fact-finding exercise before arriving at its recommendations, including taking written and oral evidence and making a series of visits throughout the UK. The LPC's 2010 report was published on 25 March 2010. Copies of the Government's written statement concerning the LPC's recommendations were placed in the Library of the House of Commons and the Library of the House of Lords on 21 June 2010. The provisions in the Regulations are in accordance the LPC's recommendations.

7.3 The Government believes that the Regulations will be of public interest because it estimates that just under 1 million low paid workers stand to benefit from the NMW rate increases.

- *Consolidation*

7.4 The 1999 Regulations have been amended many times and the Department is aware of the need to consolidate these Regulations. The Department aims to produce a consolidated version of these Regulations in 2011, if resources permit.

## **8. Consultation outcome**

8.1 The LPC carries out a wide-ranging consultation and fact-finding exercise before arriving at its recommendations, including taking written and oral evidence and making a series of visits throughout the UK. Details of this consultation are referred to in its annual report.

## **9. Guidance**

9.1 Extensive guidance on NMW rates and the operation of the Regulations is provided on the DirectGov and Business Link websites. Changes to the national minimum wage regulations will be publicised as part of an awareness raising campaign.

## **10. Impact**

10.1 The impact on business, charities or voluntary bodies of the increases in the NMW rates is estimated to be £0 million cost. This is because the NMW is not rising faster than average earnings (excluding bonuses) in October 2010. The NMW is now part of employment practices and implementation costs of administering the proposed increase will be minimal. We estimate, however, that the costs to business, charities or voluntary bodies of moving 21 year olds to the adult rate will be around £47.2 million.

10.2 The impact on the public sector of the increases in the NMW rates is estimated to be £0 million cost for the reasons set out above. We estimate that around 1.6% of 21 year olds are employed in the public sector and that the costs to the public sector will therefore be around £0.8 million.

10.3 An Impact Assessment is attached to this memorandum.

## **11. Regulating small business**

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is to provide clear guidance.

11.3 The basis for the final decision on what action to take to assist small business was the consideration by the LPC of the impact on small firms. 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.

## **12. Monitoring & review**

12.1 Each year the LPC is commissioned to: monitor, evaluate and review the national minimum wage 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 results of this work are published in its annual report.

## **13. Contact**

Rob Cottam at the Department for Business Innovation and Skills, Tel: 020 7215 0169 or email: [rob.cottam@bis.gsi.gov.uk](mailto:rob.cottam@bis.gsi.gov.uk) can answer any queries regarding the instrument.

<b>Title:</b> <b>Amendment to the National Minimum Wage regulations 2010 - increase in NMW rates and introduction of minimum wage rates for all apprentices</b>  <b>Lead department or agency:</b> Department for Business Innovation and Skills (BIS)  <b>Other departments or agencies:</b>	<b>Impact Assessment (IA)</b>
	IA No: BIS0100
	Date: 27/05/2010
	Stage: Final
	Source intervention: Domestic
	Type of measure: Secondary legislation
	<b>Contact for enquiries:</b> Asad Ghani / Rob Cottam 020 7215 1627/0169

## Summary: Intervention and Options

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

The aim of the National Minimum Wage (NMW) is to provide fair standards in the workplace by avoiding potential exploitation of workers by employers who in the absence of government intervention could undercut competitors by paying unacceptably low wages; and also to provide incentives to work. The NMW came into force in April 1999 and since then the NMW rates have been updated annually, principally to cover the cost of living increases. The government has accepted the Low Pay Commission's (LPC) recommendations on the October 2010 rates for the NMW, including moving 21 year olds onto the adult NMW rate and introducing a minimum wage rate for all apprentices for the first time.

### 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 their employment prospects are not damaged by setting it too high.

### What policy options have been considered? Please justify preferred option (further details in Evidence Base)

Once the Low Pay Commission makes its recommendations on the main NMW rates the Government has two options to consider.

1. Agree with the LPC recommendations on NMW rates and implement the new rates
2. Reject LPC recommendations

The Government's preferred option is to agree with the LPC recommendations on NMW rates, including moving 21 year olds onto the adult rate and the introduction of an apprentice minimum wage.

When will the policy be reviewed to establish its impact and the extent to which the policy objectives have been achieved?	It will be reviewed April 2011
Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?	Yes

**SELECT SIGNATORY Sign-off** For final proposal 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) the benefits justify the costs.***

Signed by the responsible Minister: Edward Davey ..... Date: 16/06/2010 .....

# Summary: Analysis and Evidence

# Policy Option 1

Description: Option 1 - Agree with the LPC recommendations on NMW rates and implement the new rates

Price Base Year 2010	PV Base Year 2010	Time Period Years 1	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: £0m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low			
High			
Best Estimate	£0m	£48m	£48m

### Description and scale of key monetised costs by 'main affected groups'

Business - increase in labour costs for proposed 2010 rates £48 million (of which increase in wage bill accounts for £42 million received by workers, remainder are non-wage labour costs (a transfer from employers to workers or the Exchequer). All of the increase in labour costs can be attributed to moving 21 year olds onto the adult rate.

### Other key non-monetised costs by 'main affected groups'

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			
High			
Best Estimate	£0m	£48m	£48m

### Description and scale of key monetised benefits by 'main affected groups'

Workers - increase in wages for proposed 2010 rates £42 million (this is a transfer from employers to workers). Non-wage labour costs £6m (a transfer from employers to workers or the Exchequer). All of the benefit can be attributed to moving 21 year olds onto the adult rate.

### Other key non-monetised benefits by 'main affected groups'

### Key assumptions/sensitivities/risks

Discount rate (%)

N/A

Main assumptions can be found in the impact assessment. The uprating of the NMW involves transfers between employers and workers and employers and the Exchequer. As this impact assessment involves an annual uprating the time period is one year.

Impact on admin burden (AB) (£m):			Impact on policy cost savings (£m):		In scope
New AB: £0m	AB savings: £0m	Net: £0m	Policy cost savings:		No

## Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?			United Kingdom		
From what date will the policy be implemented?			01/10/2010		
Which organisation(s) will enforce the policy?			HMRC		
What is the total annual cost (£m) of enforcement for these organisations?			£8 million		
Does enforcement comply with Hampton principles?			Yes		
Does implementation go beyond minimum EU requirements?			N/A		
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b> N/A	<b>Non-traded:</b> N/A	
Does the proposal have an impact on competition?			No		
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?			<b>Costs:</b> 0%	<b>Benefits:</b> 0%	
Annual cost (£m) per organisation (excl. Transition) (Constant Price)	<b>Micro</b> NQ	<b>&lt; 20</b> NQ	<b>Small</b> NQ	<b>Medium</b> NQ	<b>Large</b> NQ
Are any of these organisations exempt?	No	No	No	No	No

## Specific Impact Tests: Checklist

Does your policy option/proposal have an impact on...	<b>Impact</b>	<b>Page ref within IA</b>
<b>Statutory equality duties<sup>1</sup>?</b> <u>Equality and Human Rights Commission: General guidance</u>	No	14-15
<b>Economic impacts</b>		
Competition? <u>Competition Impact Assessment</u>	No	13
Small firms? <u>Small Firms Impact Test</u>	No	13
<b>Environmental impacts</b>		
Greenhouse gas assessment? <u><a href="http://www.defra.gov.uk/environment/index.htm">http://www.defra.gov.uk/environment/index.htm</a></u>	No	
Wider environmental issues? <u>Guidance has been created on the Defra site</u>	No	
<b>Social impacts</b>		
Health and well-being? <u>Health: Health Impact Assessment</u>	No	
Human rights? <u>Ministry of Justice: Human Rights</u>	No	
Justice?	No	
Rural proofing? <u>Commission for Rural Communities</u>	No	
<b>Sustainability?</b> <u>Defra: Think sustainable</u>	No	

<sup>1</sup> Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2011, once the Equality Bill comes into force. Statutory equality duties part of the Equality Bill apply to GB only. The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

## Evidence Base (for summary sheets) – Notes

### References

Include the links to relevant legislation and publications, such as public impact assessment of earlier stages (e.g. Consultation, Final, Implementation).

No.	Legislation or publication
1	National Minimum Wage Low Pay Commission Report 2010 <a href="http://www.lowpay.gov.uk/lowpay/report/pdf/LPC_Report_2010.PDF">http://www.lowpay.gov.uk/lowpay/report/pdf/LPC_Report_2010.PDF</a>
2	Government evidence to the Low Pay Commission on the economic effects of the National Minimum Wage <a href="http://www.bis.gov.uk/assets/biscore/employment-matters/docs/10-504-govt-evidence-on-effects-of-nmw.pdf">http://www.bis.gov.uk/assets/biscore/employment-matters/docs/10-504-govt-evidence-on-effects-of-nmw.pdf</a>
3	Government non-economic evidence to the Low Pay Commission <a href="http://www.berr.gov.uk/files/file53073.pdf">http://www.berr.gov.uk/files/file53073.pdf</a>
4	

+ Add another row

### Evidence Base

#### Annual profile of monetised costs and benefits\* - (£m) constant prices

	Y <sub>0</sub>	Y <sub>1</sub>	Y <sub>2</sub>	Y <sub>3</sub>	Y <sub>4</sub>	Y <sub>5</sub>	Y <sub>6</sub>	Y <sub>7</sub>	Y <sub>8</sub>	Y <sub>9</sub>
<b>Transition costs</b>	£0m	-	-	-	-	-	-	-	-	-
<b>Annual recurring cost</b>	£48m	-	-	-	-	-	-	-	-	-
<b>Total annual costs</b>	£48m	-	-	-	-	-	-	-	-	-
<b>Transition benefits</b>	£0m	-	-	-	-	-	-	-	-	-
<b>Annual recurring benefits</b>	£48m	-	-	-	-	-	-	-	-	-
<b>Total annual benefits</b>	£48m	-	-	-	-	-	-	-	-	-

\* For non-monetised benefits please see summary pages and main evidence base section



Microsoft Office  
Excel Worksheet

# Evidence Base (for summary sheets)

## A: Strategic overview

### Existing Government initiatives

The NMW was introduced in April 1999. The rates have increased annually, most recently in October 2009. The adult minimum wage rate has increased from £3.60 in April 1999 to £5.93 (to come into effect in October 2010). The development rate (ages 18 to 21) has also increased from £3.00 in April 1999 to £4.92 (to come into effect in October 2010). A separate rate for 16-17 year olds was introduced in October 2004 and has increased from £3.00 to £3.64 (to come into force in October 2010). From October 2010, the adult rate will also apply to 21 year olds and the development rate will apply to 18 – 20 year olds.

Apprentices aged under 19 and those aged 19 and over in the first year of their Apprenticeship have been exempt from the NMW since its inception. In 2006 a contractual requirement on training providers in England was introduced by the Learning and Skills Council to ensure all employed apprentices were paid at least £80 per week. This was increased to £95 per week from August 2009. There are no such arrangements in Northern Ireland, Scotland or Wales.

## B: The issue

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 IA<sup>2</sup>.

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

The aim of the NMW is to provide fair standards in the workplace by avoiding potential exploitation of workers by employers who in the absence of a NMW could undercut competitors by paying unacceptably low wages; and to make work pay. The NMW came into force in April 1999 and since then the NMW rates have been updated annually, principally to cover the cost of living increases.

The NMW varies by age band (16-17, 18-20, primarily because the labour market position of younger workers is more vulnerable to potential negative employment effects associated increases in labour costs (the evidence shows that young workers experience substantially worse unemployment and employment rates than adults). The Government's position is consistent with that of the LPC who have consistently argued that young workers should be treated differently from their older counterparts in order to protect employment and at the same time reflect the training element attached to younger workers. The NMW structure therefore provides for lower NMW rates for workers aged below 22. The Government has agreed with the views of the LPC that the employment prospects of 21 year olds do not, however, need to be protected by a lower rate and that 21 year olds should therefore be entitled to the adult rate of the NMW.

Apprentices are given special treatment under the NMW rules in recognition of the particular costs and benefits involved in the provision of apprenticeships (apprentices under 19, or over 19 and in the first year of their apprenticeship, currently do not qualify for the NMW). There are costs to the apprenticeship provider (of the training, of lower productivity during training and the opportunity cost of managing the apprentice at the workplace); and considerable gains to individual apprentices through higher future earnings and increased employment prospects. Whilst there are some potential longer-term gains for employers, increasing the costs of apprenticeships could lead to a reduction in the number of available places, which would impact particularly on a number of low-paying sectors (e.g. hairdressing and childcare). The LPC concluded that there would be a number of benefits in replacing the exemptions with a separate minimum wage for those apprentices under 19, or over 19 and in the first year of their

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<sup>2</sup> National Minimum Wage Low Pay Commission Report 2010 [http://www.lowpay.gov.uk/lowpay/report/pdf/LPC\\_Report\\_2010.PDF](http://www.lowpay.gov.uk/lowpay/report/pdf/LPC_Report_2010.PDF)

apprenticeship: it would remove the current, different, treatments of apprentice pay in England, Wales, Scotland and Northern Ireland and would enable more effective enforcement of apprentice pay arrangements.

## Consultation

### *Within government*

BIS has been working closely with 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 report<sup>3</sup>.

## C: Objectives

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.

## D: Options identification

### Options

Option 1) Agree with the LPC recommendations on NMW rates and implement the new rates

Option 2) Reject the LPC recommendations

The Government's preferred option is to agree with the LPC recommendations on NMW rates, including moving 21 year olds onto the adult rate and the introduction of an apprentice minimum wage (option 1 above). The analysis contained within this impact assessment is based on option 1.

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

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**Table 1. NMW rates from October 2010**

Age band	October 2009 rate	October 2010 rate
Adult rate (for workers aged 21+ from 2010)	£5.80	£5.93
Development rate* (for workers aged 18-20)	£4.83*	£4.92
16-17 year old rate	£3.57	£3.64

Source: Low Pay Commission. \* The development rate covered 18-21 year olds in October 2009

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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 workers. The government has accepted this recommendation and the new NMW rates will come into force in October 2010.

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.

The government agrees with the LPC's view that 21 year olds should be entitled to the adult rate of the NMW from October 2010. Within the 2009 Government Economic evidence to the LPC report<sup>4</sup> the

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<sup>3</sup> National Minimum Wage Low Pay Commission Report 2010 [http://www.lowpay.gov.uk/lowpay/report/pdf/LPC\\_Report\\_2010.PDF](http://www.lowpay.gov.uk/lowpay/report/pdf/LPC_Report_2010.PDF)

<sup>4</sup> Government evidence to the Low Pay Commission on the economic effects of the National Minimum Wage

previous government stated that the labour market performance of 21 year olds was likely to improve before the end of 2010 as the economy recovers from the recession.

The government has also accepted the LPC's recommendation that the existing exemption from the NMW for certain apprentices – that is, those who are either below 19 or who are 19 or above and in the first year of their apprenticeship – should be replaced with an apprentice minimum wage. The LPC have recommended that this rate should be set at £2.50 per hour. This is broadly equivalent to the current £95 per week minimum currently in place in England.

## **E: Analysis of options**

### **Costs and Benefits**

#### **Administrative burdens**

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<sup>5</sup>. 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.

#### **Numbers covered by increase in NMW rates from October 2010**

The numbers of jobs that are actually covered by the proposed increases in October 2010 will depend upon what happens to the wages of workers in the period between April 2009 and October 2010. We are assuming full compliance with the NMW<sup>6</sup>. The vast majority of businesses are compliant with NMW.

In this IA, our main assumption is that the hourly pay of all those earning less than the October 2010 rates increases in line with average earnings growth (measured by the Average Earnings Index including bonuses) between April 2009 and October 2010. This is based on an average increase using actual data for the period April 2009 to December 2009,<sup>7</sup> and a forecast rate of increase thereafter derived from the HM Treasury comparison of independent economic forecasts.<sup>8</sup>

To estimate the number of workers covered by the forthcoming October 2010 NMW rates we deflate the October 2010 rates by 2.9% (our estimate of average earnings growth between April 2009 and October 2010). Using data from the April 2009 Annual Survey of Hours and Earnings we then measure the number of workers paid below the deflated rate (see table below for more details). The reason we deflate the October 2010 NMW rates back to April 2009 is because we use ASHE data collected in April 2009 to produce our coverage estimates.

On this methodology, around 970,000 workers will be covered by the proposed October 2010 NMW uprating. This comprises of around 20,000 16-17 year olds; around 90,000 18-20 year olds, and around 0.85 million workers aged 21 and over.<sup>9</sup> We estimate that around two thirds of the workers covered by the October 2010 uprating will be women.

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<http://www.bis.gov.uk/assets/biscore/employment-matters/docs/10-504-govt-evidence-on-effects-of-nmw.pdf>

<sup>5</sup> Further details on the agricultural minimum wage can be found at

<http://www.businesslink.gov.uk/bdotg/action/detail?type=RESOURCES&itemId=1082269815&r.s=e&r.l4=1082262665&r.l1=1081597476&r.lc=en&r.l3=1083731932&r.l2=1082184851&r.i=1082263437&r.t=RESOURCES>

<sup>6</sup> It is very difficult to measure the precise level of non-compliance using ASHE data as there are exemptions from paying the NMW.

<sup>7</sup> Average earnings (including bonuses) grew by 0.9% April 2009 -December 2009. ONS Average Earnings Index (LMNQ).

<sup>8</sup> Source: <http://www.hm-treasury.gov.uk/d/201002forecomp.pdf>

Independent average forecast for AEI growth in 2010 was 2.4 per cent in February 2010.

<sup>9</sup> This is calculated by deflating the October 2010 proposed rates by actual and forecast headline average earnings growth (including bonuses).

**Table 2. Number of workers that are covered by the October 2010 National Minimum Wage uprating by age**

Age group	October 2010 rate deflated by 2.9%	Numbers covered
16-17	£3.54	20,000
18-20	£4.78	90,000
21	£5.76	90,000
22 and over	£5.76	770,000
Total	-	970,000

Source: BIS estimates based on ONS' Annual survey of Hours and Earnings (ASHE) 2009. Figures have been rounded to the nearest 10,000. Numbers may not sum to total due to rounding.

## Impact on labour costs of uprating

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 2010 proposed rates onto the NMW. The size of this average increase will depend on the assumption made about what happens to earnings in these low paid jobs between October 2009 and October 2010. It is assumed that there is full compliance with the October 2009 rate<sup>10</sup>. Multiply this average increase per hour by the average number of hours worked by those workers affected.
- 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 2009 and October 2010. We assume that in the absence of any uprating, earnings would have risen in line with average earnings (including bonuses).

## Costs for a typical business – from changes in the NMW rates

The proposed changes to the October 2010 rates represent an increase of 2.2 per cent on the current rate for adults; 1.9 per cent for 18 to 20 year olds and 2.0 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 (including bonuses). At the time of writing this IA, HM Treasury independent forecasts made in February 2010 forecasted a 2.4% growth rate in average earnings (including bonuses)<sup>11</sup>. However, most workplaces do not employ people at or near current NMW rates and therefore will be unaffected.

<sup>10</sup> Although full compliance with the October 2009 rates indicate presumed minimum rates of pay of £5.80 for adults 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 2009 under the AEI scenario.

<sup>11</sup> 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.

Under our assumption that low pay wages would have risen in line with average earnings (including bonuses) **for all low paid workers** in the absence of an uprating the **estimated cost impact of the 2010 rates is assumed to be zero.**

### Costs for a typical business – from moving 21 year olds onto the adult rate

The costs for business presented above did not account for 21 year olds moving onto adult NMW pay. In 2009 the NMW for 21 year olds was £4.83 as a result of moving 21 year olds onto the adult rate 21 year old NMW pay increases to £5.93 from October 2010 – an increase of 22.8 per cent. As this is above the counterfactual assumption on earnings growth there is a cost for business.

Based on the methodology set out above, BIS estimates that around 85,000 21 year olds will be affected by moving them onto the adult NMW rate. Using ASHE 2009 data, on average the hourly pay of those affected will increase by £0.36 per hour. Also, based on ASHE 2009 data 21 year olds earning less than the deflated October 2010 adult NMW rate work 26.1 hours per week. BIS estimates that on an annual basis moving 21 year olds onto the adult rate will increase businesses wage bill by £42 million. This represents an increase in total labour costs of £48m (labour costs is the sum of the wage bill plus non-wage labour costs<sup>12</sup>).

**Figure 1. Calculation to estimate increase in labour costs from moving 21 year olds onto the adult rate**

Number of workers estimated to be covered by uprating	X	Average hourly pay rise needed to bring workers pay up to NMW rate	X	Average hours worked per week	X	Number of weeks in a year	=	Total increase in wage bill
84,946	X	£0.36	X	26.1	X	52	=	£41,934,619
Total increase in wage bill	X	15% non-wage labour costs					=	Increase in non-wage labour costs
£41,934,619	X	0.15					=	£6,290,193
Total increase in wage bill	+	Increase in non-wage labour costs					=	Increase in labour costs
£41,934,619	+	£6,290,193					=	£48,224,812

Source: BIS calculations. Figures have not been rounded.

<sup>12</sup> Eurostat define labour costs as the total expenditure borne by employers for the purpose of employing staff. They include employee compensation, with wages and salaries with cash in kind, employers social security contributions (employer NICs), vocational training costs, other expenditure, such as recruitment costs and spending on working clothes, and employment taxes regarded as labour costs minus any subsidies received.

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**Table 3. Impact of moving 21 year olds onto the adult rate**

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Increase in wage bill	£42 million
Percentage increase in economy's total wage bill due to uprating	0.01%
Increase in labour costs for proposed 2010 rates	£48 million

Source: BIS, based on ONS sources

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### **Costs for a typical business – from introducing a new apprentice minimum wage rate**

The government has accepted the LPC's recommendation that there should be an apprentice minimum wage of £2.50 an hour from 1 October 2010 for those apprentices who are currently exempt from the NMW (that is, those who are either under the age of 19 or who are 19 or over and in the first year of their apprenticeship). There are currently differences between the UK administrations with respect to the wage arrangements offered to apprentices. In England, there is a contractual requirement to ensure employed apprentices on government-funded apprenticeships are paid a minimum of £95 per week; the other UK administrations do not have an equivalent contractual minimum, although there is a general requirement that they are waged and in Scotland for example employers are strongly encouraged to pay at least the NMW. It should be noted that average apprenticeship pay in England is £193 per week, which equates to around £4.80 per hour. The government will put in place transitional arrangements so that apprentices who currently receive the £95 per week minimum, and work less than 38 hours per week, are not worse off under the new arrangements.

The new apprentice minimum wage rate of £2.50 per hour is consistent with the current minimum pay level for apprentices in England. In 2008/09, 87% of UK Apprenticeship starts were in England **The estimated cost impact of the new apprentice minimum wage rate is therefore assumed to be zero for businesses in England**<sup>13</sup>. There may be costs for businesses in Wales, Scotland or Northern Ireland although these would depend on the current level at which their apprentices are being paid.

### **Benefits**

#### **Increase in minimum wage rates in October 2010**

Increases in the NMW represent transfers from employers to workers or from employers to the Exchequer. The aggregate additional benefit for workers is expected to be £42 million in the form of increased wages. Also, workers and the Exchequer are estimated to benefit by around £6m from non-wage labour costs.

#### **Apprentice minimum wage**

The new apprentice minimum wage ensures that, for the first time, all apprentices in the UK receive the protection of the minimum wage. This is particularly important given the increase in the number of apprenticeships over the last twelve years (rising from 65,000 starts in 1996/97 to 240,000 in 2008/09 in England). Employers will now have a single pay framework that applies to all their employees.

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<sup>13</sup> According to Q1 2010 of the UK Labour Force Survey on average those on Government employment and training programs usually work 29.6 basic hours (excluding overtime) per week. Multiplying this by £2.50 equates to £74 per week which is less than £95.

# Annexes

## Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their actual costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<b>Basis of the review:</b> [The basis of the review could be statutory (forming part of the legislation), it could be to review existing policy or there could be a political commitment to review];
<b>Review objective:</b> [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]
<b>Review approach and rationale:</b> [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]
<b>Baseline:</b> [The current (baseline) position against which the change introduced by the legislation can be measured]
<b>Success criteria:</b> [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]
<b>Monitoring information arrangements:</b> [Provide further details of the planned/existing arrangements in place that will allow a systematic collection systematic collection of monitoring information for future policy review]
<b>Reasons for not planning a PIR:</b> [If there is no plan to do a PIR please provide reasons here] BIS will not be planning a PIR for the amendments to the NMW regulations as the LPC extensively monitors and evaluates the NMW each year. The Government's remit to the LPC includes monitoring, evaluating and reviewing 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.

## Annex 2: 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 test<sup>14</sup> and conclude that neither uprating the NMW, extending the adult rate to those age 21 or introducing a new apprentice minimum wage is likely to hinder the number or range of suppliers or the ability and incentive for businesses to compete.

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**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: BIS

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### 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.

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<sup>14</sup> [http://www.oft.gov.uk/shared\\_oft/reports/comp\\_policy/oft876.pdf](http://www.oft.gov.uk/shared_oft/reports/comp_policy/oft876.pdf)

### 3. Equality Impact Assessment

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

There is a higher prevalence of women in part-time roles and low-paying sectors, which suggests that the upratings play a more important role in raising women’s wages than men’s. However, the NMW is still important for men on or around the NMW. Although the gender pay gap including and above the middle of the earnings distribution is largely independent of the NMW, towards the lower end of the distribution the reduction in the gender pay gap is most obvious, declining from 16.4 per cent in 1998 to 6.6 per cent in 2009 for the lowest decile. The gender pay gap is measured as the proportional difference between men and women’s pay.

The general reduction in the gender pay gap since 1998 provides evidence that the NMW is having a greater impact on women’s earnings than men’s. Analysis of Apprenticeship pay in England shows that young women benefitted disproportionately from the 2009 increase of the £80 minimum to £95 per week.

We estimate that around 600,000 women will be covered by the October 2010 upratings.

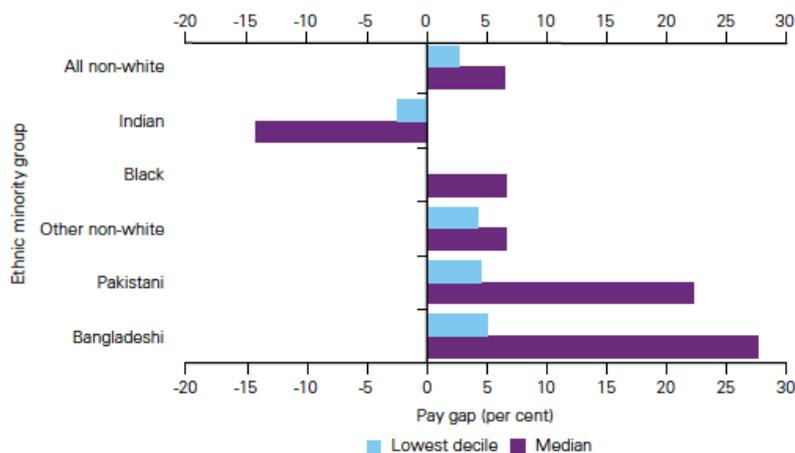
#### Ethnicity

Workers from the ethnic minorities are more likely to be employed in the low paying sectors as compared to their white counterparts.

LPC estimate that the median pay gap between ethnic minorities overall and white people was 6.4 per cent in the 2008/09 NMW year based on LFS data. The chart below shows that some ethnic groups are earning more than white workers. However, generally ethnic minority workers earn less than whites

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#### Hourly pay gap between white and ethnic minority workers, UK, 2008/09



Source: LPC estimates based on LFS Micro data , quarterly, not seasonally adjusted, UK Q4 2008-Q3 2009

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## **Work limiting Disability**

The LPC have estimated that using the LFS for the NMW year 2008/09 disabled people earned 8.1 per cent less than other at the median.

## **Consultation with stakeholders in relation to the October 2010 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 a two-part formal written consultation 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 LPC<sup>15</sup> 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 NMW.

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<sup>15</sup> National Minimum Wage Low Pay Commission Report 2010 [http://www.lowpay.gov.uk/lowpay/report/pdf/LPC\\_Report\\_2010.PDF](http://www.lowpay.gov.uk/lowpay/report/pdf/LPC_Report_2010.PDF)  
Government evidence to the Low Pay Commission on the economic effects of the National Minimum Wage

## Annex 3: Coverage estimates

### Coverage estimates of the 2010 uprating by sex and Government Office region

BIS estimates that around 970,000 workers are covered by the October 2010 uprating of the NMW. Of the workers estimated to be covered, around two thirds will be women.

### Number of workers that stand to benefit from the October 2010 uprating

**Table A2. Number of workers that are covered by the October 2010 National Minimum Wage uprating by age and sex**

	Male	Female	Total
16-17	10,000	10,000	20,000
18-20	50,000	40,000	90,000
21	40,000	50,000	90,000
22 and over	270,000	500,000	770,000
<b>Total</b>	<b>370,000</b>	<b>600,000</b>	<b>970,000</b>

Source: BIS estimates based on ONS' Annual Survey of Hours and Earnings (ASHE) 2009

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 2009 and October 2010; 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 estimates by country and Government Office region

**Table A3. Number of workers that are covered by the October 2010 National Minimum Wage uprating by country and government office region**

Country or region	Coverage estimate
Wales	50,000
Scotland	80,000
<i>Northern Ireland</i>	40,000
<b>England</b>	
North-East	50,000
North-West and Merseyside	130,000
Yorkshire & Humberside	100,000
East Midlands	80,000
West Midlands	100,000
Eastern	80,000
London	80,000
South East	100,000
South West	80,000
<b>United Kingdom</b>	<b>970,000</b>

Source: BIS estimates based on ONS' Annual Survey of Hours and Earnings (ASHE) 2009

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 2009 and October 2010; 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.