

EXPLANATORY MEMORANDUM TO
THE NATIONAL MINIMUM WAGE (AMENDMENT) REGULATIONS 2013

2013 No. 1975

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 (Amendment) Regulations 2013 (“the Regulations”) amend the National Minimum Wage Regulations 1999. The provisions will come into force on 1 October 2013.

2.2 The Regulations increase the hourly rate of the National Minimum Wage (“NMW”) for adults aged 21 years or older, 18-20 year olds, 16-17 year olds and apprentices who are under the age of 19 or in the first year of their apprenticeship. The Regulations also increase the maximum daily amount for living accommodation that is allowed to count towards pay for NMW purposes.

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

3.1 None.

4. Legislative Background

4.1 The Regulations implement the majority of the recommendations on the NMW rates contained in the 2013 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 (“the Act”) 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 in the United Kingdom.

6. European Convention on Human Rights

6.1 The Parliamentary Under-Secretary of State for Employment Relations and Consumer Affairs has made the following statement regarding Human Rights:

In my view the provisions of the National Minimum Wage (Amendment) Regulations 2013 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 and provide incentives to work.

7.2 Decisions on NMW rates and other related matters are usually based on recommendations made by the LPC. The LPC's 2013 report was published on 15 April 2013. Copies of the report and the Government's response have been presented to both Houses. The Regulations follow the recommendations of the LPC on the NMW rates with the exception of the apprentice rate. The LPC's 2013 report recommended that the apprentice rate should be frozen at £2.65 an hour from 1 October 2013. The Government believes that it is important to maintain the relative position of the apprentice rate compared to benefits and the youth rates to preserve the attractiveness of apprenticeships for young people. The Government concluded that a 1% increase in the apprentice rate would be appropriate. Where the Secretary of State makes Regulations which depart from an LPC rate recommendation, a Report is to be laid before each House of Parliament containing a statement of the reasons for the decision. A copy of this Report is attached to this memorandum.

7.3 The Government believes that the Regulations will be of public interest because it estimates that around 2 million low paid workers stand to benefit from the NMW rate increases.

- Consolidation

7.4 The Department are consolidating the numerous NMW regulations into a single set of regulations. We will introduce the improved set of regulations, following consultation, during this Parliament.

8. Consultation

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 Key messages about NMW regulations and requirements have been transferred from the DirectGov and Business Link websites onto the Gov.uk website. This Government will provide further guidance and case studies to assist employers and low paid workers in their understanding of their rights and responsibilities regarding the minimum wage.

10. Impact

10.1 A regulatory impact assessment of the increases in the NMW rates is attached to this memorandum and will be published on the www.legislation.gov website.

10.2 The impact on business of the increases in the NMW rates is estimated to be a £228.3 million cost. This is because the Department believes that in the absence of any statutory requirement to increase the NMW, employers would freeze the wage rates of low paid workers. The NMW is now part of employment practices and implementation costs of administering the proposed increase will be minimal.

10.3 Within this figure, this Department estimates that around 32,000 apprentices stand to benefit from the increase in the NMW rate and that it will cost employers £1.9 million (a direct impact on business of £1.8 million) in increased wage bills. In order to make this coverage estimate, the Department has assumed that all individuals counted by the Annual Survey of Hours and Earnings (ASHE) earning at or below £2.68 are apprentices. This is because, using ASHE, it is not possible to distinguish between whether an individual is an apprentice or not.

11. Regulating small business

11.1 The LPC's 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 The LPC monitors, evaluates and reviews the NMW rates on an annual basis. In doing this, it takes account of the state of the economy and employment and unemployment levels. The results of this work are published in its annual report.

13. Contact

13.1 Helen McDaniel at the Department for Business Innovation and Skills, Tel: 020 7215 2041 or email: helen.mcdaniel@bis.gsi.gov.uk can answer any queries regarding the instrument.