

STATES OF JERSEY

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DRAFT EMPLOYMENT (MINIMUM WAGE) (AMENDMENT) (JERSEY) REGULATIONS 200-

**Lodged au Greffe on 29th December 2005
by the Minister for Social Security**

STATES GREFFE



Jersey

DRAFT EMPLOYMENT (MINIMUM WAGE) (AMENDMENT) (JERSEY) REGULATIONS 200-

REPORT

Introduction

The Minimum Wage has been in force since 1st July 2005. The Employment and Social Security Committee directed the Employment Forum to consult on whether the Minimum Wage has had any economic impact during the short time that it has been in force, and whether there should be an increase in the Minimum Wage to apply from 2006.

Background

Following consultation carried out during October 2005, the Employment Forum made a recommendation to the Employment and Social Security, which is included at Appendix A.

The Committee was pleased to note that the Forum's consultation indicated that the initial minimum wage rates were set at about the right level and that the system seems to be working well in practice.

The responses supported a modest increase and the Forum reached a consensus on a 3% increase to be applied to the minimum wage and the trainee rate. The Forum also recommended that the two offsets should be increased by the same percentage to avoid distortion effects that would occur if the rates were increased in isolation.

The Committee appreciated the importance of making an announcement on the new Minimum Wage rates at the earliest opportunity, in order that industries are given as much notice as possible.

Members are urged to approve the proposed new rates for the offsets, so that the Social Security Minister can make an Order setting the minimum wage and trainee rate at the proposed levels, as specified in the Draft Employment (Minimum Wage) (Amendment) (Jersey) Order 200-, which is attached at Appendix B for information.

Offsets

Regulations may be made under Part 4 of the Employment (Jersey) Law 2003 specifying permissible offsets against the minimum wage and requires that all workers in Jersey are paid at an hourly rate which is equal to or greater than the minimum wage. The Regulations ensure that the ability to offset cost against wage is limited to food and living accommodation.

The proposed amendment to the Regulations specifies new rates for the maximum value that may be attributed to the two benefits in kind, to apply from 1st April 2006 (for the purpose of establishing whether the minimum wage has been paid) –

- For the provision of accommodation to the employee, the proposed maximum weekly offset against the minimum wage is £57.32.
- For the provision of both accommodation and food to the employee, the proposed maximum weekly offset against the minimum wage is £76.43.

Minimum Wage rates

Subject to States approval of the amendment to the Regulations, the Social Security Minister intends to amend the Order made under Article 16(3) of the Employment (Jersey) Law, 2003, to apply the following minimum wage rates from 1st April 2006 –

- An hourly minimum wage rate of £5.24, to apply to all employees over school leaving age, except when the trainee rate is paid and ‘special classes of person’, as detailed in Articles 36 to 43 of the Employment Law.
- An hourly trainee minimum wage rate of £3.94 for an employee of any age who is undertaking an accredited course of training for a maximum period of one year, when in a new job, with a new employer, by written agreement.

Financial and manpower implications

There are no additional manpower or financial implications for the States.

The wider implications of the minimum wage rate will depend upon the individual sector, but advice and consultation has suggested that the proposed increase is affordable and manageable for local businesses and therefore the economic impact should be negligible.

Acknowledgement

The Minister is grateful to the Employment Forum for making recommendations based on their Review of the Minimum Wage and to all of those who participated in the consultation process.

Review of the Minimum Wage**Introduction**

The Employment Forum was asked by the Employment and Social Security Committee to consult on various issues relating to the minimum wage and to make a recommendation as to whether a new rate should apply from 1st April 2006. As businesses often negotiate prices and contracts at the year end, the intention is to present consultation outcomes in a public statement during December to allow businesses time to adjust if a new rate is approved by the Committee.

The Minimum Wage came into force on 1st July this year instead of the planned implementation date of 1st April. However, it is intended that in future, the minimum wage will be updated each year on 1st April, if appropriate, depending on consultation responses and assessment of economic impact.

Consultation method

As the minimum wage had been in force for less than 4 months, it was considered that only a short review would be required to gain an overview of any impact of the minimum wage during that time, and to consider if any uprating is appropriate for April 2006.

A short questionnaire was sent to all on the Forum's consultation database. Respondents were asked to either complete the questionnaire or to submit a separate comment in writing by Thursday 3rd November.

The questionnaire elicited a good response and the Forum was particularly pleased to receive some useful comments from the groups that are most likely to be affected by the minimum wage. Comments were received from 23 respondents, including employer associations, trade unions, and large local employers.

Minimum Wage Rate

It is not easy to determine the consequences of the minimum wage rate in the short time that it has been in force however, from the positive feedback in the consultation responses, the Forum considers that the initial minimum wage level was judged correctly.

The extremes of view expressed in the consultation responses ranged from 'freezing' the current rate, to increasing it to £8 per hour. The consultation responses do not provide any hard evidence to suggest that the rate should remain the same for a further year, or that there should be a large increase, but the majority of respondents called for an increase. The Forum was of a consensus that the minimum wage rate should not be frozen at 2005 rates for 2006.

The Retail Price Index currently stands at 2%. The Forum agreed that to wait for the March RPI figure would not give employers adequate notice of any new rate. It is anticipated that the RPI will rise and then fall over the next few months, but will continue to average around 2% over the next two quarters.

Having considered the full range of consultation responses, the individual Forum members provided a view as to what increase should apply and their responses initially ranged from 2% to 3.5%. An average was taken of the percentage specified by each Forum member, which resulted in a figure of 3%. The majority of the Forum approved the recommendation of a 3% minimum wage increase, with the exception of one member who considered a 3.5% increase to be appropriate.

Offsets

The majority view of the Forum was that the offsets and trainee rate should be increased in line with any increases in the minimum wage rate in order to retain proportionality, with the exception of one member who preferred there to be no increase in the offsets.

The other members agreed that, if the offsets are not increased to the same percentage as the minimum wage, the effect of any increase in the minimum wage is more unpredictable and likely to have a greater impact, mainly on the Agriculture and Hospitality industries.

Method of Uprating the Minimum Wage

The Forum's consultation, undertaken in 2003 revealed that 43% of respondents preferred adjusting the minimum wage rate on the basis of an annual recommendation to the Employment and Social Security Committee, following consultation and having regard to Jersey's economy.

In its 2004 recommendation to the Committee, the Forum recommended that it should annually make a minimum wage recommendation following wide ranging consultation, unless significant changes in the employment

environment warrant an earlier review. The Forum still supports this recommendation as the preferred option, certainly for the first few years, and therefore did not include a specific question in the questionnaire.

The Forum agreed that responses to the current consultation support a Minimum Wage increase to be applied from 1st April 2006. However, in light of comments received during the consultation, the Forum has given further consideration to the timing of the annual uprating and has agreed that the industries that are likely to be most affected by the timing of any change in minimum wage (Hospitality and Agriculture) should be contacted to discuss.

It was suggested that industries would prefer to know a full year in advance the rate for the following year. The Forum therefore intends to discuss with these industries what time of year would be most appropriate to be informed of changes and implement increases to the minimum wage, in view of their administration arrangements (pay increases, contract changes, tariff agreements, etc.).

On the basis of earlier consultation with these industries, April had been considered the best time to uprate the minimum wage, following an announcement in December of the previous year, however if this is no longer practical, the Forum may consider and make an additional recommendation to the Committee in future.

Other Issues

Two other issues of importance were raised during the consultation, regarding the trainee rate and therapeutic work. The Forum has noted the comments and will continue to monitor these two aspects during 2006. Codes of practice have been issued recently on both the trainee rate and therapeutic work and the Forum considers that a full review of the content is not practical at this early stage.

The Forum is aware that issues are arising within certain organisations and that the Employment and Social Security Department is dealing with and keeping a record of referrals in order to assist with future consultation and consideration of any required amendments to the codes of practice. The Forum will be seeking evidence from interested parties in a future consultation.

RECOMMENDATION

The Minimum Wage rate should be increased by 3%, to be effective from 1st April 2006.

All other rates should also be uprated in line with the Minimum Wage rate; the trainee rate, the accommodation offset and the accommodation/food offset.

This will result in the following rates to be applied from 1st April 2006;

	Current £	3% uprating
Minimum Wage	5.08	5.24
Trainee Rate	3.82	3.94
Accommodation offset	55.65	57.32
Accommodation and food offset	74.20	76.43

The Forum would emphasize that an early decision from the Committee is vital in order to allow businesses to prepare their administration agreements for 2006 (contracts, pay increases, tariffs, etc), before the end of 2005.

The Employment Forum

November 2005

DRAFT EMPLOYMENT (MINIMUM WAGE) (AMENDMENT) (JERSEY) ORDER 200

Explanatory Note

The effect of this Order is –

- (a) to increase the minimum wage for employees who have ceased to be of compulsory school age and are not trainees from £5.08 per hour to £5.24 per hour, and
- (b) to increase the minimum wage for trainee employees who have ceased to be of compulsory school age from £3.82 per hour to £3.94 per hour.

The new rates will come into force on 1st April 2006.

DRAFT EMPLOYMENT (MINIMUM WAGE) (AMENDMENT) (JERSEY) ORDER 200

THE MINISTER FOR SOCIAL SECURITY, in pursuance of Articles 16, 18 and 104 of the Employment (Jersey) Law 2003, orders as follows –

1 Article 2 replaced

For Article 2 of the Employment (Minimum Wage) (Jersey) Order 2004 there shall be substituted the following Article –

“2 The minimum wage

- (1) The minimum wage for an employee (other than an employee to whom paragraph (2) applies) shall be an hourly rate of £5.24.
- (2) The minimum wage for an employee who is a trainee shall be an hourly rate of £3.94.”.

2 Citation and commencement

- (1) This Order may be cited as the Employment (Minimum Wage) (Amendment) (Jersey) Order 200-.
 - (2) This Order comes into force on 1st April 2006.
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Explanatory Note

These Regulations amend the Employment (Minimum Wage) (Jersey) Regulations 2004 to increase permissible deductions from wages in the following way –

- (a) The maximum amount that may be deducted for food and living accommodation is increased from £74.20 per week (or £10.60 per day) to £76.43 per week (or £10.92 per day).
- (b) The maximum amount that may be deducted for living accommodation alone is increased from £55.65 per week (or £7.95 per day) to £57.32 per week (or £8.19 per day).

The increases will have effect from 1st April 2006.



Jersey

DRAFT EMPLOYMENT (MINIMUM WAGE) (AMENDMENT) (JERSEY) REGULATIONS 200-

Made

[date to be inserted]

Coming into force

[date to be inserted]

THE STATES, in pursuance of Articles 17, 18 and 104 of the Employment (Jersey) Law 2003^[1], have made the following Regulations –

1 Regulation 9 replaced

For Regulation 9 of the Employment (Minimum Wage) (Jersey) Regulations 2004^[2] there shall be substituted the following Regulation –

“9 Limits on amounts that may be taken into account for provision of food and living accommodation

- (1) Where the employer provides food and living accommodation, the amount to which Regulations 7(1)(d) and 8(1)(g) refer is £76.43 per week or £10.92 per day.
- (2) Where the employer provides living accommodation but does not provide food, the amount to which Regulations 7(1)(d) and 8(1)(g) refer is £57.32 per week or £8.19 per day.”.

2 Citation and commencement

- (1) These Regulations may be cited as the Employment (Minimum Wage) (Amendment) (Jersey) Regulations 200-.
- (2) These Regulations come into force on 1st April 2006.

[1] L.42/2003

[2] R&O.89/2004