

STATES OF JERSEY



Jersey

DRAFT COVID-19 (EMPLOYMENT – MINIMUM WAGE) (JERSEY) REGULATIONS 202-

**Lodged au Greffe on 2nd September 2021
by the Minister for Social Security
Earliest date for debate: 2nd November 2021**

STATES GREFFE

REPORT

Executive summary

The customary annual cycle of minimum wage reviews undertaken by the Employment Forum has been disrupted by Covid-19. Earlier this year, the Minister for Social Security conducted her own public consultation on various minimum wage issues including the timing and level of the next minimum wage increase. The Minister is now seeking approval for Regulations under the [Covid-19 \(Enabling Provisions\)\(Jersey\) Law 2020](#) to allow her to proceed with a minimum wage increase on 1 January 2022.

The combination of Covid restrictions and changes following Brexit has led to reports of a shortage of workers across low-paid sectors and a substantial rise in wages being offered in some sectors.

If the Covid Regulations are approved by the Assembly, the Minister intends to set the minimum wage rate at £9.22 from 1 January 2022, achieving the target of 45% of mean average earnings previously agreed by the States Assembly.

Introduction

The current minimum wage rate was implemented on 1 April 2020. Since then, the Covid-19 pandemic has prevented the Employment Forum from consulting on minimum wage rates and providing a report and recommendations to the Social Security Minister, as required by the Employment Law.

The Law requires the Forum, as part of the minimum wage and offset rate-setting process, to consult “such organisations representative of employers as they think fit; such organisations representative of employees as they think fit; and, if they think fit, any other body or person” before making a recommendation to the Social Security Minister (Article 20(4) of the [Employment \(Jersey\) Law 2003](#)).

Regulations

The Social Security Minister is seeking the approval of the States Assembly to use the provisions of the [Covid-19 \(Enabling Provisions\)\(Jersey\) Law 2020](#) to make Regulations to provide for a one-off power to set rates for the level of the minimum wage and offsets without requiring the Employment Forum to consult. This will allow the minimum wage to be increased in the next few months.

The draft Regulations would disapply the provisions of the Employment Law requiring the Minister to direct the Forum to consult on minimum wage rates. This is currently provided for in Article 18 of the Employment Law. The draft Regulations would also disapply the requirement contained in Article 18 for the Minister to direct the Forum to consult before the States may approve Regulations relating to the level of offset rates.

The draft Regulations being lodged for the Assembly’s agreement will give the Minister the power to make an Order prescribing minimum wage rates and to lodge Regulations to set offset rates. The draft Covid Regulations contain a “sunset” clause, meaning they will cease to be of legal effect from 1 April 2022. After that date, the process currently set out in the Employment Law will be restored.

The Minister will request that these Regulations are debated during the sitting starting on 5 October. The six-week lodging period for that sitting expired on Tuesday 24 August, with the Average Earnings Report published later that week on Friday 27 August.

Given the importance of the Average Earnings statistics in the setting of minimum wage rates, the Minister asks Members to accept the shorter lodging period as being acceptable in the circumstances.

Financial and manpower implications

There are no financial or manpower implications in respect of the Regulations.

The remainder of this report has no bearing on the draft Covid Regulations themselves; it is designed to provide information to Members as to how the Minister wishes to use these one-off powers to set minimum wage rates.

Background

On 16 April 2021 the Minister opened a public consultation on the way the minimum wage is currently set in Jersey. The details are set out in [R.62/2021](#). The consultation exercise, which ran for six weeks until 31 May 2021, received a wide range of responses from individuals and organisations representing a cross-section of the Jersey community.

The exercise asked for views on the way in which the minimum wage-setting process might be structured in the future; what criteria should be taken into account; and who – in terms of expertise – should be involved in the process.

The consultation paper acknowledged that the Covid-19 pandemic had prevented the Employment Forum from carrying out its normal consultation exercise as required by the Employment Law. As a result, the Minister’s consultation also included a section which asked respondents to consider how, in the absence of a formal report and recommendation from the Employment Forum, the next minimum wage figure should be set and at what rate.

This remainder of this report deals with the last of those issues. The Minister will bring forward a report later in the year setting out the results of the overall consultation and, as necessary, containing proposals for possible changes to the current minimum wage review.

45% Target

On 6 March 2018, the Assembly endorsed the following action as part of [P.121/2017](#):

“THE STATES.....agreed that the minimum wage should be set at 45% of average earnings by the end of 2020 subject to consideration of economic conditions and the impact on competitiveness and employment of the low paid in Jersey; and requested the Employment Forum to have regard to this objective when making its recommendation on the level of the minimum wage to the Minister for Social Security.....” .

In subsequent States Assembly debates on the issue of the level of the minimum wage, the Minister has acknowledged the continuing existence of this political target, with a commitment to move towards and reach that figure when it is appropriate to do so.

Minimum wage rates in Jersey – domestic and international comparisons

The Employment Forum last recommended a new minimum wage rate in October 2019, to take effect in April 2020. The recommended rate of £8.32 per hour for the main minimum wage rate represented an increase of 3.7% on the rate set for October 2019

(£8.02). The Forum, for the reasons outlined above, has not been able to carry out its usual consultation exercise since October 2019 and the minimum wage rates have remained static since April 2020. In summary:

2019 - £8.02 per hour

2020 - £8.32 per hour

2021 - £8.32 per hour

Some comparator jurisdictions have implemented an increase in 2021. Here are some examples of minimum wage rates:

1) Great Britain and Northern Ireland - national living wage (from 2021 available to workers aged 23 and above)

2019 - £8.21 per hour (25 years and above)

2020 - £8.72 per hour (25 years and above)

2021 - £8.91 per hour (23 years and above)

2) Guernsey

2019 - £8.10 per hour

2020 - £8.50 per hour

2021 - £8.70 per hour

3) Isle of Man

The main minimum wage rate in the Isle of Man was set at £8.25 per hour in 2019 and has remained static. The rate is currently under review.

2019 - £8.25 per hour

2020 - £8.25 per hour

2021 - £8.25 per hour

Economic indicators

This section sets out a range of economic statistics and indicators, drawn from official reports.

Prices

The Retail Prices Index (RPI) measures the relative level of prices from quarter to quarter in respect of goods and services purchased by an average household in Jersey. According to the [latest report](#) from Statistics Jersey, during the twelve months to June 2021 the All-Items RPI increased by 3.5%. The annual increase in 2020 was extremely low, as it reflected the impact of the Covid-19 pandemic on the economy. The Main RPI increased by just 0.5% in the twelve months to June 2020. Over the two years from June 2019 to June 2021, RPI has increased by 4%.

Additional price measures include RPIX (the RPI excluding mortgage interest repayments) and RPIY (the RPI excluding mortgage interest payments and indirect taxes such as GST and impots). Over the twelve months to June 2021, RPIX increased by 3.3% and RPIY increased by 3.4%. RPI Low Income increased by 3.7%.

In its advice to the Minister for Treasury and Resources, the Fiscal Policy Panel (FPP) presented its 'base case' economic assumptions for 2022 - 2025, forecasting the average rate of RPI inflation to be 3% in 2021 and 3.6% in 2022.

Average Earnings Index

The Index of Average Earnings measures changes in gross wages and salaries paid to employees. It includes overtime payments, but excludes bonuses, employers' insurance contributions, holiday pay and benefits in kind (e.g. free accommodation).

In [June 2020](#) average weekly earnings in Jersey were 1.1% higher than in June 2019. This increase was the lowest annual change recorded for 10 years. As with the RPI figure, this index was affected by the impact of the pandemic. In [June 2021](#) average weekly earnings in Jersey were 3.3% higher than in June 2020. The overall increase from June 2019 to June 2021 was 4.4%.

At June 2020, the mean average weekly earnings of full-time equivalent employees was £780. At June 2021, this figure increased to £820, an increase of 5.1%.

Employment

In its [latest report](#), the Fiscal Policy Panel notes that the number of those actively seeking work has continued to fall from the peak it reached in May 2020. The most recent [published statistics](#) showed only 120 more registered unemployed than before the start of the pandemic, a fall of 1,400 since the May 2020 peak.

Employment levels were also affected by the pandemic. The [Labour Market Report](#) published in respect of December 2020 showed a drop of 1,380 jobs since the previous year. Figures for June 2021 will be published in October.

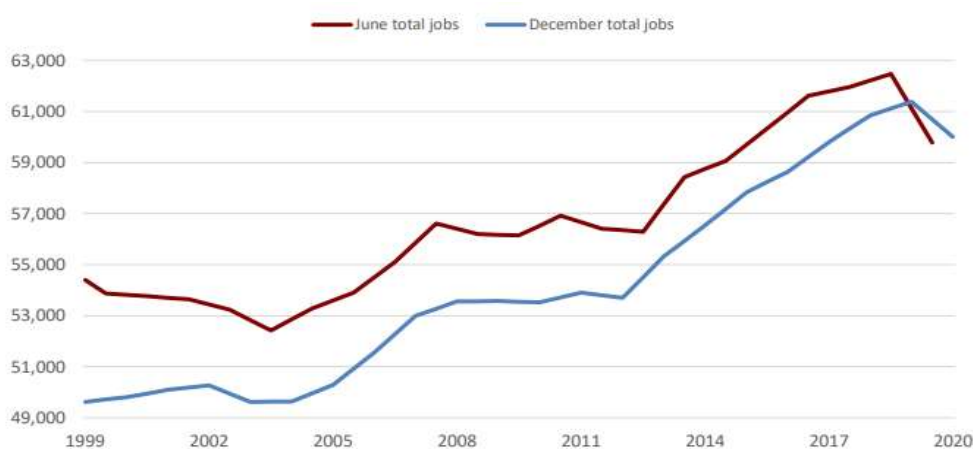


Figure: Statistics Jersey Labour Market Report December 2020

Productivity

The Government has recently launched a [Productivity Support Scheme pilot](#).

The pilot scheme aims to help small and medium-sized businesses in Jersey improve their productivity. The Productivity Support Scheme will provide match-funded grants of up to £30,000 to help firms implement changes that will enable them to operate more efficiently.

Fiscal Policy Panel - economic outlook

In its “[Updated Economic Assumptions](#)” paper published in August 2021, the Fiscal Policy Panel noted that the available evidence suggests that the downturn in the Jersey economy in 2020 was less sharp than previously expected, with the exception of the fall in banking profits (the official GVA estimate for 2020 will not be available until October this year). Further, the recovery in 2021 appears to be more rapid than expected.

In the Panel’s discussions with key stakeholders in Jersey, there were a number of comments suggesting that the economic recovery was leading to capacity shortages, both in the supply chain and in the labour market. Some stakeholders suggested that prices and wages may rise quickly in response. The Panel concludes that these issues have been exacerbated both by the ongoing effects of the Covid-19 pandemic and the end of the Brexit transition period, and it is uncertain how temporary they will prove to be.

The Panel noted the prospect of a more rapid rise in average earnings, in response to temporary labour shortages and high inflation. However, the forecast for high inflation would mean that earnings are forecast to fall in real terms over the forecast period, particularly in the non-finance sectors.

The Panel also predicted a recovery in employment growth in 2023 and 2024 that was faster than previously forecast.

The Panel cautions that this does not mean that the economy has reached its full capacity level, but it suggests that inflation and earnings growth may be stronger in the short term and that employment growth during the later years of the forecast period will start to ease these pressures.

In summary, the Panel produced the following economic assumptions for 2020 to 2024:

August 2021 forecast

% change unless otherwise specified	2020	2021	2022	2023	2024	Trend 2025+
Real GVA	-9.3	2.2	2.8	3.3	1.6	0.6
RPI	1.3	3.0	3.6	2.6	2.5	2.6
RPIY	1.2	3.0	3.5	2.5	2.4	2.5
Nominal GVA	-8.0	4.8	6.2	5.7	4.0	3.1
Gross operating surplus (including rental)	-17.7	6.1	10.2	9.2	5.2	3.2
<i>Financial services profits</i>	-27.5	4.0	14.4	16.9	7.5	3.4
Compensation of employees (CoE)	0.5	3.8	3.2	3.0	3.0	3.1
<i>Financial services CoE</i>	1.5	3.5	3.5	3.5	2.8	3.4
<i>Non-finance CoE</i>	0.0	3.9	3.0	2.7	3.0	2.9
Employment	-2.4	1.1	1.0	0.8	0.9	0.4
Average earnings	1.1	2.6	2.2	2.1	2.1	2.7
Interest rates (%)	0.2	0.1	0.2	0.5	0.5	0.6*
House prices	6.1	5.0	4.0	3.0	2.0	2.7
Housing transactions	-3.8	5.0	3.5	3.0	2.5	1.5

* Bank Rate forecast for 2025 only

Table: Fiscal Policy Panel Updated Economic Assumptions - August 2021

Voluntary Living Wage Rate

The process by which a Living Wage rate is set is not regulated by the Employment Law but is a voluntary exercise. In Jersey, the Living Wage rate is set by a Living Wage

Advisory Committee and sponsored by Caritas, a local charity, which is licensed by the English Living Wage Foundation.

The Living Wage rate recommended by Caritas in Jersey for 2021 is £10.96 an hour.

In its most recent [minimum wage report](#), the Employment Forum explained the distinction between the minimum wage and the living wage:

*“**Minimum wage** -generally the setting of a statutory minimum wage rate takes into account factors including competitiveness, economic forecasts and the labour market. The minimum wage is intended to remove the worst cases of low pay whilst taking into account business realities and supporting a competitive economy.*

***Living wage** – a living wage is a different concept from a minimum wage because it is a voluntary benchmark, rather than a legally enforceable minimum level of pay. Unlike the minimum wage, the cost of living features heavily in decisions about the living wage...”*

In April 2021, the States Assembly approved the following, as part of [P.11/2021](#):

“(c) to request the Minister for Social Security, in accordance with Article 19(1) of the Employment (Jersey) Law 2003, to refer for examination to the Employment Forum the potential for the minimum wage be set at the level of the Jersey Living Wage, and if this were considered feasible, when the minimum wage could be set at that level.”

The Minister acknowledges this commitment and will include it in forthcoming reviews.

Public consultation on minimum wage rate for 2022

The recent consultation exercise on the review of the minimum wage in Jersey asked for comments on when a new rate should be set for 2022 and how much that should be.

Once Responses were received from employers and employees, business organisations and trade unions, community organisations and individuals. Employer responses made up just over half of the total.

A wide range of views was expressed. The most popular response was an increase in line with the RPI rise over the last 2 years. This would provide an increase of 4%, bringing the rate to £8.65 per hour.

Opinions ranged from no increase (keep rate at £8.32, 0% increase) to setting the rate at the voluntary living wage level (£10.96, 31.7% increase)

The following comments indicate the range of opinions:

Minimise increase:

“It should be capped on this occasion to avoid further impact on the industries.”

“Due to the Covid crisis the minimum wage increment could lead to a large number of businesses to close, or reduce the number of employees. The increment should be enough to offset the price rise during this year.”

RPI best indicator of real costs for those on lower wages:

“It should be set as a direct reflection of inflation and the cost of living”

“Use RPI increase.”

Larger increase:

“Ideally £10 an hour immediately. But at least a significant increase to make up for how poor it is now.”

“...[increased] with a view to quickly matching the living wage in say a year’s time.”

During the consultation period, respondents noted that supply and demand issues in many sectors are pushing wages up to unprecedented levels, and that, while the minimum wage is there to provide protection, it does not mean that is the rate that employers can recruit at. It was noted that the labour market is very competitive at the moment, with a shortage of seasonal workers. Recent media reports suggest that particular sectors of the economy that rely most on the minimum wage are struggling to fill some vacancies.

Conclusions on the level of the minimum wage for 2022

The Minister has taken into account the representations made in the minimum wage review consultation exercise and the underlying and forecast economic indicators.

The increase will take account of two years.

In recent years the minimum wage hourly rate in Jersey has increased in percentage terms as follows:

Year	Annual increase	Increase over two years
2017	3.0%	
2018	4.5%	7.6%
2019	6.9%	11.7%
2020	3.7%	10.9%
2021	0.0%	3.7%

The mean average weekly wage calculated from the Average Earnings Index figure for 2021, published by Statistics Jersey on 27th August 2021, is £820. This is an increase of 5.1% over the 2020 figure of £780 per week.

The unique situation created by the combination of Brexit and Covid-19 has led to the potential for significant wage inflation within low-paid sectors. This provides an opportunity to make a substantial increase in the level of minimum wage in the island and to bring the rate in line with neighbouring jurisdictions.

The [Common Strategic Policy](#) approved by the Assembly in 2018 included the strategic priority:

“We will reduce income inequality and improve the standard of living”.

Improving low wage levels was one of the main themes identified by States Members during the In Committee debate on economic recovery held in [June 2020](#).

Acknowledging this explicit commitment to reducing income inequality, the existing decision of the Assembly to seek to achieve a minimum wage set at 45% of mean weekly average earnings, and the opinions expressed during the in-committee debate, the Minister proposes to set the minimum wage hourly rate at **£9.22 per hour** from 1 January 2022. This figure will achieve the target of 45% of mean weekly average earnings, based on a 40 hour working week. It represents an increase of 10.8% over the two-year period since the rate was last set in 2020.

Reaching this target sends a clear message that the government is firmly committed to reducing income inequality and ensuring that all the workers who contribute to our local economy receive a fair compensation for their labour.

The Minister accepts the comments made by some consultation respondents that the use of the mean wage figure has disadvantages as a benchmark for a minimum wage rate. At present, there is no viable alternative measure. However, changes in data collection planned for 2022 will enable more accurate wage benchmarks to be maintained. When these new processes are available and have been fully tested, they can be incorporated into future minimum wage considerations.

Timing of increase

The Minister’s consultation included a question on the timing of the next minimum wage update.

There was an even split of opinion between those suggesting setting a rate in either October 2021 or April 2022, as set out in the consultation review document. However, those representing the seasonal hospitality and agriculture sectors – those most affected by decisions on the minimum wage – responded that they would support new minimum wage rates coming into effect early in the calendar year.

Comments provided in the survey explain that an update early in the year falls after the end of one season and before the next has started, giving the opportunity to price in the rise in the minimum wage rate for the following season and giving returning seasonal employees a clear indication of the level of wages they would be earning.

Setting a rate early in the year would mean that the administrative burden on businesses of having to adjust minimum wage rates during a season would be significantly reduced. Representatives of the hospitality sector were also concerned that an October rise would still fall in the season, as late year holidays are becoming increasingly popular.

Comments on this point included:

“Align the minimum wage review with the calendar year, allowing wage budgets to align with business budgets which are often based on the financial year.”

“Most companies’ budgets start in a calendar year and an increase in the first month of the year also aids with Christmas season spending.”

“Can’t we move to January 1st to make it easier for tax and contributions”

The Minister has decided that the next minimum wage rise should take place on **1 January 2022**.

Trainee rates

The Minister’s consultation exercise this year did not include any specific questions in respect of trainee rates and the Minister will increase the trainee rates in line with the main minimum wage rate increase of 10.8%.

Trainee Rate (Year 1)	
1 April 2020	1 January 2022
£6.24 per hour	£6.91 per hour

Trainee Rate (Year 2)	
1 April 2020	1 January 2022
£7.28 per hour	£8.07 per hour

Offset rates

The Minister’s consultation on the minimum wage also asked respondents to consider the issue of offsets. Offsets are available to businesses to retain a proportion of an employee’s wage to cover the cost of accommodation and/or food. In Jersey, the maximum weekly rates currently are:

- **Accommodation** - £91.12 (at main minimum wage rate)
- **Accommodation and food** - £121.46 (at main minimum wage rate)

For trainees, the corresponding figures are **£68.34** and **£91.10** respectively.

The consultation exercise provided evidence that offset rates are not always used to their full extent, but at lower rates. In the hospitality industry, in the context of a competitive labour market, lower rates of offset are now routinely used as a tool to attract and retain staff. It appears that a large number of businesses make use of only perhaps 70% of the available rate.

In the agriculture sector, the practice is also mixed. Different rates are applied depending on the type of accommodation offered. Some growers may charge the maximum, others not.

The most recent [Employment Forum minimum wage report](#) noted that while the offset rates had increased by 6.9% in 2019, most employers had not taken advantage of the higher values and had left their offset rates unchanged.

It appears that the labour market is becoming even more competitive and the use of below maximum offset rates can be key in attracting workers.

For comparison, the levels of offset rates in other jurisdictions are:

Jurisdiction	Maximum accommodation offset per week (main MW rate)	Maximum accommodation/food offset per week (main MW rate)
Jersey	£91.12	£121.46
Guernsey	£84.00	£117.00
Isle of Man	£42.00	£42.00
Great Britain	£52.85	£52.85
Northern Ireland	£58.52	N/A

The Minister proposes not to increase the current levels of offset. They will remain at their current levels in 2022.

Minimum wage review full consultation exercise – next steps

A Report on the results of the full consultation exercise, carried out earlier in 2021, will be produced later this year.

EXPLANATORY NOTE

These Regulations, made under the Covid-19 (Enabling Provisions) (Jersey) Law 2020, will if passed, disapply Article 18 of the Employment (Jersey) Law 2003 to an Order under Article 16(3) and Regulations under Article 17. These provisions provide for the setting of the minimum wage and the determination of the hourly rate of remuneration at which a person is to be regarded as remunerated in certain circumstances. Article 18 provides a mechanism for referring these matters to the Employment Forum to report their recommendations to the Minister, and reference to the Employment Forum is currently mandatory.

Regulation 1 inserts a new Article 18A into that Law providing for Article 18 not to apply to an Order under Article 16(3) or Regulations under Article 17 and then for Article 18A to expire on 1st April 2022.

Regulation 2 provides for how the Regulations are to be cited and for them to come into force 7 days after they are made.

Re-issue Note

This Project is re-issued to correct a typographical error in the heading of the inserted Article. The word “renumeration” is changed to “remuneration”.



Jersey

DRAFT COVID-19 (EMPLOYMENT – MINIMUM WAGE) (JERSEY) REGULATIONS 202-

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Jersey

DRAFT COVID-19 (EMPLOYMENT – MINIMUM WAGE) (JERSEY) REGULATIONS 202-

Made *[date to be inserted]*

Coming into force *[date to be inserted]*

THE STATES make these Regulations under Article 2 of the [Covid-19 \(Enabling Provisions\) \(Jersey\) Law 2020](#) –

1 Article 18A inserted

After Article 18 of the [Employment \(Jersey\) Law 2003](#) there is inserted –

“18A No referral to Employment Forum before prescribing minimum wage or providing for determination of hourly rate of remuneration due to effect of Covid-19

- (1) Article 18 does not apply to an Order made under Article 16(3) or Regulations made under Article 17.
- (2) This Article expires on 1st April 2022.”.

2 Citation and commencement

These Regulations may be cited as the Covid-19 (Employment – Minimum Wage) (Jersey) Regulations 202- and come into force 7 days after they are made.