

STATES OF JERSEY



MINIMUM WAGE: ALIGNMENT WITH THE LIVING WAGE (P.78/2022) – AMENDMENT

Lodged au Greffe on 6th September 2022
by the Council of Ministers
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STATES GREFFE

MINIMUM WAGE: ALIGNMENT WITH THE LIVING WAGE (P.78/2022)
– AMENDMENT

1 PAGE 2 –

For the words “to agree in principle that the Minimum Wage should align with the Living Wage, and to give effect to this” substitute the following words –

“(a) to agree in principle that, following any adoption by the States Assembly of a statutory basis for a Living Wage in Jersey, the Minimum Wage should align with the Living Wage; and”.

2 PAGE 2, PARAGRAPH (a) –

For paragraph (a) substitute the following paragraph –

“(b) to endorse the instructions given by the Minister for Social Security to the Employment Forum to consider whether, by October 2022, the level of the minimum wage should be lifted to the hourly rate of £10;”

3 PAGE 2, PARAGRAPH (b) –

For paragraph (b) substitute the following paragraph

“(c) to request that the Minister for Social Security, further to the Act of the States dated 26th November 2021 (in which P.98/2021 (as amended) was adopted), ensures that all investigations, including consultation and engagement with the Employment Forum, in relation to the feasibility of devising a scheme to be brought to the States to convert the Minimum Wage over time to a Living Wage, including any legislative changes that may be necessary, be completed and presented to the States Assembly by end of December 2023.”

COUNCIL OF MINISTERS

Note: After this amendment, the proposition would read as follows –

THE STATES are asked to decide whether they are of opinion –

- (a) to agree in principle that, following any adoption by the States Assembly of a statutory basis for a Living Wage in Jersey, the Minimum Wage should align with the Living Wage,
- (b) to endorse the instructions given by the Minister for Social Security to the Employment Forum to consider whether by October 2022, the level of the minimum wage should be lifted to the hourly rate of £10; and
- (c) to request that the Minister for Social Security, further to the Act of the States dated 26th November 2021 (in which P.98/2021 (as amended) was

adopted), ensures that all investigations including consultation and engagement with the Employment Forum in relation to the feasibility of devising a scheme to be brought to the States to convert the Minimum Wage over time to a Living Wage, including any legislative changes that may be necessary, be completed and presented to the States Assembly by end of December 2023.

REPORT

The Assembly has previously agreed that an investigation should be undertaken into the feasibility of converting the minimum wage rate into a living wage rate. Deputy Mézec's proposition takes that action further but does not consider some significant issues that must be addressed before such a step can be taken.

This amendment provides clarity as to the task involved and the time needed to address this important issue appropriately and in a way which meets Jersey's needs.

Background

The minimum wage is a statutory rate, designed to prevent exploitation of employees and is set at a level that the market can bear. The minimum wage in Jersey is currently set at £9.22 an hour.

The living wage, in the UK and Jersey, is a rate paid voluntarily by some employers and the living wage rate is set in the UK by the Living Wage Foundation. Caritas, a charity which takes action to address poverty in Jersey, is licensed by the Foundation to set a rate for the Island. The Government has no control or influence over the methodology used by Caritas to set a living wage rate. Charities in different countries take different approaches in setting a living wage rate.

Adjusting the minimum wage structure to become a living wage will require substantial investigation and preparation. This would be a significant departure from the current voluntary living wage rate setting process, where a range of judgments and calculations are made by those calculating the living wage as to the level of the living wage from year to year.

The Assembly has already decided that an investigation into the feasibility of a statutory living wage should be undertaken but did not set a timetable for its completion.

The impact of part (b) of the proposition is to make two changes to this existing commitment:

- To require this work to be completed by December this year and
- To require that a new legal structure be put in place by June next year.

The Proposition makes the assumption that the outcome of the investigation will be to conclude that it is feasible to change the basis of the existing minimum wage and to replace it with a statutory living wage. Until this detailed work has been done this conclusion cannot be assumed.

Living wage calculations

The Reform Jersey report includes the following sections:

The 'Living Wage' is currently calculated by the charity Caritas, and is updated every year, after examining the prevailing economic conditions and determining what someone would need to earn on full time hours to be able to sustain a basic standard of living without having to claim social security benefits to top it up.

This description of the living wage calculation is inaccurate.

The process used by the Living Wage Foundation in the UK is not designed to calculate a wage which sustains a basic standard of living without claiming benefits. It is a complex calculation resulting in an average hourly rate over different household types and takes full account of the benefits that the family will be receiving. The Jersey living wage is currently based on the London living wage with a 2% uplift and it does not take specific account of local household composition, living costs or benefits.

The UK living wage is calculated by the Resolution Foundation, which included the following overview in its 2021 report:

“The basic intuition behind the Living Wage is a simple one: to determine the wage rate necessary to ensure that households earn enough to reach a minimum acceptable living standard as defined by the public.

Translating this idea into practice, however, requires a wide range of assumptions and judgements to be made on issues ranging from the measurement of household costs, the nature of government support available to households and the appropriate use of data.

The Resolution Foundation undertakes this analysis and its work is overseen by the independent Living Wage Commission.”

and

“In broad terms, the calculation is as follows:

It is founded on the construction of a basket of goods and services that together represents an acceptable standard of living, as determined through research with members of the public.

The hourly Living Wage rates are then calculated by taking a weighted average of the earnings required (accounting for tax and benefits) for a range of family types (with and without children) to earn enough to afford the items in that basket of goods and services, and therefore to meet that standard of living.”

(emphasis added)

<https://www.resolutionfoundation.org/app/uploads/2021/11/Calculating-the-Real-Living-Wage-for-London-and-the-rest-of-the-UK-2021.pdf>

Creating a genuine Jersey living wage on this basis would require a full methodology to be developed and approved and then regular collation of household composition, minimum income standards, tax and benefit calculators to be developed and maintained.

A different approach has been taken by the Irish government which has recently published a report on a statutory living wage. The [Irish approach](#) is much simpler and proposes to peg its living wage to a percentage of the median wage level for Irish workers. The current proposal is to move the rate up to 60% of the median wage by 2026, with a possible future aim of reaching 66%.

This approach would have the benefit of simplicity and would involve a relatively straightforward calculation but would not specifically take account of living costs.

The recently published [Household Income Survey](#) provides an accurate figure for the full time median wage as at December 2021 as £730 per week. The recently published [Index of Average earnings report](#) provides a calculation to update this figure to June 2022 of £750 per week. This sets the 2/3 median wage at £12.50 per hour. The significant increase from the £10.80 figure, calculated earlier this year based on the 2019 Household Income Survey results, is likely to be due to a range of factors over the last two years including an upward shift in lower wage earnings and a reduction in the number of lower paid workers.

A third approach to the introduction of a statutory living wage would be to make a change to the legal criteria used to set the minimum wage rather than seek to calculate a specific rate based on external statistics. At present Article 20 of the Employment Law stipulates in respect of each minimum wage report,

- (5) In considering what recommendations to include in their report, the Employment Forum –
 - (a) shall have regard to the effect of this Law on the economy of Jersey as a whole and on competitiveness;

Under this approach, the concept of a statutory living wage would be achieved by broadening the criteria under which the Forum make their recommendations. For example, the law could be amended to require the Forum to take account of the living costs of workers as well as the state of the economy and competitiveness.

These are three very different approaches to the challenge of moving towards a statutory living wage, and other approaches may be identified in the course of a more thorough investigation. In view of the significant changes required to move from a minimum wage to a statutory living wage, these amendments seek to clarify the actions that will be taken and the timing of those actions.

Details of amendment

The amendment proposes changes to each part of the original proposition, with the aim of clarifying the actions to be taken.

First amendment: this amendment seeks to clarify the wording and structure of the proposition.

The proposition includes a preamble:

“to agree in principle that the Minimum Wage should align with the Living Wage, and to give effect to this” –

with these words needing to be read as part of each of the original two parts of the proposition. As such, the structure of the proposition does not give Members the opportunity to express their opinion on this aspiration separately to the (a) and (b) parts of the proposition.

The first amendment allows Members to vote clearly on the principle that if a statutory definition of living wage is approved in the future by the Assembly, then the Assembly will take steps to align the minimum wage with that statutory definition of living wage.

This allows Members to make a firm statement on their intentions to move towards a statutory living wage separately from the more detailed wording of the rest of the proposition.

2nd amendment: The wording of part (a) of the original proposition and the timing of the debate does not allow for a decision to be made by the States Assembly that could be acted upon. It is not possible for the Minister to instruct the Employment Forum on or after 13 September and for the Forum to undertake a legal consultation and report back to the Minister in time for a minimum wage rate to be set “by October”.

The second amendment addresses this issue and seeks the endorsement of the Assembly in respect of the action that the Minister has already taken.

The public consultation stage of the minimum wage review undertaken by the Employment Forum has now been completed. The Minister gave additional instructions to the Forum on 22 July, to ensure that the question of an additional £10 rate could be considered during the consultation. To allow for the additional instructions, the Minister extended the period for the consultation for an additional week until 5 August.

3rd amendment: The proposition makes the assumption that an appropriate method for setting a statutory living wage can be identified and can be incorporated into Employment Law legislation by June 2023. While there are several models of living wage in use internationally, most of these operate on a voluntary basis and as such, they operate in a more flexible manner than is possible with a statutory definition.

The 3rd amendment builds on the amended part(a) to include an explicit action to undertake an investigation into possible methods of determining living wage rates. This amendment clarifies the work that will be required before any legal move can be made to embed a living wage rate within local legislation.

For example, adopting the Living Wage Foundation calculation approach would require an agreed method of calculation and a reliable and ongoing collection and collation of statistics upon which to base the calculation to be set out in Law. Given the long-term consequences of creating a legal calculation to set an automatic statutory living wage rate, a proposal to adopt this option and the development of an appropriate methodology for Jersey would need to be considered carefully and will require extensive consultation with stakeholders. A realistic timetable of the end of 2023 is included to allow this full review to be completed.

Financial and manpower implications

It is estimated that the technical work needed to evaluate different living wage options and methodologies will require a budget of £30,000. This amount will be requested in the 2023 Government Plan. There are no manpower considerations.