STEWART ACCOUNTING SERVICES
Chartered Accountants

National Minimum and Living Wage rates

Employers have a legal obligation to pay the required National Minimum Wage (NMW) or National Living Wage (NLW) rates to their employees. It is a criminal offence to ignore these obligations. HMRC police these arrangements and have the right to carry out checks and see wage payment records at any time.

Employers in breach of the regulations will be required to pay any arrears to their staff immediately. Employers may also be fined and "named and shamed" by HMRC.

Who qualifies for the NMW or NLW?

To qualify for the NMW, employees must be at least school leaving age (usually 16).

To qualify for the higher NLW, they must be 21 and over.

Contracts for payments below the minimum wage are not legally binding. The worker is still entitled to the NMW or NLW.

Employees are also entitled to the correct minimum wage if they are:

- part-time
- casual labourers, for example someone hired for one day
- agency workers
- workers and homeworkers paid by the number of items they make
- apprentices
- trainees, workers on probation
- disabled workers
- agricultural workers
- foreign workers
- seafarers
- offshore workers

Apprentices are entitled to the lower apprentice rates if they are either:

- under 19 or;
- 19 or over and in the first year of their apprenticeship

Apprentices over 19 who have completed the first year of their apprenticeship are entitled to the full NMW or NLW for their age.

Who is not entitled to the NMW or NLW?

The following categories of employees are not entitled to the NMW or NLW:

- self-employed people running their own business
- company directors without service contracts
- volunteers or voluntary workers
- workers on a government employment programme, such as the Work Programme
- members of the armed forces
- family members of the employer living in the employer's home
- non-family members living in the employer's home who share in the work and leisure activities, are treated as one of the family and aren't charged for meals or accommodation, for example au pairs
- workers younger than school leaving age
- higher and further education students on a work placement up to 1 year
- workers on government pre-apprenticeship schemes
- people on the following European Union programmes: Leonardo da Vinci, Youth in Action, Erasmus, Comenius
- people working on a Jobcentre Plus Work trial for 6 weeks
- share fishermen
- prisoners
- people living and working in a religious community

Additionally, you won't get the NMW or NLW if you are:

- a student doing work experience as part of a higher or further education course
- of compulsory school age
- a volunteer or doing voluntary work
- on a government or European programme
- work shadowing

How much are the NMW and NLW rates?

The rates are updated annually, during April. Since 1 April 2026, the rates per hour are:

Age	Rate
21 and over NLW	£12.71
18 to 20	£10.85
16 to 17	£8.00
Apprentice	£8.00

Current rates are published on the www.gov.uk website.

Company directors and the minimum wage

In most cases, the minimum wage will not apply to company directors unless they also have contracts that make them “workers”. In legal terms, a company director is an office holder in common law and can undertake work and be paid for it in that capacity. This is true no matter what sort of work is done or how it is rewarded.

Unfortunately, company directors who also have an employment or worker's contract with their company will need to be paid the minimum wage for work done under that contract.

This would be a nail in the coffin for directors who have determined to take a low salary/ high dividend approach to minimising National Insurance Contributions. Based on a working week of 37 hours, a salary required to comply with the NLW rules would amount to approximately ££24,454 (£12.71 x 37 hours x 52 weeks). Most directors will have set their salary lower at the minimum level to maintain State Pension and other benefits. At the increased level to secure NLW compliance, additional NIC contributions would be required.

If a company director is unsure whether they have entered into a contract with their company which makes them a worker for minimum wage purposes, they should take advice to regularise their obligations under the NMW and NLW regulations.

Penalties for breaching the NMW or NLW regulations

Penalties for non-compliance with the regulations are punitive. HMRC’s statement of enforcement is summarised below:

- The government increased the penalties imposed on employers that had underpaid their workers in breach of the minimum wage legislation from 100% to 200% of arrears owed to workers. By increasing penalties for underpayment of the minimum wage it was intended to ensure that employers should comply with the law and pay workers the money they are legally due.
- The maximum penalty is currently £20,000 per worker. This penalty is calculated as 200% of the total underpayment for all workers affected relating to pay reference periods that commenced on or after 1 April 2016. Where this amount would be less than £100, the minimum penalty of £100 should still be applied. Where this amount would be more than £20,000, the maximum penalty of £20,000 per worker should be applied. The penalty is reduced by 50% if the unpaid wages and the penalty are paid in full within 14 days.

Readers are reminded that enforcement of the NMW and NLW regulations are devolved to HMRC.

Summary action list

- If you are a company director and have adopted the low salary high dividend strategy to save NIC, you will need to observe the NLW regulations if you have a contract of employment with your company.
- If you employ large numbers of unskilled workers, it would pay to audit your payroll records from time to time to make sure you are complying with the NMW and NLW regulations.
- If you discover that you have underpaid staff, you are required to reimburse your affected employees for any shortfall in earnings.

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