

Part of

Employ someone: step by step (<https://www.gov.uk/employ-someone>)

Minimum wage for different types of work

1. Overview

The National Minimum Wage (<https://www.gov.uk/your-right-to-minimum-wage>) is worked out at an hourly rate, but it applies to all eligible workers (<https://www.gov.uk/your-right-to-minimum-wage/who-gets-the-minimum-wage>) even if they're not paid by the hour.

This means that, however someone gets paid, they still need to work out their equivalent hourly rate to see if they're getting the minimum wage.

There are different ways of checking that workers get the minimum wage depending on whether they are:

- paid by the hour (<https://www.gov.uk/minimum-wage-different-types-work/paid-by-the-hour>) (known as 'time work')
- paid an annual salary (<https://www.gov.uk/minimum-wage-different-types-work/paid-an-annual-salary>), under a contract for a basic number of hours each year (known as 'salaried hours')
- paid by the piece (<https://www.gov.uk/minimum-wage-different-types-work/paid-per-task-or-piece-of-work-done>) - the number of things they make, or tasks they complete (known as 'output work')
- paid in other ways (<https://www.gov.uk/minimum-wage-different-types-work/paid-in-other-ways-unmeasured-work>) (known as 'unmeasured work')

Use the National Minimum Wage calculator (<https://www.gov.uk/am-i-getting-minimum-wage>) to check if payments are over the minimum wage.

What counts as working time

For all types of work, include time spent:

- at work and required to be working, or on standby near the workplace (but do not include rest breaks that are taken)
- not working because of machine breakdown, but kept at the workplace
- waiting to collect goods, meet someone for work or start a job
- travelling in connection with work, including travelling from one work assignment to another
- training or travelling to training
- at work and under certain work-related responsibilities even when workers are allowed to sleep (whether or not a place to sleep is provided)

Do not include time spent:

- travelling between home and work
- away from work on rest breaks, holidays, sick leave or maternity leave
- on industrial action
- not working but at the workplace or available for work at or near the workplace during a time when workers are allowed to sleep (and you provide a place to sleep)

Example 1

A care worker has 2 appointments in the morning and does not take any breaks. The worker must be paid at least the minimum wage for the time he spends at the appointments, plus the travel time between appointments.

Example 2 A care worker has 2 appointments, one in the morning and one in the afternoon. After the first appointment he goes home to have a break before he goes to his afternoon appointment. The time spent travelling from the first appointment to his home and from his home to the second appointment does not count towards the minimum wage.

If the care worker did not go home but took a break on the way to his next appointment, he would be paid for any travel time but not for the break.

Example 3 A care worker has one appointment in the morning, then goes to the office to work there. At the office she is entitled to a 30-minute break. Then she goes to another appointment in the afternoon.

The worker must be paid at least the minimum wage for the time at the appointments, plus the travel time to and from the office. The break at the office does not count towards her minimum wage calculation.

Call the Acas helpline (<https://www.gov.uk/pay-and-work-rights-helpline>) for advice about the National Minimum Wage.

2. Paid by the hour

Workers paid according to the number of hours they are at work are classed as doing ‘time work’.

For these workers, the average hourly pay has to be at least the National Minimum Wage, worked out over the period each pay packet covers - so for a worker who gets paid once a month, this period will be 1 month.

Example

Workers in a call centre are paid for the number of hours they work each month.

Alan works in the call centre. He is 22 and is eligible for the National Minimum Wage rate (<https://www.gov.uk/national-minimum-wage-rates>) of £8.36. He works a total of 140 hours during the month of January.

This means he must be paid at least £1,170.40 for this month’s work (£8.36 multiplied by 140).

Use the National Minimum Wage calculator (<https://www.gov.uk/am-i-getting-minimum-wage>) to check if payments are at least at the minimum wage.

3. Paid an annual salary

Most people paid an annual salary are classed as doing ‘salaried hours work’.

To find out if they are getting the minimum wage you must work out how many basic hours they work in return for their salary.

Someone is usually doing salaried hours work if all of the following apply:

- their contract states how many hours they must work in return for their salary (their basic hours)
- they’re paid in equal, regular instalments through the year, for example monthly or every 4 weeks
- there is no more than a month between each payment
- they do not get paid more than once a week

If someone is paid monthly they do not need to be paid exactly the same amount each month, but they must get the same total amount every 3 months (each quarter of the year).

Salaried hours workers' contracts might not state the total number of basic hours the worker must work over the entire year, but you must be able to work this out from the contract.

For example, if a contract states the days of the week someone is expected to work and the basic hours for each day, you can use this to work out the total basic hours someone is expected to work over the year.

You can then use this figure to make sure the rate of pay is at least the minimum wage.

Work out the hourly rate

1. Find the basic annual hours in the worker's contract.
2. Divide this by the number of times they get paid each year (for example 12 if they get paid monthly) - this gives you the average number of hours covered by each pay packet.
3. Divide the amount they get in each pay packet by this number (average hours). This gives you the worker's hourly rate.

Example

Jeba's contract says she must work 2,040 hours each year.

She's 22 and is eligible for the National Minimum Wage rate (<https://www.gov.uk/national-minimum-wage-rates>) of £8.36 per hour.

She gets paid monthly (12 times a year), so each pay packet covers an average of 170 hours (2,040 divided by 12).

This means she must be paid at least £1,421.20 a month (£8.36 multiplied by 170) for the basic hours in her contract.

If you know how many basic hours someone works for each payment they get, you can use the National Minimum Wage calculator (<https://www.gov.uk/am-i-getting-minimum-wage>) to check if they're paid the minimum wage.

Extra hours

Employers must pay at least the minimum wage for any hours worked in addition to what's agreed in the worker's contract.

Other salaried workers

Some people paid a salary may not be salaried hours workers, for example if there is more than a month between each payment.

These people are usually classed as doing 'time work (<https://www.gov.uk/minimum-wage-different-types-work/paid-by-the-hour>)' when working out if they are paid minimum wage or not.

4. Paid per task or piece of work done

Workers paid per task they perform or piece of work they do (known as piece work) are classed as doing 'output work'.

They must be paid either:

- at least the minimum wage for every hour worked
- a 'fair rate' for each task or piece of work they do

Output work can usually only be used in limited situations when the employer does not know which hours the worker does (such as with some home workers).

The work is not classed as output work if the employer sets either:

- a minimum or maximum time the worker must work
- the start and finish times for a period of work

If the employer sets the times of work this counts as 'time work (<https://www.gov.uk/minimum-wage-different-types-work/paid-by-the-hour>)'.

Fair rate

The fair rate is the amount that must be paid for each piece of work, to make sure someone working at an average speed is paid at least the minimum wage per hour.

There is a way to work out the fair rate per piece of work done which employers must follow.

Work out the average rate of work per hour

Employers must carry out a fair test to find out how many tasks or pieces an average worker completes in an hour (the average rate of work).

1. Test some or all of the workers. The group you test must be typical of the whole workforce - not just the most efficient or fastest ones.
2. Work out how many pieces of work have been completed in a normal working hour.
3. Divide this by the number of workers to work out the average rate.
4. If the work changes significantly, do another test to work out the new average rate. It's not necessary to do another test if the same work is being done in a different environment, for example work previously done in a factory being done at home.

Work out the fair rate

1. Divide the average rate of work by 1.2 (this means new workers will not be disadvantaged if they're not as fast as the others yet).
2. Divide the hourly minimum wage rate (<https://www.gov.uk/national-minimum-wage-rates>) by that number to work out the fair rate for each piece of work completed.

Example

On a farm, workers are paid for each kilogram of strawberries they pick. On average a worker can pick 30 kilograms of fruit an hour. This number is divided by 1.2 to make 25.

Although the farm is open from 9am to 6pm each day, workers can choose the hours they work within these times.

Andy works on the farm. He is eligible for the National Living Wage rate (<https://www.gov.uk/national-minimum-wage-rates>) of £8.91.

To meet the minimum wage he is paid 36p for each kilogram of strawberries he picks (£8.91 divided by 25, rounded up to the nearest pence).

He will be paid depending on how many kilograms he actually picks, not by how long he spends on the farm each day.

If an agricultural worker was employed before 2013 or is in Wales, they may be entitled to the Agricultural Minimum Wage (<https://www.gov.uk/agricultural-workers-rights>). There are also different rules and rates for agricultural workers in Scotland (<https://www.gov.scot/publications/agricultural-wages-scotland-twenty-fourth-edition-guide-workers-employers/>) and Northern Ireland (<https://www.daera-ni.gov.uk/articles/awb-agricultural-rates-pay-orders-and-reports>).

Give notice of fair rate

To use a fair rate an employer must give each worker a written notice before they start work for the first time.

The notice must:

- say that the worker will be paid for producing a piece of work or completing a task, for example picking a certain amount of fruit
- say that to calculate whether minimum wage is being paid it's assumed the task will take an average time to complete
- confirm if the average time to complete the task has been tested or is an estimate
- say how many tasks or pieces of work it's assumed someone can complete in an hour
- give the amount to be paid for each piece that the worker completes
- include the ACAS helpline number, which is 0300 123 1100

If employers do not give a worker a complete notice then the worker is entitled to be paid by the hour (<https://www.gov.uk/minimum-wage-different-types-work/paid-by-the-hour>) instead.

5. Paid in other ways (unmeasured work)

If the work is not covered by any of the other types of work, it's 'unmeasured work'.

Unmeasured work includes being paid a set amount to do a particular task, for instance being paid £500 to lay a patio, regardless of how long it takes.

To work out the minimum wage for unmeasured work, either:

- record every hour worked and use the National Minimum Wage calculator (<https://www.gov.uk/am-i-getting-minimum-wage>) to make sure the worker gets the minimum wage
- make a 'daily average agreement of hours'

Daily average agreement of hours

This is when the employer and worker agree a typical number of hours per day they expect to work on average. One agreement can cover several pay reference periods (for example, weeks if the worker's paid weekly) if there's no change in the average number of hours.

Daily average agreements of hours must:

- be agreed in writing
- be made before the start of the pay reference period they cover
- say how many hours the work should take each day (on average)

The employer must be able to prove that the number of hours worked on average is realistic.

Example

Louise is paid weekly and is 31. She's eligible for the National Living Wage rate (<https://www.gov.uk/national-minimum-wage-rates>) of £8.91 an hour.

In a particular week she's paid £130.

Her agreed daily average number of hours is 5.

In that week she worked for 4 days, so she's counted as having worked 20 hours that week (4 times 5).

£130 divided by 20 hours gives a rate of £6.50 an hour. That's less than the National Living Wage.