



# National Minimum Wage Act 1998

## 1998 CHAPTER 39

### *Exclusions*

#### **43 Share fishermen**

A person—

- (a) employed as master, or as a member of the crew, of a fishing vessel, and
- (b) remunerated, in respect of that employment, only by a share in the profits or gross earnings of the vessel,

does not qualify for the national minimum wage in respect of that employment.

#### **44 Voluntary workers**

(1) A worker employed by a charity, a voluntary organisation, an associated fund-raising body or a statutory body does not qualify for the national minimum wage in respect of that employment if he receives, and under the terms of his employment (apart from this Act) is entitled to,—

- (a) no monetary payments of any description, or no monetary payments except in respect of expenses—
  - (i) actually incurred in the performance of his duties; or
  - (ii) reasonably estimated as likely to be or to have been so incurred; and
- (b) no benefits in kind of any description, or no benefits in kind other than the provision of some or all of his subsistence or of such accommodation as is reasonable in the circumstances of the employment.

(2) A person who would satisfy the conditions in subsection (1) above but for receiving monetary payments made solely for the purpose of providing him with means of subsistence shall be taken to satisfy those conditions if—

- (a) he is employed to do the work in question as a result of arrangements made between a charity acting in pursuance of its charitable purposes and the body for which the work is done; and
- (b) the work is done for a charity, a voluntary organisation, an associated fund-raising body or a statutory body.

(3) For the purposes of subsection (1)(b) above—

- (a) any training (other than that which a person necessarily acquires in the course of doing his work) shall be taken to be a benefit in kind; but
- (b) there shall be left out of account any training provided for the sole or main purpose of improving the worker's ability to perform the work which he has agreed to do.

(4) In this section—

“associated fund-raising body” means a body of persons the profits of which are applied wholly for the purposes of a charity or voluntary organisation;

“charity” means a body of persons, or the trustees of a trust, established for charitable purposes only;

“receive”, in relation to a monetary payment or a benefit in kind, means receive in respect of, or otherwise in connection with, the employment in question (whether or not under the terms of the employment);

“statutory body” means a body established by or under an enactment (including an enactment comprised in Northern Ireland legislation);

“subsistence” means such subsistence as is reasonable in the circumstances of the employment in question, and does not include accommodation;

“voluntary organisation” means a body of persons, or the trustees of a trust, which is established only for charitable purposes (whether or not those purposes are charitable within the meaning of any rule of law), benevolent purposes or philanthropic purposes, but which is not a charity.

## 45 Prisoners

(1) A prisoner does not qualify for the national minimum wage in respect of any work which he does in pursuance of prison rules.

(2) In this section—

“prisoner” means a person detained in, or on temporary release from, a prison;

“prison” includes any other institution to which prison rules apply;

“prison rules” means—

- (a) in relation to England and Wales, rules made under section 47 of the Prison Act 1952;
- (b) in relation to Scotland, rules made under section 39 of the Prisons (Scotland) Act 1989; and
- (c) in relation to Northern Ireland, rules made under section 13 of the Prison Act Northern Ireland) 1953.