

EXPLANATORY MEMORANDUM TO
THE NATIONAL MINIMUM WAGE (AMENDMENT) REGULATIONS 2014

2014 No. [XXXX]

1. This explanatory memorandum has been prepared by the Department for Business Innovation and Skills and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The National Minimum Wage (Amendment) Regulations 2014 (“the Regulations”) amend the National Minimum Wage Regulations 1999 (S.I. 1999/584).

2.2 The Regulations provide that workers who are participating in a traineeship in England do not qualify for the national minimum wage in respect of work done as part of that traineeship.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 The National Minimum Wage Act 1998 and the National Minimum Wage Regulations 1999 provide for a minimum pay per hour to workers. The National Minimum Wage Regulations 1999 include various exemptions for certain workers who do not qualify for the national minimum wage.

5. Territorial Extent and Application

5.1 This instrument applies in the United Kingdom. The exemption for traineeships applies only to traineeships in England.

6. European Convention on Human Rights

6.1 The Minister for Employment Relations and Consumer Affairs has made the following statement regarding Human Rights:

In my view the provisions of the National Minimum Wage (Amendment) Regulations 2014 are compatible with the Convention rights.

7. Policy Background

- What is being done and why

7.1 Traineeships are a skills programme which includes work experience. They are a part of the Government's drive to tackle youth unemployment. Lasting a maximum of 6 months, traineeships are aimed at young people aged 16-23¹ without the skills or work experience needed to get a sustainable job. Their core content is work preparation training, tuition in English and mathematics (as required) and a work experience placement. Providers have the flexibility to arrange these elements in accordance with individual need. The aim of traineeships is to support young people to be able to compete for Apprenticeships or other jobs. The age group for traineeships will be extended to include 24 year olds from 2014/15.

7.2 Employers are not required to pay young people for undertaking work experience as part of a traineeship because those taking part are by definition not yet ready for work, thus their work experience placement will be a learning experience as part of an integrated programme designed to help them gain the skills and experience they need to compete in the labour market. However, employers are encouraged (but not required) to consider providing trainees with support to meet their travel or meal costs. In addition, individuals on traineeships are able to apply for existing programmes of financial support aimed at learners.

7.3 There have been exemptions from the national minimum wage for participants in government schemes or programmes that provide training and work experience since the introduction of the minimum wage in 1999. The Regulations clarify that any work done as part of a traineeship does not qualify for the national minimum wage.

- Consolidation

7.4 The Department is planning to consolidate amendments to the National Minimum Wage Regulations 1999 into a single instrument. The Department intends to introduce the consolidated regulations, following consultation, during this Parliament.

8. Consultation outcome

8.1 A discussion paper² was published in January 2013 setting out policy proposals for traineeships. This received over 450 written responses. Traineeships for 16 to 23 year

¹ Up to age 25 for those individuals who are subject to learning difficulty assessment (LDA).

² http://media.education.gov.uk/assets/files/pdf/t/updated_%20traineeships%20discussion%20paper%20-%20january%202013.pdf

olds were subsequently announced in July 2013 with the publication of the Traineeships Framework for Delivery³.

9. Guidance

9.1 Guidance, including detailed guidance to assist employers and low paid workers in their understanding of their rights and responsibilities regarding the national minimum wage, is available on the Gov.uk website. The guidance will be updated to reflect the provisions in the Regulations.

10. Impact

10.1 We consider that the Regulations will impose no additional costs on business since they merely provide that workers who are participating in a traineeship in England do not qualify for the national minimum wage in respect of work done as part of that traineeship.

11. Regulating small business

11.1 The exemption for traineeships in the Regulations will ensure small businesses are able to offer work experience placements as part of traineeships without concerns regarding wages.

12. Monitoring & review

12.1 An external evaluation of traineeships has been commissioned which will include assessing the impact of the programme on providers, employers and trainees.

13. Contact

13.1 Helen McDaniel or Anthony Chalmers at the Department for Business Innovation and Skills can answer any queries regarding the instrument. Helen can be contacted on 020 7215 2041 or helen.mcdaniel@bis.gsi.gov.uk, Anthony on 0114 207 5390 or anthony.chalmers@bis.gsi.gov.uk.

³ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/223591/Traineeships-framework-July2013.pdf