

EXPLANATORY MEMORANDUM TO
THE NATIONAL MINIMUM WAGE (AMENDMENT) REGULATIONS 2015
2015 No. 1724

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 2015 (“the Regulations”) amend the National Minimum Wage Regulations 2015.

2.2 The Regulations increase the hourly rate of the National Minimum Wage (“NMW”) for adults aged 21 years or older, 18-20 year olds, 16-17 year olds and apprentices who are under the age of 19 or in the first year of their apprenticeship. The Regulations also increase the maximum daily amount for living accommodation that is allowed to count towards pay for NMW purposes. These provisions will come into force on 1 October 2015.

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

3.1 None.

4. **Legislative Background**

4.1 The Regulations implement the majority of the recommendations on the NMW rates contained in the 2015 report of the Low Pay Commission (“the LPC”). The LPC is an independent body which assisted with the introduction of the NMW and which has the continuing function under the National Minimum Wage Act 1998 of reporting on matters relating to the NMW that are referred to it by the Secretary of State.

4.2 The National Minimum Wage Regulations 2015 came into force on 6 April 2015. The instrument consolidated the National Minimum Wage Regulations 1999 and subsequent amending regulations with the purpose of making the rules clearer and more workable for employers and employees. The changes were made to reflect current drafting practices, including making provisions gender-neutral, to ensure that the rules are set out as clearly as possible. There were also changes made to the structure of the rules, including the use of shorter and more focused provisions, to make it easier for the reader to navigate. The instrument did not introduce substantive changes to the rules.

5. **Territorial Extent and Application**

5.1 This instrument applies in the United Kingdom.

6. European Convention on Human Rights

6.1 The Minister of State for Skills has made the following statement regarding Human Rights:

In my view the provisions of the National Minimum Wage (Amendment) Regulations 2015 are compatible with the Convention rights.

7. Policy Background

7.1 The NMW was introduced on 1 April 1999 and creates an obligatory threshold pay level. The intention is to protect workers from unacceptably low rates of pay and provide incentives to work.

7.2 Decisions on NMW rates and other related matters are usually based on recommendations made by the LPC. The LPC's 2015 report was published on 17 March 2015. Copies of the report and the Government's response have been presented to both Houses. The Regulations follow the recommendations of the LPC on the NMW rates with the exception of the apprentice rate. The LPC's 2015 report recommended that the apprentice rate should be increased by seven pence to £2.80 an hour from 1 October 2015. The Government believes it is important to improve the attractiveness of apprenticeships for young people by delivering a wage that is comparable to other choices of work. The Government concluded that a 21% increase in the apprentice rate to £3.30 would be appropriate.

7.3 Where the Secretary of State makes Regulations which depart from an LPC rate recommendation, a Report is to be laid before each House of Parliament containing a statement of the reasons for the decision. A copy of this Report is attached to this memorandum.

7.4 The Government believes that the Regulations will be of public interest because it estimates that around 2.4 million low paid workers stand to benefit from the NMW rate increases.

8. Consultation

8.1 The LPC carries out a wide-ranging consultation and fact-finding exercise before arriving at its recommendations, including taking written and oral evidence and making a series of visits throughout the UK. Details of this consultation are referred to in its annual report.

9. Guidance

9.1 Information about NMW regulations and requirements can be found on the Gov.uk website.

10. Impact

10.1 The impact on business of the increases in the NMW rates is estimated to be a £628.5 million cost. This is because the Department believes that in the absence of any statutory requirement to increase the NMW, employers would freeze the wage rates of low paid workers. The NMW is now part of employment practices and implementation costs of administering the proposed increase will be minimal.

10.2 Within this figure, this Department estimates that around 75,000 apprentices stand to benefit from the increase in the NMW rate and that it will cost employers £75.6 million (a direct impact on business of £38.8 million based on 2015 prices) in increased wage bills.

11. Regulating small business

11.1 The LPC's recommendations were based upon extensive analysis and gathering of evidence, including evidence received from, and discussion with, small businesses and their representatives.

12. Monitoring & review

12.1 The LPC monitors, evaluates and reviews the NMW rates on an annual basis. In doing this, it takes account of the state of the economy and employment and unemployment levels. The results of this work are published in its annual report.

12.2 The Minister of State for Skills has made the following statement regarding the duty to review regulatory provisions in secondary legislation: it is not appropriate in the circumstances to make provision for review by the Secretary of State in the National Minimum Wage (Amendment) Regulations 2015. This is because a requirement on the Secretary of State to carry out a review of the Regulations would undermine established arrangements in which the Secretary of State, under the powers in the National Minimum Wage Act, routinely consults with the LPC to undertake a review of the NMW rates which are set out in secondary legislation.

13. Contact

13.1 Simon McGlone at the Department for Business Innovation and Skills, Tel: 0207 215 4253 or email: simon.mcglone@bis.gsi.gov.uk can answer any queries regarding the instrument.