

# National Minimum Wage entitlement

## 1. What is the minimum wage

The government sets a minimum amount workers must get paid on average for the hours they work. This is called the National Minimum Wage (NMW) or the National Living Wage (NLW) if you're aged 25 or over.

### Current rates for the minimum wage

The minimum wage rate varies depending on your age and whether you are an apprentice.

Wage band	Rates from 1 April 2018
25 and over	£7.83
21 to 24	£7.38
18 to 20	£5.90
Under 18	£4.20
Apprentice	£3.70

### April 2019 rate increase

The minimum wage rates will increase in April 2019.

Wage band	Rates from 1 April 2019
25 and over	£8.21
21 to 24	£7.70
18 to 20	£6.15
Under 18	£4.35
Apprentice	£3.90

See the [previous minimum wage rates on GOV.UK](#).

## 2. Who gets the minimum wage

Anyone [classified as a worker](#) must get the National Minimum Wage or National Living Wage.

You are entitled to receive a minimum wage if you are a:

- full-time worker
- part-time worker
- agency worker
- casual worker
- zero hours worker
- apprentice
- worker paid by commission
- worker paid by the number of items you make (piece work)
- home worker
- casual labourer, for example someone hired for one day
- trainee, or on probation
- disabled worker
- agricultural worker
- foreign worker
- seafarer
- offshore worker

You are not entitled to a minimum wage if you are:

- [self-employed](#) (if you choose to be)
- a volunteer (if you choose to be)
- a company director
- a member of the armed forces
- a work experience student, depending on the length of your placement
- under school leaving age

### **If you live in your employer's home**

You are entitled to the minimum wage if you live in your employer's home, unless:

- you're a member of their family
- you are not a member of the family, but you do share in the work and leisure activities and are not charged for meals or accommodation, for example an au pair

## Who gets the apprentice rate

You are entitled to the apprentice rate if you are either:

- in the first year of your current apprenticeship agreement
- an apprentice aged under 19

Otherwise you are entitled to the minimum wage for your age, even if you

are an apprentice.

### 3. How the minimum wage is calculated

To check if you are getting the National Minimum Wage or National Living Wage, you compare the minimum wage rates with your average hourly rate.

You work out your average hourly rate based on your 'pay reference period'. The pay reference period is the period of time your pay represents. So if you get paid weekly, your pay reference period will be one week.

It is possible to get paid different hourly rates, as long as on average it works out to be at least the minimum wage.

For example, if you work 40 hours a week and are paid weekly you would need to work out the average hourly rate based on your total pay for the week. So if you get £2.50 per hour for 10 hours and £10 per hour for the other 30 hours, your average hourly rate is £8.12.

### Check if you are getting minimum wage

Use the [National Minimum Wage and Living Wage calculator on GOV.UK](#) to check if:

- you're getting paid the National Minimum Wage or National Living Wage
- you've been paid correctly in previous years

### What else affects minimum wage

National Minimum Wage and National Living Wage can be affected by:

- the amount of time you are required to work
- commission
- work-related expenses
- pay deductions

### Commission

Commission counts towards minimum wage.

Your total pay including any commission you earn must add up to at least the minimum wage for the hours you worked in each pay period.

Your employer must 'top up' your pay if you have not made enough commission to earn the minimum wage.

## What can be deducted from the minimum wage

Your employer is allowed to make some deductions that could leave you with less than the National Minimum Wage or National Living Wage in your take-home pay. This includes:

- tax and National Insurance contributions
- paying back an advance or overpayment
- trade union fees
- a charge for accommodation provided by your employer (see [accommodation rate information on GOV.UK](#))

Some pay deductions and work-related expenses cannot reduce your pay below the minimum wage.

These include:

- tools
- uniforms
- travel costs (except getting to and from work)
- training courses

For example, you might be required to buy a uniform for work. This is allowed as long as your total pay minus the uniform cost is still above the minimum wage.

## 4. What to do if you're not getting minimum wage

If you're not getting paid the correct National Minimum Wage or National Living Wage rate you can:

- resolve directly with your employer
- report to HMRC to investigate
- make a claim to an employment tribunal
- make a court claim

### Resolving directly with your employer

If you are not getting paid the minimum wage, you can try raising the issue with your employer. If there has been a mistake, an informal chat can be the quickest way to resolve it.

It can help if you:

- show a copy of any calculations from the [National Minimum Wage and Living Wage calculator on GOV.UK](#)
- show other evidence, for example a copy of your payslips or

employment contract

- say what you'd like to happen to resolve the issue

If a minimum wage issue cannot be resolved informally, you can make a formal complaint to your employer. This is called 'raising a grievance'.

Read more about how to [raise an issue with your employer](#).

If you are not able to resolve the issue with your employer and feel you need to take things further, you can speak to an [Acas Helpline](#) adviser who will explain possible next steps and the risks and benefits of each.

Acas advisers cannot tell you what to do, give legal advice or do calculations for you, for example calculate the National Minimum Wage.

## Report to HMRC to investigate

If you have not been paid the minimum wage you are entitled to, you can make a complaint to HMRC (HM Revenue & Customs).

Complaints to HMRC can be anonymous.

HMRC has the power to investigate complaints about minimum wage, and can issue a notice for money owed to you. They can also fine employers and take them to court if they refuse to pay.

To report a complaint to HMRC you can use the [pay and work rights complaints form](#) or [call the Acas helpline](#).

## Make a claim to an employment tribunal

If you believe you have not been paid the minimum wage you can make a claim to an employment tribunal. If you make a claim, your most recent National Minimum Wage or National Living Wage underpayment needs to be within 3 months of the day you start your claim.

To make an employment tribunal claim you will have to [notify Acas first](#). You and your employer will have the option of trying to resolve your dispute with early conciliation before proceeding with a tribunal claim.

## Make a court claim

In some circumstances, it is possible to take your employer to court for not paying the minimum wage. For example if you're past the 3 month time limit to make an employment tribunal claim.

If you want to [make a court claim](#) you must seek legal advice first.

## If you've been treated unfairly because of minimum wage

Your employer should not dismiss you or treat you unfairly (cause you 'detriment') if you:

- become entitled to a higher rate of the minimum wage
- assert your right to minimum wage
- make a complaint to HMRC

Detriment means unfair treatment that leaves you worse off, for example:

- reducing your hours
- overlooking you for promotions or development opportunities
- saying no to your training requests without good reason

If you feel you've experienced detriment or been dismissed because of minimum wage entitlement, you might be able to make a claim to an employment tribunal.

## 5. If an employer does not pay minimum wage

It is against the law to pay workers below the National Minimum Wage or National Living Wage or to falsify pay records.

### Investigation by HMRC

Workers can report employers to HMRC (HM Revenue & Customs) for not paying the minimum wage. Initial reports can be anonymous.

If HMRC finds that an employer has not paid at least the minimum wage, they can send a notice of arrears plus issue a penalty for not paying the correct rate of pay.

HMRC can also take employers to civil court for not paying the National Minimum Wage or National Living Wage. The maximum fine for non-payment is £20,000 per worker. Employers who fail to pay can be named publicly and banned from being a company director for up to 15 years.

### Taken to tribunal or court

Employers can be taken to employment tribunal or civil court if a worker feels they have:

- not been receiving the National Minimum Wage or National Living Wage
- been dismissed or experienced 'detriment' (unfair treatment)

because of their right to the National Minimum Wage or National Living Wage

- been discriminated against because their age means they are entitled to a higher minimum wage rate