

# National Minimum and the Living Wage

---

*By Amy Paxton, Senior Employment Consultant, Croner - September 2015*

The National Minimum Wage (NMW) requires that employers pay workers a minimum hourly rate of pay. Since October 2004, this has covered most workers over the age of 16. The minimum wage rate is set by the Government which are generally updated from 1 October each year.

There are seven key questions that employers need to consider to ensure they comply with the law:

1. What is a worker?
2. What hours are counted as having been worked?
3. What type is the particular worker's job arrangement?
4. How many hours have been worked?
5. What is the pay for the work?
6. What is the hourly rate of pay?
7. Does this rate comply with the NMW?

When calculating NMW an employer needs to ensure that the worker has been paid at least the NMW on average for the time worked in the pay reference period for that worker. E.g. where a worker is paid weekly the reference period will normally be one week. The reference period can be no longer than one month so if an employer does pay workers at intervals more than a month apart, they need to still use a one month reference period when ensuring NMW requirements have been met.

## **New rates from October**

From 1 October 2015 the National Minimum Wage (NMW) rates increase to £3.30 for apprentices currently exempt from the NMW (eg those under the age of 19 and older apprentices in the first year of apprenticeship), £3.87 for 16-17 year olds, £5.30 for 18-20 year olds and £6.70 for adults aged 21 and over.

## **The living wage**

Included in the Summer Budget 2015 was the introduction of a new National Living Wage (NLW) of over £9 an hour by 2020. From April 2016, the new NLW will be £7.20 an hour for those aged 25 and over, this move is effectively adding an additional tier to the NMW.

## **Breaching NMW legislation**

It is often the case that the underpayment of the NMW is made as a consequence of errors in calculation, poor record keeping or a lack of understanding of regulations governing this area, and therefore not necessarily the conscious decision of an employer seeking to deliberately underpay a worker. However the penalties will still apply in either circumstance. To eliminate this potential hazard employers need to keep a watching brief on the situation. Therefore, the usual yearly changing rates of the NMW need to be noted and applied, but also close attention needs to be paid to workforces that straddle age bands, where the apprentice rate is being applied, ensuring all relevant time worked for the purposes of NMW are adhered to or where deductions are made from a workers wages. All these issues have the potential to leave a worker underpaid and it is an employer's responsibility to prove, if needed that NMW has been paid.