



# FACT SHEET 1

## THE NATIONAL MINIMUM WAGE

The National Minimum Wage Act 1998 came into force on the 1st April 1999. It is against the law for your supplier of homework to pay you less than the level of the National Minimum Wage (NMW). This Fact Sheet contains information about the NMW and how it applies to homeworkers. NGH also produces Fact Sheets about enforcing your right to the NMW, and keeping records for NMW purposes. To get a copy of these Fact Sheets contact the NGH freephone Employment Rights Advice Line on 0800 174095.

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### **As a homeworker, am I entitled to the NMW?**

The vast majority of workers are entitled to the national minimum wage. This includes homeworkers except those who are 'genuinely self-employed.' If a homeworker is over 16 years of age and is working for another person or company they are probably entitled to the NMW even if the supplier of the homework tells them they are self-employed. Section 35 of the NMW Act specifically includes homeworkers.

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### **My employer has told me that I'm self employed. Am I still entitled to the national minimum wage?**

Section 28(1) of the NMW Act means that an employer (or supplier of homework) has to prove that a worker is not eligible for the NMW, rather than the worker having to prove that they are eligible. This means that it is not acceptable for a supplier of homework simply to tell you that you are self-employed. Unless you are running your own business, and the person that supplies your materials is one of your customers or clients, you are likely to be entitled to the NMW. This is the case even if you are currently deemed to be responsible for paying your own income tax and National

Insurance contributions.

### **What is the rate of the NMW?**

The full 'adult' rate for workers aged 22 and over increased on 1 October 2007 to £5.52 per hour from £5.35 per hour.

The development rate (for workers aged 18-21 inclusive) increased to £4.60 per hour from £4.45 per hour on 1 October 2007.

The rate for young workers aged 16-17 increased to £3.40 per hour from £3.30 per hour on 1 October 2007.

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### **What if I am paid by piece rate?**

Most homeworkers are output workers, they are paid according to how many items they make, process, pack or assemble.

From 1 October 2004, your employer or the person who supplies your homework can comply with national minimum wage legislation in two ways.

- Your employer, or the person that supplies your homework can pay you the hourly rate of the national minimum wage for each hour that you work.
- Your employer, or the person that supplies your homework, can carry out tests to find the speed an average homeworker would take to complete the work, and set the piece rate so that an average homeworker can earn 120% national minimum wage. This is called the 'system of fair piece rates.'

### **How will the system of fair piece rates work in practice?**

If you are a piece worker, your supplier of homework should be able to show that they have carried out tests in order to calculate

fair piece rates that allow a worker of average speed to earn 120% of the national minimum wage (£6.62). The supplier of your homework does not need to carry out a timed test of all the workers, but the sample timed must be representative.

You should be given a written notice containing specified information before the start of the relevant pay reference period (the period for which you are normally paid e.g. weekly, fortnightly, monthly.) However, you do not have to be issued with a new notice with each batch of work if it has not changed in any way.

#### Example

A sewing machinist who works at an average speed can produce 12 items an hour. The current level of the national minimum wage is £5.52.

The homeworker should be paid 55.2p per item

$$\frac{5.52 \text{ (NMW)} \times 1.2}{12 \text{ (No of items produced)}} = 55.2\text{p per item}$$

A homeworker producing 12 items in an hour would earn £6.62 per hour.

All homeworkers should keep records of amount earned, work completed and time taken regardless of whether the payment is hourly or piece rate.

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#### How can I work out whether I have been paid at least the NMW?

If you are paid according to time, you should divide your gross pay (before income tax and National Insurance deductions, if these deductions are made from your wages) by the number of hours that you have worked in that pay period, to work out your hourly rate. You need to make sure that you take off any payments for work-related expenses, if you receive them, or other allowed deductions before you do this calculation. More information about what counts as national minimum wage pay can be found in 'A detailed guide to the national minimum wage.' You can get a copy

of this by telephoning the NMW Information Order Line on 0845 845 0360, or get advice from NGH on 0800 174 095.

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#### What can I do if I believe that I have not been paid the NMW?

If you do not think that you have been paid the NMW, you should take advice before you take any action. You can contact NGH and speak in the strictest confidence to the caseworker on 0800 174 095, or contact the NMW Information line on 0845 6000 678 in England and Wales, 0845 6001 768 in Scotland or 0845 6500 207 in Northern Ireland.

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#### How is the NMW being enforced?

The NMW Enforcement Teams are part of HMRC (Her Majesty's Revenue and Customs). There are 15 teams located in different parts of the UK. These Compliance Officers investigate complaints made by workers and other people, as well as selecting and visiting companies at random to ensure that they are paying workers the NMW. The NMW Compliance Unit should investigate a case on your behalf and may represent workers at tribunal.

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#### What if I get sacked?

The National Minimum Wage Act 1998 protects workers against dismissal or other detrimental action (such as victimisation) for enforcing their right to the NMW. The Act also makes it a criminal offence for an employer (or supplier of homework) 'to refuse or wilfully neglect' to pay the NMW, keep insufficient records or keep false records and to delay or obstruct officers appointed to enforce the NMW.

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#### Will the NMW affect my entitlement to state benefits?

The introduction of the national minimum wage was one of a range of measures designed to ensure that being in work pays, particularly for families with children. The Working Tax Credit and Child Tax Credit mean that many families with children will be financially better off in work than being out of work and claiming Income Support. Working Tax Credit is available to any working parent, so long as they work for 16 hours a week or more, and also to anyone over the age of 25 and working at least 30 hours a week. Child Tax Credit is

for all parents (even if they are not working). The amount that you will receive depends on the amount of your earnings, the number of children that you have and the amount of childcare costs that you have to pay. There is also a Disabled Person's Tax Credit.

If you want to know more about how the NMW will affect your entitlement to benefits, contact your local Citizens Advice Bureau (CAB) and ask for a 'better-off calculation'. You will find the telephone number for your nearest CAB in your local telephone directory or by calling Directory Enquiries. For more information on the benefits mentioned above, contact the Tax Credit Helpline on 0845 300 3900 or 0845 603 2000 in Northern Ireland.

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### **Where can I get more information?**

For more information about the National Minimum Wage you can contact NGH in confidence by telephoning the freephone Advice and Information Line on **0800 174095**.

To make a complaint you can contact the national minimum wage information line on; **0845 6000 678** in England, Scotland and Wales;  
**0845 6500 207** in Northern Ireland.

You can write to:  
NMW Enquiries  
Freepost PHQ1  
Newcastle upon Tyne  
NE98 1ZH

You can visit the government Website, TIGER (Tailored Interactive Guidance on Employment Rights) at [www.tiger.gov.uk](http://www.tiger.gov.uk)

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