



National Minimum Wage Frequently Asked Questions

What is the current National Minimum Wage?

The National Minimum Wage, with effect from July 1st 2011 is **€8.65** per hour - for an experienced adult employee

What is an Experienced Adult Employee?

An experienced adult employee is an employee who has any work experience in any two years after turning the age of 18.

What is the legal basis for the National Minimum Wage rate of €8.65?

In accordance with section 11(1) of the National Minimum Wage Act (No. 5 of 2000) the Minister for Enterprise, Trade and Innovation has made an Order declaring the national minimum hourly rate of pay to be €8.65.

What happens to the wages of those experienced adult workers who were on €7.65 per hour?

This pay rate is not longer a legal rate for an experienced adult worker from the 1st July 2011. Where an employee is paid this rate then the rate must be increased to €8.65 per hour.

Who does the National Minimum Wage Act apply to?

The National Minimum Wage applies to all employees except the following categories of employees: -

- (i) close relatives of the employer such as a spouse, father, mother, son, daughter, brother and sister;
- (ii) apprentices within the meaning of the Industrial Training Act, 1967 and Labour Services Act, 1987 including an apprentice printer, bricklayer, mechanic, plumber, carpenter/joiner and electrician (See S.I. No. 168 of 1997 for full list).

Other minimum rates of pay apply to employees whose employment is covered by either an Employment Regulation Order (ERO) or Registered Employment Agreement (REA).

What is the Definition of Employee under the National Minimum Wage Act?

An employee is a person of any age who has entered into, or works or has worked under a contract of employment. A contract of employment means a contract of service or apprenticeship or any other contract whereby an individual agrees with another person to do or perform personally any work or service for that person or a third person (whether or not the third person is a party to the contract).

Are Part-Time Employees Covered by the National Minimum Wage Act?

Yes. The Act applies to full-time, part-time, temporary and casual employees for any hours worked.

Are employees who are paid on the basis of output/productivity covered by the National Minimum Wage Act?

Yes. - An employer can pay an employee according to his/her output/productivity. The national minimum hourly rate of pay is expressed as an hourly rate of pay, not a piece or productivity rate. Therefore at the end of a pay reference period (which must not extend beyond one calendar month), an employer must ensure that such an employee's reckonable pay divided by the employee's hours of work is not less than the employee's statutory minimum hourly rate of pay entitlement under the Act.

Can an employer reduce an existing employee's pay?

An employee's rate of pay is a term/condition of their contract of employment (employees have a contract of employment or terms of employment whether notified in writing or not).

In some cases the contract or terms of employment stipulate that the employee is paid at the "prevailing NMW hourly rate". Where this is the case then an employer may reduce the employee's pay in line with the NMW rates. In other cases there may be a provision in the contract that provides for a reduction in pay. Where this is not the case any change would normally be by agreement between the parties. Such agreement can be expressed or implied, tacit or by acquiescence (i.e it can be formally agreed, informally or verbally agreed or accepted by the employee).

What options are available to an employee when an employer applies a reduction in pay without agreement?

Any dispute arising in relation to the operation of employment contracts/conditions falls to be settled either between the parties involved or by availing of the State's industrial relations dispute settlement machinery as provided for under the Industrial Relations Acts. In the event of the parties being unable to resolve a dispute relating to conditions of employment, it is open to the parties to refer the matter to the Labour Relations Commission for investigation under the Industrial Relations Acts (for such an investigation to commence the consent of both parties to participate is required).

The Payment of Wages Act 1991 provides that non-payment of wages or any deficiency in the amount of wages properly payable by an employer to an employee is regarded as an unlawful deduction from wages unless the deficiency or non-payment is attributable to an error of computation.

If an employee considers a reduction in their wages to be an improper deduction from wages or non-payment of wages, the employee may consider referring a complaint to a Rights Commissioner under the Payment of Wages Act

Alternatively if an employee considers a reduction to be a breach of their employment contract they may seek redress for breach of contract in the civil courts.

What can an employee do if they are paid less than the Minimum Wage?

Where an employee alleges that his or her employer has failed to pay the rate due under the National Minimum Wage Act, 2000, the employee may make a complaint to the National Employment Rights Authority to investigate the allegation.

Alternatively, an employee may refer a complaint in relation to entitlements under the National Minimum Wage Act 2000 to a Rights Commissioner.

A complaint may not be referred to both in relation to the same alleged under-payment.

How can an employee make a complaint to a Rights Commissioner?

A complaint to a Rights Commissioner must be made within a period of six months beginning on the date of the contravention to which the complaint relates. If the Rights Commissioner is satisfied that there are exceptional circumstances s/he may decide to extend the period for making a complaint for up to a further six months.

The relevant complaint forms for NERA and the Rights Commissioner Service can be accessed from the NERA Website www.employmentrights.ie

NERA Complaint Form

[<http://www.employmentrights.ie/en/media/Inspection%20Complaint%20Form%2026%20Aug%2010.pdf>]

Information booklets:

NERA Guide to Minimum Pay Rates

[[http://www.employmentrights.ie/en/media/employmentwagePrf4\(singlepages\).pdf](http://www.employmentrights.ie/en/media/employmentwagePrf4(singlepages).pdf)]

Detailed Guide to The National Minimum Wage Act (2000)

[http://www.employmentrights.ie/en/media/minimum_wage.pdf] and

Payment of Wages Act 1991

[<http://www.employmentrights.ie/en/media/paymentofwages.pdf>]

are available on request from NERA or can be accessed at www.employmentrights.ie

NERA Contact Details

NERA National Employment Rights Authority,

O'Brien Road, Carlow.

Telephone: (059) 917 8800, Fax: (059) 917 8912

Log onto www.employmentrights.ie

Information Services

Telephone: (059) 917 8990,

*Lo-Call: 1890 80 80 90

Log onto www.employmentrights.ie

*Callers should note the rates charged for the use of the 1890 (Lo-Call) numbers may vary among different service providers.