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# The National Minimum Wage

## Employment Law Update



### Changes to the National Minimum Wage from 1st October 2015:

- ✓ **£6.70 for those 21 years and over;**
- ✓ **£5.30 for those aged 18-20 years;**
- ✓ **£3.87 for those above school leaving age but under 18;**
- ✓ **£3.30 for apprentices.**

### National Living Wage

In April 2016 the "National Living Wage" will be introduced. For workers age 25 or over the national Living Wage will become a new legal minimum for workers aged 25 or over and will be set at £7.20 per hour.

The government has published a policy paper explaining this at [www.gov.uk/government/publications/national-living-wage-nlw/national-living-wage-nlw](http://www.gov.uk/government/publications/national-living-wage-nlw/national-living-wage-nlw)

### Comprehensive Information & Guidance on the NMW

HMRC has published an extremely comprehensive collection of guidance, forms and case studies with information for employers on how to check that they are paying their employees the national minimum wage correctly.

[www.hmrc.gov.uk/manuals/nmwmanual/index.htm](http://www.hmrc.gov.uk/manuals/nmwmanual/index.htm)

### The application of the National Minimum Wage to staff "On call."

A recent case in the Employment Appeal Tribunal dealt with the issue of whether or not an employee who was required to remain "on call" overnight was entitled to be paid the national minimum wage for all those hours, or just the hours he was

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responding to a call.

Last year in the case of *Whittlestone v BJP Home Support Ltd* it was held that a care worker employed to provide care services during sleepovers at clients' homes, where she was provided with a bed and bedding was entitled to be paid the NMW for the whole of her shift.

[www.bailii.org/uk/cases/UKCAT/2013/0128\\_13\\_1907.html](http://www.bailii.org/uk/cases/UKCAT/2013/0128_13_1907.html)

However, the recent case of *Shannon v Clifton House Residential Home* differed in that the employee was required to be "on call" between 10 p.m. and 7 a.m. whilst at his own home which was a flat within the employer's premises.

Regulation 16(1) of the National Minimum Wage Regulations 1999 states:

*Time when a worker is available at or near a place of work, other than his home, for the purpose of doing salaried hours work and is required to be available for such work shall be treated as being working hours for the purpose of and to the extent mentioned in regulation 22(3)(d) and (4)(b) except that, in relation to a worker who by arrangement sleeps at or near a place of work, time during the hours he is permitted to sleep shall only be treated as being working hours when the worker is awake for the purpose of working.*

The Employment Appeal Tribunal therefore held that as Mr. Shannon lived at his place of work, he was not entitled to the national minimum wage (NMW) for all hours of the night. Only the time during which he was awake and working would count for the purposes of the NMW.

[www.bailii.org/uk/cases/UKCAT/2015/0050\\_15\\_2409.html](http://www.bailii.org/uk/cases/UKCAT/2015/0050_15_2409.html)

**NB.** This article does not provide a full statement of the law and readers are advised to take legal advice before taking any action based on the information contained herein

**Ware & Kay**

**Contact us**

For a free, no obligation discussion call Gill Wilkinson on York **01904 716000** or Wetherby **01937 583210**.