

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* EMPLOYMENT & SOCIAL SECURITY

AMENDMENTS TO STATUTORY MINIMUM WAGE ARRANGEMENTS TO COME INTO
FORCE ON 1ST JANUARY 2020

The States are asked to decide:

Whether, after consideration of the Policy Letter entitled 'Amendments to Statutory Minimum Wage arrangements to come into force on 1st January 2020', dated 16th August 2019, they are of the opinion:-

1. To approve the Minimum Wage (Prescribed Rates and Qualifications) (Guernsey) (Amendment) Regulations, 2019 (as Appendix 1 to this Policy Letter), which pursuant to sections 1(3) and 3(1) of the Law, prescribe the hourly minimum wage rates set out below with effect from 1st January 2020:
 - a. adult minimum wage rate: £8.50 per hour (for workers aged 18 and over), and
 - b. young person's minimum wage rate: £8.05 per hour (for workers aged 16 and 17).

The above Proposition has been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

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FORCE ON 1ST JANUARY 2020

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

16th August 2019

Dear Sir

1. Executive Summary

- 1.1. In accordance with the provisions of the Minimum Wage (Guernsey) Law, 2009, (“the Law”) the Committee *for* Employment & Social Security (“the Committee”) is seeking States’ agreement to its proposals to increase the statutory minimum wage rate.
- 1.2. Section 31(3) of the Law provides that Regulations made by the Committee that set the hourly minimum wage rates shall not have effect until approved by a resolution of the States.
- 1.3. In November 2018, the States approved the Committee’s medium term plan for minimum wage rates to be increased in equal annual increments over the course of five years, until the minimum wage rates reach 60% of median earnings by 2023.
- 1.4. Following the medium term direction for minimum wage, and having consulted with representative groups of employers and employees, undertaken in accordance with Section 5 of the Law, and the consideration of the requirements of Section 6 of the Law, the Committee recommends the setting of the following minimum wage rates, to take effect from 1st January 2020:
 - Adult minimum wage rate at £8.50 per hour (currently £8.10) for workers aged 18 and over.
 - The young person’s minimum wage rate at £8.05 per hour (currently £7.50) for workers aged 16 and 17.

- 1.5. The Minimum Wage (Prescribed Rates and Qualifications) (Guernsey) (Amendment) Regulations, 2020 (Appendix 1), have been drafted to give effect to the change in rates.
- 1.6. The Committee also intends to increase the associated accommodation and food offsets. These offsets set the maximum amount an employer is permitted to deduct from an employee's wage in compensation for providing accommodation and meals. These changes, which do not require States approval, are shown below for information.
- Accommodation & food offset: £114 per week (currently £109).
 - Accommodation only offset: £82 per week (currently £78).

2. Introduction

- 2.1. The October 2007 States' resolution (Billet d'État XXII of 2007, Article 9) to implement a statutory minimum wage, gave backing to the fundamental principle that it is unacceptable for employees and workers to be paid low wages to the point of exploitation.
- 2.2. The minimum wage rates are not intended to reflect a 'living wage', particularly as different households have different family make-ups and different needs. There are several initiatives adopted by the Committee, such as a wide range of benefits, grants and social housing, which assist those with a low income.
- 2.3. In 2010, the States approved an Amendment from Deputy Fallaize (Billet d'État XI of 2010, Article 11) which was worded as follows:

"5. To direct the Commerce and Employment Department, whilst having regard to the requirements of the Minimum Wage (Guernsey) Law, 2009, to take fully into account when reviewing minimum wage rates that it is a policy objective of the States of Deliberation that the Young Persons' Minimum Wage Rate and the Adult Minimum Wage Rate should be equalised as soon as possible."

A further Amendment, from Deputy Roffey, was successful in November 2017 (Billet d'État XXIII of 2017, Article 9), which was:

"2. To direct the Committee *for* Employment & Social Security, when they bring proposals to the States for the adult and young persons' minimum wage levels for 2019 to provide clarity on their medium term plan for increasing minimum wage levels".

- 2.4. The Committee considered both Amendments when determining the minimum wage rates for 2020.

3. The medium term plan for increasing minimum wage rates

- 3.1. The purpose of the 2017 Roffey Amendment was to provide greater certainty for both employers and employees and to allow them to plan over the medium term. The Committee deemed the medium term to be the next five years for the purpose of implementing the Resolution.
- 3.2. In preparing its proposals for 2018, the Committee considered a variety of options for minimum wage levels over the medium term and invited the community to offer their views on the matter during consultations. Among the options that were examined, the Committee considered whether minimum wage rates should be linked to median earnings, or whether it would be more appropriate for the minimum wage rate to increase in line with inflation (RPIX).
- 3.3. On recommendation from the Committee, the States agreed that the minimum wage rates should be linked to median earnings, so that a person working a fulltime (40 hour) week should earn at least 60% of the median earnings figure. This would ensure that the gap between the Island's lowest paid workers and the workforce average could never grow too wide.
- 3.4. As the jump from 2018 minimum wage (£7.75) to the then median earnings figure (£9.33) was large, a gradual increase to reach this rate over the medium term was considered necessary. It was agreed that the target should be met by increasing the minimum wage rate in equal increments over a five year period.
- 3.5. 2020 will be the second year of the 5 year programme. Mindful of the direction of the States on this matter, there is still an obligation in Law for consideration of certain factors. The Committee has also consulted with industry, albeit to a lesser degree than customary in light of the medium term plan.

4. Factors to be taken into account

- 4.1. The Law requires the Committee to consider and take into account a number of factors before making Regulations setting the minimum wage rates. These are set out below:
- the current rate of the minimum wage in the United Kingdom, the Isle of Man and Jersey,
 - the current economic and trading conditions prevailing in Guernsey,
 - the rate of inflation in Guernsey,
 - the rate of unemployment in Guernsey,

- current rates of pay in Guernsey,
- the increase or decrease in rates of pay in Guernsey over the previous twelve months,
- and such other factors as appear to be relevant.

4.2. The Committee recognises the need for employers to attract and retain quality staff. The Committee considers that to do so, Guernsey must, among other things, offer pay rates that are attractive compared with other competitive jurisdictions. The current minimum wage rates for the UK, the Isle of Man and Jersey are listed below:

Table 1 – Current Minimum Wage Rates – UK, the Isle of Man and Jersey

Minimum Wage Rates (Hourly)			
	Young Person	Adult	Effective from
Guernsey	£7.50 (aged 16-17)	£8.10 (aged 18 and over)	1 st Jan 2019
United Kingdom	£4.35 (aged 16-17) £6.15 (aged 18-20)	£7.70 (aged 21-24) £8.21 (aged 25 and over)	1 st Apr 2019
Isle of Man	£6.15 (aged over 16 but under 18)	£8.25 (aged 18+, except development workers) £7.30 (development worker)	1 st Oct 2019
Jersey	Year 1: £6.02 Year 2: £7.02 ¹	£8.02 (aged 16 and over)	1 st Oct 2019

- 4.3. It is not possible to draw a straight comparison between Guernsey and the UK as in the UK, the over 25 rate is intended to be a living wage rather than a minimum wage.
- 4.4. It is worth noting that unemployment in Guernsey has been recorded as the lowest June figure since 2011, as well as the highest number of people on training schemes ever recorded.

Such other factors that appear to the Committee to be relevant

- 4.5. The following were identified as relevant when considering the statutory minimum wage rates:
- public and political expectations,
 - ensuring Guernsey remains competitive with the UK, Jersey and the Isle of Man,

¹ The young person's rates in Jersey are referred to as the Trainee Rates. Those who are on a Social Security training programme can receive those rates for a maximum period of two years.

- the impact on businesses,
- the In-Work Poverty review by the Scrutiny Management Committee,
- the impact of Brexit.

5. Duty to consult

5.1. Section 5 of the Law requires the Committee to:

“...consult such organizations, or associations of organizations, representative of employers and employees in Guernsey, and such other organizations and bodies, as appear to the Department to be appropriate.”

- 5.2. In 2018, the Committee carried out a large-scale public consultation on minimum wage rates. However, as the Committee does not intend to deviate from the medium term plan, the Committee decided its approach this year would be to engage directly with relevant employers and employees via letter.
- 5.3. The Committee wrote to the main industry groups which included, but was not limited to, the retail, hospitality, and finance sectors and representatives of unions. From the 18 letters sent, the Committee received 4 responses; 3 from industry bodies and 1 from The States of Guernsey as an employer. On the whole, the feedback was positive, however there were concerns that equalising the young person’s pay rate would create unintended consequences, such as disincentivising employers from taking on young people with little or no experience.
- 5.4. The Committee reviewed and took into consideration the feedback from engagement with industry, but did not feel that there were any major concerns with the direction approved by the States in 2018.

6. Proposed rates for 2020

Adult minimum wage rate

- 6.1. In accordance with the medium term plan, the minimum wage rates are linked to median earnings, so that a person working a fulltime (40 hour) week should earn at least 60% of the median earnings figure.
- 6.2. Median earnings for the year to Quarter 1 of 2019 was £33,530 per annum. Taking 60% of this figure and dividing it by 52 weeks and then by 40 hours, produces an hourly rate of £9.67. This is the 60% of median earnings figure, adjusted using the latest available median earnings figure, which is the target of the five year medium term plan, to be reached in 2023.

Table 4 – Minimum wage rates illustrated over the medium term, based on the 60% of median earnings approach

Adult Rate		
Year	Estimated rates in Oct 2018 report	2020 proposed rate and estimated rates
2019	£8.07	£8.10
2020	£8.39	£8.49
2021	£8.71	£8.88
2022	£9.03	£9.27
2023	£9.35	£9.67

- 6.3. As is usual, the Committee proposes to round the adult minimum wage rate for 2020 upward to £8.50.

Young person's minimum wage rate

- 6.4. The young person's rate will also be increased annually in accordance with the medium term plan. Following the resolution to equalise the young person's rate with the adult minimum rate, the medium term plan for the young person's rate will require incremental steps to reach the adult minimum rate by 2023. Rates over the next four years are illustrated below:

Table 5 – Young person's minimum wage rates illustrated over the medium term, based on the 60% of median earnings approach

Young Person's Rate		
Year	Estimated rates in Oct 2018 report	2020 proposed rate and estimated rates
2019	£7.51	£7.50
2020	£7.97	£8.04
2021	£8.43	£8.58
2022	£8.89	£9.12
2023	£9.35	£9.67

- 6.5. The Committee proposes to round the figure upward to £8.05 per hour, which is what has happened in previous years.
- 6.6. An increase in the rate for 16-17 year olds in 2020 to £8.05 per hour will be a further step in narrowing the gap between that and the adult rate. Young people aged 18 are immediately entitled to receive the Adult minimum wage (£8.50).

Accommodation and food offsets

- 6.7. The rates for accommodation and food offsets are uprated proportionately with the adult minimum wage rate. The proposed rates for 2020 are:
- Accommodation & food offset: £114 per week (currently £109)
 - Accommodation only offset: £82 per week (currently £78)

7. Conclusions

- 7.1. Having considered the criteria and relevant factors as set out in the Law, the Committee has concluded that there is a case to increase the statutory minimum wage rate with effect from 1st January, 2020, in accordance with the medium term plan.
- 7.2. It is the view of the Committee that the adult minimum wage rate should be increased from the current £8.10 per hour to £8.50 per hour.
- 7.3. The Committee maintains the view that the UK Government's aspiration to move to the "National Living Wage" rate of £9.00 per hour by 2020 needs to be borne in mind when setting the adult rate for 2020. It believes that if Guernsey does not keep pace with the UK rate, this could have implications for the Island's attractiveness to necessary guest workers, and on the Island's reputation.
- 7.4. The Committee supports the aspiration expressed in the 2010 States' Resolution to equalise the young persons' rate and the adult rate and consequently the equalisation has been incorporated into the Committee's medium term plan. The proposed differential between the adult rate and young person' rate in 2020 will be 45 pence.
- 7.5. Increasing the adult minimum wage rate to the proposed level strikes a balance between setting rates that are affordable for responsible employers operating in Guernsey, and reduces the risk of exploitation of workers.

8. Compliance with Rule 4 of the Rules of Procedure

- 8.1. There are no costs to the States arising from the propositions.
- 8.2. The Committee's proposition aligns with its purpose, which is "To foster a compassionate, cohesive and aspirational society in which responsibility is encouraged and individuals and families are supported through a scheme of social protection relating to pensions, other contributory and non-contributory benefits, social housing, employment, re-employment and labour market legislation". The proposition is in line with the themes of the Policy & Resource

Plan, approved by the States in November 2016 (Billet d'État XXVIII of 2016) and updated in June 2019 (Billet d'État IX of 2019), which are to be inclusive and equal, and to foster a mature international identity.

- 8.3. It is confirmed that the attached proposition has the unanimous support of the Committee.

Yours faithfully

M K Le Clerc
President

S L Langlois
Vice-President

M J Fallaize
J A B Gollop
E A Yerby

M J Brown
Non-States Member

A R Le Lièvre
Non-States Member

GUERNSEY STATUTORY INSTRUMENT

2019 No. 85

**The Minimum Wage (Prescribed Rates and Qualifications)
(Guernsey) (Amendment) Regulations, 2019**

<i>Made</i>	<i>15th August, 2019</i>
<i>Coming into operation</i>	<i>1st January, 2020</i>
<i>Laid before the States</i>	<i>, 2019</i>

THE COMMITTEE FOR EMPLOYMENT & SOCIAL SECURITY, in exercise of the powers conferred on it by sections 1(3), 3(1) and 31 of the Minimum Wage (Guernsey) Law, 2009^a, and all other powers enabling it in that behalf, hereby makes the following Regulations:-

Substitution of schedule to principal Regulations.

1. The principal Regulations are amended by substituting, for the Schedule to those regulations, the schedule contained in the Schedule to these Regulations.

Interpretation.

2. In these Regulations, "**the principal Regulations**" means the Minimum Wage (Prescribed Rates and Qualifications) (Guernsey) Regulations, 2012^b.

^a Order in Council No. I of 2010; as amended by Order in Council No. XIII of 2010; and Ordinance No. IX of 2016.

^b G.S.I. No. 40 of 2012; as amended by G.S.I. No. 15; G.S.I. No. 49 of 2014; G.S.I. No. 40 of 2015; G.S.I. No. 42 of 2016; G.S.I. No. 89 of 2017; and G.S.I. No. 60 of 2018.

Transitional and savings provisions.

3. (1) These regulations do not have effect in relation to any worker and his work until the first day of the first pay reference period of the worker in respect of that work.

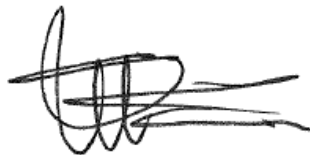
(2) For the avoidance of doubt, before the first day of the first pay reference period of the worker in respect of that work, the principal Regulations have effect in relation to that worker and that work as if these Regulations had not been made.

(3) In this regulation, "**the first pay reference period**", in relation to a worker and his work, means the first pay reference period of the worker, in respect of that work, beginning on or after the date specified in regulation 4 for these Regulations to come into force.

Citation and commencement.

4. These Regulations may be cited as the Minimum Wage (Prescribed Rates and Qualifications) (Guernsey) (Amendment) Regulations, 2019, and come into force on the 1st January, 2020.

Dated this 15th day of August, 2019

A handwritten signature in black ink, consisting of a stylized 'S' followed by a series of loops and a horizontal line extending to the right.

S. L. LANGLOIS

Vice-President of the Committee for Employment & Social Security

For and on behalf of the Committee

SCHEDULE

SCHEDULE TO BE SUBSTITUTED FOR THE SCHEDULE TO THE PRINCIPAL
REGULATIONS

"SCHEDULE
MINIMUM WAGE RATES

Regulations 1(1) and 2(1)

Adult Minimum Wage Rate	£8.50 per hour.
Young Person's Minimum Wage Rate	£8.05 per hour."

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations replace the minimum wage rates for adults and young persons with the new rates of £8.50 per hour and £8.05 per hour, respectively, for the purposes of the Minimum Wage (Guernsey) Law, 2009 ("the Law").

Under section 31(3) of the Law, these Regulations do not have effect until approved by a Resolution of the States. If so approved, these Regulations will come into force on the 1st January, 2020. The new rates will then take effect on and from the first day of the first pay reference period of each worker in respect of any particular work.