

# National Minimum Wage Bill

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## EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by Paula Barker, are published separately as Bill 15-EN.

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TO

Make provision about the national minimum wage; and for connected purposes.

**B**E IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

**1 Requirements for National Minimum Wage records kept by employers**

- (1) The Secretary of State must bring forward regulations within six months of this Act coming into force to amend regulation 59 (records to be kept by an employer) of the National Minimum Wage Regulations 2015 (S.I. 2015/621).
- (2) In drawing up the regulations, the Secretary of State must consult—
  - (a) the Director of Labour Market Enforcement,
  - (b) the Employment Agency Standards Inspectorate,
  - (c) Her Majesty's Revenue and Customs National Minimum and Living Wage enforcement team, and
  - (d) the Gangmasters and Labour Abuse Authority.
- (3) The regulations must prescribe minimum requirements for the records to be kept by employers under regulation 59 of the 2015 Regulations, including—
  - (a) the employee's name and employment details;
  - (b) the time period covered by the records;
  - (c) the total working time for each day worked, calculated in accordance with Part 5 of the 2015 Regulations;
  - (d) work start times and finish times;
  - (e) the length of any breaks taken;
  - (f) the total working time for each pay reference period;
  - (g) the hourly rate calculated in accordance with regulation 7 of the 2015 Regulations.
- (4) The regulations may make other requirements.

## **2 Duties of Local Authorities in England to ensure health and social care contractors pay National Minimum Wage**

- (1) The Secretary of State must bring forward regulations within six months of this Act coming into force governing the contractual relationship between a Local Authority in England and a service provider from whom the Local Authority procures health care services, social care services, or both. 5
- (2) “Health care” and “social care” are to be interpreted in accordance with Section 9 of the Health and Social Care Act 2008.
- (3) The regulations must prescribe mandatory contract terms to be inserted into any contract for services between a Local Authority in England and a service provider, which must require that – 10
  - (a) the service provider provides the Local Authority with evidence that it pays the National Minimum Wage to all of its employees who are engaged in the provision of the services contracted for;
  - (b) this evidence be in the form of the National Minimum Wage record required to be kept by an employer under regulation 59 of the National Minimum Wage Regulations 2015 (records to be kept by an employer); 15
  - (c) if the service provider fails to produce that record, or if the record produced does not provide evidence of payment of the National Minimum Wage to all relevant employees, the Local Authority must issue a notice requiring the service provider, within 28 days, to remedy any shortfall in payment to relevant employees and to produce the evidence required by this Section; 20
  - (d) if the service provider fails to comply with that notice issued within the 28 day period, the Local Authority must terminate the contract for services. 25
- (4) The regulations may make other requirements.

## **3 Regulations**

- (1) The power to make regulations under this Act is exercisable by statutory instrument. 30
- (2) Regulations under this Act may –
  - (a) make different provision for different purposes;
  - (b) make supplementary, incidental, consequential, transitional or saving provision.
- (3) A statutory instrument containing regulations under this Act may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament. 35

## **4 Extent, commencement and short title**

- (1) This Act extends to England and Wales, Scotland and Northern Ireland, subject as follows. 40
- (2) Section 2 extends to England and Wales only.
- (3) This Act comes into force on the day on which it is passed.
- (4) This Act may be cited as the National Minimum Wage Act 2020.

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## B I L L

To make provision about the national minimum wage; and for connected purposes.

*Presented by Paula Barker  
supported by Mike Amesbury,  
Mick Whitley, Navendu Mishra,  
Ian Byrne, Apsana Begum,  
Kate Osborn, Rachel Hopkins,  
Beth Winter and Grahame Morris.*

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