

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Fifth Delegated Legislation Committee

## DRAFT NATIONAL MINIMUM WAGE (AMENDMENT) REGULATIONS 2015

*Thursday 10 September 2015*

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**The Committee consisted of the following Members:**

*Chair: MIKE GAPES*

† Barclay, Stephen (*North East Cambridgeshire*)  
(Con)  
Bardell, Hannah (*Livingston*) (SNP)  
† Boles, Nick (*Minister for Skills*)  
† Doughty, Stephen (*Cardiff South and Penarth*)  
(Lab/Co-op)  
† Duncan, Sir Alan (*Rutland and Melton*) (Con)  
† Heaton-Harris, Chris (*Daventry*) (Con)  
† Mills, Nigel (*Amber Valley*) (Con)  
† Morden, Jessica (*Newport East*) (Lab)  
† Morris, Anne Marie (*Newton Abbot*) (Con)  
† Osamor, Kate (*Edmonton*) (Lab/Co-op)

† Pennycook, Matthew (*Greenwich and Woolwich*)  
(Lab)  
† Pow, Rebecca (*Taunton Deane*) (Con)  
† Prentis, Victoria (*Banbury*) (Con)  
† Sherriff, Paula (*Dewsbury*) (Lab)  
† Simpson, Mr Keith (*Broadland*) (Con)  
† Thomas-Symonds, Nick (*Torfaen*) (Lab)  
† Tugendhat, Tom (*Tonbridge and Malling*) (Con)  
Wilson, Sammy (*East Antrim*) (DUP)

Katya Cassidy, *Committee Clerk*

† **attended the Committee**

## Fifth Delegated Legislation Committee

Thursday 10 September 2015

[MIKE GAPES *in the Chair*]

### Draft National Minimum Wage (Amendment) Regulations 2015

11.30 am

**The Minister for Skills (Nick Boles):** I beg to move,

That the Committee has considered the draft National Minimum Wage (Amendment) Regulations 2015.

It is a great pleasure to serve under your chairmanship, Mr Gapes, and indeed to be the first person to address you in the Chair of a Statutory Instrument Committee. I look forward—or I hope to, assuming the Prime Minister keeps me in post—to doing so many more times.

The purpose of the draft regulations is to increase the hourly rate of the national minimum wage for all workers and to increase the maximum amount for living accommodation that counts towards minimum wage pay, in line with recommendations from the Low Pay Commission. Those recommendations follow consultation with employers, workers and their representatives, together with extensive research and analysis. As the expert body on low pay issues, the Low Pay Commission consists of three commissioners from employer backgrounds, three from employee representative backgrounds and three independents. Its recommendations, which are unanimous, reflect the objectives of both employers and unions.

In line with the advice from the Low Pay Commission, the Government are uprating the national minimum wage from 1 October 2015 so that the adult rate will be £6.70 per hour; young people aged between 18 and 20 years old will earn £5.30, and 16 or 17-year-olds will have a minimum wage rate of £3.87 per hour. That represents an increase of 3% for the adult rate, the largest real increase since 2006. Low-paid workers will enjoy the biggest cash increase in their pay packet since 2008, and the adult rate will be closer to the average wage than ever before. The adult rate increase will benefit more than 2 million low-paid workers on the national minimum wage and mean that full-time workers on the adult rate receive an additional £416 a year in their pay packet.

The national minimum wage structure includes a specific rate for apprentices, which applies to all apprentices under the age of 19 or in the first year of their apprenticeship. The Government believe that it is important to improve the attractiveness of apprenticeships for young people by delivering a wage that is comparable to other choices of work. We are therefore increasing the apprentice minimum wage by 21%. That is an increase of 57p an hour to £3.30 and means that someone working full-time on the apprentice rate will be £1,185 better off per year than last year. That is a departure from the Low Pay Commission's apprentice rate recommendation of a 7p increase to £2.80.

We would not depart from the commission's recommendation unless we felt strongly that there was justification for doing so. Apprenticeships are at the heart of the Government's drive to equip people of all ages with the skills that employers need to grow and compete. We want to ensure that apprenticeships are attractive and to encourage more young people to consider apprenticeships as a credible alternative to higher education and jobs without training. The Government's analysis shows that many apprentices are already paid considerably more than the current apprentice rate and that the average hourly pay for level 2 and level 3 apprentices is £6.79. Approximately 75,000 apprentices will be affected by the increase, with an estimated cost to business of £29.6 million, based on 2009 prices.

Since its introduction in 1999, by a Labour Government acting on behalf of working people, the national minimum wage has been a success in supporting the lowest paid UK workers. To ensure that working people receive the pay rise to which they are entitled, last week the Prime Minister announced a package of measures that will strengthen the enforcement of the national minimum wage, building on the action that the Government have already taken. That includes doubling penalties for non-payment by employers, a substantially increased enforcement budget, further action on director disqualification and a new specialist team at Her Majesty's Revenue and Customs to take forward prosecutions when appropriate.

Members of the Committee will also know that the Government will introduce a new national living wage for those aged over 25. Set at £7.20 from April 2016, the Government's ambition is that it will reach £9 by 2020. However, the national living wage is not the purpose of today's debate because it is for implementation from April 2016, and the Government will introduce regulations for the House to debate in due course. The Government believe that the rates set out in the regulations before the Committee today will increase the wages of the lowest paid while being affordable for business. I therefore recommend them to the Committee.

11.35 am

**Stephen Doughty** (Cardiff South and Penarth) (Lab/Co-op): It is a pleasure to serve under your chairmanship, Mr Gapes for your first time in the Chair and my first time opposite the Minister. It is a pleasure to be in the Committee today.

I do not intend to detain the Committee for long because, as members of the party that introduced the national minimum wage—as the Minister acknowledged—we support the increases based on the LPC recommendations, with the exception of the apprentice rate, even though the regulations come from a Government of late converts. It is worth reminding the Committee that the Conservatives bitterly opposed the introduction of the national minimum wage. Their former leader, Michael Howard, warned of a “fiasco” and that the national minimum wage “could double unemployment”. We all now know that to be false.

We support increases in the minimum wage as a way of tackling the low-wage economy that means that many working families across the country are still struggling to get by and to cope with the cost of living. It is worth reflecting on that fact this morning, as a new report

published today by the Joseph Rowntree Foundation states that the number of children in working families in poverty has continued to rise in my part of the UK, Wales. Indeed, there are similar statistics for the rest of the UK. The report says that it is largely due to low pay and scarce hours.

Low wages and zero-hours contracts are determining the prospects of far too many, despite the Welsh Labour Government's excellent work in focusing resources on the poorest communities. Families face the prospect of being made even more worse off through cuts to tax credits, which will hit those on middle and lower incomes. The Institute for Fiscal Studies has confirmed that 3 million working families will be worse off by an average of more than £1,000 as a result of changes in the last Budget, despite the increases to the minimum wage that we are supporting today.

Let us remember how bad things could have been, had we not taken that historic step in 1999 of introducing the national minimum wage. Let us not forget that that meant that it was no longer legal for people to be paid as little as £1 an hour.

While we will not oppose the increases today, I want to question the Minister on two key areas related to the regulations. The first relates to the accommodation offset. It is an important part of the national minimum wage settlement, but it is also important that the balance of power in the agreement is not tipped too far in one direction. The regulations increase the national minimum wage for 21-year-olds and over by 3.1%, yet the accommodation offset appears to be increasing by a higher rate of 5.3%. Will the Minister explain that discrepancy and the reasons for it, given that it appears to reduce the value of the national minimum wage rise for those to whom the accommodation offset applies?

The LPC review in 2011 into the accommodation offset and the subsequent recommendations for the level of the national minimum wage from 2015 onwards were completed before the Chancellor announced the so-called national living wage—a higher minimum wage that is not and will not be the official living wage. Given that the national living wage, so called, will not apply to workers under 25, will the Minister explain the impact of the accommodation offset on those workers? Indeed, can he explain whether there are any further plans to review the application and level of the accommodation offset, given the Chancellor's proposals in the recent Budget?

The second subject I want to look at is one that we have discussed in these Committees and on the Floor of the House: the proposals for the enforcement of the regulations and the legislation around the national minimum wage in general. There is increasing evidence from up and down the country, including in my own constituency of Cardiff South and Penarth, that not everyone is playing by the rules. Analysis by the TUC has estimated that at least 250,000 workers are not being paid the legal minimum wage.

When questioning Ministers just months ago in the previous Parliament alongside my hon. Friend the Member for Walthamstow (Stella Creasy), I was astonished when it was revealed that just nine employers had been prosecuted for non-compliance since 2010. As the Minister pointed out, the Prime Minister has produced much rhetoric about increasing fines and tackling non-payment, so

will the Minister put some meat on the bones and tells us exactly how many employers have been prosecuted since the general election?

I was equally astonished when the hon. Member for Mid Norfolk (George Freeman), who was the Minister leading one of the last Delegated Legislation Committees on this matter in the previous Parliament, accused my hon. Friend the Member for Walthamstow and me of the “politics of envy”—you can read that for yourself in *Hansard*, Mr Gapes—for raising the issue of prosecutions. Will the Minister reassure the Committee that he does not share that sentiment and that he and his Government will do all that they can to ensure the enforcement of the legislation before us today?

I was further astonished to receive allegations regarding non-payment of the minimum wage by a company called MiHomecare, which is part of the Mitie Group, in my constituency in Penarth. Similar allegations have been made up and down the country. The company posted a 21.5% increase in its pre-tax profits for the year to 31 March 2014, and yet has been subject to an investigation by Her Majesty's Revenue and Customs and Care Quality Commission reports on the practice of “clipping” and possible non-compliance with national minimum wage legislation. One carer from the company told the BBC:

“I feel the pressure comes from the top to get as much money in, in as short a time as possible.”

The Committee might be interested to know—it is relevant to today's discussion—that the chief executive of the company has just been awarded a peerage by the Conservatives. Extraordinarily, when I called the now Baroness McGregor-Smith before her ennoblement to ask her whether she was investigating the claims, what the status of the HMRC investigation was, and what the views of her company and others were about enforcing national minimum wage legislation, she blamed Government regulation and local authorities, and then, I was astonished to hear her accuse me of being “anti-corporate” for asking those questions.

Given the importance and interest in this particular case across the House and country, will the Minister tell me what the status is of the HMRC investigation into Mitie and MiHomecare? If he does not have the information today, will he write to me? Most importantly, is he willing to commit extra resources to the investigation of sectors where the most allegations are currently being made of non-compliance with national minimum wage legislation to ensure that this statutory instrument is implemented in full? I am thinking in particular of sectors such as care, agriculture and retail. Will he also assure me that he does not share the attitude of his fellow Minister or his new peer that scrutinising the implementation of this legislation is either the politics of envy or anti-corporate?

If the Government want to get serious about ensuring that this legislation is more than good intentions, they need much to take tougher measures. As well as proposed tougher penalties, there needs to be robust support and back-up for investigations, the proactive investigation of certain sectors—including, but not limited to those I have mentioned already—and more support for employees, particularly those in smaller workplaces, to blow the whistle on unscrupulous employers. There must also be a constant focus on the situation facing low-paid women, who still experience a gender pay gap that should shame

[Stephen Doughty]

this country, decades since the passage of equal pay legislation and despite the floor provided by the national minimum wage and these regulations. We will support the measure today, but the Government need more than rhetoric to help the millions struggling across this country to get by on low pay.

11.42 am

**Nick Boles:** Mr Gapes, I hope you will recall that I made a point of giving credit to the last Labour Government for introducing the national minimum wage. It was a good idea, a good policy, and Conservative Members make no apologies for agreeing that we were wrong about the national minimum wage. Labour was right, and that is why we have adopted and supported it, and why we are this year introducing the largest increase since the last Labour Government. It is also why we are going further by introducing a national living wage that will benefit even more people over the age of 25. Therefore, it might have been perhaps brotherly if the hon. Member for Cardiff South and Penarth had responded by acknowledging that we have adopted the national minimum wage, and not just that, but that we have dramatically increased the enforcement efforts relative to those of the last Labour Government.

We have taken a budget, which in 2009-10, amounted to £8.3 million, and during a time of austerity, spending cuts and of an attempt by this Government to close the vast deficit opened up by the last Labour Government, we have expanded it, so that in 2015-16, it will be £13 million. That is a dramatic increase and one of the few budget lines in any budget to increase by that proportion. We have also introduced a naming and shaming scheme, which names individual directors and companies who fail to pay the minimum wage and are not able to provide us with any adequate explanation of why they have done so. It has had an enormous effect. Hon. Members should see the letters from people begging not to be named that come across my desk, and although we are the party of business, we are not the party of businesses that fail in their social responsibilities and moral duties, and we make no bones about doing that.

The hon. Gentleman focuses on prosecutions, which are perhaps a particular obsession of his. I do not know whether he was once a criminal barrister, but he seems inclined towards thinking that prosecutions are the only way to enforce. My view is simply that we want to enforce as effectively as possible. Effective means getting the money that is owed to hard-working people back into their bank accounts as soon as possible and ensuring that employers pay the rates that they should be paying. Prosecutions have been few, but there were few prosecutions under the previous Labour Government after the national minimum wage was brought in. The reason for that—it is a good reason—is that, in most cases, prosecuting is not the best way of achieving the best outcome for the working person who has not been paid their due. It is in

some cases, however, which is why we announced last week a new specialist enforcement team at HMRC specifically to focus on prosecutions, which will rightly continue to remain rare because we are trying to achieve results and not just to be able to wave around prosecutions statistics.

The hon. Gentleman asked a reasonable question about the increase in the accommodation offset, and he is right to point out that it is a larger percentage than the proposed increase in the statutory minimum wage. I simply say that we are following the Low Pay Commission's recommendation on that, as we are on the adult rate for the national minimum wage, but it can certainly be argued—the hon. Gentleman made the point well—that the increase in the national minimum wage will feel rather less generous for some people than for those who are not affected by the accommodation offset. As has been the precedent, we have tried to stick to the Low Pay Commission's recommendations in almost every respect, except on the apprenticeship minimum wage.

**Stephen Doughty:** I appreciate what the Minister is saying. Given that the discrepancy could grow over time, is any kind of review likely? I accept what he says about following the LPC's recommendations, but the issue could grow as time goes on.

**Nick Boles:** I would not want to promise formal reviews, but I am happy to say that, in preparing our submission to the Low Pay Commission for next year, I will ensure that we address the discrepancy in the increases. We will ultimately take the advice of the LPC on whether it is reasonable.

The hon. Gentleman made an important point about a particular company, but I do not want to discuss that here and I have no further information about the processes. I am happy to write to him with any information that I can give, although he will understand that that is sometimes limited. He is right to discuss a particular part of the social care sector, where the overwhelming majority of employers discharge their responsibilities fully. As constituency MPs, however, we are all aware of cases in which that does not take place or where the imposition of travel costs on people who are on the national minimum wage is not entirely lawful. Before the summer, I had a meeting with the Care Minister to discuss the matter, at which we are looking closely. Through the naming and shaming scheme, we are able to highlight a particular sector and to bring problems to the fore in order, hopefully, to remind others in that sector of their responsibilities. We are definitely looking at that. I do not want to imply that there are problems in the sector overall, but the hon. Gentleman is right to suggest that such cases exist and we need to root them out, just as we need to do in every other sector.

*Question put and agreed to.*

11.49 am

*Committee rose.*