

STATES OF JERSEY



EMPLOYMENT (MINIMUM WAGE) (AMENDMENT No. 13) (JERSEY) ORDER 2019: RESCINDMENT (P.124/2019) – COMMENTS

**Presented to the States on 17th January 2020
by the Council of Ministers**

STATES GREFFE

COMMENTS

The Council of Ministers has considered this proposition in its 2 constituent parts.

Part A

For the reasons outlined below, the Council of Ministers agreed that it is unable to accept part (a) of the proposition.

Role of the Employment Forum

The Employment Law requires the Employment Forum (the “Forum”), which is an independent entity, to consult on the level of the minimum wage and make recommendations to the Minister for Social Security. In making its recommendations, the Employment Law requires the Forum to consult and to consider the effect on the economy as a whole and on competitiveness, as well as any additional factors which the Minister specifies.

The Forum duly reviewed the minimum wage following a direction to do so from the Minister for Social Security on 2nd March 2019. A recommendation was made to the Minister on 9th October 2019. This is a central part of the Employment Forum’s purpose and remit.

Data and statistical information considered

In reaching its minimum wage recommendations, the Forum combines statistical information and data about the economy with the responses it receives during consultation with stakeholders. This includes RPI, Average Earnings (including by sector), GVA and levels of employment and unemployment. The Forum also received additional data collected via the June 2019 average earnings survey that estimates the number of low paid jobs (paid at £8.25 or less per hour) and minimum wage jobs paid at (£7.88 per hour), split by sector.

The Forum noted the advice issued by the Fiscal Policy Panel to the Government of Jersey in September 2019, and the Panel’s economic assumptions. The Forum received 252 responses, from sectors including agriculture, construction, financial services, hospitality, the public sector, retail, health/care and IT/digital.

The particular evidence which informed the Forum’s recommendation is listed on pages 45 and 46 of its report.¹

The Forum’s conclusions

In its recommendation, the Forum noted its concern about the impact of a significant minimum wage increase on the agriculture sector. In addition, it commented that “*Given the expert advice on the uncertainty around Brexit for 2020-2021, as well as the forecasts for a slowdown in economic growth locally in 2019 and 2020, even without a ‘no-deal’ Brexit, the Forum is convinced that, while the recommended increase should*

¹<https://www.gov.je/SiteCollectionDocuments/Working%20in%20Jersey/Minimum%20Wage%20Recommendation%20Oct19.pdf>

not fall below a cost of living increase, a more cautious approach is required this year than in the previous two recommendations.”

Additional factors

In addition to its statutory duties, the Forum was asked to take into account the States’ objective of setting the minimum wage at 45% of average earnings by the end of 2020. This included seeking comments on the decision to achieve a higher overall increase by applying 2 minimum wage increases in 2019. The Forum was also asked to take account of productivity.

States aspiration

The Forum commented that *“The States’ aspiration is subject to consideration of economic conditions and the impact on competitiveness and employment of the low paid in Jersey. It is not a fixed objective that the Forum is required to meet without taking into account the findings in this review. As always, the Forum seeks to balance competing interests, including the aspirations of the States Assembly, while also trying to minimise job losses or reduced terms and conditions.”*

The Forum was conscious that a minimum wage equivalent to 45% of mean weekly earnings would require an 8% increase and concluded that *“When the aspirational target year of 2020 was agreed by the States in early 2018, the significant economic changes and level of uncertainty for 2020 could not have been predicted. The Forum cannot justify an 8 percent increase in the context of the economic advice and the consultation responses.”*

Productivity

The Forum noted in its recommendation for the 2019 minimum wage increase that *“If a plan is not delivered, or it is not effective, this is likely to have an impact on the Forum’s minimum wage recommendation for 2020.”*

In its recommendation for 2020, the Forum noted the forecast economic slowdown in 2019 and 2020, the £30 increase in the level of mean weekly earnings and that plans for overall government support for productivity improvements remained in development. For those reasons, the Forum concluded that it *“cannot recommend an 8 percent increase solely on the grounds of reaching the States aspiration of 45 percent of mean weekly earnings.”*

Timing

The Forum previously recommended that the minimum wage be increased in 2 stages during 2019 – this enabled it to support a higher overall increase in 2019. For the reasons outlined in the Forum’s recommendation, and summarised above, the Forum felt that a more cautious approach was needed in 2020. The recommendation also stated that *“the Forum considers that two annual increases should not become an annual occurrence, particularly if the recommended increase is relatively modest.”*

An independent body

It is important that the minimum wage is set by an independent and a-political body. It would undermine the role of the Forum if Ministers and States Members dismissed the detailed work and informed recommendations of the Forum in favour of arbitrary changes to the minimum wage based solely on a political decision rather than an impartial, considered and non-political assessment.

Part B

Commitment to 45% objective

Notwithstanding the position of the Council with respect to part (a), Ministers remain supportive of the objective to reach a minimum wage at 45% of average earnings as early as is possible, taking into account economic and social factors. Accordingly, Ministers have agreed that this aspiration should again be communicated to the Employment Forum as a key factor to consider in advance of its work to develop a recommendation in respect of the 2021 minimum wage.

Delivering proposals to support productivity

Ministers appreciate that a plan supporting productivity, particularly within sectors such as agriculture, hospitality and retail, is important in this regard. It should be noted that previous commitments to publish a productivity plan have been superseded by this Government's decision to deliver a Future Economy Programme, which will include a productivity plan.

The Government Plan includes funding for the Future Economy Programme, spread across the four years of the plan. The Minister for Economic Development, Tourism, Sport and Culture has committed to ensure this work progresses as a priority and is delivered as early as possible. The Minister has confirmed that an additional £300,000 is not required and would not result in the plan being delivered any earlier.

It should be for the Employment Forum to consider the nature of the plan and the extent to which the minimum wage should be amended in response to its delivery and implementation, whilst also taking into account wider economic considerations as it is required to. In this respect, it is worth noting that any plan around productivity will require associated knowledge and subsequent investment within industry and any implemented measures will take time to have an impact.

In the interim period, Government will continue to support productivity and business support initiatives across the economy, including in the agriculture, hospitality and retail sectors.

Financial implications

It is also important to highlight that there is not a 'General Reserve' from which this £300,000 could be transferred and it is not clear from where the money would be sourced if part (b) were adopted. There would be wider resource implications for the public purse.

Conclusion

On this basis, and given that the adoption of part (b) would represent an unfunded commitment that would not materially benefit work that already forms part of the Government's programme (and is funded), the Council reached a consensus that it would be unable to support part (b).

General administrative point to note

In the event that part (a) of this proposition were to be adopted, the Minister for Social Security would not intend on rescinding the [Employment \(Minimum Wage\) \(Amendment No. 13\) \(Jersey\) Order 2019](#) because such action would not be necessary to fulfil the requirements of part (a). The Order would be left in force, allowing the minimum wage to increase to £8.32 from 1st April, and a subsequent Order would then be made to fulfil the instruction of the Assembly to increase the minimum wage to £8.66 from 1st October. It is hoped that this approach is seen as logical and acceptable to Members.