

# STATES OF JERSEY



## **DRAFT EMPLOYMENT (MINIMUM WAGE) (AMENDMENT No. 7) (JERSEY) REGULATIONS 201-**

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**Lodged au Greffe on 22nd December 2010  
by the Minister for Social Security**

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**STATES GREFFE**





Jersey

# **DRAFT EMPLOYMENT (MINIMUM WAGE) (AMENDMENT No. 7) (JERSEY) REGULATIONS 201-**

## **REPORT**

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### **1. Introduction**

Jersey's minimum wage has been in force since 1st July 2005. On the basis of the Employment Forum's latest recommendation, the Minister for Social Security proposes this amendment to the Minimum Wage Regulations that would increase the amounts that may be offset against the minimum wage where food and living accommodation are provided, as well as preventing employers from using tips, service charges, gratuities and cover charges towards minimum wage pay.

Subject to the States' approval of these Draft Regulations, the minimum wage and trainee rate would be increased by Ministerial Order, to be effective from 1st April 2011.

### **Background**

The independent consultation body, the Employment Forum, presented its recommendation to the Minister on 27th September 2010, which is attached at the **Appendix** to this Report. The Minister accepted the Forum's recommendations on 5th October 2010. In summary, the Forum recommended the following increases –

	1st April 2010	1st April 2011
Minimum Wage	£6.20	<b>£6.32</b>
Trainee Rate	£4.65	<b>£4.74</b>
Accommodation offset	£67.85	<b>£69.21</b>
Accommodation and food offset	£90.46	<b>£92.27</b>

### **Tips**

The Forum had recommended to the Minister for Social Security in 2009 that the Regulations should be amended, as in the UK, to prevent employers from using amounts received from customers by way of tips, service charges, gratuities and cover charges towards payment of the minimum wage. The legislation currently allows

employers to count such amounts towards minimum wage pay where they are paid through the payroll. The Minister agreed that Regulation 8 should be amended to prevent this practice with effect from 1st April 2011.

### **Offsets**

Regulations may be made under Part 4 of the Employment (Jersey) Law 2003 specifying permissible offsets against the minimum wage, requiring that all employees in Jersey are paid at an hourly rate which is equal to or greater than the minimum wage. The Regulations ensure that the ability to offset benefits in kind against weekly wages is limited only to charges made by the employer for living accommodation, or living accommodation with food.

This proposed amendment to the Regulations would increase the maximum value that may be attributed to the 2 benefits in kind, effective from 1st April 2011, for the purpose of establishing whether the minimum wage has been paid –

- For the provision of accommodation to the employee, the maximum weekly offset against the minimum wage would be **£69.21**.
- For the provision of both accommodation and food to the employee, the maximum weekly offset against the minimum wage would be **£92.27**.

### **Minimum wage rates**

Subject to the States' approval of the proposed Regulations, the Minister for Social Security proposes that an Order would be made under Article 16(3) of the Employment (Jersey) Law 2003, to apply the following rates with effect from 1st April 2011 –

- An hourly **minimum wage of £6.32**, to apply to all employees over school-leaving age, except when the trainee rate is paid, and 'special classes of person', which includes share fishermen, residential members of religious communities, and others as detailed in Articles 36 to 43 of the Employment Law.
- An hourly **trainee rate of £4.74** which may be paid to an employee over school-leaving age, who is undertaking an accredited course of training for a maximum period of one year, when in a new job, with a new employer, by written agreement.

### **Financial and manpower implications**

There are no financial or manpower implications arising from the adoption of these Draft Regulations.

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Issued by the Employment Forum on 27 September 2010

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**PURPOSE OF RECOMMENDATION**

This is the Employment Forum's sixth minimum wage recommendation to the Social Security Minister, the main purpose of which is to recommend a minimum wage rate to take effect from 1<sup>st</sup> April 2011.

**SUMMARY**

Section 1 – Background

Section 2 – Minimum wages in other jurisdictions

Section 3 – Consultation procedure

Section 4 – Recommendations

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If you wish to receive an electronic copy of this recommendation, please contact the Secretary, or download it from the States website -

[www.gov.je/ChiefMinister/PublicConsultations](http://www.gov.je/ChiefMinister/PublicConsultations)

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**SECTION 1 - BACKGROUND**

The original report to the States on 'Minimum Wage Legislation' (P.227/1998) was debated by the States and approved in March 1999. It provided for the introduction of a minimum wage and trainee wage, and the establishing of an independent body (the Employment Forum) which would act as a consultative body to make recommendations to the former Employment and Social Security Committee.

The Employment Forum's first Minimum Wage Recommendation was issued in October 2003. In July 2004, the States of Jersey approved the subordinate legislation required to bring the minimum wage into force under the Employment Law on 1 July 2005.

**Previous Consultation and Recommendations**

Full details of the Forum's previous consultations and recommendations on the Minimum Wage can be obtained from the Forum Secretary ([E.Forum@gov.je](mailto:E.Forum@gov.je)) and are available on the website [www.gov.je/minimumwage](http://www.gov.je/minimumwage).

The minimum wage rates that have been implemented on 1 April each year since 2005 are shown in the table below.

	2005	2006	2007	2008	2009	2010
Minimum Wage	£5.08	£5.24	£5.40	£5.80	£6.08	£6.20
Trainee Rate	£3.82	£3.94	£4.05	£4.35	£4.56	£4.65
Accommodation offset	£55.65	£57.32	£59.10	£63.47	£66.52	£67.85
Accommodation and food offset	£74.20	£76.43	£78.80	£84.63	£88.69	£90.46

**Sixth Minimum Wage Recommendation (2009)**

During July to September 2009, the Forum's minimum wage review asked respondents to consider the effect of the economic downturn. It had become clear during 2009 that there would not be a rapid recovery from economic decline in 2010; growth was slower than in previous years, total employment in the Island had decreased, there were real concerns about further redundancies and there had been a significant increase in appeals from employers and employers' associations to freeze the minimum wage.

In 2008, the Forum had decided that the minimum wage should be calculated by reference to 40.5 percent of average weekly earnings; that year's review had shown continued growth in the economy, including in the Agriculture and Hospitality industries. However, in 2009, the Forum recommended that the percentage of

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average earnings used to calculate the new minimum wage should revert to the previous figure of 40 percent of average weekly earnings. This was a difficult decision and was one that the Forum did not take lightly.

The Forum concluded that it would be reckless to push earnings beyond 40 percent of weekly average earnings in 2010 and that to do so would risk damaging jobs in Retail, Hospitality, Agriculture, and possibly other industries. The Forum's greatest concern was to avoid triggering redundancies.

The Forum believes that in order to protect Jersey's international reputation, the weekly rate should not fall below 40 percent of Jersey's average weekly wage. The Forum therefore recommended the resulting minimum wage of £6.20 per hour to apply from 1 April 2010. The same 2 percent increase was applied to the maximum offsets for accommodation and food, and the trainee rate was again set at 75 percent of the minimum wage, giving a new rate of £4.65 per hour.

The Social Security Minister also approved the Forum's other recommendations;

1. Employers will not be permitted to use tips and gratuities to pay, or partially-pay, an employee's minimum wage after 1 April 2011 (giving employers an additional year to change their practices, where required).
2. There was no evidence to suggest that a student or youth rate is necessary. All employees from age 16 should continue to be eligible for the adult minimum wage rate.
3. The offsets will not be more flexible in terms of which benefits in kind an employer may offset against minimum wage pay. Only accommodation or accommodation with 3 meals per day may be offset against minimum wage pay.

***Political Developments***

In April 2010, the States decided that the minimum wage should be set at 45 percent of average earnings within a period of 5 to 15 years, and asked the Forum to have regard to this objective, as well as having regard to competitiveness, jobs and the economy, in making its recommendations to the Social Security Minister.

The objective to increase the minimum wage beyond 40 percent of weekly average earnings in the future is a goal that is shared by both the Minister and the Employment Forum.

Whilst the political direction does allow the Forum to react to expert advice provided on the economic climate, the Forum is concerned that the time frame does not allow the Forum to judge an appropriate pace. Although a 5 percent increase within 15 years sounds reasonable, in fact the minimum wage would have to be increased by more than the average earnings index each year to meet the objective.

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The Jersey Farmer's Union and Jersey Hospitality Association had indicated to States members that they were strongly opposed to the proposition.

***Youth rate***

During the States debate on the future uprating of the minimum wage, the Social Security Minister agreed to a request from Senator Routier, that the Forum would review the need for a youth rate again during 2010. New Zealand's 'entrants' rate was cited as an example of an alternative to a 'youth' rate.

In New Zealand, employees aged over 16 may be paid a lower training rate if they are undertaking recognised training (that meets a specified standard). In addition, the "entrants" rate may be paid to a worker who is 16 or 17 years old, at the same hourly rate as the training rate. An employee aged 16 or 17 must however be paid the full minimum wage if they have completed three months or 200 hours of employment (whichever is shorter), or they have been supervising or training other workers.

The Forum has regularly consulted and made recommendations on the matter of a youth or student rate in previous minimum wage reviews, as summarised below.

In its recommendation for the first minimum wage that would apply from 1 April 2005, the Forum did not give a recommendation as to whether there should be a youth rate. The Social Security Minister decided to propose a youth rate to the States, at an equivalent rate to the trainee rate. The youth rate was rejected by the States and was not implemented.

In its 2006 recommendation, the Forum recommended that a lower minimum wage rate should be available for **students** aged 16 to 18 in full time education. The Forum had proposed that a student rate would enable it to consider recommending that the minimum wage should be increased by more than average earnings in the future, as a student rate would assist in avoiding the possible negative consequences on labour market opportunities for young people. The Social Security Minister accepted the recommendation and proposed the student rate to the States of Jersey. The proposal was however rejected by the States and was not implemented.

The Forum's 2008 review did not ask respondents for their views on whether a lower minimum wage for students should be recommended, however a number of respondents asked the Forum to again consider a student rate or a youth rate, on the basis that valuable work experience opportunities were being lost. Some employers claimed to be discouraged from taking on younger employees for the same rate of pay as older employees as they often require greater levels of supervision due to their lack of 'work ethic' and experience in the work place.



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On the basis of comments received in the previous review, in 2009, the Forum consulted again on whether a lower minimum wage rate should be available for young employees. The consultation did not reveal sufficient evidence in favour of a lower rate and the Forum recommended that a youth rate should not be introduced. The Forum was concerned that the introduction of a youth or student rate could have a detrimental effect on young people who already have a holiday or weekend job if their employer reduced hourly pay to the new lower rate, particularly students and young people who are supporting themselves.

**SECTION 2 – OTHER JURISDICTIONS**

**UK**

In March 2010, the Government published their response to the Low Pay Commission's latest recommendations and agreed the following increases to apply from 1 October 2010;

- Adult rate (age 21+) to increase from £5.80 to £5.93 per hour
- Age 18-20 'development rate' to increase from £4.83 to £4.92 per hour
- Age 16-17 rate to increase from £3.57 to £3.64 per hour
- Maximum accommodation offset to increase from £31.57 to £32.27 per week
- A new minimum wage of £2.50 per hour for **apprentices** who are either under 19 or in the first year of their apprenticeship.

Since 1 October 2009, tips, service charges, gratuities and cover charges can no longer be used to make up National Minimum Wage pay. This means that workers must receive at least the minimum wage in basic pay, with any tips being paid on top. In addition, a voluntary code of best practice provides practical guidance to businesses on how to provide their customers with sufficient information to make an informed choice before they leave a tip or gratuity, or pay a service charge.

**Isle of Man**

The Isle of Man's Minimum Wage Commission delayed its 2009 recommendation in order to undertake a detailed impact assessment of the minimum wage, and so there was no annual increase from 1 October 2009. Instead, the minimum wage was increased from 1 April 2010, as follows;

- Adult rate (age 18+) increased from £6.00 to £6.10 per hour.
- Maximum accommodation offset increased from £36.40 to £38.50 per week.

All other rates remained at the October 2007 rates;

- Age 16 – £4.67 per hour
- Age 17 – £5.24 per hour

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- Adults starting a new job with a new employer and undertaking accredited training, for the first six months of the new job - £5.24 per hour.

**Guernsey**

The Minimum Wage (Guernsey) Law, 2009 will come into force on 1 October 2010 and will apply to all workers except share fisherman, prisoners and voluntary workers. Guernsey will set two minimum wage rates;

- Adult minimum wage - £6.00 per hour (age 19+).
- Young Persons' rate - £4.25 per hour (age 16-18).

Apprentices over age 19 will not be protected by the minimum wage for the first year. Apprentices under 19 will not be protected by the Law and will not be entitled to receive the Young Persons' rate.

An employer will be permitted to offset the following amounts against the minimum wage;

- Accommodation - £60 per week (or £8.57 per day).
- Accommodation with food - £85 per week (or £12.14 per day)

Workers will have a legal right to "opt out" of the food provision in which case minimum wage calculations will only be based on the accommodation offset. If an employer treats a worker less favourably when they "opt out" of food this may be considered detrimental treatment.

The States decided that, when reviewing the minimum wage in future, the Department must take into account the policy objective of the States that the young person's minimum wage rate and the adult minimum wage rate should be equalised as soon as possible.

**International minimum wages**

The Employment Forum has previously increased the minimum wage by reference to 40 percent of average weekly earnings. This measure is used to compare the 'bite' of Jersey's minimum wage with other jurisdictions. The Forum notes however that other jurisdictions tend to use the **median** wage to make an equivalent comparison, rather than the **mean** which is usually higher than the median when the same data is used.

The Statistics Unit "Index of Average Earnings Report" for June 2010 states that, "*as a result of the earnings distribution being asymmetric (i.e. skewed towards higher levels of earnings) the mean statistic provides a higher measure of average earnings than the median.*" Median income figures cannot be determined from the average earnings data that is collected because earnings at an individual, rather than a company level, are required. The Forum understands that an Income

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Distribution Survey has collected the required information and will shortly be released by the Statistics Unit.

The Forum notes that caution must be exercised when drawing comparisons between countries as there are differences in what counts towards the minimum wage, the age at which the minimum wage rate applies, the coverage of the minimum wage and exemptions. In addition, the comparisons are not standardised and minimum wage updating dates vary.

The Low Pay Commission reported in its latest review that the 12 OECD<sup>1</sup> countries they examined have responded in different ways with regard to their minimum wages in the recession. Australia and Ireland froze their minimum wage, whereas the remaining 10 countries increased it. Of these 10, Belgium's increase was the greatest, rising by 11.4 percent. France increased its minimum wage by 1.3 percent and Japan by 1.4 percent. With an increase of 1.2 percent, the UK's minimum wage increased the least of the 12 countries that uprated their minimum wages in 2009.

**SECTION 3 – CONSULTATION PROCEDURE**

Full details of the Forum's previous consultations and recommendations on the minimum wage can be obtained from the Forum Secretary ([E.Forum@gov.je](mailto:E.Forum@gov.je)) and are available on the website [www.gov.je/minimumwage](http://www.gov.je/minimumwage).

The Forum consulted during the period 12 July to 27 August 2010. This year, the Forum issued a background document and two surveys. One survey was suitable for all types of respondents, (employers, employees, trade unions, employers' associations, independent bodies, etc). The second survey was designed specifically for minimum wage earning employees and was also available in Polish and Portuguese. The review was distributed to those on the Forum's consultation database (approximately 180 in total), which includes a wide cross section of respondents.

The Forum hoped to improve the availability of the review and increase response rates this year, particularly from people who are directly affected by the minimum wage. Notifications of the review were placed on the government website homepage, in the St Helier Trader and the Town Crier (which is circulated to 17,800 households and 1,400 commercial businesses). Flyers advertising the review were circulated to all States members and to approximately 3,400 employers.

Copies of the surveys were available for collection from (and return to) the Town Hall and the Social Security Department. Copies were also available by email, on the website and from the town and mobile libraries. For the first time, the surveys

<sup>1</sup> Organisation for Economic Co-operation and Development

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were also available to be completed in an online version. This method proved to be the most popular.

Young people on the Advance to Work scheme were targeted via their mentors and were asked to complete a separate survey. This scheme was set up by the States in order to provide help for unemployed teenagers through the economic downturn. It provides unemployed 16-19 year olds with unpaid work experience placements combined with vocational and key skills training, to act as a stepping stone into paid employment.

The Forum received 48 written responses from a representative range of respondent types and industries, including; Agriculture, Hospitality, Retail and Finance. This compares favourably with responses received during the previous minimum wage review. Twenty three of these responses were from employees; 9 employees responded to the survey designed for minimum wage earning employees, and 14 employees responded to the general survey. In addition, the Forum received 34 responses from young people on the Advance to Work Scheme.<sup>2</sup>

	2008	2009	2010
Employee	2	6	23
Employer	9	10	11
Employer association	4	2	2
Trade union/staff association	1	1	0
Other <sup>3</sup>	2	5	12
Advance to Work young people	-	-	34

A public workshop was held on 21 July 2010 which was attended by a range of relevant stakeholders including; hospitality, finance, agriculture and retail. The views discussed during the workshop have been considered in detail by the Forum and have informed this recommendation; however any comments given at the workshop have not been directly attributed to individuals in this report.

**Economic outlook and statistics**

As of July 2010, the States Economics Unit summarised the economic outlook as follows;

*“Recent indicators show some signs of improvement in the local economic outlook. Finance businesses in particular are more optimistic about future employment and*

<sup>2</sup> In its latest consultation, the UK’s Low Pay Commission received 59 responses to its general consultation and 52 responses to its apprentice consultation.

<sup>3</sup> The 12 ‘other’ responses include an advisory service, a law firm, a student, a self employed person, a carer and 5 members of the general public.

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*profitability. Non-finance businesses continue to see deterioration in conditions, but at a slowing rate. The inflation outlook remains benign."*

The report also stated that, internationally, *"economic indicators are beginning to show a slow down in the rate of recovery. While this is not the same as a 'double-dip', that remains an outside risk."* A slowing in the rate of growth may mean that unemployment takes longer to fall and governments will find it harder to reduce budget deficits.

The economy in terms of Gross Value Added (GVA)<sup>4</sup> is expected to have contracted by 4 percent in 2009 and is expected to contract by a further 2 percent in 2010, driven mainly by the downturn in the financial sector, but weakness in the key non-financial sectors such as construction, retail and tourism will contribute to this. Moderate growth is expected to return in 2011.

The Jersey Business Tendency Survey (BTS)<sup>5</sup> report for the second quarter of 2010 showed some signs of optimism. While business activity fell for the fourth quarter in a row, it fell at a slower rate, and overall expectations for the future remained positive. This optimism is concentrated in the finance sector, which is expecting growth in future business activity and an end to reductions in staff. While there has already been some increase in business, this has not been sufficient to offset declines in profitability.

In contrast, the non-finance sector has continued to display weakening trends in current and future business activity and employment, although the rate of decline is slowing. The Construction industry has showed signs of improvement (£30m of construction projects financed from the fiscal stimulus programme are likely to have been a contributing factor). The retail sector is showing signs of stabilisation.

In regard to whether and by what method the minimum wage should increase, the Economic Adviser has advised the Forum as follows; *"While the Jersey economy has fared well during the global recession relative to many other economies, it has suffered nonetheless. Despite a successful fiscal stimulus programme and signs of economic recovery globally and locally, all the indications are that the local labour market remains weak. Unemployment remains historically high, particularly among the young, and the most recent round of the Business Tendency Survey suggested that firms in both the finance and non-finance sectors were continuing to reduce employment levels.*

*For these reasons continued caution is advised with regards to the minimum wage recommendation, as increases may have adverse effects on employment and the*

<sup>4</sup> GVA measures the economic activity taking place in Jersey overall and at the individual sector level. It is one of the main economic indicators which measures the value or size of the whole Jersey economy.

<sup>5</sup> The Business Tendency Survey is a quarterly survey that covers private sector businesses in Jersey. The survey asks the chief executive or managing director of sampled businesses for their opinions on the current situation of their business compared to 3 months previously and also for their expectations for the next 3 months.

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*competitiveness of certain businesses that operate in international markets, exacerbating an outlook for jobs that is already challenging."*

### **Prices**

The Retail Prices Index (RPI) is the main measure of inflation in Jersey. It measures the change from quarter to quarter in the price of the goods and services purchased by an average household in Jersey.

During the twelve months to June 2010, the All-Items Retail Prices Index (RPI) increased by 2.8 percent. Key contributors to the annual increase were the Housing, Food, Fuel & light and Leisure services groups. The change in the RPI during the twelve months to March 2010 was 3.2 percent, implying that the annual rate of inflation fell by 0.4 percentage points in the latest quarter.

Underlying inflation, as measured by RPI(X)<sup>6</sup> and RPI(Y)<sup>7</sup>, increased by 2.6 percent and 2.7 percent respectively, over the twelve months to June 2010. The annual changes in both RPI(X) and RPI(Y) decreased by 0.7 percentage points in the latest quarter. All three measures of inflation are expected to remain around 2.5-3.0 percent for 2010.

The annual rate of increase of RPI Pensioners was 2.7 percent in the year to June 2010. RPI Low Income increased by 2.6 percent over the same period. These annual rates of increase were less than those recorded in the previous quarter.

The overall increase of the RPI over the 5-year period from June 2005 to June 2010 has been similar in Jersey (16%), Guernsey (15%) and the UK (17%). During the 12 months to June 2010 the RPI increased by 2.8 percent in Jersey, by 2.3 percent in Guernsey and by 5.0 percent in the UK.

Prices increased by 1.7 percentage points more than earnings over the period.

### **Earnings**

The 2010 Index of Average Earnings measures changes in average earnings received between the last weeks of June 2009 and June 2010. The latest 1.1 percent increase in average earnings is the lowest since the index was introduced in 1990 and is 1.9 percentage points less than that of the previous 12 month period. In the same period, average earnings increased at a faster rate of 1.4 percent in the UK.

Average earnings in both the public sector and the private sector increased by 1.1 percent in the year to June 2010. The mean average weekly earnings of full-time

<sup>6</sup> RPI(X): the RPI excluding mortgage interest payments.

<sup>7</sup> RPI(Y): the RPI excluding mortgage interest payments and the effect of indirect taxes (e.g. GST and impôts).

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equivalent employees in Jersey in June 2010 was £630 per week, ranging from £360 per week in Hotels, restaurants and bars, to £860 per week in Finance.

The average earnings increase was greatest in Agriculture - a 3.3 percent increase which the Statistics Unit report states is *"driven by the 2 percent increase in the minimum wage implemented in April 2010."* The lowest annual increase was in Construction (0.2%), the smallest annual change in this sector since 2003. During the same period, Finance saw a 1 percent increase, and Hotels, restaurants and bars showed a 1.8 percent increase.

The Average Earnings Index includes overtime payments, but excludes bonuses, employers' insurance contributions, holiday pay and benefits in kind (e.g. free accommodation and meals). For the year to June 2009, the average overtime payment across private sector employment was £20 per week. For 2010, the figure is around £20 per week across all sectors.

The March 2010 BTS showed that over half of the respondents were expecting employees' earnings to fall or remain unchanged in 2010. Across all respondents from all sectors, the average anticipated change in employees' earnings for 2010 was a 1 percent increase.

***Unemployment***

In its 2009 review, the Forum's main concern was to avoid triggering redundancies. The labour market in Jersey remains weak and, although down from a peak of 1,320 in February 2010, unemployment levels remain high compared to previous years. The total number of people actively seeking work increased by 40 to 1,290 in August, which was the fourth consecutive month showing an increase.

The August 2010 figure is 380 higher than in August of the previous year. When seasonal changes are taken into account, the number of people registered as ASW in August 2010 represents an increase of about 150 compared with the relatively stable level seen throughout the first six months of 2010. Ten percent of those actively seeking work have been unemployed for longer than a year.

The Forum notes that the public sector is planning to make redundancies and private sector redundancies continue. There is no evidence however of significant unemployment or redundancies in the hospitality or agriculture industries. Numbers registered as actively seeking work in August 2010 whose last occupation was recorded as being either 'Hotels, restaurants, pubs and clubs' or 'Fishing, Agriculture and Horticulture' are low (7% and 3% respectively). In contrast, 17 percent had last worked in 'Banking, Miscellaneous Insurance, Finance and Business'; 19 percent in 'Miscellaneous professional and domestic Services'; 18 percent in 'Construction and allied trades, mining and quarrying'; and 15 percent in 'Retail and Wholesale, Motor repairs and sales'.

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Forty four percent of those actively seeking work were under age 25 and a quarter of the total (26%) were aged 16 to 19. Although unemployment figures appear disproportionately high for young people, the Forum notes that the introduction of the 'Advance to Work' scheme last year will have provided an incentive for young people to register as actively seeking work.

Of the 330 teenagers actively seeking work in August 2010, around 100 were on the Advance to Work Scheme. The percentage of 16 to 18 year olds has remained fairly consistently between 10 and 20 percent of the total number of people who are actively seeking work, with peaks in the summer months.

According to labour market statistics, employment was static at the end of 2009, although falls in full time employment in the finance industry were offset by increases in part-time employment in the retail sector. Further, the number of vacancies was at a 10-year low. The Business Tendency Survey suggests that both finance and non-finance firms were less negative about future employment levels in June 2010 than they were in March 2010, and the overall balance is positive for the first time.

**Increasing the minimum wage**

Respondents were asked if there is any particular information or issues that they would ask the Forum to take into account; particularly in regard to whether (and by what method) the minimum wage should be adjusted.

As in the 2009 review, concerns were expressed about making businesses unsustainable and leading to redundancies.

The Jersey Farmers' Union ("JFU") stated that *"We feel the Employment Forum should show considerable restraint in any increase in the current rates. Jersey's minimum wage is now significantly higher than that of the United Kingdom and any increase in that difference will make any exports of agricultural products from Jersey more expensive and thus less competitive."*

The Jersey Hospitality Association (JHA) and another employer commented similarly on competitiveness with other jurisdictions; *"Under the current economic restrictions, it would be prudent not to raise the minimum wage at all as this will cause a disparity between both local agriculture and hospitality industries and overseas jurisdictions rendering them uncompetitive in an international market. Having said that, it is recognized by industry that the aspiration of a nil increase is impractical taken political pressure for a percentage increase equal to 45% of the average wage over a given period of time. The JHA believes that anything higher than a percentage increase equal to 40% of the average wage or 2.00%, which ever is the highest, would probably result in further redundancies and job losses."*



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*"With increased unemployment with[in] the EU and Jersey setting local minimum wage above other jurisdictions, whilst well intentioned, presents the possible danger of promoting immigration that will displace local workers."*

Concerns were also raised at the workshop that a high minimum wage may be counter productive by increasing immigration if it is too generous compared with other jurisdictions, particularly as there are believed to be plenty of employees who want to work in Jersey for the hospitality and agriculture industries.

The JFU commented similarly; *"The majority of staff on the minimum wage are seasonal staff from other parts of Europe. They have the right to work anywhere within the E.U. but choose to come to Jersey because the pay and conditions are acceptable to them. This is beneficial to them, to our Industry and thus to the Island. Any unrealistic increase in the minimum wage will jeopardise this mutually beneficial arrangement...I cannot stress enough how damaging unrealistic minimum wage increases would be on our Industry."*

The JHA noted that warnings that there would not be a rapid recovery from economic decline in 2010 have been *"borne out by the current trading conditions in the hospitality sector, growth is not apparent as yet, total employment in the Island has decreased, there are still concerns about further redundancies and we would, as a result, ask that the Employment Forum practices extreme caution in considering its review of the Minimum Wage in particular any thought process being given to any unmanageable increases to the minimum wage rate from 1st April 2011."*

A range of other similar comments were received from employer respondents in regard to increasing the minimum wage;

*"I agree with a 1.5% but any increase of more than 2% will cost jobs as businesses are still struggling to stay competitive and are currently suffering above average increases in most areas of business whilst also fearing higher taxes including an increase in GST."*

*"The Tourism industry is subject to very considerable pressure to contain costs in order to remain competitive and attract custom to the Island to the benefit of the economy generally."*

*"Most companies will pass any wage increases onto the customer resulting in higher prices, as profit margins are at rock bottom."*

*"The hospitality business finds it extremely difficult to pass on costs to the paying public with a consequence that standards and quality and choice may suffer. The real solution is to promote tourism so that more people can be employed at the lower income bracket as well as providing revenue to businesses that are suffering."*

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*"The minimum wage should not be increased by more than the cost of living as this is inflationary. The industries that pay the minimum wage do so as they would most probably not exist if they had to pay higher wages. Also horticulture and agriculture cannot just raise prices by [cost of living], as their returns are not fixed but are governed by market forces and weather. They are trying to compete against UK mostly which has a lower minimum wage."*

*"The minimum wage is often looked upon (by all sorts of people) as a universal panacea to tackle rising costs of living - which it is not, as ultimately an increase in the minimum wage can cause an increase in the price of goods and services - thus feeding the inflationary cycle. If it is felt that the minimum wage is severely inadequate then other factors influencing the cost of living also need to be examined before large increases are made."*

JACS commented that *"employers in certain sectors have adopted the minimum wage as the going rate. Bearing in mind that the minimum wage is intended to be an underpinning wage rather than what would be regarded in Jersey as a living wage, and the much publicised cost of essentials (food, utilities etc), we believe an increase (RPIX) to at least maintain the purchasing power of the minimum wage is essential."*

Two 'other' respondents commented on the high cost of living in Jersey. Two employees (non minimum wage) said that minimum wage should rise in line with inflation and one employee called for of 2 percent maximum increase on grounds that other employees pay has been frozen but minimum wage has not.

In regard to the Hospitality and Agriculture industries, one employee commented that, *"In recent years these sectors have faced serious challenges. However, we need these industries to move forward, and attract capable people with potential and energy (ideally Islanders). To do so, I believe these industries need to, some how, find a way to pay their employees a better wage. I think such sectors are now regarded as "just getting by" and which pay poorly."*

The Forum understands that rather than the rate of pay being unattractive, often the seasonal nature of the work in these two industries tends to make it unsuitable or unattractive to permanent residents who need to meet year-round financial commitments.

A minimum wage earning employee commented that whilst being signed off work recently, she had noticed the impact of not receiving £30-40 per week tips on top of her weekly wage; *"This has definitely made a difference, to the point where I now can no longer pay my bills at the end of the month. Any increase would be helpful and definitely needed. I work 42 hours a week, and take home £227- after rent (£125 a week), bills and food there is nothing at all left, and I certainly don't live a lavish lifestyle."*

Other comments from minimum wage earning employees included;

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*"The cost of living in Jersey is difficult on my current wage, what with renting and the expense of food. I don't think this is properly taken into consideration for people on minimum wage or just above it, I definitely struggle."*

*"The cost of living accommodation and food etc is hard to do with just one job."*

*"With the prices of everything being so high and now the tax bracket is higher, sometimes wonder whether jersey is worth it because I could go back to the UK and come out with the same wage but housing is half the price."*

*"I have not had a pay increase for two years. Taking into account rent rebate and tax I am paid significantly less than someone on benefits!"*

An employee (non minimum wage earner) said, *"There has not been a pay freeze for the minimum wage yet there has been for all other workers so the differential in wages has changed causing major problems in the work place and hence causing wage inflation all the way from minimum wage through to higher earners. While it is right to try and help those on the lowest wages we need to realise any increase in minimum results in those earning above this demanding equal increases and hence wage inflation that becomes full inflation cancelling the benefit of increased wages for minimum earners. We must keep the increase in minimum wage to 2% or less remembering they have not had a pay freeze as the rest of us have."*

The Forum appreciates the importance of differentials in regard to the knock-on effect of minimum wage increases on employees and areas of business where people are generally paid above the minimum wage but are not receiving pay increases.

There was a general feeling at the workshop and amongst written responses that a minimum wage representing 45 percent of average weekly earnings is too high, and that the States intentions in this respect could make public consultation worthless. A formula by reference to an index could meet this aspiration with no need for consultation or consideration of the economy.

An 'other' respondent asked; *"Couldn't there be a standard method, perhaps written in law, to avoid the cost and time implications of having the same consultation, discussions etc every year? There is surely enough data to be able to use a formula - eg following RPI (Low income) - this would make sure the increase is in line with the increase in cost of living for low income groups. Use of average earnings index would not be appropriate, given that this would increase minimum wage even if the top earners in the island had a wage increase but no-one else did..."*

The Employment Law, which set up the Employment Forum, requires the Forum to consult such representatives of employers and employees as they think fit, as well as having regard to the effect of the law on Jersey's economy and on

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competitiveness, before the minimum wage rate is amended. A fixed formula would require a change to primary law.

The Forum noted that, as in the 2009 minimum wage review, respondents generally did not oppose a realistic or minimal increase in the minimum wage, but did oppose a significant or unmanageable increase in the minimum wage on the basis that it would jeopardise businesses and jobs.

**Impact on business**

Employers were asked whether the downturn in the economy has led to changes in certain aspects of their business in the past year; whether they have reduced overall staffing levels, the basic working hours of employees, overtime hours, or overtime rates of pay, and whether they have increased prices or tariffs.

Of the 14 respondents who replied to these questions (which includes some respondents who were categorised as 'others' as well as 'employers'), 7 said that they had reduced overall staffing levels; 5 said that they had reduced overtime hours, or overtime rates of pay; 4 had reduced the basic working hours of employees; and 3 had increased prices or tariffs. Most who responded had not made any such changes in their business.

Employees responding to the survey designed for minimum wage earning employees were asked similar questions; whether in the past year their employer has made changes to basic working hours, reduced overtime hours or overtime rates of pay, reduced or removed perks (e.g. parking and meals), and reduced holiday entitlements.

Five of the nine employees who responded to the minimum wage employee survey reported that their employer had not made any of these changes to the business in the past year. Four employees reported that their employer had reduced overtime hours or overtime pay and one employee reported that his employer had reduced basic working hours, perks and holiday entitlements.

As in 2009, the hospitality industry is concerned that a significant increase in the minimum wage could lead to redundancies due to the "wage to revenue" percentage becoming unsustainable: The JHA commented that, "2010 has also been an extremely difficult trading year for all hospitality related businesses. As a result of the economic and visitor downturn, yield, room rate and revpar (revenue per available room) across the accommodation sector has seriously decreased. In an attempt to sustain business, most five and four star hotels have been regularly selling rooms at heavily discounted rates with continued discounting still taking place....The 'knock on' effect created across all grades means that hotels are competing directly with guest house rates, which when added to increased operating costs in Jersey results in margins being squeezed and profits diminishing or become non existent. This impact is then felt throughout the sector generally i.e. in restaurants, cafes, bars, attractions, suppliers etc."

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Hospitality employers who attended the workshop also commented that trading is genuinely difficult for the industry at this time; demand for rooms is down and increases in prices will further reduce demand. Jersey Tourism statistics show that total visitor numbers decreased by 6 percent from 726,400 in 2008 to 682,700 in 2009. Comparing the month of June 2010 with June 2009, gross arrivals by air and sea are up 2.1 percent, however gross arrivals for the six month period January to June 2010 are down 2 percent compared with the same period in 2009.

The JHA said that they “have witnessed the effects of the economic downturn first hand and the redundancies that have been made in order to reduce payroll operating costs. The downturn in the economy has led to changes in overall staffing levels with the decrease being sufficient to cause us concern. The standard working week for hospitality workers was generally 42 hours; however, employees now have to be more flexible in order to make up hours where less staff are being employed; there are also more zero hours contracts.”

**SECTION 4 – RECOMMENDATIONS**

**Minimum Wage**

The current minimum wage is £6.20 per hour. This was calculated in reference to 40 percent of the average weekly wage of £620 (as reported in June 2009). The Forum has considered the following methods of increasing the minimum wage based on the indices and comparators available:

	<b>Minimum wage</b>
Retail Price Index 2.8%	£6.37
Retail Price Index (X) 2.6%	£6.36
Retail Price Index (Y) 2.7%	£6.37
Retail Price Index Low Income 2.6%	£6.36
Retail Price Index Pensioner 2.7%	£6.37
Average Earnings Index 1.1%	£6.27
Mid point between RPI & AEI 1.95%	£6.32
40% of weekly average earnings (£630) 1.6%	£6.30
40.5% of weekly average earnings (£630) 2.9%	£6.38
41% of weekly average earnings (£630) 4.2%	£6.46
45% of weekly average earnings (£630)	£7.09
UK % increase (2.25%)	£6.34

The Forum notes that the UK will apply a 2.25 percent increase to the minimum wage from 1 October 2010. This follows a 1.2 percent increase last year. In the year to June 2010, RPI and average earnings increased at a faster rate in the UK than in Jersey; average earnings at 1.4 percent and RPI at 5 percent. Both public

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and private sector earnings in the UK saw greater average earnings increases than in Jersey over the twelve months to June 2010 (1.8% and 1.3% respectively).

The Forum considered whether it might be appropriate to recommend an increase in the minimum wage equivalent to 40.25 percent of the average weekly wage to reflect the requirement for the Forum to take into account the States objective to move towards 45 percent of average weekly earnings. The Forum was concerned that if the States considers that the Forum has not taken sufficient account of its decision, there is a significant risk that States Members may seek to increase the rate shortly prior to implementation, leading to a reduced period of notice for employers. However the Forum is also required to consider the impact of the minimum wage on the economy and competitiveness, and these are given equal weight in the Forum's deliberations.

It was clear from the workshop and a number of written responses, that employers were particularly concerned about political influence on the minimum wage shortly before the implementation of new rates, as occurred in March 2010. It was clear to the Forum that employers are seeking certainty in the rate that is announced 6 months in advance.

The JFU commented; *"The minimum wage was introduced to provide a safety net and not as some form of social engineering tool. The market place determines what wages can be paid. If the States try to interfere with this reality it will lead to a loss of jobs. We also hope that the States accept these recommendations and do not as they did this year debate other proposals to increase rates with only weeks to go before they are due to be implemented. This causes considerable problems for businesses financial planning."*

The JFU also commented, *"We feel that using the formula whereby the minimum wage is gradually increased to 45% of average earnings is seriously flawed and inflationary and that economic considerations should override this formula."*

In its 2008 minimum wage review, the Forum noted that there had been continued growth in the economy, including in the Agriculture and Hospitality industries and the move to 40.5 percent of the weekly average earnings was considered appropriate at that time. There is evidence that the economy is slowing improving, but international economic indicators are showing a slow down in the rate of recovery and growth and there is still an outside risk of a 'double-dip' recession.

The Forum is conscious that whilst most States employees' pay has risen by 2 percent in 2010, some private sector employees' pay has been frozen (in some cases for more than one year). The Forum can see no justification for minimum wage employees to receive a greater increase than States employees.

The Forum notes that whilst a ten pence rise (from £6.20 to £6.30 per hour) would increase annual minimum wage pay by £208 per year (based on a single person

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with no children, working a 40 hour week), that increased income doubles the income tax payable (from £66 to £123 per year).

The Forum has recognised the concerns of employers and has balanced this against the need for an increase in wages (particularly for local employees) in view of a greater increase in the cost of living than average earnings.

In the light of all the evidence before the Forum - the low expectation of wage increases in 2010, the relatively low level of RPI inflation over 2009/10, the weak labour market, increasing unemployment and low average earnings growth in 2010 - the Forum recommends that the adult minimum wage should increase by 2 percent, which represents 40.15% of average weekly earnings. The Forum accepts that, in order to reach the States objective, more substantial increases relative to average weekly earnings would be required in the future.

The minimum wage has increased by 20.3 percent since it came into force, compared to a total increase of 20.6 percent in average earnings over the same period. The recommended increase gives a total 22.3 percent increase in the minimum wage compared to a total 21.7 percent increase in average earnings.

The Forum is aware that the recommended increase is less than the increase in RPIX (2.6%), however considers that this caution is essential to protect jobs; the Forum's greatest concern continues to be to avoid triggering redundancies.

**The Forum recommends a minimum wage of £6.32 to apply from 1 April 2011.**

**Youth Rate**

In its 2006 recommendation, the Forum had recommended that a lower minimum wage rate should be available for students aged 16 to 18 who are in full time education. The proposal was rejected by the States and was therefore not implemented. The Forum consulted on the matter of a youth rate again in 2009, however did not find sufficient evidence to justify a recommendation for a lower rate.

The UK's Low Pay Commission (LPC) received evidence this year that, although the Youth Development Rate is not heavily used, retailers are falling back on it during the recession. Although removing the youth rates would not have a large impact on the cost of employment, it would affect some retailers' flexibility.

The LPC's latest report that, *"It has become increasingly evident that the employment prospects for younger workers have deteriorated consistently over a period of years, with a more substantial decline during the recession. The reasons for this long-term decline are complex and doubtless multi-faceted. The position of young people will be affected not only by their skill level and relative productivity, but also by the success of government programmes and social policy changes. The*

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*extent to which the minimum wage may have been a contributory factor remains unclear.”*

In order to justify recommending a lower rate for young people or students, the Forum would require evidence that young people are suffering from a loss of work experience and job opportunities. Respondents were asked if the minimum wage has had a detrimental effect on young people in terms of work experience or job opportunities, and if a lower rate (equivalent to the trainee rate) should be payable to young people aged 16 to 18.

Responses overall were split; six of the 11 employers, four of the 12 ‘other’ respondents and five of the 11 employees (non-minimum wage earners) who responded to this question believe that the minimum wage has had a detrimental effect on young people in terms of work experience or job opportunities.

Comments from employers included; *“Companies who were paying below minimum wage especially to Saturday staff, now employ less staff;”* *“Employers like myself could now get more mature staff for the same money so may be less likely to employ young people now;”* and, *“as an employer I would employ a more experienced person.”*

***Support for a youth rate***

Eight of the 11 employers agreed that a lower rate should be available for 16 to 18 year olds, payable for at least 3 months. Only one of the 6 employers who agreed that the minimum wage has had a detrimental effect on young people did not agree that a lower minimum wage rate should be available.

Some of the comments in favour of a lower rate were *“it can take up to 3 years before a young person is productive;”* that the lower rate *“reflects lack of experience;”* and that *“setting a minimum wage above market rate is likely to reduce the number of entry level jobs available. The level of the minimum wage must be set with consideration to its impact upon job opportunities.”*

The Jersey Hospitality Association noted that it has *“continually asked the Employment Forum to introduce a Student/Youth Rate in particular over the past few years as a result of the changing employment situation locally whereby school leavers/young people have found difficulty in finding employment. We believe that employers are generally discouraged from employing younger people, unless they have to, as a result of having to pay them the minimum wage. There are few jobs for them because they are simply over-priced when they first leave school and are in need of training and supervision..”*

JACS commented that *“Our work brings us into contact with a great many employers and we do believe that, in the current economic climate, the requirement to pay the full minimum wage has had the effect of reducing vacation work*



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*opportunities for young people. Such opportunities are important in terms of providing experience of working life as well as providing a small vacation income."*

JACS believe that a lower rate *"would encourage businesses to consider employing young staff or offering work experience to those still in the education system. It should also be recognised that in certain occupations (retail, hospitality) persons aged under 18 cannot be involved in the full range of duties such as selling of alcohol and therefore are not able to offer the same "employee value" as staff aged 18 or over."*

One employer suggested that a *"£5.50 rate should be introduced for 16 to 18 year olds and also include college students looking for essential summer jobs to help them pay their fees and living costs whilst at college."*

The JHA supports the introduction of a youth rate for 16 and 17 year olds, payable for the two years, up to age 18, *"to sustain both local employment prospects and the industry generally, with the standard minimum wage applying at 18 and over, regardless of training status. Given the statistics regarding unemployed young people, surely this is sufficient evidence to support such a rate being adopted by Jersey."*

Employers were asked if they would employ more young people if a lower rate were available. Of the 8 employers who believe that a lower rate should be available for young people, 3 said that they would not employ more young people if that were the case, and 5 said they would employ more young people. Of these 5, 3 of the employers said that they already employ young people.

Five of the nine minimum wage earning employees and 6 of the 14 non-minimum wage employees agreed that a lower rate should be payable for at least 3 months.

In support of a lower rate for employees of **student age**, one employee commented; *"six months may be a sufficient amount of time to gage whether the young person is worth keeping on. If the student is capable, his or her competence / potential should be acknowledged by the employer. Moving from a student rate to an adult rate after 6 months would be an incentive for that individual to continue. 12 months may be too long. The Island should be making the working world an attractive prospect for young people. We need to make sure that it pays to be employed in Jersey. Aspects of Jersey's benefits system (such as income support) should be a last resort."*

Three of 8 'other' respondents felt that a lower rate should be payable for 3 months and two agreed that a lower rate should be payable for 12 months. One 'other' respondent commented that a lower rate for 3 months *"will encourage businesses to take on young people that need training."*

One employee, whose work involves helping young people and adults who have a disability to undertake work experience, supported a lower rate payable to young

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people for up to 6 months. She commented that *"the availability of placements is lacking in amount, variety, flexibility and consistency. I couldn't pin-point an industry it is lacking in particularly as every client's wants/needs are different...better incentives are needed for employers to take on work exp students to then progress to be given trainee positions. And I know that many young people are more than willing to take these opportunities paid/unpaid so a reduced rate min wage is an excellent idea. Some scheme in the UK offer reduced pay to disabled employees as a reflection of their reduced productivity – this is a similar way that employers have been seen to be more flexible and non-discriminatory."*

Two comments from employers in support of a lower rate for young people are covered by the existing trainee rate – *"The lowest minimum wage i.e. that attributed to younger people should only apply if they are on an apprenticeship that includes on and off the job training whether locally or elsewhere;"* and *"£4.65 should only be allowed if linked to official training."*

**Opposition to a youth rate**

Of the five employers who did not agree that the minimum wage has had a detrimental effect on young people, one employer commented that, *"Many other factors, including the much debated "can't find" versus "won't find", also influence this - I don't believe the current level of minimum wage impacts upon the availability of work."*

Only one of four 'other' respondents who believed that the minimum wage has had a detrimental impact on young people's opportunities agreed that a lower rate should be available for young people. Five 'other' respondents did not agree with a youth rate and comments included;

*"Skills and experience and knowledge level should determine pay not age; you can have a 19 year old less competent (e.g. never worked before) than a 17 year old (e.g. who has worked for 2 years) and pay should reflect this."*

*"If they are doing the same job as an adult then they should get the same pay."*

*"Young people (such as myself-16 years old) have to earn money to pay for university fees, a flat/house and sometimes, higher education fees. I think this wage is too low especially as the cost of living has gone up."*

Of the nine minimum wage earning employees who responded, four did not agree with a youth rate. Five non-minimum wage earnings employees agreed that the minimum wage has had a negative effect on young people, however only two of these agreed with the introduction of a lower youth rate, suggesting that other methods of improving prospects for young people might be considered more appropriate or worthwhile.

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Eight non-minimum wage earnings employees disagreed with the introduction of a lower minimum wage for young people. One commented; *"If you're good enough to be employed to do a job then you should be paid the same regardless of age."* Another employee said, *"It's already a laughably low amount at the higher level."* A third employee commented that it may be appropriate for part time or Saturday staff, but not for full time staff.

As well as surveying employers and employees generally, the Forum prepared a questionnaire which was specifically designed for young people on the 'Advance to Work' scheme. Thirty four responded of around 100 currently on the scheme. Young people aged 19-20 on the scheme appeared more willing to work for a lower rate in recognition of the possibility of improving the prospect of getting a job; seven said that they would work for £4.65 per hour for 3 months or more, and only 3 would not. Of those aged 16 to 18, eight said that they would work for £4.65 per hour for 3 months or more, if it meant that they were more likely to get a job. Sixteen said they would not work for £4.65 per hour.

The Forum is aware that other options have been suggested, such as an 'entrants rate'. The Forum considers that businesses would find this complex to administer and it would be open to abuse. If a youth rate were to be introduced, the Forum considers that it should be on a simple age-related basis for young people aged 16 to 18 only.

The Forum appreciates that the current economic climate could be used to justify the introduction of a youth rate, bringing opportunities for both employers and employees. However the government initiative to improve the employment prospects of young people appears to be proving successful and the Forum is aware that the Scheme is being extended this year to people over age 19.

There was some support for a youth rate, in particular from employers, the JHA and JACS and the Forum fully appreciates the potential benefits and arguments in favour of a providing a lower rate. The Forum considers however that, as in the previous minimum wage review, the consultation has not revealed sufficient evidence that the minimum wage is a factor in youth unemployment, or that the availability of a lower rate would impact on employers' or young employees' behaviour sufficiently.

The Forum would require specific evidence that a youth rate would improve opportunities for young people, as well as consideration of consequences such as the displacement of existing older staff in favour of cheaper young people. The Forum is mindful that to introduce a youth rate at this stage could reduce the income of young people who are currently entitled by law to the full minimum wage, particularly young people who are living independently and supporting themselves.

**The Forum recommends that a youth rate should not be introduced. The full minimum wage, or trainee rate, should continue to be payable to employees over compulsory school age.**

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**Trainee rate**

The consultation did not specifically ask questions about the trainee rate and no comments were offered by respondents in regard to whether or not the trainee rate should be increased. There is therefore no reason to recommend that the trainee rate should be calculated any differently than in previous years, therefore the Forum recommends that the trainee rate should continue to be calculated at 75 percent of the minimum wage rate.

The workshop and written responses revealed that some employers do not understand what criteria must be met to allow the trainee rate to be paid, as well as a perception that the 'Trainee Rate' code of practice (which sets out the criteria) is not sufficiently flexible.

**The Forum recommends a trainee rate of £4.74.**

**The Forum recommends that the code of practice would benefit from a review in the future. In the short term, there should be more publicity of the requirements of the code of practice.**

**Offsets**

The maximum amounts that may be offset against the minimum wage where employees are provided with food and accommodation (or accommodation alone) have previously been increased each year in line with the increase in the minimum wage.

The review did not include any questions about the offsets. The JHA has however asked the Forum to increase in the offsets in view of; *"the real costs of providing accommodation and food against the huge subsidies that hospitality businesses are currently providing for the same services in order to accommodate and feed 'live in' staff. We recognise that the provision of such does support business; however offsets must be increased in order to balance the real costs of providing these services and benefits."*

The JHA points to the cost of accommodation in the private sector, as well as rising costs of food; *"During the next five years, food inflation is forecast to increase by an average of 7.5%, well above the 2.3% average of the past 10 years... Businesses simply cannot continue to absorb the alarming increase in food costs and as result these have to be passed on to consumers, however for staff food it has no choice but to absorb the difference between the % increase applied to the minimum wage against the reality of what is evident in the marketplace."*

The Forum notes that external factors regarding prices are affecting everyone who has to pay for services and accommodation in Jersey, not just employers who are providing these benefits to employees.

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The JHA also asks the Forum to reconsider the provision of a 'food only' offset; *"there is no reason why a restaurateur should not be compensated for the food provided, otherwise restaurants etc will stop providing this staff benefit."*

If a disproportionate increase in the maximum value of the offsets is to be considered, as well as consideration of a 'food only' offset, it will be necessary for the Forum to receive detailed evidence from stakeholders, as such changes would have a significant impact on the overall pay package.

The Forum recommends that the offsets should be increased proportionately to the minimum wage rate (a 2% increase), otherwise the effect of any increase in the minimum wage could be unpredictable.

**The Forum recommends a maximum accommodation offset of £69.21 per week, and a maximum food and accommodation offset of £92.27 per week.**

**Tips**

In its previous recommendation, the Forum recommended that the legislation should be amended, as in the UK, to prevent employers from using tips to top up minimum wage pay. The Forum recommended that employers should have one year's notice to change any existing practices.

**The Forum notes that this change will take effect from 1 April 2011 and that written guidance will be provided for employers and employees.**

**Next minimum wage review**

In 2006, the Forum had decided that the minimum wage should be reviewed every two years, instead of annually, unless there were circumstances, such as economic changes, to suggest that an earlier review is necessary.

The Forum believes that the economic outlook for 2011 is not yet sufficiently clear to enable a recommendation to be made beyond April 2011.

**Given the current economic climate, the Forum recommends that it will be necessary to review economic evidence and the minimum wage in 2011.**

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**SUMMARY OF RECOMMENDATIONS FOR 1 APRIL 2011**

	1 April 2010	<b>1 April 2011</b>
Minimum Wage	£6.20	<b>£6.32</b>
Trainee Rate	£4.65	<b>£4.74</b>
Accommodation offset	£67.85	<b>£69.21</b>
Accommodation & food offset	£90.46	<b>£92.27</b>

## **Explanatory Note**

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These Regulations have the effect that, with effect from 1st April 2011, service charges, tips, gratuities and cover charges paid to a worker through the employer's payroll will no longer count towards payment of the minimum wage.

These Regulations increase by 2%, with effect from 1st April 2011, the maximum amounts that may be taken into account for the provision by a person's employer of living accommodation, whether with or without food, when calculating the person's total remuneration. The amounts were last increased on 1st April 2010.







Jersey

## **DRAFT EMPLOYMENT (MINIMUM WAGE) (AMENDMENT No. 7) (JERSEY) REGULATIONS 201-**

*Made* [date to be inserted]

*Coming into force* [date to be inserted]

**THE STATES**, in pursuance of Articles 17 and 104 of the Employment (Jersey) Law 2003<sup>1</sup>, have made the following Regulations –

### **1 Interpretation**

In these Regulations “principal Regulations” means the Employment (Minimum Wage) (Jersey) Regulations 2004<sup>2</sup>.

### **2 Regulation 8 of the principal Regulations amended**

In Regulation 8(1)(d) of the principal Regulations the words “that is not paid through the payroll” shall be deleted.

### **3 Regulation 9 of the principal Regulations substituted**

For Regulation 9 of the principal Regulations there shall be substituted the following Regulation –

#### **“9 Limits on amounts that may be taken into account for the provision of food and living accommodation**

- (1) Where the employer provides food and living accommodation, the amount to which Regulations 7(1)(d) and 8(1)(g) refer is £92.27 per week or £13.18 per day.
- (2) Where the employer provides living accommodation but does not provide food, the amount to which Regulations 7(1)(d) and 8(1)(g) refer is £69.21 per week or £9.89 per day.”.

**4 Citation and commencement**

These Regulations may be cited as the Employment (Minimum Wage) (Amendment No. 7) (Jersey) Regulations 201- and shall come into force on 1st April 2011.

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- <sup>1</sup> *chapter 05.255*  
<sup>2</sup> *chapter 05.255.45*