

# **STATES OF JERSEY**

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## **MINIMUM WAGE LEVEL**

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**Lodged au Greffe on 12th February 2007  
by Deputy G.P. Southern of St. Helier**

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**STATES GREFFE**

## **PROPOSITION**

**THE STATES are asked to decide whether they are of opinion –**

- (a) to agree, in principle, that the Employment (Jersey) Law 2003 be amended to provide that the minimum wage shall be such hourly rate as may from time to time be determined by the States;
- (b) to request the Minister for Social Security to take the necessary action.

**DEPUTY G.P. SOUTHERN OF ST. HELIER**

## REPORT

The work done on the minimum wage contained in this report was carried out earlier in the year and communicated to the Minister of Social Security and to the Employment Forum as part of the consultation process. It appeared to me then that there were basic deficiencies in the process by which the minimum wage had been uprated, and as a consequence, that the recommendation brought forward by the Employment Forum and endorsed by the Minister of Social Security to uprate the minimum wage by 3% for 2006 has been based on a fairly superficial examination of the evidence. It had assumed firstly that the minimum wage was initially set and then uprated correctly and therefore all that was required for 2006 was to agree a broad consensus figure, slightly above the Retail Prices Index (RPI).

It was totally insufficient to state, as the Forum did, that –

*“It is not easy to determine the consequences of the minimum wage rate in the short time it has been in force, however, from the positive feedback in the consultation responses, the Forum considers that the initial level was judged correctly”.*

To do so was to ignore the evidence that could and should have been examined. The figure produced has not been based on any factual data but on the opinions of a mere 23 respondents.

Proper consideration of information revealed in R.C.1/2004, the Minimum Wage Recommendation, along with data contained in the Income Distribution Study 2002 (IDS) and trends in the Retail Price Index (RPI) and Average Earnings Index (AEI) over recent years produces a different figure; one which is significantly higher.

### Dismissed

Having communicated this information to the relevant bodies, I believed that my concerns and calculations might have affected the new rate for 2007, or at least been given due consideration and a counter-case put before members to justify the proposals of the Employment Forum and endorsed by the Minister. On reading the Draft Employment (Minimum Wage) (Amendment No. 2) (Jersey) Regulations 200, P.14/2007, lodged by the minister on 30th January, I was surprised to see that my case had instead been dismissed arbitrarily without argument.

I decided that this issue of the incorrect setting of the minimum wage should come to the States for debate, but examination of Draft Amendment No. 2 reveals no reference to the actual rate except in the body of the report. It is therefore not possible to amend the rate through this proposal. I therefore turned to the Employment (Minimum Wage) (Jersey) Regulations 2004 only to find that there is no mention of the rate there either. The closest one can get to amending the minimum wage rate is contained in Article 16(3) of the original Employment (Jersey) Law 2003, which states that –

*“The minimum wage shall be such hourly rate as may from time to time be prescribed”,*

where prescribed means “by Order of the Minister”. As members will be aware, Orders cannot be amended, only rescinded, which results in the previous Order staying in force. In accepting P.14/2007, members would have accepted the level set by the Minister for the minimum wage rate, without the opportunity to fully debate the rate or to amend it. When the order was tabled later, a rescindment motion would stand little chance of success.

This amendment then serves two purposes –

- (i) to permit a full debate on the correct level of the minimum wage for 2007;

and I hereby give notice to members that I intend to call for a rescindment of that Order based on the content of this report, when it does come to the Assembly; and

- (ii) to amend the law so that, in future years, the minimum wage rate is brought by regulation, enabling members to debate and possibly amend such a fundamental building block of our social structure.

## Principles

If members examine the principles of minimum wage outlined in R.C.1/2004 they will find the following:

The Report and Proposition states that the principles of introducing a minimum wage are that a rate *'should support a competitive economy; be set at a prudent level; be simple and straightforward; and yet make a difference to the low paid.'* The aim is to provide a package that takes account of business realities but removes the worst cases of exploitation.

Further, the first report of the UK Low Pay Commission on Minimum Wage (June 1998), on which our minimum wage proposals were based, suggested a number of potential benefits of introducing a minimum wage, including –

- Reducing 'in work poverty' – Initial results from the Income Distribution survey indicate that 10% of the working households in the sample fell below the low income threshold (before housing costs).
- Reducing inequalities of income in the working population – fairness.
- Removing the worst cases of exploitation – decency.
- Equality of opportunities between sexes and ethnic backgrounds.
- Encouraging investment in training, therefore benefiting the organisation.

### Reducing “in work” poverty

In the face of the first two benefits of the minimum wage presented above, the Committee of the day took exception to its advisors' (OXERA) assertion that the main reasons for introducing a minimum wage are to achieve greater income equality and to alleviate poverty.

Instead the Committee's stated aim was to provide *“decent pay for a fair day's work”*, and *“not to alleviate poverty”*.

To alleviate poverty, the Committee suggested an income support system to help those who are in need. This attitude led the Forum to ignore the revelation in the 2002 IDS that some 10% of households in work fell below the low income threshold, that is, into relative poverty. Instead, rather than use the minimum wage to alleviate this situation, the Committee preferred to rely on additional spending from taxation via an Income Support scheme, thus keeping households dependant upon benefits. One of the consequences for setting the minimum wage at too low a rate will be an increased burden on the support and benefits system.

If the minimum wage is to fulfil the aims outlined above, it must both be set at the correct level initially, and be uprated correctly.

### Uprating the minimum wage

The minimum wage recommendation in 2004 was based on the synthesis of several pieces of work –

- Updating the Institute of Employment Studies (IES) research
- “Setting the Minimum Wage” consultation
- OXERA report
- Update meetings
- Income Distribution Survey

A rate of £3.70 was deemed appropriate to be effective from 1st January 2000, on the basis of data that had been collected by IES in September 1997. A range of updating methods were considered by the Forum.

The first reliable data on income levels was provided by the 2002 Income Distribution Survey. This revealed that the relative low income threshold in Jersey at the time was £192 per week or £4.63 per hour. It also revealed that around 10% of the “in work” households fell below this threshold.

Use of the mechanism from R.C.1/2004 that produces the maximum uprating, resulted in a figure of £4.40 for 2002, giving a weekly wage of only £182, a full £10 below the relative low income threshold.

The Employment Forum then recommended a minimum wage rate with effect from October 2003 of £4.80, a 9% increase. It is not clear what the reasoning for this rate was. To justify this figure, the Forum did refer to the IDS 2002 figures, stating that the rate of £4.80 gives a weekly wage of £199.20, or 62% of the median wage and thus above the low income threshold. In making their comparison to the IDS figures, they omitted to mention that the £4.80 figure is effective from October 2003 for the year 2004, Given that RPI stood at 4.5% and AEI at 4.7%, in order to take those on the minimum wage out of relative poverty that rate should have been set at £4.84.

In R.C.1/2004 the Forum further recommended that the minimum wage be uprated from its nominal October 2003 rate of £4.80 by 6% to a rate of £5.08 to actually appear in workers’ wage-packets in April 2005. The 6% figure was based on an estimate of 4% annual inflation over 18 months. The actual figure for the rise in RPI over this period was in fact 6.7%, and the rise of AEI, based on the 2-year average June 2003 – June 2005, comes out at 6.5%. Applying the AEI figure to maintain those on minimum wage above the low income threshold gives a rate for 2005 of £5.15.

**Table 1 Uprating of minimum wage rate**

	Apr. 99	Jan. 00	Sept. 02	Oct. 02	Oct. 03	Oct. 04	Apr. 05	Oct. 05	Apr. 06	Oct. 06	Apr. 07
UK min. wage	£3.60			£4.20	£4.50	£4.85		£5.05		£5.35	
Jersey min. wage		£3.70	£4.40		£4.80		£5.08		£5.24		£5.40
Weekly min. wage		£154	£182		£199		£211		£217		£224
2002 IDS			£4.63		£4.84		£5.15		£5.42		£5.60
2002 low income threshold			£192		£201		£214		£225		£232

Figures based on a 41.5 hour working week originally adopted by Employment Forum

The recommendation for 2006 was that the rise should be 3%, a figure slightly above RPI arrived at by consensus. However, in order to maintain those on the minimum wage above the relative low income threshold, the figure required to avoid slippage, effectively putting some of those who work into poverty, must be based on the Average Earnings Index.

The fact is that a 3% increase in the minimum wage when the average across all sectors was 5.3% would result in significant slippage for hospitality and agricultural sectors, where most low paid workers are to be found.

Over the four year period, 2002 – 2006 while average earnings across all sectors have risen by 18.6%, average earnings in hospitality have risen by only 13% and overall agricultural earnings by only 2.6%. This is clear evidence that the gap between high and low earners has increased over the period. If we are, in the words of the committee “to make a difference to the low paid” we cannot allow a below average rise in the minimum wage when the low paid have already fallen so far behind. Hence the suggested rise should have been in line with AEI

across all sectors of 5.3%, taking the minimum hourly rate to £5.42 for 2006.

Finally, a rise in line with the June 2006 AEI rise of 3.3% would produce a minimum wage for 2007 of £5.60.

The report of the Employment Forum on page 17 recommends my formula of using the June AEI rise of the previous year to calculate the rise in minimum wage to be applied in April of the subsequent year, but then fails to apply it for this year and uses a figure of 3.05% instead. This comes about as a result of the arbitrary decision to fix the minimum wage at 40% of the average wage in 2006. The Forum acknowledges my contribution at the foot of page 17, and states that it has taken my scrutiny of the Forum's previous calculations into account. In fact it does nothing of the sort, but merely restates my argument that the correct rates for minimum wage to keep employees above the relative low income line are £5.42 in 2006 and £5.60 in 2007.

The Forum simply dismisses my calculations thus –

*“The Forum considers that having taken 40% of average earnings as the indicator for the 2007 rate, the Deputy's views on the failings of previous uprating methods are minimised, as the figure does not reflect simply an increase on the previous rate, and therefore provides a more appropriate base figure from which to uprate in future.”*

The case for a proper foundation to the minimum wage that I make is by no means “minimised” by the adoption of an arbitrary and different benchmark. The Forum fails to make any case whatsoever for its figure; nor does it address my case. To state that the adoption of a new figure negates the previous calculations is quite frankly nonsense, which is merely compounded by stating that the figure is in some way “*more appropriate*”. The Forum goes on to suggest that this new “standard” of 40% should be gradually ratcheted up to 45% over a period of time.

The fact remains that in order to reach the required standard of keeping low-paid employees above the relative poverty line, the level at which the minimum wage should be set is with respect to the internationally recognised median earnings mark. This can be done as I have demonstrated using the AEI. In order to achieve this standard, based on today's figures the minimum wage already needs to be set at 41.5% of average earnings.

There are no financial or manpower implications to this proposition.