

# STATES OF JERSEY



## **DRAFT EMPLOYMENT (MINIMUM WAGE) (AMENDMENT No. 9) (JERSEY) REGULATIONS 201-**

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**Lodged au Greffe on 31st January 2013  
by the Minister for Social Security**

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**STATES GREFFE**





Jersey

## **DRAFT EMPLOYMENT (MINIMUM WAGE) (AMENDMENT No. 9) (JERSEY) REGULATIONS 201-**

### **REPORT**

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#### **1. Background**

The independent consultation body, the Employment Forum (the “Forum”), conducted its annual minimum wage review during the period 29th June to 17th August 2012 and publicised its recommendation on 29th October 2012 (attached at the Appendix to this Report). The Minister for Social Security accepted the Forum’s recommendations on 30th November 2012.

The Forum recommended that the minimum wage and associated rates should be revised from 1st April 2013, as follows –

	<b>2012</b>	<b>2013</b>
Minimum Wage (per hour)	£6.48	<b>£6.53</b>
Trainee Rate Year 1 (per hour)	£4.86	<b>£4.90</b>
Trainee Rate Year 2 (per hour)	NA	<b>£5.71</b>
Maximum weekly offset against minimum wage for accommodation	£70.94	<b>£71.47</b>
Maximum weekly offset against minimum wage for accommodation & food	£94.58	<b>£95.29</b>
Maximum weekly offset against trainee rates for accommodation	£53.21	<b>£53.60</b>
Maximum weekly offset against trainee rates for accommodation & food	£70.94	<b>£71.47</b>

#### **The Minimum Wage Regulations**

In accordance with the Forum’s recommendations, the Minister proposes to amend the Employment (Minimum Wage) (Jersey) Regulations 2004 (the “Regulations”), the primary purpose of which is to –

1. Increase the maximum amounts that may be counted towards minimum wage or trainee rate pay where living accommodation, or living accommodation with food, is provided to an employee.
2. Provide that training is “approved” by the Minister, rather than being “accredited” by the Minister.

3. Extend the period during which an employee may be “a trainee” (whilst they are undertaking approved training) to a maximum of 2 years.

#### **The proposed amendments to the Regulations –**

1. **Increase the maximum amounts that may be counted towards minimum wage or trainee rate pay where living accommodation, or living accommodation with food, is provided to an employee.**

Regulations may be made under Part 4 of the Employment (Jersey) Law 2003 that specify the maximum offsets that are permitted against the minimum wage. This ensures that an employer’s ability to offset benefits in kind against weekly wages is limited to charges for living accommodation, or living accommodation with 3 meals each day.

The proposed amendment to the Regulations would increase the maximum values that may be attributed to the 2 benefits in kind by 0.75%, effective from 1st April 2013, 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 **£71.47**.
- For the provision of both accommodation and food to the employee, the maximum weekly offset against the minimum wage would be **£95.29**.

The proposed amendment to the Regulations would also increase the maximum values that may be attributed to the 2 benefits in kind for the purpose of establishing whether the trainee rate has been paid, effective from 1st April 2013. Those values are set at 75% of the maximum amount that may be offset against minimum wage pay –

- For the provision of accommodation to the employee, the maximum weekly offset against the trainee rate would be **£53.60**.
- For the provision of both accommodation and food to the employee, the maximum weekly offset against the trainee rate would be **£71.47**.

2. **Provide that training is “approved” by the Minister, rather than being “accredited” by the Minister.**

Regulation 1 would replace the definition of “accredited training” with a definition of “approved training”, however this continues to be defined as training that is approved by the Minister for Social Security.

Consultation by the Forum has highlighted that employers are unclear about the accreditation of training in order to justify paying the trainee rate. This proposed change in terminology is intended to remove the confusion created by the term “accredited” and to clarify for stakeholders that training is not required to be accredited in the sense that it leads to a recognised or certified qualification, but must simply be training that is approved by the Minister.

In accordance with the Regulations, the Minister would approve, via a Ministerial decision, classes or descriptions of training that takes into account the Forum’s specific recommendations relating to training. “Approved training” is expected to include the types of training courses that are currently set out in the ‘Minimum Wage – Accredited Training Rate’ Code of Practice<sup>1</sup>, certified courses and qualifications, as well as in-house training. The Minister will consult the Jersey Advisory and Conciliation Service and the Employment Forum on the training that is to be approved prior to formalising his decision.

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<sup>1</sup> [www.jacs.org.je/content/38/index.html](http://www.jacs.org.je/content/38/index.html)

**3. Extend the period during which an employee may be “a trainee” (whilst they are undertaking approved training) to a maximum of 2 years.**

Regulation 1 would amend the definition of “a trainee” to extend the period during which an employee may be “a trainee” to a maximum of the first 2 years of employment in a new job, instead of a maximum of one year in a new job. To be classed as “a trainee”, an employee must be undertaking approved training.

The maximum 2 year training period would start from the first day of employment in the new job. An employee is “a trainee” at any time during which they are undertaking approved training during the first 2 years in that job. At any time when an employee is not “a trainee” that employee is entitled to be paid at least the minimum wage.

It is intended that the availability of a longer training period, along with clearer criteria for payment of the trainee rate, would encourage employers to create new trainee positions, and that the opportunity for progression within 2 years of formal training could also encourage employees, particularly young employees, to take up trainee positions.

**Minimum Wage and Trainee rates**

Subject to the States adopting the proposed amendment to the Regulations, the minimum wage and trainee rates would be set, in accordance with the recommendations of the Forum, by amending the Employment (Minimum Wage (Jersey) Order 2007, effective from 1st April 2013.

The Order would apply the following rates to all employees over school-leaving age, 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.

- **A minimum wage of £6.53 per hour**, except when the trainee rate is paid (a 0.75% increase).
- **A first-year trainee rate of £4.90 per hour** whilst an employee is a trainee undertaking approved training for a maximum period of one year, within the first 2 years of a new job (75% of the minimum wage).
- **A second-year trainee rate of £5.71 per hour** where the trainee has already undertaken approved training for a total of one year in a new job and will continue to undertake approved training for up to one further year in that job, up to the maximum of 2 years (87.5% of the minimum wage).

**Financial and manpower implications**

There are no financial or manpower implications for the States arising from this proposition.

**RECOMMENDATION -  
MINIMUM WAGE  
RATES FOR 1 APRIL 2013**



Issued by the Employment Forum on 29 October 2012

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**PURPOSE OF RECOMMENDATION**

This is the Employment Forum's eighth minimum wage recommendation to the Social Security Minister. The Forum has consulted people who might be affected by the minimum wage, including employers and employees, and has considered relevant statistics and advice about the economy. The Forum has considered what rate the minimum wage should be set at from 1 April 2013 and whether a recommendation should also be made for minimum wage rates to apply from 1 April 2014. The Forum also reviewed the conditions relating to the trainee rate. The main purpose of the recommendation is to recommend minimum wage rates to take effect from 1 April 2013 so that the Minister may decide whether to accept the recommendation before proposing any necessary changes to the Law.

**SUMMARY**

- Section 1 – Background
- Section 2 – Minimum wages in other jurisdictions
- Section 3 – Statistics and other information
- Section 4 – Consultation responses
- Section 5 – Recommendations

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You can obtain an electronic copy of this recommendation from the Forum Secretary or the website - [www.gov.je/minimumwage](http://www.gov.je/minimumwage)

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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 establishment 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, now the Social Security Minister.

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. The Employment Law requires the Forum, in considering its minimum wage recommendations, to have regard to the effect on the economy of Jersey and on competitiveness.

The Forum must also have regard to the States objective (agreed in 2010) that the minimum wage should be set at 45 percent of average earnings within a period of 5 to 15 years, subject to consideration of economic conditions, the impact on competitiveness and employment of the low paid in Jersey.

The latest minimum wage rates are:

	1 April 2011	1 April 2012
Minimum wage (per hour)	£6.32	£6.48
Trainee wage (per hour)	£4.74	£4.86
Maximum weekly offset against minimum wage for accommodation	£69.21	£70.94
Maximum weekly offset against minimum wage for accommodation & food	£92.27	£94.58
Maximum weekly offset against trainee rate for accommodation	£69.21	£53.21
Maximum weekly offset against trainee rate for accommodation & food	£92.27	£70.94

### Previous Consultation and Recommendations

Full details of the Forum's previous consultations and recommendations on the minimum wage are available on the website [www.gov.je/minimumwage](http://www.gov.je/minimumwage).

## Summary of 2011 Minimum Wage Recommendation

The Forum consulted during June to August 2011: 72 written responses were received from a range of respondents and industries. A public meeting was held which was attended by a range of interested parties and the States Economic Adviser and Chief Statistician provided evidence in person to the Forum.

As in the 2009 and 2010 minimum wage reviews, respondents generally did not oppose a realistic or minimal increase in the minimum wage and accepted that a slight increase in April 2012 would be inevitable, but did oppose a significant increase in the minimum wage on the basis that it would jeopardise businesses and jobs.

In making its recommendation for a 2.5 percent increase to £6.48 per hour, the Forum took into account the consultation responses as well as the following evidence:

- an expectation of lower wage increases in 2011 than in 2010 across all sectors;
- indicators suggesting that the non-finance sector is still struggling, with business activity levels still falling;
- economic advice that high RPI inflation should not be factored into wage decisions;
- the stable but still weak labour market;
- increasing levels of long-term unemployment;
- average earnings growth of 2.5 percent overall and 2.2 percent in the private sector in the year to June 2011; and
- minimum wage increases of 2.5 percent in the UK and Guernsey

The Forum recommended that further information about minimum wage earners in Jersey, including the number of employees earning the minimum wage and the industries they work in, will be essential to allow the Forum to consider the impact of minimum wage increases, or any other changes to the system and method of calculation. The Forum will commission appropriate research in 2012-2013.

Consultation was also undertaken in 2011 on the rules relating to the offsets including; whether an employer should be permitted to deduct a sum where individual meals are provided to employees, and/or a sum for meals where the employee does not live in staff accommodation. The Forum recommended that there should be no change to the current provisions; an employer should be permitted to make a deduction from minimum wage pay only where three meals per day are provided with staff accommodation.

The Forum recommended that, until data about minimum wage earners is available, the offsets should be increased proportionately to the minimum wage rate (a 2.5 percent increase), otherwise the effect of any increase in the minimum wage could be unpredictable.

Having reviewed the criteria, duration and types of training that permit payment of the trainee rate, the Forum concluded that in order to give further



consideration to the trainee rate, a co-ordinated approach with the Jersey Skills Board and Jersey Enterprise would be necessary. The Forum recommended that, in the meantime, the trainee rate should continue to represent 75 percent of the minimum wage (£4.86).

Given that the economic outlook for 2012 was not sufficiently clear to enable a recommendation to be made beyond April 2012, the Forum agreed that it would be necessary to review further evidence during 2012.

### **Youth Rate Research**

Due to increasing unemployment, particularly amongst young people, in late 2011, the Social Security Minister directed the Employment Forum to review the impact of introducing a 'youth rate' that would be payable at an hourly rate lower than the minimum wage.

Previous consultation undertaken by the Forum had not revealed sufficient evidence that the requirement for employers to pay the full minimum wage to young people is a factor in youth unemployment, or that the availability of a youth rate would impact on employers' or young employees' behaviour to a significant extent.

The Forum had recommended in September 2011 that resources should be made available to enable the Forum to commission research to explore the possible introduction of a youth rate. Such resources were made available and the research was undertaken by Island Analysis.

In its recommendation dated 16 May 2012, the Forum concluded that, for the purpose of creating employment opportunities for young people, there was insufficient evidence from the research to demonstrate that a youth rate should be introduced at that time. The Forum considered that a youth rate would not provide a 'quick fix' to youth unemployment and unanimously recommended that a youth rate should not be proposed.

## **SECTION 2 – OTHER JURISDICTIONS**

### **UK**

The UK Government has accepted the changes that the Low Pay Commission (LPC) recommended to the minimum wage. The Commission said that its proposal takes into account the difficult economic circumstances given that the expected pace of economic growth in 2012 and 2013 is uncertain and is likely to be low, which means that *"caution is essential"*. The LPC said that the recommended adult rate *"is one which we expect to maintain the relative position of the lowest paid and which we believe business, including small businesses, will be able to afford"*.

<b>Rate</b>	<b>Age range</b>	<b>Current hourly rate</b>	<b>Hourly rate from 1/10/12</b>	<b>% increase</b>
Adult	21+	£6.08	£6.19	1.8
Development	18–20	£4.98	£4.98	Frozen
Young person	16–17	£3.68	£3.68	Frozen
Apprentices	Under 19	£2.60	£2.65	1.9

## Isle of Man

In the Isle of Man, the minimum wage rates that have applied since 1 November 2011 are shown in the table. It has not yet been announced whether any changes will be proposed to apply in 2012 or 2013.

Rate	Age range	Current hourly rate	Hourly rate from 1/11/12	% increase
Minimum wage	18+	£6.20	Not announced	
Trainee (6 months)	18+	£5.24	Not announced	
Young person	16	£4.67	Not announced	
Young person	17	£5.24	Not announced	

## Guernsey

Guernsey's Commerce and Employment Department proposed to the States of Guernsey that the adult minimum wage should apply from age 18 instead of age 19 from 1 October 2012. The Young person's rate now applies to persons aged 16 and 17.

Rate	Age range	Current hourly rate	Hourly rate from 1/10/12	% increase
Minimum wage	18+ (was 19+)	£6.15	£6.30	2.4
Young person	16–17 (was 16–18)	£4.36	£4.36	3.2

## International minimum wages

The Forum notes that the LPC recommends caution when drawing comparisons between countries because 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 uprating dates vary.

The LPC reported that in three countries there was no minimum wage increase between 2010 and 2011: the United States, Belgium and Ireland. Having reduced the Irish minimum wage by €1 from February 2011, it reverted to €8.65 on 1 July 2011. Jersey's minimum wage compares favourably with other jurisdictions when the value of each country's minimum wage is expressed as a percentage of median earnings. The table at Appendix 1 shows adult minimum wages relative to median earnings, by country.

The median wage is used as a standard to make minimum wage comparisons across jurisdictions, rather than the mean wage which is usually higher than the median when the same data is used. The Employment Forum has in previous recommendations compared proposed minimum wage rates with 40 percent of the mean weekly earnings, as released by the Jersey Statistics Unit. A median weekly wage figure has been provided by the Statistics Unit in 2011 and 2012. Jersey's current minimum wage of £6.48 represents

49.8 percent of the estimated median weekly earnings and 39.9 percent of the mean weekly earnings for June 2012.

The UK adult minimum wage rate of £6.19 from 1 October 2012, which only applies to workers aged 21 or more, is expected to be around 40.8 percent of mean earnings in April 2013.

## **SECTION 3 – STATISTICS AND OTHER INFORMATION**

### **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 2012, the All-Items RPI increased by 3 percent (a fall in quarter 2 from the annual rate of 4.7 percent in quarter 1). The largest contributors to the change were the motoring and housing groups. Food prices increased by 2.5 percent over the twelve months, which was the lowest annual rate of increase seen by this group for two and a half years.

Underlying inflation is measured by RPI(X)<sup>2</sup> and RPI(Y)<sup>3</sup>. RPI(X) increased by 3.2 percent over the twelve months to June 2012, a fall in quarter 2 from the annual rate of 4.9 percent in quarter 1. RPI(Y) increased by 3.1 percent over the twelve months to June 2012, an annual rate of increase 0.4 percentage points lower than in the previous quarter. According to the Economic Adviser, the percentage change in RPI(Y) is forecast to remain under 3 percent until the end of 2014.

Due to changes in both the rate of GST in Jersey and the rate of VAT in the UK, the important comparative measure of underlying inflation is provided by RPI(Y). The annual change over the 12 months to June 2012 was slightly greater in Jersey (3.1%) than in the UK (2.9%). During the 12 months to June 2012, the RPI increase in Guernsey was 3.2 percent and the RPI(X) increase was 3.1 percent.

### **Earnings**

The 2012 Index of Average Earnings measures changes in average earnings between the last weeks of June 2011 and June 2012. In June 2012, the average weekly earnings of workers in Jersey was 1.5 percent higher than in June 2011. The annual increase is 1 percentage point lower than that of the previous twelve month period.

The Statistics Unit average earnings report for August 2012 states that *“The average annual increase in earnings during the most recent four-year period, since the global economic downturn in late 2008, has been 2.0% per annum, a rate of increase lower than any annual increases seen in the preceding two decades.”* The rate of growth of average earnings in the private sector has

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<sup>2</sup> RPIX: the RPI excluding mortgage interest payments.

<sup>3</sup> RPI(Y): the RPI excluding mortgage interest payments and the effect of indirect taxes, including GST.

shown a downward trend since 1999. Prior to 2003, earnings growth in Jersey had been greater than growth in prices, however in the past 3 years earnings have risen by around 1.5 to 2 percentage points less than prices.

Over the year to June 2012, average earnings in the private sector increased by 1.8 percent; this is similar to the average seen over the previous two year period. Broken down by individual sectors, the annual percentage change in average earnings was 3.3 percent in wholesale and retail, 1.5 percent in hotels, restaurants and bars and a fall of -3.1 percent in agriculture, despite many employees receiving the 2.5 percent increase in the minimum wage from April 2011. According to the average earnings report, the latest fall in agriculture was driven by fewer hours being worked in June 2012 than in the previous June.

Average earnings in the public sector increased by 0.3 percent in the year to June 2012. At the time of the survey, no public sector pay awards had been implemented for 2012. A pay offer has however been made to employee representatives:

- 1 percent non-consolidated<sup>4</sup> in 2012, paid as a lump sum,
- 1 percent consolidated plus 1 percent non-consolidated (paid as a lump sum) in 2013, and
- an award equal to a consolidated pay award of 4 percent of basic pay with effect 1 January 2014 in return for a modernisation agreement.

The States Chief Executive has stated that the latest pay review has been challenging and that a number of issues have had to be considered, including:

- *“The difficult economic climate has affected employment and living standards across Europe. The UK public sector has seen pay freezes, reductions in numbers employed, in pay and in terms and conditions of service.*
- *The wider economic climate has affected Jersey. Rising unemployment - the worst in decades - an increase in redundancies and changes to pay, terms and conditions of service have affected many employees in Jersey’s private sector.*
- *Forecasts show low economic growth for the foreseeable future, while States departments need significant investment to help deliver the services the Island needs.”*

Over the same period, average earnings in the UK increased by 1.8 percent. Guernsey does not collect earnings data.

Average earnings data also provides information on the level of earnings: the mean weekly earnings per full-time equivalent employee in June 2012 was £650 per week, the same weekly level as reported for June 2011. Average earnings by sector ranged from £350 per week in agriculture, £370 per week in hotels, restaurants and bars, £470 per week in wholesale and retail, to £900 per week in financial services<sup>5</sup>.

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<sup>4</sup> A non-consolidated amount is a one-off payment that is not incorporated into basic pay – existing salary scales remain unaffected.

<sup>5</sup> These figures must be considered as estimates with an uncertainty of approximately £20.

Because the earnings distribution is skewed towards higher values, the mean statistic provides a numerically greater measure of “average” earnings than the median. The estimated median weekly earnings of full-time equivalent employees in Jersey in June 2012 was £520 per week, again the same weekly level as reported for June 2011.<sup>6</sup>

## Employment

The Business Tendency Survey for the second quarter of 2012 suggested that employment had reduced in both the finance and non-finance sectors. The Employment indicator for the Finance sector had been neutral in mid-2011 but declined to increasingly negative levels during the previous nine months; 41 percent of finance firms reported a reduction in employment for quarter 2 of 2012, only 13 percent of firms reported an increase and almost half reported no change. 29 percent of non-finance firms reported a decrease in employment for quarter 2 of 2012, only 7 percent reported an increase and 64 percent reported no change.

The Statistics Unit’s Labour Market Review for June 2012 shows that total employment (56,380) was 530 lower than in June 2011, a fall of almost 1 percent. The figures suggest a shift from full-time to part-time working; the net decline in private sector employment comprised a decrease of 740 full-time employees and an increase of 180 part-time employees. The overall net fall in private sector employment over the twelve months to June 2012 was driven by decreases within wholesale and retail (down by 550 employees on an annual basis), construction (down 320) and finance (down 230). The number of vacancies in the private sector was 300 lower than in June 2011 and was the lowest for at least 13 years.

## Unemployment

According to the August 2012 unemployment report published by the Statistics Unit, the total number of people registered as unemployed and actively seeking work (ASW) in Jersey was 1,670; 70 lower than a month earlier (July 2012) but 330 higher than that of a year earlier, in August 2011. On a seasonally adjusted<sup>7</sup> basis, the total was 40 lower than in the previous month and 60 lower than the average for the preceding three months. 330 teenagers aged 16–19 years were registered as ASW, remaining at the same level as a month earlier.

Long-term unemployment<sup>8</sup> peaked in February and March of this year. On 31 August 2012, 290 people were long-term unemployed; 10 lower than in July 2012 and around 50 lower than in February and March. Long-term unemployed people account for 17 percent of the total ASW. Seventy-five percent of those registered as ASW were receiving Income Support.

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<sup>6</sup> The Jersey Income Distribution Survey (IDS) collected the necessary household and individual income information required to determine median income.

<sup>7</sup> Seasonal adjustment removes variations associated with the time of year allowing underlying behaviour to be examined.

<sup>8</sup> Unemployment is ‘long term’ where a person has been registered as ASW for more than 52 weeks.

Of the people registered as ASW in August 2012, 20 percent had previously been employed in 'miscellaneous professional and domestic services', 20 percent had previously been employed in 'retail and wholesale, motor repairs and sales' and 14 percent had previously been employed in 'construction and allied trades'. Thirty-three percent had previously undertaken 'elementary occupations'<sup>9</sup>.

## **Economic outlook**

As of August 2012, the States Economic Adviser summarised the economic outlook as follows; *"Prospects for the global economy have weakened in the first half of the year due to ongoing issues with sovereign debt in the euro area and financial market stresses. In particular, the outlook for growth in the euro area and in the UK has grown weaker. There are significant downside risks which could see the global outlook deteriorate further. Trends in the local economy have been deteriorating since the crisis in the euro area took hold. While conditions are not deteriorating to the same extent as in 2009, the vast majority of indicators suggest that trends continue to weaken in 2012."*

The States Economic Adviser's June 2011 'Economic Outlook' report noted that the local economy was showing some signs of improvement and resilience in the face of global economic difficulties, particularly in the finance sector. However, prospects for the global economy weakened during the second quarter of 2012 and that optimism appears to have dwindled.

According to the Business Tendency Survey (BTS) for the second quarter of 2012, *"of the ten indicators polled in the Finance sector, six are negative, indicating that the number of businesses reporting a decline on each measure outnumber those reporting an improvement. Only one of the indicators has significantly improved (by more than ten percentage points) while three have become significantly more negative. Profitability has been negative for four quarters while business activity remains negative for the second successive quarter. Expectations for future business activity remain positive, but this is at its lowest level since September 2011."*

In contrast to the finance industry, the BTS for the second quarter indicates that non-finance respondents remained negative on all ten indicators, profitability remaining strongly negative.

In regard to the retail and tourism sectors in particular, the Economic Adviser notes that *"Retail sales figures for 2012Q1 show a 9% fall in volume of sales compared to the same quarter in 2011. Sales volumes for the predominantly food sector have fallen by 7% whilst volumes for the predominantly non-food sector have fallen by 11%. This represents the biggest annual fall in both sub-sectors since the Retail Sales Survey was launched in April 2007. The BTS indicators show a similar picture of negative trends across the retail sector and St Helier footfall is also down year on year. These difficult conditions on the high street reflect the weak local economic conditions and continued*

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<sup>9</sup> Examples of 'elementary occupations' according to the Standard Occupational Classification (SCO 2000) – Farm workers, labourers, packers, postal workers, messengers, couriers, hotel porters, kitchen and catering assistants, waiters, bar staff, domestic cleaners, security guards.

*competition from internet sales from outside the Island. Data for the first five months of 2012 suggests a fall in tourist activity as the number of staying leisure visitors declined by 1.1% on 2011 and stands more than 8% below the average for the same months over the 2007-2012 period.”*

The latest Gross Value Added (GVA) figures, which measure Jersey's economic activity, show that Jersey's economy declined by 1 percent in real terms in 2011 to its lowest level since 1998. 2011 is the fourth consecutive year that Jersey's economy has declined on a year-by-year basis, but it is the lowest decrease in the last three years due to the relatively improved performance of the Finance sector. Non-finance sectors of the economy saw a real term fall in GVA of 2 percent in 2011. The majority of the decline was due to a 5 percent decline in construction GVA and a 16 percent decline in the output of the agriculture sector. Wholesale and retail was the only sector to exhibit any growth in 2011, with GVA increasing by 2 percent.

According to the October 2012 Fiscal Policy Panel Report, the 1 percent fall in the level of economic activity in 2011 is slightly below the Panel's previous forecast of 0 to 3 percent growth. The Panel forecast GVA growth of between – 3 percent and 1 percent in 2012, with similar performance in 2013 (but concluded that it is too uncertain to forecast for 2014). The Panel has noted that *“there remains significant uncertainty around these forecasts, with the risks primarily to the downside. The Bank of England Official Bank Rate is unlikely to increase during the forecast period and will potentially be reduced further... Heightened uncertainties at a global level also offer the potential to add a further drag to growth.”*

### **Data on minimum wage earners**

The Forum had been concerned for a number of years that information about minimum wage earners in Jersey is not available from existing statistics and surveys. In order to contemplate a higher minimum wage, or any other major changes to the system and method of calculation, the Forum must have data to fully consider the impact.

The Forum understood from consultation responses that the majority of minimum wage earners were employed in the hospitality, agriculture and (to a lesser extent) retail, fulfilment and services sectors. Employers in these sectors have explained that only a proportion of employees in a business earn the minimum wage, such as seasonal staff, whilst other more experienced or longer-serving employees generally receive more than the minimum wage. The Jersey Farmers' Union (JFU) noted in its response to this consultation; *“Within the Agricultural / Horticultural Industry, the Minimum Wage is paid to unskilled workers with other workers being paid considerably more dependent upon their skills, capabilities and qualifications.”*

In the latest survey undertaken for the June 2012 report on the Index of Average Earnings, the Jersey Statistics Unit included a number of new questions relating to low paid jobs, and specifically to minimum wage jobs. The survey covers around 55 percent of workers in Jersey. Estimates have been derived from the data collected. Tables are included at Appendix 2. In considering the estimates, it must be noted that the figures relate to one point

in time only (the last week of June), which is a seasonal work peak. It must also be noted that the numbers relate to jobs, rather than individual employees, so people who have more than one job may be double counted.

To summarise the estimates that have been derived:

**Jobs paid at £6.80 or less per hour:**

- 4,600 ( $\pm 300$ <sup>10</sup>) jobs were paid at £6.80 per hour or less, which is around 10 percent of jobs.
- As a percentage of total staff in each sector, jobs paid at £6.80 per hour or less represented 44 percent of jobs in agriculture and fishing, 34 percent of jobs in hotels, restaurants and bars, 12 percent of jobs in other business activities<sup>11</sup> and 5 percent of jobs in wholesale and retail trades.
- Of these jobs, around 6 in 10 were 'permanent' and around 4 in 10 were 'non-permanent'.
- Just over half of these jobs were non-permanent in agriculture and fishing (52%) and other business activities (51%).
- In the wholesale and retail trades sector, 83 percent of the jobs were permanent, and in hotels, restaurants and bars, 63 percent of the jobs were permanent.
- Around 1 in 5 businesses employed staff at less than £6.80 per hour.
- By sector, businesses with staff paid at less than £6.80 per hour included 70 percent of agriculture and fishing businesses, 40 percent of businesses in the hotels, restaurants and bars sector, and 10 percent of businesses in the three sectors wholesale and retail trades, other business activities and construction and quarrying.

**Jobs paid at £6.48 per hour:<sup>12</sup>**

- 2,900 ( $\pm 300$ ) jobs were paid at £6.48 per hour, which is around 6 percent of jobs.
- 45 percent of the jobs paid at £6.48 per hour were in the hotels, restaurants and bars sector.
- As a percentage of total staff in each sector, jobs paid at £6.48 per hour represented 29 percent of jobs in agriculture and fishing, 22 percent of jobs in hotels, restaurants and bars, 9 percent of jobs in other business activities and 2 percent of jobs in wholesale and retail trades.

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<sup>10</sup> The plus-minus sign ( $\pm$ ) is a mathematical symbol commonly used to indicate an approximation.

<sup>11</sup> The 'other business activities' sector includes 'Miscellaneous business activities' and private sector 'Education, health and other services'.

<sup>12</sup> The number of jobs that are paid at the minimum wage, or less, are included in the number of jobs paid at £6.80 or less.



- Around 1 in 10 businesses employed staff at £6.48 per hour.
- By sector, businesses with staff paid at £6.48 per hour included 60 percent of agriculture and fishing businesses, 20 percent of businesses in the hotels, restaurants and bars sector, and 10 percent of businesses in the two sectors wholesale and retail trades and other business activities.

**Jobs paid at less than £6.48 per hour:**

- Less than 100 jobs were being paid at the trainee rate.
- Less than 100 jobs were being paid between the trainee rate and the minimum wage.
- The two sectors employing staff on these rates were construction and hotels, restaurants and bars.

**Benefits in kind:**

- Staff received food and/or accommodation provided by the employer in 1,300 (± 300) of jobs that paid the minimum wage or the trainee rate.
- Around two-thirds of those employers made a deduction or charge against pay for that food and/or accommodation.
- Only two sectors appeared to be using the offsets.
- 500 minimum wage or trainee rate staff in agriculture and fishing received food and/or accommodation and 500 staff were charged for it.
- 800 minimum wage staff in hotels, restaurants and bars received food and/or accommodation and 400 staff were charged for it.

**Political objectives**

The States approved a Proposition<sup>13</sup> in 2010 committing the Forum to have regard to the objective that the minimum wage should be set at 45 percent of average earnings within a period of 5 to 15 years, subject to consideration of economic conditions, the impact on competitiveness and employment of the low paid in Jersey.

Since that decision, the Forum has been concerned that if States Members decide that the Forum has not taken sufficient account of this objective, there is a risk that Members may seek to increase the rate shortly prior to implementation, bringing uncertainty for employers. This concern was realised earlier in 2012 when Deputy Geoffrey Southern lodged a Proposition<sup>14</sup> that asked the States to request the Minister for Social Security to set a minimum wage of £6.52 per hour from 1 April 2012, 4 pence more per hour than the rate that had been recommended by the Forum.

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<sup>13</sup> P.26/2010, as amended

<sup>14</sup> "Minimum Wage: revised hourly rate from 1st April 2012" (P.183/2011)

During the debate of that Proposition, the Minister for Social Security noted that *“When summing up at the end of that debate the Deputy [Southern] also said: “The Employment Forum at any stage, because of economic conditions or competitiveness, or employment of the low paid, conditions may choose to pause at any stage. This is not about tomorrow. This is not about ramping-up the minimum wage tomorrow, it is about over the next, up to, 15 years and in the light of conditions the Employment Forum can be trusted to do its best to do that.” In view of this unequivocal support of the Employment Forum from Deputy Southern Members should be asking themselves exactly why he has chosen to bring this proposition today against a background of record unemployment levels, and considerable pessimism for economic growth in recent business tendency surveys. So Members will be aware that the labour market is still very weak and, quite correctly, unemployment is the highest priority for the Council of Ministers. Increasing employment costs by raising the minimum wage by more than the average earnings index could undermine the competitiveness of businesses, many of which are exporters, and risk further job losses.”*

Although the Proposition for a minimum wage of £6.52 per hour was not adopted by the States, respondents to the Forum’s consultation, particularly employers, continue to be concerned about the impact of the States’ objective. The public meeting revealed strongly voiced concerns that the States decision that the minimum wage should increase to 45 percent of mean weekly earnings is viewed as contradicting the role of the Forum and that the aspiration might be prioritised over wider minimum wage and employment strategies.

Some of the public meeting attendees asked why a fixed percentage increase is not simply applied each year to reach the States’ objective, removing the requirement for consultation. Whilst the States’ decision does not bind the Forum and allows equal weight to be given to the economy, competitiveness and jobs, the Forum is aware that it brings unwelcome uncertainty. The Forum exercises extreme care to ensure that all of the statutory requirements and objectives are considered carefully.

The current minimum wage rate represents 39.9 percent of the mean weekly earnings, as reported in August 2012. The Forum had aspired to recommend increases comparable to a greater percentage of average earnings when there had been continued growth in the economy.

## **Apprentices**

The Economic Development Department provides financial support to employers who employ an apprentice under the Jersey Apprenticeship Scheme. During the development of proposals for a new apprenticeship scheme (which is still under development, but is expected to be available later in 2012), 115 employers across a wide range of industries responded to a survey. These employers had previously taken part in the Advance to Work scheme and/or the Apprenticeship scheme.

The survey asked employers if the obligation to pay apprentices at least the trainee wage during the first year of the apprenticeship scheme and the

minimum wage, or more, from the second year onwards would stop them taking on an apprentice; if it seems fair; or if apprentices should be paid the minimum wage from the start of the scheme. Twelve percent of the employers who responded said that the requirement would stop them taking on an apprentice; 63 percent said that it seemed fair; and 25 percent said that apprentices should be paid the minimum wage from the start of the scheme.

Further discussions with some of those employers suggested that the ability to pay an employee less than the minimum wage in a second year of training or apprenticeship would make a significant difference for some employers, particularly for small businesses, who struggle with the additional costs of employing a trainee and the lower productivity of trainees in years 1 and 2. Those discussions also suggested that the criteria that permit payment of the trainee rate need to be as simple as possible to encourage employer participation.

A delegation of Forum members attended a meeting of the 'Skills Jersey' Board on 21 June 2012 to discuss the proposed changes to the apprenticeship scheme and to seek the views of the Board on any changes that could be made to the trainee rate in a co-ordinated manner. Comments from those present at the meeting reflected those of the surveyed employers; that employers might be encouraged to take on more apprentices if a second year trainee rate was available at a lower hourly rate than the minimum wage, and that there is a lack of employer understanding of the requirements relating to the trainee rate. Noting the States' policy to develop the skills of local residents to reduce the requirement for immigration in certain industries, it was also suggested that the Forum might consider whether the trainee rate could be payable only to residentially qualified employees.

## **SECTION 4 – CONSULTATION RESPONSES**

Full details of the Forum's previous consultations and recommendations on the minimum wage are available on the website [www.gov.je/minimumwage](http://www.gov.je/minimumwage).

### **METHOD**

The Forum consulted during the period 29 June to 17 August 2012. The Forum circulated a background document and a survey suitable for all types of respondents, including employers, employees, trade unions, employers' associations and independent bodies. The review was distributed to those on the Forum's consultation database (approximately 250 in total), which includes a wide cross section of respondents. The survey was also available to complete online.

Notification of the review was placed on the government website homepage and in the Social Security Department reception. Details of the review were circulated to States members and to employers via Social Security Officers who regularly make contact with employers. Jersey Enterprise assisted the Forum by circulating a notice about the review to 64 employers and 72 apprentices who have taken part in the Jersey Apprenticeship Scheme.

People taking part in the Advance to Work and Advance Plus schemes were targeted via their mentors and were asked to complete a targeted survey. Only 5 responses were received which was disappointing compared to previous years' response rates for this group.

A public meeting was held on 1 August 2012 which was attended by a range of interested parties. The views discussed during the public meeting have been considered in detail by the Forum and have informed this recommendation.

The States Economic Adviser and Senior Assistant Statistician provided evidence in person to the Forum on 30 August 2012 allowing the latest economic outlook and statistics to be reviewed.

The Forum received 274 written responses from a range of respondents and industries.

	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
Employee	2	6	23	10	137
Employer	9	10	11	16	34
Employer/trade association	4	2	2	2	4
Trade union/staff association	1	1	0	1	2
Other	2	5	12	7	11
Students/Young people	–	80	–	–	82
Advance to Work/Plus participants	–	–	34	36	5

'Other' respondents include law firms, independent consultants, advisory bodies and other interested parties.

The Forum received more responses than in previous years as research assistance was provided by Island Analysis who were contracted for the purpose of stimulating responses from employers, employees and young people as well as to conduct the survey face-to-face. Island Analysis circulated the survey to 100 businesses that had agreed to receive it and 34 responses were received from employers.

Research was targeted by Island Analysis to industries where employees of all ages were considered more likely to be earning the minimum wage, or thereabouts. By employment sector, 23 percent of those employed worked in shop/retail/sales, 20 percent worked in catering/hospitality and 19 percent in finance/insurance. Twenty percent of the employees said that they earned £6.80 or less per hour.

Island Analysis also targeted young people and received responses from 82 young people aged 16 to 25. Of the 49 young people who were employed, 43 percent were minimum wage earners and the most common employment sectors were catering/hospitality (31%), shop/retail/sales (23%) and finance/insurance (17%).

## RESPONSES

The following sections include a selection of the range of comments that were received from respondents who agreed to be quoted. All comments have been included verbatim.

### 2012 minimum wage increase

Overall, employers appeared to view the latest 2.5 percent increase in the minimum wage as fair, including some of those employers who employ staff at less than £6.80 per hour (8 of the responding employers paid the minimum wage to some employees).

*“This years rise is reasonable given the financial problems at the moment.”*

*“A reasonable reflection of cost of living and demand for labour.”*

Concerns were expressed by a number of employers that minimum wage paying employers have not been able to apply pay freezes as other employers have done in recent years, and that pay increases have had to be applied across the business to maintain pay differentials. Comments from employers included:

*“In the current economic climate, and given recent levels of unemployment, any increase in the minimum wage does not make economic sense. This increase will ensure that it remains difficult for employers to justify taking on any further staff and will continue to result in upward pressure on unemployment.”*

*“Fair, but in the current economic climate could lead to difficulty in the business securing contracts from customers.”*

*“The increase was to a fair rate, however the speed in which the increases have come over the past few years, putting businesses operating outside of the finance industry in to a tighter position where we then look at reducing the number of hours worked to control the payroll.”*

The JHA commented that the minimum wage increase *“forced businesses to increase wage rates for other staff not being paid the minimum wage so as to maintain differentials. Therefore, the notion of just applying an increase to the minimum wage is not that simple, other staff are affected and they will become disgruntled and uneasy if, in straitened times, pay increases only apply to those on the minimum wage.”*

The JFU commented that *“any increase in the Minimum Wage has a spiralling effect with semi-skilled and skilled employees also demanding similar or even greater wage increases resulting in our Industry becoming uncompetitive.”*

A range of views were expressed by employees, including;

*“This level of increase appears to have been appropriate taking economic circumstances into account.”*

*"I fully understand that these are hard economic times, however, 2.5% does not cover the rising cost of living."*

*"The percentage increase is not enough to stimulate growth and to encourage people living on income support back to work either make the increase worthwhile i.e. 10% or reduce income support benefits,"*

*"I do not agree with it. A great many of us are in to our 2nd year of a pay freeze and there is no particular reason why this rate should be increased."*

Comments from other respondents included;

*"The increase was appropriate given the economic circumstances prevailing at the time." (JACS)*

*"In the current economic climate, raising the minimum wage has a 'knock on' effect on all other pay levels." (Peter Tabb, Jersey Motor Trades Federation)*

*"Many employers on the Island were intending to implement a pay freeze; however given the rise in minimum wage, those who employ on this rate could not implement a pay freeze, due to the statutory requirements." (Chair of HR Committee, The Jersey Chamber of Commerce)*

*"In the year to June 2011, average earnings rose by 2.5%. Though not the only consideration, a marginal increase in the minimum wage in line with this was not unreasonable."*

*"Satisfactory but know for the experience of acting for some on the minimum wage, that it is a real struggle to live on this amount."*

*"Anecdotal evidence we have received from employers suggests that some have had difficulty with the increase. This is typically the feedback received from hospitality employers and is also a reflection of the industries and employers who are struggling with the current economic climate."*

*"Unite welcomes the 2.5% increase and the fact that it kept pace with average earnings. However at time when RPI inflation in the year to March 2012 stood at 4.7%, clearly the lowest paid workers purchasing power has been reduced and Unite would hope this year's rise would look to address this." (Nick Corbel, Jersey Regional Industrial Organiser, Unite the Union)*

### **Impact on business**

Employers were asked if, in the past year, they had made certain changes in their business:

- 17 percent of employers had reduced the basic working hours of employees. Of the employers who responded to the 2011 minimum wage review, 46 percent had reduced basic working hours.

- 41 percent of employers had reduced overtime hours, or overtime rates of pay, compared to 43 percent of employers in 2011.
- 33 percent of employers had reduced overall staffing levels compared to 31 percent of employers in 2011.
- 37 percent of employers had **increased** prices or tariffs. 64 percent of employers had done so in 2011.
- 26 percent of employers had **reduced** prices or tariffs<sup>15</sup>.
- 27 percent of employers had made staff redundancies.

The responses from the small numbers of employers who responded to the 2011 minimum wage review suggested that employers might have been passing any additional costs and effects of the economic downturn on to customers, rather than by making redundancies. Compared to 2011, around the same proportion of employers said that, in the past year, they had reduced overall staffing levels, but a smaller proportion of employers said that they had reduced basic working hours. An additional question this year revealed that 27 percent of the responding employers had made staff redundancies in the past year.

Construction sector responses indicated that the main area of change is in the reduction of tender prices and although staffing levels have not been reduced yet, that may not continue. Comments from employers on changes to businesses in the past year included:

*“To generate demand to keep employees employed our sale rates have been reduced to minimise the need for redundancies.”*

*“Prices have to rise to accommodate the rising cost of running a business in Jersey of which staff wages are a part.”*

*“Unemployment is a major problem for the island and all wages (usually the largest business cost) must be kept down.”*

The greatest change experienced by the largest number of employees was reduced overtime hours or overtime rates of pay (25%) and the basic working hours of almost one in ten employees had been reduced. Of the employee respondents (9% of whom were unemployed and looking for work at the time of the survey), 3 percent had been made redundant in the past year.

Employers across different industries who attended the public meeting discussed the changes that they had made to their businesses. One hospitality employer had restructured the business to prevent job losses. One agriculture employer commented on the likelihood of increased mechanisation of the industry to reduce staff costs.

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<sup>15</sup> The questions relating to the final two bullet points had not been asked in previous reviews.

The JFU commented; *“It was evident that following the increase in the Minimum Wage in April this year, farmers and growers were reluctant to pay their employees overtime rates and many employers invested in labour saving equipment in an effort to combat the higher rate of pay resulting in fewer staff being employed for less hours.”*

The Channel Islands Co-operative Society commented that they have *“made staff redundant in specific area of business in order to remain competitive in that sector. Prices have been increased in line with increases in the prices that we are charged and to meet increased staff and occupation costs.”*

The JHA commented that *“the past 4 years have been very tough for the hospitality sector and there is no doubt that 2012, 2013 and beyond will bring further economic challenges and pressures. Global competition for demand and resources represents a real threat to Jersey’s hospitality and tourism industry and these threats grow in intensity and become stronger every year.”*

### **Increasing the minimum wage**

Respondents were asked if they thought that the minimum wage should increase with effect from April 2013 and what minimum wage rate they thought should apply.

Eighteen out of 32 employer respondents (56%) and the four employers’ associations thought that the minimum wage should not increase with effect from April 2013. As in the 2010 and 2011 minimum wage reviews, concerns were expressed about increases in minimum wage making businesses unsustainable.

Employers’ comments included;

*“It would make it more difficult for unskilled workers to find jobs, especially since many employees have had pay freezes for several years.”*

*“Regrettably the current climate is not good for any employer or staff member, I feel an increase will only serve to put extra pressure on small business.”*

Some respondents felt that the continual annual increases are creating a problem, suggesting that an increase every other year might be more appropriate in the current climate. Comments included:

*“An increase every two years would allow businesses time to reorganise to cover cost increases, not just from wage increase but all costs have increased dramatically recently.”*

*“The constant increasing is inflationary at a time that most companies are trying to hold or even reduce prices.”*

*“The minimum wage should be frozen until the economy returns to growth or until the Employers can afford a rise.”* (Chair of HR Committee, Jersey Chamber of Commerce)



*“As a result of the fragile and uncertain economic conditions that continue to prevail, the JHA has received a number of views from our members to support our view that there is no good economic reason for the Employment Forum to consider increasing the minimum wage, thus we feel that it would be both prudent and timely not to raise the minimum wage at all in 2013... Pay scales must also reflect exactly what businesses can adequately sustain in order to survive; they literally cannot afford to simply keep increasing wages.” (JHA)*

The JFU said that, *“unlike the other Sectors we are unable to pass on any increases in costs to third parties having to accept prices paid for our produce by our multiple customers and the wholesale markets...In order for our Industry to remain profitable and therefore viable it is imperative to keep our cost-base as economical as possible. Our existing Minimum Wage is considerably higher than that of the United Kingdom and our competitors and for our produce to remain competitive, it is vital to retain all costs at a minimum.”*

As well as the need to protect jobs and businesses, a number of respondents noted the importance of consistency between the minimum wage policy and the government’s policy of getting people back to work. The JHA, for example commented, *“With such emphasis being placed on encouraging businesses to increase employment opportunities for locals, wages need to be kept in check and under control, otherwise a reverse effect will likely happen which will see businesses reducing headcounts further.”*

*“We do not believe that there should be an increase to minimum wage or the trainee rate at this time. To increase these rates would work against Government’s actions in getting people back to work as employers would be less likely to recruit in this economic climate. As an employer, the States of Jersey tried to implement a pay freeze, like most employers across the island, so why should the government try to enforce pay increases for the small majority of individuals?” (CIPD, Jersey Branch)*

*“Would it not be better to keep the minimum wage either the same or at least minimise the increase, it may encourage employers to employ more staff from the unemployment register.”*

*“We are increasingly being encourage to increase employment opportunities, to do so wages need to be kept under control, otherwise the opposite will happen and we will need to reduce headcounts even further.” (Seymour Hotels)*

*“Minimum wage increases are contrary to the States’ stated aim of reducing unemployment and any increase indicates inconsistent application of policy.”*

The five respondents who were participants in the advance to work and advance plus schemes all thought that the minimum wage should increase from April 2013.

Respondents who indicated that the minimum wage should increase next year were primarily influenced by cost of living rises and GST, there was a concern

that those at the lower end of the wage bracket would be “left behind”. Comments in support of an increase included:

*“Yes (it should rise) because the demand (or lack of) for labour is more associated with the Economic downturn than the price of labour (Salaries). I do not believe that a 2.5% increase will materially affect employment opportunities but will assist employees in meeting the essential life expenses thus create demand”. (Employer)*

*“Wage increases need to continue in order to mitigate increase in cost of living.” (Employer)*

*“Unite believes that due to the stability in employment, the continued growth in average earnings and the extra purchasing power needed caused by higher inflation that the minimum wage should increase in April 2013.” (Unite the Union)*

*“The minimum wage should at least remain in line with its present percentage of average earnings.” (Employee)*

*“It cannot remain stationary without causing exceptional hardship.” (Employee)*

*“Having taken many years to legislate for a minimum wage the States should ensure it is increased annually to achieve either (or both) of the following: To protect to the greatest extent possible the purchasing power of the minimum wage To ensure that sight is not lost of the States decision taken in April 2010 that the objective was to increase the minimum wage to a level of 45% of average earnings within a period of 5 to 15 years.” (JACS)*

*“Although the economy is currently not particularly healthy, not increasing the minimum wage may potentially add to more apprehension of the public to spend money, circling back further negativity for the economy. Increases do not need to be significant, but should reflect a certain amount of projected positivity from the Government in the face of increasing living costs.” (Other)*

Of the 14 employees who responded to this question, 12 (86%) said that the minimum wage should increase with effect from April 2013. 87% of the young people who responded (aged 16 to 25) also said that the minimum wage should increase. Reasons given included the high cost of living in Jersey and to provide a greater incentive to take up employment. Comments from young people included:

*“The island wishes to increase public spending from an economic point of view and the islanders need a boost in financial confidence and a level of security provided by an increase in wages, even as slight as the increase would be.”*

*“It would attract younger adults into applying for jobs and earning more money than they would be just sponging off of social.”*

*“I feel the 6.48 should stick for employees without 5 years residency but increase for those who do have residency.”*

*“We need to support the growth of local sourced and trained persons and have less unemployed being kept while we bring in labour to fill gaps left by poor encouragement and support for people in training. Train people for jobs don't send them to uni to study subjects that make them of no use to the working world and industry of the island.”*

*“I believe the minimum wage rate is an acceptable rate. It could use a very slight increase, but nothing more, to keep the rate of inflation steady.”*

Young people who thought that the minimum wage should not increase in 2013 commented as follows;

*“Small business's cannot afford the increase.”*

*“I think it is fair as it is. Considering the current situation, people should be glad to be on minimum wage if they haven't worked for a while.”*

*“It is a decent wage for unskilled labour.”*

*“We do not want to spark an upward inflation cycle in such turbulent times. Pay differentials would cause inflation - and this cycle would be hard to break.”*

The general impression from the public meeting was that last year's proposed increase was fair, however views were stronger than in any previous minimum wage review that a freeze would be appropriate, primarily so that employers can stay in business. A small number of employers (in the hospitality and agriculture industries) said that they would prefer a decrease, but accepted that this would be unlikely. It was also noted during the public meeting that pay freezes are expected across all sectors.

### **Rate of minimum wage from April 2013**

Eleven employers and all four employers' associations stated that the minimum wage should continue to be £6.48 next year. Other employers suggested rates between £6.51 and £7.00, or that the minimum wage should increase by the same percentage as the increase in the cost of living. Comments on freezing the minimum wage included;

*“The minimum wage should remain unchanged until unemployment falls to a more sustainable long-term level. Allowance for economic growth (or contraction) should be factored into the minimum wage to ensure that it is not overly focussed on inflation measures. From an employer's perspective some items of inflation, such as GST increases and increased cost of raw materials – already result in a strain on margins and may result in staff number reductions anyway – if these items of inflation are also used to justify an increase in the minimum wage of staff then this has a double-impact and is even more likely to lead to a reducing headcount.” (Employer)*

The Jersey Hospitality Association (JHA) commented that, *“With this difficult economic backdrop evident together with increasing unemployment and a*

*generally weak labour market there is a low expectation of wage increases in our sector of the economy.”*

*“In the absence of any economic upturn, the rate should not be increased.”*  
(The Channel Islands' Co-operative Society Ltd)

*“Freeze for minimum of 12 months from 04/2013 and thereafter match % change in Public Sector rates.”* (Employee)

Comments on increasing the minimum wage included;

*“The basis of any increase should be, as a minimum, in line with any increase in the 2012 Average Wages Index (compared to 2011) subject to a minimum increase of 2%.”*(JACS)

*“Half median earnings is a figure that has been commonly used for years to calculate low pay thresholds, this is also Unites policy for the minimum wage. Currently the median income for households in Jersey after housing costs was £520 per week divided by 36.9, which is the average hours worked per person in Jersey, equals an hourly rate of £14.09. Therefore Unite recommends the Jersey minimum wage rate should be £7.05p per hour in 2012.”* (Unite the Union)

*“Depending on economic events in the meantime, the increase should not be higher than 2.5%, but not too low to appear arbitrary.”* (Other)

Four of the 5 respondents who were participants in the advance to work and advance plus schemes suggested hourly rates between £7 and £8. One commented; *“Businesses are under severe pressure due to the downturn in the economy, until the economy picks up the minimum wage should increase inline with inflation.”*

Fifty young people indicated what rate they thought the minimum wage should be set at from April 2013, 60 percent of whom suggested a rate between £6.51 and £7.00. Fifty-seven percent of the young people said that they would not work for the current minimum wage, the majority of whom (around 85%) were aged 19 or over. Reasons given by these employees included that they could not afford to live on the minimum wage, or were currently earning more than the minimum wage. One young person commented that Income Support pays them more than the minimum wage.

Three of the 5 respondents who were participants in the advance to work and advance plus schemes said that they would work for the current minimum wage, one of whom commented *“I believe any paid work is better than not working.”*

Of the 102 employees who specified an hourly rate, around half specified a rate between £6.51 and £7.00 per hour and around a quarter specified a rate between £7.01 and £7.51 per hour. Thirty percent of the employee respondents were earning £6.80 per hour or less and 44 percent said that they would accept a job that pays £6.48 per hour. Some of the employee respondents were already receiving the minimum wage, whilst others

commented that they would only work for the minimum wage if there was no other choice, that they would take any work available, or that they considered it to be an acceptable wage. Where reasons were given for not accepting a minimum wage job, most employees felt that it would not be enough to live on due to the cost of living in Jersey.

### **Training and the trainee rate**

This year's review also focused on training and the trainee rate. The current trainee rate of £4.86 per hour is payable to employees of any age, for up to one year in a new job, where certain types of training are being provided, including in-house training.

The Forum's recent research on the possibility of introducing a lower minimum wage rate for young people found that around 4 in 10 young people and employees said that they would work for a lower rate if it included some form of training. The Minister for Social Security directed the Forum to review the trainee rate and the conditions that might permit an employer to pay less than the minimum wage. The Minister proposed that the Forum should undertake this review within the context of other ongoing plans to re-model training and apprenticeships in Jersey.

The Forum met the members of the Skills Jersey Board during the review, in particular to ask if the proposed changes to apprenticeships and training in Jersey should be reflected in, and supported by, the criteria that permit payment of the trainee rate and the code of practice<sup>16</sup>. The Forum noted the comments of the Board that the current conditions that permit payment of the trainee rate are not sufficiently clear to employers.

More than half of the employers (16 of 31) who responded said that they were aware of the conditions that must be met in order to pay the trainee rate. Of those 16 employers, 6 thought that the conditions were not sufficiently clear and 10 thought that the conditions were not sufficiently flexible. Of the 12 employees who responded to this question, half said that they were aware of the conditions, 3 thought that the conditions were sufficiently clear and only one thought that the conditions were sufficiently flexible.

Employers were asked if they would employ (or employ more) trainees if there were different or more flexible rules for payment of the trainee rate. Eight of 30 employers (27%) said that they would. Comments from employers included:

*"It is the cost after one year we have to pay minimum wage so that prevents us from taking on more trainees, as after one year they are still not qualified enough to be able to do more within the business."*

*"Due to issues such as age-restricted sales, it has become very difficult to employ under-18s because of the need for extra supervision. A trainee rate may allow an increase in manpower to allow for this issue and thus give a*

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<sup>16</sup> The Trainee Rate Code of Practice is on the website [www.jacs.org.je/content/38/index.html](http://www.jacs.org.je/content/38/index.html)

*gateway into the workplace for those leaving School at age 16 with few or no qualifications.” (Channel Islands Co-operative Society)*

Four of the employers who said the conditions were sufficiently clear but not sufficiently flexible appeared not to be aware that the flexibility they required might already be permitted as ‘in-house’ training, comments including:

*“There is a need to recognise on-the job training where qualifications are not available locally.”*

*“Only apply to recognised vocational training. Not always available in our industry.”*

*“Do not take into account internal training i.e. training that does not result in a recognised qualifications.”*

*“There are no formal qualifications required for most workers in our industry (retail). Although new recruits require training, generally there is no accredited training courses available for shop-floor workers.”*

*“Vocational training for our industry, where much improved through Highlands College over the last few years, does not always provide the range of courses available elsewhere, so vocational is fairly narrow for our economic sector. As such, a clear message needs to be sent out to industry to highlight exactly what is covered by the trainee rate.” (JHA)*

*“It appears that many employers do not understand when the trainee wage may apply. More clarification is required surrounding this rate, when it can be applied and what exactly ‘an approved course of study’ is.” (CIPD, Jersey Branch)*

*“Anecdotal evidence from employers suggests that the conditions are not clear, especially in relation to the provision of in-house training packages. Firms often do not realise that they could be paying the trainee rate and clearer promotion of the rate and conditions would be welcomed. It would always be preferable for someone to be taken on and paid the trainee rate than not taken on at all.” (Other)*

*“Subject to sufficient interest, we would consider putting together a formal traineeship for new entrants to our industry, provided that recognition could be obtained for in-house on the job training. Currently some resentment from experienced staff members when young totally green youngsters join and take home the same as them (often with a great deal less financial commitments).” (Seymour Hotels)*

Comments from other respondents included:

*“More information should be published.”*

*“Need to be simple so that all can understand and adhere to them.”*

*“We operate an apprentice scheme and feel the system works well for both parties.”*

*“It is clearly a potential loop hole for unscrupulous employers to maximise profit and open to abuse.”*

*“In some respects the conditions are almost too flexible allowing for definitions varying from employer to employer.” (Peter Tabb. Jersey Motor Trades Federation)*

Few comments were received specifically on the trainee rate code of practice. Those that commented generally noted that the code of practice should be updated, simple, user friendly and enforced.

### **Trainee rate conditions**

The code of practice sets out the requirements that must currently be met to permit payment of the trainee rate. Respondents were asked to indicate if they agreed that the trainee rate should only be payable where the training being provided:

- is relevant to the job,
- is undertaken mainly during paid working hours,
- is supervised,
- is provided at no cost to the employee, and
- leads to a formal or accredited qualification.

Most employee respondents agreed that training should lead to a formal qualification that is relevant to the job, be supervised, and be undertaken mainly during working hours (82 to 92%). Fewer employees (64%) said that the training should be provided at no cost to the employee.

Employers generally agreed that training should be relevant to the job, undertaken mainly during paid working hours and supervised. Fewer employers agreed that training should lead to a formal qualification. Comments in support of the trainee rate being payable only where a formal qualification is being undertaken included:

*“To ensure that the system is not abused the rules need to be tightly enforced. Trainee should be deemed as someone undertaking a formal and recognised apprenticeship with day release through Highlands College. This would also allow auditing and a better understanding of the future skill being developed to identify any skill shortages.*

*“Formal and recognised apprenticeship run through Highlands or other recognised institution where training and development can be demonstrated.”*

*“Courses that provide long term capabilities which would otherwise cost the trainee. i.e. effectively training instead of cash.”*

*“Training courses in which are paid for and ones that you can get a full qualification from which is recognised in other companies.” (Advance to work/ Advance Plus participant)*

*“If the employer is going to be allowed to pay less than the minimum wage then they must be able to prove that it the worker is doing genuine training.” (Unite the Union)*

The Forum’s public meeting revealed that there is a perception amongst employers that in-house training is difficult to devise and that employers were unclear on what was required. Suggestions included advising employers on how to structure a training course and some form of inspection to confirm that the employer is meeting the requirements.

An ‘other’ respondent commented; *“It would be useful to have one point of contact who advises employers about the trainee wage. Employers are not always confident enough to take this on board without assistance and someone to authorise and check that they are following correct procedure.”*

The Channel Islands Co-operative Society suggested that *“consideration could be given to having a system whereby an employer sets up a relevant training programme that is assessed by the relevant states Department and, if accepted as following a proper training programme, persons undergoing that training would be afforded the training rate.”*

The Forum appreciates that employers want to be certain that they will not fall foul of the law when paying the trainee rate and expects that a revised code of practice, as well as guidance from JACS, will assist employers. However, the role of the minimum wage and the trainee rate are to provide a minimum level of pay below which no employee (over the age of 16) in Jersey should be paid. The purpose is not to assist employers by developing and monitoring training schemes. The Forum considers that such assistance might be available to employers from a number of States Departments, including the Economic Development, Social Security and Education, Sport and Culture Departments.

Other comments on the conditions that must be met to pay the trainee rate included:

*“Maybe relax the rules if training not successfully completed as at the moment this is not a reason to continue paying the trainee rate.” (Seymour Hotels)*

*“I am a tiler and have employed a trainee in the past, It took up a lot of my time and cost me money, Unless I was able to pay a trainee a wage of £4.86 per hour WORKED I would not do it again.”*

One employee commented on the need to ensure that *“Apprentice log books are read by a person who understands the level of hands-on training required.”*

*“The trainee rate should only be offered to those who have completed their education in Jersey so the skills of the indigenous population are improved*



*negating the need to import talent. Areas that offer growth like IT should be targeted.” (Advance to work/advance plus participant)*

JACS raised an issued that had also been considered in last year’s minimum wage review, commenting that the *“Trainee rate should be payable only for the proscribed period irrespective of whether or not the trainee joins a different employer during that period. At present, if circumstances require that a Trainee (who may have been paid the Trainee Rate for, say, 9 months) moves to a different employer then that Trainee is likely to paid the Trainee Rate for a further full proscribed period (currently 12 months).”*

The Forum also received a response from an employee who appears to be in this position; *“I am 28 and have already completed my first year of an apprenticeship at highlands college. I then changed employers and am in my second year of training. My new employer can pay me trainee wage as I am in my first year of employment with them.”*

In its 2011 minimum wage recommendation, the Forum had noted that *“There is a perceived unfairness created by the rule that the trainee rate may be paid in the first year of **a new job with a new employer**. After one year of training and receiving the trainee rate in a job, if the employee moves to a new job but continues the training course, the new employer may pay the trainee rate for up to one year while that training continues. If the employee had remained in their previous employment, the full minimum wage would have been due after one year. JACS consider this to be unfair because the employer benefits from the training that the employee has already undertaken, whilst being permitted to pay the lower rate for up to one year.”*

The Forum noted, however, that the new employer, whilst paying the lower trainee rate, must also invest in the employee by providing the training at no cost to the employee and paying the employee the trainee rate for hours spent training.

### **Trainee rate duration**

The Minimum Wage Regulations provide that the trainee rate may be paid for up to one year in the first year of employment by an employer, in the particular job for which the employee is being trained. After one year on the trainee rate, with the same employer, employees become entitled to the full minimum wage.

Respondents were asked to indicate the maximum duration that they thought the trainee rate should be payable for. The existing one year trainee period and the suggested 2 year trainee period were each supported by 28 percent of the employer respondents. Nine percent supported a 6 month trainee period, 3 employers specified a longer period (3 to 4 years) and 5 employers said that the maximum duration should vary/be flexible depending on the trainee, the course or the business.

Comments from employers who were in favour of retaining a maximum one year trainee rate period included:

*“Reasonable time for the trainee to show commitment to the scheme and for the employer to judge progress. Too long and the employer may come to regard this as a permanent cost saving.”*

*“Following one year of “low cost” provision in return for training the employer will benefit after the first year from an experienced and well-trained employee, even if training is ongoing it is reasonable to assume that after one year the employer will benefit as much as the trainee.”*

Employers noted the following considerations as having an impact on the maximum duration of the trainee rate; the job, the size of organisation, the age, experience and ability of the employee, the type of training, the cost of training and the minimum time it takes to achieve a qualification.

Comments in support of a 2 year trainee rate included;

*“In our industry we cant allow them to do much until they have completed the nvq level 2 which takes 2 years, so that is why we should have trainee rate for 2 years.” (Employer)*

*“A apprenticeship for some trades may last up to four years. One year may be too short for that person to provide an economic benefit to the employer.” (Employer)*

*“If the accredited training program is of a duration of a minimum of 2 years then, in our view, it is appropriate for a trainee rate to be applied for 2 years.” (JACS)*

Of the employers who commented on the criteria that should have to be met to permit an employer to pay the trainee rate for a second year, most indicated that formal training should be required. Some employers suggested that an employer must demonstrate that further training, beyond one year, is required, or that there should be a guarantee of continued work for the employee after the two year trainee period.

Comments included:

*“For two year training the second year should be through a certified training course with verification by the training provider.”*

*“Supporting the employee by enrolment into a recognised training course run through Highlands or other institution where training and development can be demonstrated.”*

*“They must undertake to have trained the individual to the required standard within that time frame and to commit to paying them the going rate following that time period. Employers must also commit to employing the trainee for a minimum period (in normal circumstances) to prevent abuse of the system.”*

*“The employer should be obliged to commit to a period of continued employment of the trainee after the training period is completed (to avoid*

*employers relying on a churn of trainees to meet their needs at below the standard minimum wage)."*

The Forum considers that any provisions offering a period of employment to a trainee after they have completed their training, or any provision for an employer to recoup training costs should be addressed in an individual written training agreement.

Four of the employer respondents said that they currently employ trainees on the trainee rate and eight employers that they would be more likely to take on trainees (or more trainees) if there were different conditions that permitted them to employ trainees. One employer who currently employs two trainees on the trainee rate who said they would employ more trainees if there were different conditions, commented that, *"it is the cost after one year we have to pay minimum wage so that prevents us from taking on more trainees, as after one year they are still not qualified enough to be able to do more within the business."*

Additional conditions that employees suggested that an employer should have to meet in order to permit them to pay the trainee rate for a second year included 'proper' training and qualifications, assessment of the trainee's progress or success, a guaranteed or secure job after training, help with studying or study time and extra benefits (e.g. meals).

Whilst some young people felt that only specific training courses, e.g. trades and apprenticeships should permit an employer to pay the trainee rate, others felt that any course that is suitable to train the employee for their particular role and to help them progress their career/within the business is suitable. Some specified simply that the course should cost the employer money.

Of the options specified for the maximum duration that the trainee rate may be paid, 8 percent of young people said that they would work for the trainee rate for a maximum of 2 years. Comments from these young people included:

*"You would be taking on the lower wage with the long term view of earning more once you are qualified. Also your employer will be helping you by allowing you train for the qualification."*

*"Training as well as experience will be obtained, this will be worth more in the future than few quid an hour."*

### **Hourly trainee rate**

Forty percent of employees and 54 percent of young people said that they would work as a trainee earning £4.86 per hour if the employer was paying for training and giving paid time off to undertake training. Employees frequently commented that it would be worth earning the lower rate of pay to gain a qualification and/or work experience. Other employees commented that they would only work for the trainee rate if the training leads to a formal qualification. Comments from young people included;

*“I would as they are providing you with skills which you might need to pass a future job or to set up your own business, so it is like you get paid to learn instead of paying to learn.”*

*“Could not afford to live, unless you were being subsidised i.e. living with parents.”*

*“Only for someone aged under 16–18 any adult should earn minimum wage.”*

*£4.86 is not enough money to live off. But since the employer was doing those things, I think I could manage for a short while.*

If a lower trainee rate is to be available for two years, rather than one year of training, three-quarters of the employer respondents indicated that a different rate of pay should be payable in the second year of training. Suggested pay rates were generally between the trainee rate and minimum wage. Employers' reasons for proposing a higher rate included that it would incentivise the employee and reflect their increased skills and experience.

Sixty-six percent of employee respondents, 88 percent of young people and all 5 of the advance to work/advance plus participants said that, if the trainee rate were to be payable for more than 1 year, there should be a different hourly rate in the second year. The most common reason given was that the person will have gained experience and skills in their first year of training. Giving similar reasons to the employers, employees noted the importance of providing an incentive to the trainee and recognising the commitment of the trainee.

Of those employee respondents who suggested a rate at which the second year of training should be remunerated, the most common value indicated was between £5.51 and £6.50. Some employees suggested a number of ways of determining the rate that should be payable in a second year of training, including a 20 to 25 percent increase, or the value midway between trainee rate and minimum wage.

Comments from employees included:

*“2 years of participating in a course or training is a long time. The trainee needs to be rewarded for staying on with that company for that length of time whilst only being paid a trainee rate.”*

*“Creates a goal and allows the individual a form off reward. If I had this opportunity I would have been much more likely to be persuaded to take on a training role or job opportunity.”*

Some employees said that there should not be a different rate of pay in the second year of a trainee rate, for example, because it would be too complex to administer or that it would not be manageable to live on a trainee rate for longer than 1 year.

Comments from other respondents included:

*“An incremental increase in the rate of pay may help employers prepare to bridge the gap between affording to pay a trainee and engaging that person post-apprenticeship on a “full” wage.” (Law firm)*

*“We recommend that in year 2 the trainee rate be set at a level of 85% of the full minimum wage (75% for year 1).” (JACS)*

*“The trainee rate is 75% of the hourly rate for the full minimum wage. A suggestion might be to increase the trainee rate for second year trainees by 12.5% to 87.5% (exactly half way between the trainee rate and the full minimum wage).” (Law firm)*

### **Youth rate**

A small number of comments were received from employers and one employers' association relating to the lack of a lower minimum wage rate for young people:

*“Young persons require additional supervision and the lack of a youth rate militates against their employment on economic grounds thus depriving them of valuable work experience.”*

*“We feel that the minimum wage is already high enough it is difficult to employ young people if you have to pay them this wage, as we are teaching & learning new skills it is stopping us from having more young staff because of the cost of this.”*

*“In the absence of a youth wage, as the minimum wage level increases, it becomes more of a disincentive to employ young people who lack work or life skills experience and who need longer on the job training, more management time etc.”*

*“An unwelcome precedent has been established with the decision taken in not setting a youth rate for Jersey. As the minimum wage has continued to increase year on year, we believe it has become a disincentive for many employers to recruit young people who lack experience especially in work and life skills. When considering the employment of local young people, businesses have to also weigh up the additional time and cost that must be allocated to induction and training and the management time required. The results of the youth rate review highlighted the fact that it was not relevant to high worth industries and young people indicated that they would not work for a lower wage. Essentially, high worth industries do not pay the minimum wage so are unaffected and young people who shun employment because of the pay being paid need a reality check in our view. A review of the benefits system, that enables young people to maintain this unacceptable mind set in regard to working life, is also required.” (JHA)*

### **2013 Review**

In 2006, the Forum recommended minimum wage rates for implementation in April 2007 as well as a formula by which the 2008 rates would be set, subject to consideration of any relevant circumstances in 2007, such as economic

changes. The 2007 and 2008 rates were recommended to be set by reference to 40 percent of the average weekly earnings, as provided by the June Average Earnings Index of the previous year.

The intention was to respond to requests from employers, particularly in the hospitality industry, to provide a greater period of notice of any new rates. Having reviewed the 2006 recommendation in 2007, the Forum concluded that there were no major factors necessitating a review of the formula prior to recommending rates for April 2008.

In the latest review, respondents were asked, if the Forum were to recommend minimum wage rates that would apply from April 2013 and April 2014, what impact they thought it would have, if any, and what factors they would ask the Forum to take into account in considering whether to make such a recommendation.

Of the 33 employers who responded, 55 percent thought that a 2 year recommendation would have a negative impact, 24 percent thought it would have a positive impact and 21 percent of employers thought that it would have no impact.

Of the 30 employees who responded, 57 percent thought that a 2 year recommendation would have no impact, 30 percent thought that it would have a positive impact and 13 percent thought that a 2 year recommendation would have a negative impact.

Factors that employers thought the Forum should take into account when considering whether to make a two year recommendation included changes in the economy and the impact on employment levels. Whilst a small number of respondents noted the potential benefits for budgeting and planning ahead, the current economic situation was generally considered to be too volatile to make a recommendation for April 2014.

Some responses were based on an assumption that a recommendation for minimum wage rates in both 2013 and 2014 would result in a commitment to increase the minimum wage in both years. Also, it was not clear from the question that the Forum would review the economic evidence in 2013 to check that any recommended rates continued to be appropriate before being implemented in 2014. Comments mainly expressed strong opposition to the proposal, including:

*“You might as well close all the exporting companies now.”*

*“Small businesses cannot continue to absorb the increase in costs when the market place isn’t increasing along with it.”*

*“Extra pressure on businesses to seek cost savings, including reducing headcounts”*

*“Wages represent the highest cost value for many small businesses and any increase could have a large impact on that.”*

*“The current economic climate and how many business' who might struggle to cope. By this I mean those that cannot pass any increase on but might find themselves having to fund increases out of already depleted margins. This would only lead to more redundancies which would be totally counter-productive in safeguarding those at the lower end of the scale.”*

*“Circumstances may change drastically during the first 12 months, which could make the second year commitment decidedly unrealistic.”*

*“Unite believes that the current yearly assessment and recommendation format is appropriate and allows for the current economic climate and inflationary pressures to be assessed and then recommended on in appropriate time.” (Unite the Union)*

*“Given the current economic conditions the forum should consult each year.” (Chair of HR Committee, Jersey Chamber of Commerce)*

*“Minimum wage should be consulted on each and every year prior to any proposal to increase being made.” (CIPD, Jersey Branch)*

*“We are aware that firms are facing exceptionally challenging conditions at the moment. As such, a small increase could make the difference between an employer being able to employ someone or not. Although having a minimum wage is a vital and a key to protecting workers, a two-year recommendation may not give firms the flexibility they currently need in difficult trading conditions.” (Other)*

*“The minimum wage should be reviewed annually and based on what can be afforded at the prevailing time.” (Employee)*

*“In the present difficult economic circumstances, recommendations for future minimum wage levels should only be made for one year at a time. “ (Employee)*

*“You would be second guessing how the economy will perform through to April 2015 and that is completely uncertain with the turmoil over the Euro and so forth. You might completely over or undershoot what the rate ought to have been and it is extremely unlikely that the States would then accept a mechanism whereby the MW could then be reduced to allow for an overshoot.” (Employee)*

JACS thought that the 2 year recommendation would have a positive impact and commented; *“Any 2 year recommendation should not be based on % but should be linked to a published index such as the annual Average Wages Index, as this will more accurately reflect the real need for the magnitude of any increase, rather than relying on a “fixed % forecast” made some 18 months prior to April 2014.”*

A law firm noted the positive and negative aspects of such a recommendation; *“Positive: it could give businesses certainty as to projected wage bills over a prolonged period and assist with longer term planning. Negative: there is a risk*

*that those on the minimum wage could lose out if the economy picks up but minimum wage rates remain fixed.”*

The public meeting revealed that stakeholders were strongly against a 2 year recommendation. The potential benefits, such as allowing employers to plan further in advance, did not seem to outweigh the view that the economy is too uncertain to make any recommendations ahead of 2013.

## **SECTION 5 – RECOMMENDATIONS**

### **Minimum Wage**

The current minimum wage is £6.48 per hour. The Forum has considered the minimum wage rates that would result if certain percentage increases were applied based upon the following indices and comparators that are available:

	<b>Minimum wage</b>
Average Earnings Index 1.5%	£6.58
Retail Price Index 3%	£6.67
Retail Price Index (X) 3.2%	£6.69
Retail Price Index (Y) 3.1%	£6.68
Mid-point between RPI & AEI (2.25%)	£6.63
1.8% (increase applied to UK adult rate from 1/10/12)	£6.60 <sup>17</sup>
2.4% (increase applied to Guernsey adult rate from 1/10/12)	£6.64 <sup>18</sup>
40% of mean weekly earnings (£650)	£6.50
40.1% of mean weekly earnings	£6.52
40.2% of mean weekly earnings	£6.53
50% of median weekly earnings (£520)	£6.50
50.1% of median weekly earnings	£6.51
50.2% of median weekly earnings	£6.53

The Forum noted the following evidence:

- Prospects for the global economy weakened in the first half of 2012, and there is a risk that the global outlook could deteriorate further.
- The vast majority of indicators suggest that trends in the local economy continue to weaken in 2012.
- The level of economic activity in Jersey, as measured by GVA, fell by 1 percent in real terms in 2011.
- Whilst there has been a 1.8 percent increase in earnings across the private sector, consultation revealed a continued expectation of low wage increases and wage freezes.
- RPI(Y) increased by 3.1 percent in the 12 months to June 2012.
- Average earnings grew by 1.5 percent overall in the year to June 2012.

<sup>17</sup> The adult minimum wage rate in the UK increased from £6.08 to £6.19 per hour. Jersey's minimum wage would be £6.60 per hour if it was increased by 1.8 percent.

<sup>18</sup> The adult minimum wage rate in Guernsey increased from £6.15 to £6.30 per hour. Jersey's minimum wage would be £6.64 per hour if it was increased by 2.4 percent.



- Increases in the minimum wage contribute, at least partially, to annual increases in the average earnings index.
- The average annual rate of increase in average earnings during the 4 years since the global economic downturn has been lower than any annual increase seen in the preceding 20 years.
- Minimum wages increased by 1.8 percent in the UK and 2.4 percent in Guernsey.
- Jersey's minimum wage rate continues to be higher than the minimum wages in the UK, Guernsey and the Isle of Man.
- In August 2012, 330 more people were unemployed than in August 2011.
- Long-term unemployment peaked in 2012.
- Total employment in June 2012 had fallen by almost 1 percent compared with June 2011. There appears to have been a shift from full-time to part-time working.
- As of June 2012, the number of job vacancies in the private sector was the lowest for at least 13 years.
- During the previous year, one third of employers who responded to the Forum's minimum wage review had reduced overall staffing levels.
- The Employment indicator in the Business Tendency Survey has reduced in both the public and private sectors and decreased to increasingly negative levels during the 9 months to June 2012.

In 2011, the Forum recommended that the minimum wage should increase by 2.5 percent in April 2012 having taken into account the economic evidence at that time; the labour market continued to be weak, business activity levels were still falling and unemployment was increasing. Generally, respondents considered that it was a fair and balanced recommendation given the increases in average earnings and the cost of living.

This year, a call for a minimum wage freeze was more strongly and more widely expressed by employers and employers' associations than in any previous minimum wage review. More than half of the employer respondents and all four of the employers' associations said that the minimum wage should not increase with effect from April 2013, primarily so that employers could remain in business.

Increases in the minimum wage mainly affect two sectors; agriculture and fishing and hotels, restaurants and bars: 66 percent of minimum wage jobs are estimated to be in those two sectors. It is primarily the employers that will be directly affected by any increase that have expressed the need for a freeze. Even without a minimum wage increase in April 2013, Jersey's minimum wage will continue to be higher than minimum wages in the UK, Guernsey and the Isle of Man. This has an impact on the competitiveness of the hospitality and agriculture industries in particular.

The Forum is mindful, however, that a decision to freeze the minimum wage would have to be based upon evidence of continued economic decline and job losses.

The number of unemployed in August 2012 on a seasonally adjusted basis, was 40 lower than in the previous month and 60 lower than the average for the preceding three months. Whilst total employment has fallen almost 1 percent in the year to June 2012, June 2011 had recorded the highest level of employment in Jersey for at least 15 years.

In August 2012, the States Economic Adviser expressed caution to the Forum. Prospects for the global economy had weakened in the first half of 2012 and trends in the local economy continue to weaken in 2012.

In the latest minimum wage review, 86 percent of employees and 87 percent of young people said that the minimum wage should increase with effect from April 2013, primarily due to the high cost of living in Jersey, but many recognised the current economic situation. Taking into account the government's policy of getting people back to work, the Forum was mindful of comments that there is little incentive to take up low paid employment when it may be more financially beneficial to remain on benefits. The Forum notes that benefits will increase by 1.5 percent (in accordance with the average earnings index) from 1 October 2012.

Having balanced the responses from employers and employees and having considered jobs, competitiveness and the economy, the Forum considers that, whilst indicators suggest that the economy did not improve in the first two quarters of 2012 and so any recommended increase should be cautious, there is not sufficient evidence to justify recommending that the minimum wage be frozen until April 2014.

The Forum is concerned that a freeze could further discourage consumer spending, but must try to prevent increasing the minimum wage to the extent that jobs are lost or terms and conditions are eroded. Of the employers who responded in this review, in the previous year, 41 percent had reduced overtime hours or overtime rates of pay, 17 percent had reduced basic working hours, 33 percent had reduced overall staffing levels and 27 percent had made redundancies. If wages continue to increase, there is a risk of further job losses and terms and conditions being reduced further as employers exhaust other cost reducing methods.

The Forum notes that unemployment is currently the highest priority for the Council of Ministers but is also mindful of the States decision that the minimum wage should increase from 40 to 45 percent of the level of mean weekly earnings within the next 13 years.

The minimum wage that has applied since April 2012 is equivalent to 39.9 percent of the level of mean weekly earnings and the Forum recognises that it is unlikely to be politically acceptable if the same rate applies for a further 12 month period. To minimise uncertainty for employers, the Forum believes that the minimum wage must be equivalent to at least 40 percent of the level of mean weekly earnings from April 2013.

This recommendation has resulted from extensive discussion starting from a position where the Forum members were split between freezing the minimum wage and an increase of up to 1 percent. All members however agreed that, if the minimum wage is not to be frozen, any increase should be modest and no member would have supported an increase equivalent to (or more than) the increase in the average earnings index (1.5%).

Forum members agreed that this has been the most difficult year, to date, in terms of reaching a unanimous decision and there is no doubt that the continuing uncertainty in the economy contributed to the difficulty in the debate. The Forum was cautious last year when recommending a 2.5 percent increase, which was in line with the increase in the average earnings index, however the economic situation appears to have worsened since September 2011.

The Forum unanimously recommends that the minimum wage should increase by 0.75 percent to £6.53 per hour from 1 April 2013. This minimum wage represents 50.2 percent of the level of median weekly earnings and 40.2 percent of the level of mean weekly earnings. An increase of 0.75 percent represents half of the increase in the average earnings index and would give a £2 per week pay increase (based on a 40 hour working week).

Whilst an increase of a few pence per hour might appear arbitrary and negligible, the Forum considers that this is the maximum increase that employers can support at this time. An increase of less than the increase in the average earnings index recognises the strength of feeling from employers, but also reflects the feedback from employees that there should be an increase. The recommended increase would achieve some balance between preserving jobs and competitiveness, whilst taking into account the States objectives and the uncertain economy.

### **Training and the trainee rate**

The Forum considers that the evidence and comments considered during this review demonstrate sufficient support and demand to extend the trainee rate period to two years, as well as sufficient support for a higher rate of pay in the second year of training, between the level of the minimum wage and the trainee rate.

The Forum recommends that where training is undertaken for up to one year, the trainee rate that may be paid during that year should continue to be equivalent to 75 percent of the minimum wage. This gives a recommended 'Year 1' trainee rate of £4.90 from 1 April 2013.

Where a trainee has received the trainee rate whilst undertaking training for one full year and that trainee will continue to undertake training for up to one further year (up to a maximum of two years), the Forum recommends that the trainee rate payable during that second year should be equivalent to 87.5 percent of the minimum wage. This gives a 'Year 2' trainee rate of £5.71 from 1 April 2013.

If employers are to be encouraged to consider employing new staff at the trainee rate and potentially create new trainee positions, the legislation and the code of practice must clearly and simply explain what criteria must be met to pay the trainee rate, whilst not exhaustively dealing with every possible scenario. Having taken into account the consultation responses, the Forum recommends that the legislation and the code of practice should be revised to make the following provisions –

- The definition of ‘accredited training’ in the Minimum Wage Regulations should be replaced with a definition of ‘approved training’; this term would cover a wider range of training.
- ‘Approved training’ should be defined in the Regulations as training that is described in a code of practice issued under Article 2A of the Employment Law, or training that is approved in writing by the Minister for Social Security.
- The code of practice should clearly set out two types of training that are ‘approved training’; ‘accredited’ (e.g. formal, externally certified qualifications) and ‘in-house’ (e.g. on-the-job, logged by the employer).
- The code of practice should clearly explain to employers that, where training does not fit the description of ‘approved training’ as set out in the code of practice, the employer may request the Minister’s approval for the training that they intend to provide.
- The definition of a ‘trainee’ in the Minimum Wage Regulations should be amended so that –
  - (i) it is clear that a trainee rate may be paid to an employee who has started a new job with an employer, but not necessarily a new employer (e.g. a new role within the same business).
  - (ii) a trainee rate may be paid to an employee who is undergoing approved training (whether accredited or in-house training) at any time within the first two consecutive years of that employment. (The maximum two year training period starts running from the first day of employment in the trainee role.)
- The code of practice should be amended to replace the requirement for supervision of training with a statement that that the employer is responsible for ensuring that training is taking place and that the employee is undertaking that training.
- It should be clarified that training does not have to start from day one of employment in the trainee role; it can start at any time during the first 2 years. However, the trainee rate may only be paid while training is ongoing so, in practice, this means that, if training does not start from day one, an employer would have to pay at least minimum wage and then reduce pay to the trainee rate when training begins.

- An employer does not have to provide any training in the first year of employment in the trainee role in order to be permitted pay the trainee rate in the second year of employment in the trainee role. However, the Year 2 trainee rate (at 87.5% of the minimum wage) may only be paid where a trainee has already undertaken training for one full year and is in their second year of training.
- JACS should be asked to provide a guide to the new legislation and code of practice (as amended in accordance with the above recommendations), including examples and a model written training agreement.

The Forum notes that before approving a code of practice, the Social Security Minister is required to consult and to make the code of practice available for representations for a minimum period of 28 days. When the Minister releases a draft code of practice for consultation, any interested parties will be able to make further representations about any particular aspects of the code.

### **Youth rate**

The Forum has not revisited its 'Youth Rate' recommendation of 16 May 2012<sup>19</sup> in this minimum wage review. The Forum makes no recommendation regarding a lower minimum wage rate for young people.

### **Offsets**

The minimum wage legislation provides that a charge for meals may not be deducted from minimum wage pay unless meals are provided with staff accommodation and that employers may not deduct a proportionate amount of pay for meals where less than three meals are provided each day.

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

The Forum did not ask any specific questions about the offsets this year. However, the JHA commented that *"the policy of increasing accommodation and accommodation and food offsets largely in line with the percentage increase applied to the minimum wage has been welcomed by the hospitality industry,"*.

It can be estimated that employees were provided with accommodation, or accommodation with meals, as part of their employment package in 1,300 of the jobs that pay the minimum wage or the trainee rate and, in around two-thirds of those jobs, the employer made a deduction or a charge against pay for the accommodation, or accommodation with meals. The offsets appear to

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<sup>19</sup>[http://gov.je/SiteCollectionDocuments/Working%20in%20Jersey/Recommendation%20Youth%20Rate%2016May12%20\\_3\\_.pdf](http://gov.je/SiteCollectionDocuments/Working%20in%20Jersey/Recommendation%20Youth%20Rate%2016May12%20_3_.pdf)

be used in two sectors, agriculture and fishing and hotels, restaurants and bars.

The Forum recommends that the offsets against the minimum wage should continue to be increased proportionately to the minimum wage rate (a 0.75 percent increase), otherwise the effect of any increase in the minimum wage could be unpredictable.

The Forum recommends that the maximum offsets against the minimum wage should increase to £71.47 per week for accommodation and £95.29 per week for food and accommodation.

The Forum recommends that the maximum offsets against the trainee rate, whether the Year 1 or Year 2 trainee rate is being paid, should be set at 75 percent of the full offsets; £53.60 per week for accommodation and £71.47 per week for food and accommodation.

### 2013 Review

The Forum had intended to return to a bi-annual recommendation format in future years, but believes that the economic outlook for 2013 to 2014 is not yet sufficiently clear to enable a recommendation to be made beyond April 2013.

The Forum also intends to commission further research about minimum wage earners and trainees, the industries they work in, the types of contracts they work under and benefits in kind. That work will be undertaken in 2012 to 2013 and it is hoped that the outcomes will be available in 2013 to inform the next minimum wage review.

The Forum recommends that it will be necessary to review further evidence and the minimum wage in 2013.

### SUMMARY OF RECOMMENDATIONS FOR 1 APRIL 2013

	2012	2013
Minimum Wage (per hour)	£6.48	<b>£6.53</b>
Trainee Rate Year 1 (per hour)	£4.86	<b>£4.90</b>
Trainee Rate Year 2 (per hour)	NA	<b>£5.71</b>
Maximum weekly offset against minimum wage for accommodation	£70.94	<b>£71.47</b>
Maximum weekly offset against minimum wage for accommodation & food	£94.58	<b>£95.29</b>
Maximum weekly offset against trainee rates for accommodation	£53.21	<b>£53.60</b>
Maximum weekly offset against trainee rates for accommodation & food	£70.94	<b>£71.47</b>

**APPENDIX 1 – Table: Adult Minimum Wages Relative to Full-time Median Earnings, by Country, 2010.**

<b>Country</b>	<b>Percent 2010</b>
Japan	37
Spain	37.6
United States	38.8
Greece	41.9
Netherlands	43.6
Canada	45
United Kingdom	46.1
Portugal	48.0
Jersey <sup>a</sup>	48.6
Belgium	51.7
Australia (LFS / ES) <sup>b</sup>	51.8 (47.2)
Ireland	51.9
New Zealand	59.1
France	60.1

Source: OECD estimates based on OECD minimum wage database and median earnings for full-time workers, mid-2010.

Notes:

<sup>a</sup> Not based on OECD estimates. A median figure for Jersey is available only from 2011. The figure represented the median as at mid 2011.

<sup>b</sup> For Australia, two estimates of median earnings are available based on different surveys.

**APPENDIX 2 – Low paid, minimum wage and trainee rate jobs in Jersey;  
Estimates derived from the Jersey Statistics Unit’s June 2012 report on  
the Index of Average earnings.**

Notes –

- i. The figures relate to one point in time only (the last week of June), which is a seasonal work peak.
- ii. One person businesses have been removed from the analysis.
- iii. All numbers (apart from total headcount) are rounded to the nearest 100. Numbers less than 50 are denoted by ~.
- iv. All numbers relate to headcount, i.e. jobs filled, not full-time equivalents (FTE), so there may be double-counting of low paid staff where people have more than one job.
- v. "Total headcount" figures are taken from the June 2011 figures with minor adjustments/revisions, so will vary slightly from the published June 2011 manpower figures.
- vi. 'Permanent' staff included permanent zero hours staff. 'Non-permanent' included seasonal and casual staff and fixed term contracts.
- vii. Sector estimates are  $\pm 200$ . Overall estimates are  $\pm 300$

**Low paid staff (£6.80 or less)**

<b>Sector</b>	<b>Total Headcount</b>	<b>Low paid staff</b>	<b>Low paid as %</b>
Agriculture and fishing	2,037	900	44%
Manufacturing	1,217	~	~
Electricity gas and water supply	509	~	~
Construction and quarrying	4,886	~	~
Wholesale and retail trades	8,507	400	5%
Hotels, restaurants & bars	5,902	2,000	34%
Transport, storage and communication	2,552	~	~
Financial and legal activities	12,660	~	~
Other business activities	8,854	1,100	12%
<b>All</b>	<b>47,124</b>	<b>4,600</b>	<b>10%</b>



### Breakdown of low-paid staff (£6.80 or less) by type of contract

Sector	Permanent	Non-permanent
Agriculture and fishing	48%	52%
Manufacturing	~	~
Electricity gas and water supply	~	~
Construction and quarrying	~	~
Wholesale and retail trades	83%	17%
Hotels, restaurants & bars	63%	37%
Transport, storage and communication	~	~
Financial and legal activities	~	~
Other business activities	49%	51%
<b>All</b>	<b>59%</b>	<b>41%</b>

### Minimum wage staff

Sector	Total Headcount	Min wage staff	Min wage as %
Agriculture and fishing	2,037	600	29%
Manufacturing	1,217	~	~
Electricity gas and water supply	509	~	~
Construction and quarrying	4,886	~	~
Wholesale and retail trades	8,507	200	2%
Hotels, restaurants & bars	5,902	1,300	22%
Transport, storage and communication	2,552	~	~
Financial and legal activities	12,660	~	~
Other business activities	8,854	800	9%
<b>All</b>	<b>47,124</b>	<b>2,900</b>	<b>6%</b>

### Food/accommodation provided by the employer for minimum wage/trainee staff:

Sector	Min wage/trainee rate staff receiving food/accom	Min wage/trainee rate staff CHARGED for food/accom
Agriculture and fishing	500	500
Manufacturing	~	~
Electricity gas and water supply	~	~
Construction and quarrying	~	~
Wholesale and retail trades	~	~
Hotels, restaurants & bars	800	400
Transport, storage and communication	~	~
Financial and legal activities	~	~
Other business activities	~	~
<b>All</b>	<b>1,300</b>	<b>800</b>

Percentages are rounded to the nearest 10.

Values less than 5 are denoted by ~.

#### Companies with low-paid staff (less than £6.80/hr)

	% companies with low paid staff
Agriculture and fishing	70%
Manufacturing	~
Electricity gas and water supply	~
Construction and quarrying	10%
Wholesale and retail trades	10%
Hotels, restaurants & bars	40%
Transport, storage and communication	~
Financial and legal activities	~
Other business activities	10%
<b>All</b>	<b>20%</b>

#### Companies with minimum wage staff

	% companies with min wage staff
Agriculture and fishing	60%
Manufacturing	~
Electricity gas and water supply	~
Construction and quarrying	~
Wholesale and retail trades	10%
Hotels, restaurants & bars	20%
Transport, storage and communication	~
Financial and legal activities	~
Other business activities	10%
<b>All</b>	<b>10%</b>

## Explanatory Note

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These Regulations amend the Employment (Minimum Wage) (Jersey) Regulations 2004, defined in *Regulation 1* as the “principal Regulations”.

*Regulation 2* amends Regulation 1 of the principal Regulations.

The definition “accredited training” is substituted by the definition “approved training”. Both are training approved by the Minister for Social Security for the purposes of the principal Regulations, so the change is one of terminology rather than real substance. In the substituted definition “approved training” it is also made clear that approval is of classes or descriptions of training, rather than a subjective assessment undertaken on a case by case basis.

The definition “trainee” is substituted. The substituted definition makes 2 changes. Firstly, the period during which an employee may, for the purposes of the principal Regulations, be a trainee to whom a lower rate of minimum wage applies, is extended from the first year that the employee is in a new post to the first 2 years that the employee is in the new post. Secondly, it is made clearer that, in order to be classified as a trainee, an employee must simply be undergoing approved training in a new post. It is not a requirement that the new post is also with a new employer: the trainee may have simply moved from one post to another, with the same employer.

*Regulation 3* makes a small change to the heading to Regulation 4, simply to reflect the fact that the power conferred by Regulation 4 to prescribe minimum wages for trainees at different hourly rates to those that apply to other employees includes a power to prescribe different hourly rates for different trainees.

*Regulation 4* substitutes Regulation 9 of the principal Regulations. The substituted Regulation increases the limits on the amounts that may be taken into account, when calculating an employee’s wage, for accommodation (with or without food) provided by the employer. The basic amounts applicable to employees in general are increased by 0.75%. The amounts applicable to employees who are trainees continue to be set at 75% of the basic amounts, and are increased accordingly. The amounts were last increased on 1st April 2012.

*Regulation 5* provides for the citation of these Regulations and their commencement on 1st April 2013.





Jersey

**DRAFT EMPLOYMENT (MINIMUM WAGE)  
(AMENDMENT No. 9) (JERSEY)  
REGULATIONS 201-**

**Arrangement**

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**Regulation**

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Jersey

**DRAFT EMPLOYMENT (MINIMUM WAGE)  
(AMENDMENT No. 9) (JERSEY)  
REGULATIONS 201-**

*Made* [date to be inserted]  
*Coming into force* [date to be inserted]

**THE STATES**, in pursuance of Articles 17, 18 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 1 amended**

In Regulation 1 of the principal Regulations –

- (a) the definition “accredited training” shall be deleted;
- (b) after the definition “allowance” there shall be inserted the following definition –

“ ‘approved training’ means training of a description or class that is approved in writing by the Minister for the purposes of these Regulations;”;

- (c) for the definition “trainee” there shall be substituted the following definition –

“ ‘trainee’ means an employee of any age at any time whilst, during the first 2 years of his or her employment by his or her employer in a particular job, and by written agreement with his or her employer, the employee is undergoing approved training for that job (irrespective of whether the employee has previously been employed by the employer in another job).”.

**3 Heading to Regulation 4 amended**

In the heading to Regulation 4, for the words “a different rate” there shall be substituted the words “different rates”.

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**4 Regulation 9 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 –
  - (a) in the case of an employee who is a trainee, £71.47 per week or £10.21 per day; and
  - (b) in any other case, £95.29 per week or £13.61 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 –
  - (a) in the case of an employee who is a trainee, £53.60 per week or £7.66 per day; and
  - (b) in any other case, £71.47 per week or £10.21 per day.”.

**5 Citation and commencement**

These Regulations may be cited as the Employment (Minimum Wage) (Amendment No. 9) (Jersey) Regulations 201- and shall come into force on 1st April 2013.



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