

STATES OF JERSEY



MINIMUM WAGE INCREASE (P.11/2021) COMMENTS

**Presented to the States on 16 April 2021
by the Minister for Social Security
Earliest date for debate: 20 April 2021**

STATES GREFFE

COMMENTS

Summary

It is disappointing that this Proposition has been scheduled for debate in April in advance of the outcome of the consultation exercise that the Social Security Minister has published which seeks views on the issues set out in the proposition. A copy of the consultation paper is appended to this Report.

The review of the minimum wage process was agreed as part of the 2021 Government Plan by the Assembly at the end of last year.

Following the publication of this Proposition, the Social Security Minister has met twice with Deputy Southern and has provided him with a confidential draft of the consultation document.

It would be inappropriate to support this Proposition whilst a public consultation on the same subject is underway and Members are asked to reject this Proposition.

The Minister for Social Security will return to the States Assembly in the next few months to report on the evidence gathered during the review and the overall outcomes and to put forward a new minimum wage rate.

Report

The Social Security Minister has launched a consultation exercise to review the way in which the minimum wage in Jersey is currently set, and the legislative processes which underpin that.

The present structures have been in place for over 15 years. The Government has committed, as part of the 2021 Government Plan, to a root and branch review of the minimum wage-setting process and the relevant provisions of the Employment Law. The Minister has no pre-determined view about what the best approach might be. At this stage the consultation sets out a range of options on how the future minimum wage-setting structure might look. The consultation exercise will involve as many interested parties in Jersey as possible. The responses to the consultation exercise will form the basis of further work in 2021.

The individual elements of P.11/2021 are each covered within the consultation exercise itself.

As well as considering the way in which the minimum wage rate is set, the consultation exercise also asks for views about the timing and value of the next minimum wage increase.

The Minister hopes that States Members will take the opportunity to get involved in the consultation by engaging with and listening to their constituents to understand the views of employees and employers across the full range of our diverse labour market.

Following the consultation, Members will then consider the outcome of the review which will set out a summary of the views of stakeholders and the general public and make proposals based on the evidence gathered.

Detailed Comments on the Proposition

- Use of Employment Forum (see postscript)

The original Proposition assumes that the Minister will initiate a minimum wage-setting review by the process currently set out in the Employment Law, using the Employment Forum to undertake a consultation and review in respect of the 2021 and 2022 minimum wage rates. The Proposition then seeks to set a specific minimum wage for October 2021 and October 2022. Given that actual values for the minimum wage are laid down in the Proposition, it is not clear how the Employment Forum would be able to undertake a meaningful review. The future role of the Employment Forum is being considered as part of the Minister's consultation.

- Composition of Forum

The Forum currently comprises three employer representatives, three employee representatives and three independent representatives. In discussion with Deputy Southern, he clarified that part (b) of his Proposition seeks to replace at least two of the independent representatives with representatives of third sector organisations with an interest in the alleviation of poverty. The composition of the Forum is explored in the consultation exercise and Deputy Southern's suggestion of including third sector representatives has been included as an option.

- Use of median wage

Part a(i) of the Proposition requests that minimum wage rates should be set with regard to the median wage. Although an annual estimate of the median full-time wage is provided each year, an accurate figure is currently only available on a five-yearly cycle. As such it would be difficult to track an annual minimum wage rate against this figure which would become less and less accurate over the five-year period.

Work is underway to enable the Government to calculate a median wage on a more regular basis and once this work is complete and reliable figures are available, the minimum wage can and will be measured against the median figure. However, until then, creating a formal link between the legal minimum wage and the estimated median wage would be premature.

- Minimum wage levels

Within the Proposition, three separate methods are proposed for setting a minimum wage rate:

- Setting the minimum wage as a percentage of the median wage – (a)(i) and (a)(ii)
- setting the minimum wage as a fixed amount - (a)(iii)
- setting the minimum wage in line with the Caritas voluntary living wage – (c)

These three different approaches mean it is not clear how the Proposition would be implemented if it was approved in its entirety.

The Minister's consultation exercise looks at these different ways of setting a minimum wage, amongst others. The results of the consultation will be used by the Minister to put forward a clear method for future minimum wage increases, for States approval.

Conclusion

Members are urged to reject this Proposition.

The Minister's present consultation exercise gives Islanders the opportunity to contribute to a wide-ranging debate on the way the minimum wage is set in Jersey in future years. The outcome of the review will be based on the evidence received and presented to the Assembly for approval.

As part of the consultation, the Minister is also committed to considering an increase in the minimum wage rate in the short term.

Taking a decision in advance of collecting and analysing the relevant evidence is premature.

Postscript

On Thursday 15 April, Deputy Southern lodged an amendment to his own Proposition, three working days before the scheduled day of debate. Deputy Southern has advised the States Greffe that he wishes to proceed with the debate on 20 April and will be requesting approval to reduce the necessary lodging period.

The comment to the original Proposition was prepared during the week preceding the debate for submission in the normal way. This postscript addresses the late amendment.

The Deputy's amendment partially addresses one problem created within his Proposition but leaves a second problem completely unresolved.

The amendment requires the Minister to override the normal procedure to set a minimum wage rate in respect of both 2021 and 2022. The accompanying report from the Deputy refers to disruption caused by Covid-19. The Minister already plans to request permission to use Covid-19 Regulations to override the normal Employment Forum procedure, in order to facilitate the next increase in the minimum wage. The powers set out in the Covid-19 Regulations can only be applied to issues that are connected with the disruption from the Covid-19 situation itself. Whereas these powers can be requested to allow for **one** increase in minimum wage outside of the normal legal framework, it would not be appropriate to use these powers to set the next **two** rates.

With or without the amendment, the Minister does not support the proposals set out in a(i), a(ii) and a(iii) which ask the Assembly to approve a minimum wage rate for October 2021, based on a calculation of median wage and a calculation for October 2022 using a fixed value, with no reference to the median wage rate at that time.

The Minister's consultation is currently live. Members are strongly urged to

- reject the Proposition,
- fully engage with the ongoing consultation; and then
- return to the States Assembly to have an informed debate on the subject.

REPORT

REVIEW OF THE JERSEY MINIMUM WAGE: PROCESS AND RATE - CONSULTATION EXERCISE

Executive summary

The Social Security Minister has decided to review the way in which the Jersey minimum wage is set. The current process is set out in the Employment Law and is described in more detail below. It has been in place for 15 years. The Minister has decided to review the current system and to look at possible alternatives for Jersey and invites contributions to this consultation exercise. The consultation also considers how the next minimum wage rate should be set.

Introduction

Jersey has a minimum wage – an hourly rate that applies to all employees over school leaving age, with a lower rate set for trainees. This rate is set by law and employers must pay employees at least at this rate. The process by which the minimum wage is set is contained in the Employment Law and the way in which a new minimum wage is brought into effect is also set out there.

Over the last 15 years it has become the custom to review the minimum wage rate and set an increase at least once a year, usually in April.

Over the last 5 years, there have been several challenges to the minimum wage level from politicians, which have led to States debates.

The most recent challenge was made in September 2020. During the States debate the Solicitor-General explained the role of the Law and the power of States Members to set a minimum wage rate. Following this debate, the Government Plan for 2021 included a commitment to review the way in which the minimum wage is set in Jersey.

This consultation exercise sets out some options for consideration. The Minister will consider the consultation responses and make proposals later this year.

The Covid-19 pandemic prevented the usual minimum wage review in 2020. The minimum wage was last increased in April 2020 and remains at £8.32 per hour. It will not be increased in April 2021. This consultation also considers when the minimum wage should next be increased and how that increase should be set.

The consultation will run from **16 April 2021 to 31 May 2021**.

How to respond to the consultation

Complete the online survey; or

You can find the consultation document here:

<https://www.gov.je/government/consultations/Pages/default.aspx>

and **email** your response to:

n.turner@gov.je or

Write to: Nic Turner
Senior Policy Officer
Strategic Policy Team
Ground Floor

19-21 Broad Street
St Helier JE2 3RR

If you would like to discuss your response by remote technology, please contact the Senior Policy Officer.

A number of stakeholder and public meetings (using remote technology) will be held. Contact the Senior Policy Officer if you would like to receive an invitation.

The role of the Jersey Employment Forum

The Employment Forum is a legal body, set up under the Employment Law. At present, it is responsible for providing the Minister with the necessary information and recommendations to set a new minimum wage rate. The Employment Forum is made up of a cross-section of nine representatives from the community of Jersey – three members each representing employees and employers and three independent members. When the Minister requests a minimum wage review, the Forum undertakes a consultation and review which considers a range of evidence, including employer and employee submissions, economic data on average earnings, rates of pay and unemployment and inflation levels.

The Employment Forum relies on bodies such as the Fiscal Policy Panel to obtain expert advice and comparative studies and Statistics Jersey for official statistics on income, earnings and the economy. The Employment Forum also looks at the way in which other jurisdictions carry out the rate-setting process. The Employment Forum consultation exercise is wide-ranging and incorporates responses from representative organisations, including third sector bodies such as Citizens Advice Jersey, as well as individuals.

The Employment Law does not require the Minister to carry out a review every year, but this has been the normal practice.

The Employment Law requires the Employment Forum to take into account the economy of Jersey as a whole and its competitiveness, and any additional factors which the Minister may specify. There is thus currently a high level of Ministerial political control. This is set out in Article 20(5) of the Employment Law:

- 5) *In considering what recommendations to include in their report, the Employment Forum –*
- (a) *shall have regard to the effect of this Law on the economy of Jersey as a whole and on competitiveness; and*
 - (b) *shall take into account any additional factors which the Minister specifies in referring the matters to them.*

In previous years, the Minister has also asked the Forum to bear in mind the decision of the States Assembly (set out most recently in March 2018) that the minimum wage rate should reach 45% of mean weekly earnings, subject to the criteria set out in the Law.

Other specific criteria set out by the Minister have included considering the Jersey/UK relative consumer price levels for goods and services; the level of the Retail Price Index; and the relative annual increases in the minimum wage rate across a range of jurisdictions.

As well as the main minimum wage rate, there are extra minimum wage rates used for some types of employee and “offset” rates (see tables below).

All of these rates are included in this review.

“Offsets” relate to the expenses incurred by employers when providing food and/or accommodation as part of a contract of employment (for example, seasonal agricultural workers). In Jersey, the Employment Forum recommends a maximum level for each, which the employer is allowed to deduct from wages on a weekly basis.

When its review is complete, the Employment Forum publishes its recommendations. The Minister then decides whether to accept the recommendations.

To date, successive Ministers have always accepted the recommendations of the Forum in respect of minimum wage rates.

The Minister has the power to approve the main minimum wage rate herself, using a Ministerial Order. The offset rates can only be agreed by the States Assembly and the Minister publishes her proposals for the Assembly to debate. In recent years, there have also been regular debates on the rate of the main minimum wage rate itself. These debates have been initiated by a backbench Proposition challenging the current or proposed rate.

Background to minimum wage-setting processes internationally

More than 100 countries now have a national minimum wage, but there is a variety of ways at national level in which the minimum wage is set. At one end of the spectrum, government is in complete charge. At the other end of the spectrum, collective bargaining determines the minimum wage level.

Many jurisdictions (nearly half) rely on an expert body to provide advice and a recommendation to Government – the UK Low Pay Commission is an example of this. In larger jurisdictions than Jersey the consultation exercise takes place each year, which introduces a regular pattern to discussions, but requires significant resources to maintain an annual review.

There is evidence that the use of independent bodies ensures greater buy-in from stakeholders, crucial where there may be differences in the perceived costs and benefits to employers and employees of a particular minimum wage rate¹. The objective with such bodies has been to have a system that accommodates the work of an independent panel, the views of a wide range of consultees and the approval of a political body, in balance.

Other jurisdictions operate a formula-based approach to setting the rate. In **France**, for example, the minimum wage is tied to the consumer price index and is updated annually. This is also the case in **Luxembourg** and the **Netherlands**².

Collective bargaining between governments and employer and employee bodies tend to result in many different levels of minimum wage within a country, depending on the sector concerned. With the size of Jersey’s jurisdiction, the Social Security Minister does not consider that multiple sectoral rates should be considered.

Current comparable minimum wage rates and offsets structures

In **Jersey**, the minimum wage rate is currently set at £8.32 per hour for those above school leaving age. Trainee rates are provided for workers who are undergoing formal training as part of their employment. The trainee rate in Year 1 is set at £6.24 and in Year 2 at £7.28. The maximum weekly offset rates are set at £91.12 (accommodation at main minimum wage rate); £121.46 (food and accommodation at main minimum wage rate); £68.34 (trainee rate for accommodation); £91.10 (trainee rate for accommodation and food).

The offset rates are approved by the States Assembly following a recommendation by the Employment Forum and agreement by the Social Security Minister. The hourly rates are set by ministerial Order.

¹ See Richard Dickens, University of Sussex and IZA, Germany:
<https://wol.iza.org/uploads/articles/211/pdfs/how-are-minimum-wages-set.pdf>

² Ibid.

The States Assembly has a current political commitment for the minimum wage rate to reach 45% of mean average earnings, subject to economic conditions.

In **Guernsey**, the minimum wage rate is currently set at £8.70 per hour for those aged 18 and over. For young people aged 16 or 17, the rate is £8.25 per hour. The maximum weekly offset for accommodation is £84; for accommodation and food it is £117. The rates are agreed by the States Assembly following a recommendation by the Committee for Employment and Social Security. The Committee is made up of five political members and up to two non-voting members; the non-voting members usually have expertise and experience which enables them to give advice to the political members.

In the **Isle of Man**, the minimum wage rate is currently set at £8.25 per hour for those aged 18 and over, and £6.15 for those aged 16 to 18. The maximum weekly offsets for both accommodation and accommodation and food are £42. The minimum wage and offset rates last increased in October 2019. The rates are agreed by the Manx Parliament following recommendations by the Minimum Wage Committee. The Committee consists of an independent Chair, two members representing employers and two members representing employees.

In the **UK**, different rates apply to younger workers and there are separate rates for “apprentice”, “Under 18”, “18 – 20”, “21 – 24” and “25 and over”. The 25+ rate is described as the UK National Living Wage.

In his announcement in the recent UK Budget, the Chancellor indicated that entitlement to the UK National Living Wage will change to include those aged 23 and over and come into effect on 1 April 2021. The rate will be £8.91 per hour. The offsets for accommodation and accommodation and food are currently set at a maximum of £52.85 per week. The UK Government sets the remit for the UK Low Pay Commission to consider the levels of each of the minimum wage rates. Its recommendations are submitted to the UK Government for approval. The Low Pay Commission is made up of nine members, drawn from a range of employee, employer and academic backgrounds.

The UK Government has set a political target of two-thirds of median earnings (of those eligible for the National Living Wage) by 2024, taking economic conditions into account.

The UK Government also requires the Low Pay Commission to take into account the state of the economy, employment and unemployment levels, the wider labour market and relevant policy changes. For those on one of the minimum wage rates below the National Living Wage rate, affordability for employers is also taken into account.

Rates in Jersey

Description	Minimum Wage rates (£ per hour)	Effective from
Trainee Year 1	6.24	1 April 2020
Trainee Year 2	7.28	1 April 2020
Main rate (16+)	8.32	1 April 2020
	Maximum weekly offset rates (£)	
Trainee rate for accommodation only	68.34	1 April 2020
Trainee rate for food and accommodation	91.10	1 April 2020
Main rate for accommodation only	91.12	1 April 2020
Main rate for food and accommodation	121.46	1 April 2020

Rates in Guernsey

Description	Minimum Wage rates (£ per hour)	Effective from
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Employees aged 16 or 17	8.25	1 January 2021
Employees aged 18+	8.70	1 January 2021
	Maximum weekly offset rates (£)	
Accommodation only	84.00	1 January 2021
Food and accommodation	117.00	1 January 2021

Rates in the Isle of Man

Description	Minimum Wage rates (£ per hour)	Effective from
Employees aged 16 and 17	6.15	1 October 2019
Employees aged 18+	8.25	1 October 2019
	Maximum weekly offset rates (£)	
Accommodation only	42.00	1 October 2019
Food and accommodation	42.00	

Rates in the UK

Description	Minimum Wage rates (£ per hour)	Effective from
Apprentice	4.30	1 April 2021
Under 18	4.62	1 April 2021
18 to 20	6.56	1 April 2021
21 to 22	8.36	1 April 2021
23 and over	8.91	1 April 2021
	Maximum weekly offset rates (£)	
Accommodation only	58.52	1 April 2021
Food and accommodation	58.52	

Voluntary Living Wage Rates

Living wage rates are not set by government. They are usually set by a charity working in a country and reflect local wage and price levels. A number of different calculations are used across the world to set living wage rates. The wage rate is described as an hourly figure. The English Living Wage Foundation (LWF) sets two rates for England: one for London and one for the rest of the country. It has a licence agreement with partner organisations in Wales and Scotland. The Living Wage Foundation also has connections with other countries, mainly from the Commonwealth, and they connect to the LWF on a global affiliate basis.

The LW Foundation calculate their rate using many factors including the cost of a set 'basket of goods'. Their methodology is reviewed regularly. In the UK, the Living Wage Foundation rate for London is currently £10.85 p/h and £9.50 p/h for the rest of the country.

In Jersey, Caritas is licensed by the LWF to run the LW campaign locally and to accredit LW employers and has historically tracked the London rate. However, acknowledging the high cost

of living on the island, the rate for 2021 was set 2% higher than the London rate at the time of calculation. This methodology will be reviewed by Caritas yearly.

The Jersey Living Wage Rate, set by the Jersey Living Wage Advisory Committee which assists Caritas, is £10.96 p/h for 2021. Previously, Caritas followed the UK tax year, but the Jersey rate will now follow the Jersey financial/calendar year.

Key issues

The Minister has identified several key issues that she wishes respondents to address in this consultation exercise. Among them are:

- Who should be involved in reviewing the minimum wage? Should it be an independent body (as now)? A mix of political, employee and employer representatives? An expert body made up of professional economists, statisticians and those experienced in the area of low pay?
- How often should the minimum wage rate be subject to a full review? Annually (as has been the norm), or over a longer period - Every 3, 4 or 5 years, to make it easier for medium-term planning?
- How should the minimum wage be set in years without a full review? Should there be annual increases in the minimum wage rate between full reviews?
- What statistics should be used to help set the rate?
- What other criteria should be used to set the rate?
- What level should the rate be set at for 2021 and 2022, while changes to implement any new system are being undertaken?

The Minister would be grateful for views on whether, for example, the current practice of making a political direction to the body responsible for carrying out a consultation exercise should be limited to establishing the consultation exercise, rather than setting specific parameters for the exercise.

Perhaps employees and employers would welcome the creation of a medium/long-term plan in terms of minimum wage rate rises, rather than an annual exercise? Would moving to a longer-term strategy bring more certainty and transparency to the rate-setting process?

There is currently a significant element of political control by Ministers and States Members in approving the minimum wage rate. If that political control were to continue and the minimum wage-setting process were to move to a medium to long-term plan, that would avoid the need for resource-intensive and repetitive annual consultation exercises and align more closely with the production of Government Plans. Would such a system be feasible or desirable in Jersey?

Currently, the ambition of the States Assembly is to set the minimum wage rate at 45% of mean average earnings, subject to various conditions. Is this an ambitious enough target, or should a new medium/long-term strategy include a legally binding and more challenging target? Should the rate-setting process over a set term of years include advanced fixed “spine points” to achieve the target? Is there a need for this type of target at all?

Additional issue – minimum wage rate-setting in the interim

While the minimum wage-setting review is in progress this year, the Minister also wishes to consult directly on a minimum wage rate for 2021/2022. Given the ongoing disruption due to Covid-19 and the broad nature of this consultation, this additional part of the survey will replace the normal consultation run by the Employment Forum for 2021. As needed, temporary legal powers will be sought to set the next minimum wage rate, following the outcome of this consultation.

The Minister would therefore be grateful for respondents’ views on how the next minimum wage rate might be set, while possible changes to the review process for future years are being considered and implemented.

CONSULTATION EXERCISE

The Minister's overriding concern is to ensure that the minimum wage-setting process is appropriate and specific to the needs of Jersey employees and employers and is in the best interests of the Island as a whole.

The Minister invites responses to the following questions. Please give reasons for your answers.

1. Who should set the minimum wage in Jersey?

In this Question, we are interested in who should have responsibility for setting minimum wage rates. The requirement to have a legal minimum wage rate is contained in the Employment Law. The Employment Law also provides for the Employment Forum, a non-political body that provides advice to the Minister on the level of the minimum wage.

At present, the law requires that the Minister must consult the Forum if there is to be a change in the minimum wage rate. The Forum is required by law to consult with organisations representing employees and employers, and any other persons or organisations they think fit, and to report back to the Minister.

The Minister then has the power to set the main minimum wage rate (using a Ministerial Order). Some other minimum wage rates need to be approved by the States Assembly.

The minimum wage rates recommended by the Employment Forum have been endorsed by the Minister and/or the States Assembly every year since the minimum wage was established.

However, there have been challenges to the recommended minimum wage rate in recent years, leading to additional States debates.

Please read this Question and Question 2 together. Question 2 looks at who should sit on the Employment Forum. Your answers to Question 1 will be taken with your answer to Question 2.

Options

1. No change to ministerial powers - The Minister should set the minimum wage rates based on a recommendation of the Employment Forum with some of the rates being subject to a States debate.
2. The Minister should set all the minimum wage rates based on a recommendation of the Employment Forum – this would not require a States debate.
3. The States Assembly should set all the rates based on a recommendation of the Employment Forum – there would be a States debate to ratify the Forum's recommendations.
4. The Employment Forum should have the authority to set all the rates directly – this would not require a States debate.
5. The rates should be automatically set each year in line with an agreed formula or uprating index (such as the average earnings index) – this would not require a States debate.

Do you have a different idea about who should be responsible for setting the minimum wage? Please explain your ideas.

Do you have any additional comments on this Question?

2. Who should sit on the Employment Forum?

In this Question we are interested in the type of representatives who should make up the Employment Forum. At present, the Forum is made up of three employer representatives, three employee representatives and three independent members.

The members are chosen by the Social Security Minister and approved by the States Assembly. The appointments process is subject to oversight by the Jersey Appointments Commission. The Forum members work in a voluntary capacity, usually meeting in the evening. Members serve for five-year periods which can be extended up to a maximum of nine years.

As well as reviewing minimum wage rates, the Forum also considers other changes to the Employment Law on behalf of the Social Security Minister.

See: <https://www.gov.je/working/employmentrelations/pages/employmentforum.aspx> for details of all their work.

Should the Forum:

1. Continue as now - 9 voluntary members - 3 employer, 3 employee, 3 independent members?
2. Should some or all of the independent members be replaced by representatives of third sector organisations with an interest in the alleviation of poverty, working in a voluntary capacity?
3. Be expanded to also include expert members, such as economists, working in a voluntary capacity?
4. Be expanded to also include expert members, such as economists who are employed by the Forum?

Or - should the Forum:

5. Be replaced with a political committee? This could be a committee elected from States members, including executive and non-executive members (ministers and backbenchers) – the Privileges and Procedures Committee is an example of this kind of committee.
6. Be replaced with a mixed political/non-political committee? This could be a committee that includes some elected States members and some other non- political candidates who are approved by the States Assembly – the Public Accounts Committee is an example of this kind of committee.
7. Be replaced with an expert committee? This might comprise experts on low pay and related issues who would be paid to sit on the committee.

Do you have a different idea about how the Employment Forum should be made up? Please explain your ideas.

Do you have any additional comments on this Question?

3. What general criteria, if any, should be included in the Employment Law when setting minimum wage rates?

This Question is looking at whether the Employment Law should specify any key general criteria that must always be considered when undertaking a full review of the minimum wage.

The next Question asks about the use of economic statistics. If general criteria are included in the Employment Law, they must always be taken into consideration when reviewing minimum wage rates.

At present, the Law requires that the Forum:

“shall have regard to the effect of this Law on the economy of Jersey as a whole and on competitiveness; and

Shall take into account any additional factors which the minister specifies in referring the matters to them”.

In recent years, the Minister has asked the Forum to consider relative levels of consumer prices; the speed and rate at which the minimum wage is increased in other jurisdictions; and the ability of Jersey businesses to meet increases in the minimum wage, without harm being done to employment prospects.

Options

1. No change – the Forum must take account of the impact of minimum wage rates on the economy of Jersey as a whole and on competitiveness and the Minister can set additional criteria for each individual review.
2. Remove the current fixed criteria and allow the Minister to set the criteria each time a review is started.
3. Extend the current criteria to also take account of:
 - Employment rates of the low-paid within the Island
 - Government policies on population
 - Government policies on Income inequality
 - Government economic policies

Do you have a different idea as to what criteria should be used to guide the minimum wage review process? Please explain your ideas.

Do you have any additional comments on this Question?

4. What specific numeric criteria, if any, should be included in legislation in respect of the setting of a minimum wage rate?

This Question is looking at whether the Law should include any specific numeric criteria that must always be used or considered when undertaking a full review of the minimum wage.

This could be as well as or instead of, the general criteria discussed in Question 3. At present the Law does not set out any numeric criteria.

The States Assembly passed a proposition in 2018, as follows:

that the minimum wage should be set at 45% of average mean earnings by the end of 2020 subject to consideration of economic conditions and the impact on competitiveness and employment of the low paid in Jersey; and requested the Employment Forum to have regard to this objective when making its recommendation on the level of the minimum wage to the Minister for Social Security

This is not part of the Employment Law, but the Minister has asked the Forum to take account of this decision when the Forum undertakes a review. The most recent main minimum wage rate of £8.32 represented 43.2% of mean average earnings at the time it was set.

Options

1. No change – the law does not include any requirement for the minimum wage to be set according to an external index or measure.
2. Include a specific index or measure in the Law that is used to set the minimum wage rates each year. Under this option, there would be no need for a review of the minimum wage each year, because it would be adjusted automatically every year. For example, the old age pension in Jersey is set according to a formula in the Social Security Law.

The main minimum wage rate could be set as:

(a) A percentage of the average earnings (**mean** wage). The Average Earnings Index tracks the average full-time wage that employees receive. It is calculated by adding together the wages of all employees and dividing that total by the number of employees. Statistics Jersey produces a **mean** figure every year from survey data. The **mean** figure may increase or decrease if there are changes in very high incomes, and this may not reflect the change that most workers have seen in their incomes.

(b) A percentage of the **median** wage. The **median** wage is the full-time wage in the middle of the wage distribution, with the same number of wages above it as below it. The **median** wage is not influenced by the wage extremes at either end of the scale. This means that it is more likely to track the change in earnings of the “average” worker. Statistics Jersey produces a median figure once every 5 years from survey data. Improvements in data collection are planned to allow a **median** figure to be produced every year in future.

(c) Fix the minimum wage as a percentage of the Jersey living wage. This measure is set by a local charity, Caritas Jersey, and is currently aligned with the London rate of the UK Living Wage Foundation, with a 2% uplift.

Voluntary living wages are set in different countries by charities to encourage higher wage rates amongst low-paid workers. Different organisations use different methods to calculate a living wage.

(d) A starting minimum wage of a particular value could be set in the Law with rises each year in line with the Retail Price Index. The Retail Price Index measures the cost of goods and services in the island rather than wages. It is published once a quarter by Statistics Jersey. In recent years prices have risen at a similar level to wages. In times of economic growth wages

normally grow faster than prices. For example, the minimum wage could be set at £10 per hour in October 2022 and then uplifted from that value each year.

(e) Include a target in the Law to be taken into consideration when undertaking a minimum wage review. Under this option, reviews would still be needed but the review would need to consider progress towards the target. This option could be combined with the general criteria set out in Question 3, so that a target is aimed for, but agreed broader criteria are also taken into account. The target could be expressed as a percentage of:

- average earnings (mean wage)
- median wage
- Caritas Living Wage

Do you have a different idea about what specific criteria should be used to guide or set the minimum wage review process? Please explain your ideas.

Do you have any additional comments on this Question?

5. How often should the minimum wage consultation exercise be carried out?

In this Question we are looking at how often we should undertake a full review of the minimum wage. At present a full consultation is usually carried out every year. The Law does not require this. Undertaking a full review of the minimum wage each year uses considerable public resources and the voluntary commitment of the Employment Forum, as well as the time of stakeholders making submissions to the Forum and less time is available to the Forum to look at possible other changes to employment legislation. On the other hand, an annual review means that the current economic conditions have always been taken account of in setting the rate for the next year.

If a full review is not carried out every year, we could still increase the minimum wage each year using an agreed method. See Question 6 for more details.

Options

1. No change - do not specify a period in the Law.
2. Specify a full review every year in the Law.
3. Specify a full review at least every 2 years in the Law.
4. Specify a full review at least every 3 years in the Law.
5. Specify a full review at least every 4 years in the Law; this would match the current electoral cycle.
6. Specify a full review at least every 5 years in the Law.

All options would allow for an extra review if external conditions have changed significantly and a new review is needed ahead of the timetable set out in the legislation.

Do you have a different idea about how often a full review should be undertaken? Please explain your ideas.

Do you have any additional comments on this Question?

6. If a full review does not take place every year, what should happen in the intervening years?

This Question follows on from Question 5. If you consider that a full review should not take place every year, what should happen in years in which there is no full review?

Options

1. Nothing - keep the minimum wage rates fixed between reviews.
2. Stepped increases in each of the rates should be approved in advance for each of the years in which a full review does not take place.
3. The rates should be increased in line with a published index. Possible options for the index include:
 - Average Earnings Index

- median earnings (note that this information is not currently collected on an annual basis but there are plans to do so in the future)
- Retail Price Index

Do you have a different idea about how rates should be set in a year without a full review? Please explain your ideas.

Do you have any additional comments on this Question?

7. Should the way in which offsets are used be changed?

Employers have the right under the law to retain - or “offset” - a portion of wages to account for accommodation or food with accommodation provided to an employee as part of their terms of employment. In Jersey, this most often happens in the hospitality and agricultural sectors.

In Jersey, the current value of the maximum weekly offset against the minimum wage rate for accommodation is £91.12; for accommodation and food it is £121.46. The level of offsets is set by Regulation.

Offset rates are increased each year in line with the overall rise in minimum wage.

With the wider review of the minimum wage process, this is an opportunity to consider whether offset rates should be set higher or lower than at present, compared to the minimum wage rate itself.

Higher offset rates could be agreed as part of a larger decision to agree a significant increase in the minimum wage rates. Under this option, workers would receive a higher overall wage, but employers would also be entitled to make a higher charge for accommodation and food.

Lower offset rates would ensure that workers in these areas received a higher net wage.

Options

1. No change – keep the offsets in line with any uplifts in the minimum wage.
2. Increase the offset rates more quickly than the minimum wage rate itself. If you choose this option, please indicate a suitable level of increase.
3. Reduce the offset rates in relation to the minimum wage level. If you choose this option, please indicate a suitable level of reduction.

Do you have a different idea about how offset rates should be set? Please explain your ideas.

Do you have any additional comments on this Question?

8. Setting the next minimum wage rate

The normal annual cycle of minimum wage setting has been disrupted by the Covid-19 pandemic.

The current main minimum hourly rate is £8.32 per hour. Based on a 40-hour week this represents 43.2% of the average (mean) full-time wage identified for 2020.

In most years, a minimum wage rate is announced in October and comes into force in the following April. This gives employers six months to plan for the new rate. In recent years there have been challenges to the minimum wage rate with debates taking place between November and January to confirm the figure.

It was not possible to undertake a review during 2020 and the current rate of £8.32 will continue for the time being.

The Employment Law currently sets out the process for the Minister to set a new minimum wage rate. This consultation is seeking views on a review of this process and it will take some time for any changes to be fully implemented.

During this transitional period, a new minimum wage rate could still be considered and implemented. This rate would not be subject to the full review that has traditionally been undertaken by the Employment Forum but views on a possible minimum wage rate will be collected through this consultation process.

The Minister will consider the submissions and take a decision following the end of this consultation. Please give your views on the following:

1. Should the next minimum wage rate be set for October 2021? Businesses will have less notice than usual, but the bulk of the hospitality and agriculture seasons will be finished for 2021 and these are the sectors that make the most use of the legal minimum wage rate.

2. Should the next minimum wage rate be set for April 2022? Businesses will have several months' notice of the new rate, but workers will not see any increase in minimum wage during 2021.
3. How should the next minimum wage rate be set, in the absence of a full review?
 - It should be increased in line with the Average Earnings Index for 2020 and 2021.
 - It should be increased in line with the Retail Price Index for 2020 and 2021.
 - It should be increased to a percentage of the average earnings figure (the target set by the States Assembly is 45%). Please indicate the %
 - It should be set at a fixed value - please indicate the value.

Do you have a different idea about how the next minimum wage rate should be set? Please explain your ideas.

Do you have any additional comments on this Question?

Do you have any further comments in general on this consultation paper?

Final section

Please indicate whether you are commenting on this consultation exercise as:

- an employee
- an employer
- a trade union
- business representative organisation
- community representative organisation
- an elected States member
- an individual.

If you would like to take part in a stakeholder or public meeting, please give your name and contact details.

Name:

Email address:

Phone number: