

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE FOR EMPLOYMENT & SOCIAL SECURITY

**AMENDMENTS TO STATUTORY MINIMUM WAGE ARRANGEMENTS TO COME INTO
FORCE ON 1ST JANUARY 2021**

The States are asked to decide:

Whether, after consideration of the Policy Letter entitled 'Amendments to Statutory Minimum Wage arrangements to come into force on 1st January 2021', dated 8th October 2020, they are of the opinion:-

1. To approve the Minimum Wage (Prescribed Rates and Qualifications) (Guernsey) (Amendment) Regulations, 2020 (as set out in Appendix 1 to this Policy Letter), which pursuant to sections 1(3) and 3(1) of the Law, prescribe the hourly minimum wage rates set out below with effect from 1st January 2021:
 - a. adult minimum wage rate: £8.70 per hour (for workers aged 18 and over), and
 - b. young person's minimum wage rate: £8.25 per hour (for workers aged 16 and 17).

The above Proposition has been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE FOR EMPLOYMENT & SOCIAL SECURITY

AMENDMENTS TO STATUTORY MINIMUM WAGE ARRANGEMENTS TO COME INTO
FORCE ON 1ST JANUARY 2021

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

8th October 2020

Dear Sir

1. Executive Summary

- 1.1. In accordance with the provisions of the Minimum Wage (Guernsey) Law, 2009, (“the Law”) the Committee *for* Employment & Social Security (“the Committee”) is seeking States’ agreement to its proposals to increase the statutory minimum wage rate.
- 1.2. Section 31(3) of the Law provides that Regulations made by the Committee that set the hourly minimum wage rates shall not have effect until approved by a resolution of the States.
- 1.3. In November 2018, the States noted the Committee’s medium term plan for minimum wage rates to be increased in equal annual increments over the course of five years, until the minimum wage rates reach 60% of median earnings by 2023. However, having consulted with representative groups of employers and employees, in the current context of the Covid-19 pandemic and the consequences for the local economy, the Committee recommends a pause in the medium term plan for one year. The Committee will instead propose increasing the minimum wage and associated rates for 2021 by 2.4%, being RPIX for the year to June 2020.
- 1.4. The Committee recommends the setting of the following minimum wage rates, to take effect from 1st January 2021:
 - Adult minimum wage rate at £8.70 per hour (currently £8.50) for workers aged 18 and over.

- The young person’s minimum wage rate at £8.25 per hour (currently £8.05) for workers aged 16 and 17.
- 1.5. The Minimum Wage (Prescribed Rates and Qualifications) (Guernsey) (Amendment) Regulations, 2020 (Appendix 1), have been drafted to give effect to the change in rates.
- 1.6. The Committee also intends to increase the associated accommodation and food offsets. These offsets set the maximum amount an employer is permitted to deduct from an employee's wage in compensation for providing accommodation and meals. These changes, which do not require States approval, are shown below for information.
- Accommodation & food offset: £117 per week (currently £114).
 - Accommodation only offset: £84 per week (currently £82).
- 1.7. The Committee is of the view that the underlying strategy will remain the same and the medium term plan will resume when the rates are set for 2022. The target date for the minimum wage to equal 60% of median earnings should be extended to 2024.

2. Introduction

- 2.1. The October 2007 States’ resolution (following Billet d’État XXII of 2007, Article 9) to approve proposals for a statutory minimum wage, gave backing to the fundamental principle that it is unacceptable for employees and workers to be paid low wages to the point of exploitation.
- 2.2. The minimum wage rates are not intended to reflect a ‘living wage’, particularly as different households have different family make-ups and different needs. There are several initiatives adopted by the Committee, such as a wide range of benefits, grants and social housing, which assist those with a low income.
- 2.3. In 2010, the States approved a resolution following an amendment from Deputy Fallaize (Billet d’État XI of 2010, Article 11) which was worded as follows:

“5. To direct the Commerce and Employment Department, whilst having regard to the requirements of the Minimum Wage (Guernsey) Law, 2009, to take fully into account when reviewing minimum wage rates that it is a policy objective of the States of Deliberation that the Young Persons’ Minimum Wage Rate and the Adult Minimum Wage Rate should be equalised as soon as possible.”

A further resolution was approved in 2017 following a successful amendment, from Deputy Roffey, in November 2017 (Billet d'État XXIII of 2017, Article 9), which was:

“2. To direct the Committee *for* Employment & Social Security, when they bring proposals to the States for the adult and young persons' minimum wage levels for 2019 to provide clarity on their medium term plan for increasing minimum wage levels”.

- 2.4. The Committee considered both amendments when determining the minimum wage rates for 2021.

3. The medium term plan for increasing minimum wage rates

- 3.1. The purpose of the 2017 Roffey amendment was to provide greater certainty for both employers and employees and to allow them to plan over the medium term. The Committee deemed the medium term to be the next five years for the purpose of implementing the resolution.
- 3.2. In preparing its proposals for 2018, the Committee considered a variety of options for minimum wage levels over the medium term and invited the community to offer their views on the matter during consultations. Among the options that were examined, the Committee considered whether minimum wage rates should be linked to median earnings, or whether it would be more appropriate for the minimum wage rate to increase in line with inflation (RPIX).
- 3.3. On recommendation from the Committee, the States noted the Committee's policy that the minimum wage rates should be linked to median earnings, so that a person working a fulltime (40 hour) week should earn at least 60% of the median earnings figure. This would ensure that the gap between the Island's lowest paid workers and the workforce average could never grow too wide.
- 3.4. As the jump from 2018 minimum wage (£7.75) to 60% of the then median earnings figure (£9.33) was large, a gradual increase to reach this rate over the medium term was considered necessary. It was agreed that the target should be met by increasing the minimum wage rate in equal increments over a five year period.
- 3.5. Median earnings for the year to Quarter 1 of 2020 was £34,409 per annum. Taking 60% of this figure and dividing it by 52 weeks and then by 40 hours, produces an hourly rate of £9.93. This figure is 60% of median earnings , adjusted using the latest available median earnings figure, which is the target of the five year medium term plan, to be reached in 2023.

Table 4 – Minimum wage rates illustrated over the medium term, based on the 60% of median earnings approach

Adult Rate		
Year	Estimated rates in Oct 2018 report	2019 and 2020 actuals and indicative rates for 2021 to 2023
2019	£8.07	£8.10
2020	£8.39	£8.50
2021	£8.71	£8.98
2022	£9.03	£9.46
2023	£9.35	£9.93

- 3.6. If adhering to the formula and usual practice, the Committee would round the adult minimum wage rate for 2021 to the nearest five pence, which is £9.00. This would be an increase of 5.9%.
- 3.7. Mindful of the medium term plan, there is still an obligation in Law for consideration of certain factors and to consult representatives of employers and employees.

4. Factors to be taken into account

- 4.1. The Law requires the Committee to consider and take into account a number of factors before making Regulations setting the minimum wage rates. These are set out below:
- the current rate of the minimum wage in the United Kingdom, the Isle of Man and Jersey,
 - the current economic and trading conditions prevailing in Guernsey,
 - the rate of inflation in Guernsey,
 - the rate of unemployment in Guernsey,
 - current rates of pay in Guernsey,
 - the increase or decrease in rates of pay in Guernsey over the previous twelve months,
 - and such other factors as appear to be relevant.
- 4.2. The Committee recognises the need for employers to attract and retain quality staff. The Committee considers that to do so, Guernsey must, among other things, offer pay rates that are attractive compared with other competitive jurisdictions. The current minimum wage rates for the UK, the Isle of Man and Jersey are listed below:

Table 1 – Current Minimum Wage Rates – UK, the Isle of Man and Jersey

Minimum Wage Rates (Hourly)			
	Young Person	Adult	Effective from
Guernsey	£8.05 (aged 16-17)	£8.50 (aged 18 and over)	1 st Jan 2020
United Kingdom	£4.55 (aged 16-17) £6.45 (aged 18-20)	£8.20 (aged 21-24) £8.72 (aged 25 and over)	1 st Apr 2020
Isle of Man	£6.15 (aged over 16 but under 18)	£8.25 (aged 18+, except development workers) £7.30 (development worker)	1 st Oct 2019
Jersey	Year 1: £6.24 Year 2: £7.28 ¹	£8.32 (aged 16 and over)	1 st April 2020

- 4.3. While the UK and Jersey increased their minimum wage rates earlier this year in April 2020, the sheer scale of the Covid-19 pandemic had not yet been fully realised. All three jurisdictions are now pausing to review their strategies in light of the impact the pandemic is having on the economy and society as a whole.
- 4.4. Increasing Guernsey’s minimum wage by 2.4% (RPIX) would set it at £8.70, which is just below the UK’s national living wage rate of £8.72. Although the cost of living is greater in Guernsey, it is important to keep in mind that it is not possible to draw a straight comparison between Guernsey and the UK as the over 25 rate is intended to be a living wage rather than a minimum wage.
- 4.5. Unemployment in Guernsey reached record levels this year during the Covid-19 pandemic lockdown. As restrictions have eased, the level of unemployment has reduced significantly, but with 690 people wholly unemployed at the end of August 2020 it remains at around double the usual number for the time of year.

Such other factors that appear to the Committee to be relevant

- 4.6. The following were identified as relevant when considering the statutory minimum wage rates:
- public and political expectations,
 - ensuring Guernsey remains competitive with the UK, Jersey and the Isle of Man,
 - the impact on businesses,
 - the In-Work Poverty review by the Scrutiny Management Committee,

¹ The young person’s rates in Jersey are referred to as the Trainee Rates. Those who are on a Social Security training programme can receive those rates for a maximum period of two years.

- the impact of Brexit,
 - the impact of Covid-19.
- 4.7. While the Committee has taken all of the above factors into account when considering its proposals, the impact of Covid-19 has been the most prominent issue. The Covid-19 pandemic has had an unprecedented impact on the local economy as well as economies elsewhere. It has affected the viability of businesses.
- 4.8. Strong representations have been received from businesses to the effect that any increase in the minimum wage will further threaten the survival of businesses that are already facing great financial difficulty. The Committee is sympathetic to these representations.
- 4.9. On the other hand, as the minimum wage by definition supports the very lowest paid in the community, the Committee believes that the minimum wage should at least keep pace with inflation so that the lowest paid do not effectively go backwards in their pay rates.
- 4.10. The Committee has therefore decided to pause the medium term plan instead to increase the minimum wage in line with RPIX (2.4%) for 2021.
- 4.11. Despite initiating a pause, the underlying strategy will remain the same and the Committee intends the medium term plan to resume in 2022. The target date to achieve the aim of the medium term plan (i.e. for a person working forty hours per week at the minimum wage to earn an amount equal to 60% of median earnings) is therefore pushed back to 2024 to allow businesses time to recover from the impact of the pandemic.

5. Duty to consult

- 5.1. Section 5 of the Law requires the Committee to:

“...consult such organizations, or associations of organizations, representative of employers and employees in Guernsey, and such other organizations and bodies, as appear to the Department to be appropriate.”

- 5.2. In 2018, the Committee carried out a large-scale public consultation on minimum wage rates. However, as the Committee is now normally working to a five-year plan noted by the States, the Committee, for the second year running, decided that it would undertake a limited scope consultation by direct correspondence with relevant employers and employees' organisations.

5.3. The Committee wrote to the main industry groups which included, but was not limited to, the retail, hospitality, and finance sectors and representatives of unions. From the 20 letters sent, the Committee received 8 responses; 5 from industry bodies, 2 from civil society groups and 1 from the States of Guernsey as an employer. The feedback emphasised the significant impact that the Covid-19 pandemic has had on local businesses this year and the view that increasing the minimum wage rates in accordance with the medium term plan (5.9%) would be too burdensome for employers in the present economic context.

6. Proposed rates for 2021

Adult minimum wage rate

6.1. In line with RPIX, the Committee proposes an increase in the adult minimum wage rate from £8.50 to £8.70 per hour (rounded to the nearest five pence).

Young person's minimum wage rate

6.2. The young person's rate will also be increased in line with RPIX from £8.05 to £8.25 per hour (rounded to the nearest five pence).

6.3. While the States has resolved to equalise the young person's rate with the adult minimum rate, the Committee decided that increasing in accordance with RPIX will be more proportionate given the current economic conditions, and therefore an effort to narrow the gap between that and the adult rate will continue when the medium term plan resumes.

Accommodation and food offsets

6.4. The rates for accommodation and food offsets are updated proportionately with the adult minimum wage rate. The proposed rates for 2021 are:

- Accommodation & food offset: £117 per week (currently £114)
- Accommodation only offset: £84 per week (currently £82)

7. Conclusions

7.1. Having considered the criteria and relevant factors as set out in the Law, the Committee has concluded that there is a case to pause the medium term plan and to increase the statutory minimum wage rate with effect from 1st January, 2021, in accordance with RPIX for June 2020.

- 7.2. The Committee maintains the view that the gap between the Island's lowest paid workers and the workforce average should never grow too wide and intends to resume the medium term plan in 2022. The target date to achieve the aim of the medium term plan will therefore be pushed back to 2024.
- 7.3. Increasing the adult minimum wage rate to the proposed level strikes a balance between setting rates that are affordable for responsible employers operating in Guernsey, taking into consideration the present economic context, and supports the lowest paid in the community by keeping pace with inflation and not decreasing in value.

8. Compliance with Rule 4 of the Rules of Procedure

- 8.1. If the current Payroll Co-support scheme for businesses adversely affected by Covid-19 is extended into 2021, an increase in the minimum wage rates would commensurately increase the cost of the scheme as it is directly based on the minimum wage. However, if the scheme does continue into 2021, it is expected that it will be on a very narrow basis and the Committee is advised by officers of the Policy & Resources Committee that the increase in cost would be minimal. Meanwhile, the modest increase in the minimum wage rate will be of assistance to low-paid workers in sectors not covered by the payroll support scheme.
- 8.2. The Committee's proposition aligns with its purpose, which is "To foster a compassionate, cohesive and aspirational society in which responsibility is encouraged and individuals and families are supported through a scheme of social protection relating to pensions, other contributory and non-contributory benefits, social housing, employment, re-employment and labour market legislation". The proposition is in line with the themes of the Policy & Resource Plan, approved by the States in November 2016 (Billet d'État XXVIII of 2016) and updated in June 2019 (Billet d'État IX of 2019), which are to be inclusive and equal, and to foster a mature international identity.
- 8.3. It is confirmed that the attached proposition has the unanimous support of the Committee.

Yours faithfully

M K Le Clerc
President

S L Langlois
Vice-President

P J Roffey
J A B Gollop
E A McSwiggan

M J Brown
Non-States Member

A R Le Lièvre
Non-States Member

GUERNSEY STATUTORY INSTRUMENT

2020 No.

**The Minimum Wage (Prescribed Rates and Qualifications)
(Guernsey) (Amendment) Regulations, 2020**

<i>Made</i>	<i>8th October, 2020</i>
<i>Coming into operation</i>	<i>1st January, 2021</i>
<i>Laid before the States</i>	<i>, 2020</i>

THE COMMITTEE FOR EMPLOYMENT & SOCIAL SECURITY, in exercise of the powers conferred on it by sections 1(3), 3(1) and 31 of the Minimum Wage (Guernsey) Law, 2009², and all other powers enabling it in that behalf, hereby makes the following Regulations:-

Substitution of Schedule to principal Regulations.

1. The principal Regulations are amended by substituting, for the Schedule to those Regulations, the schedule contained in the Schedule to these Regulations.

Interpretation.

2. In these Regulations, "the principal Regulations" means the Minimum Wage (Prescribed Rates and Qualifications) (Guernsey) Regulations, 2012³.

² Order in Council No. I of 2010; as amended by Order in Council No. XIII of 2010; and Ordinance No. IX of 2016.

³ G.S.I. No. 40 of 2012; as amended by G.S.I. Nos. 15 and 49 of 2014; No. 40 of 2015; No. 42 of 2016; No. 89 of 2017; No. 60 of 2018; and No. 85 of 2019.

Transitional and savings provisions.

3. (1) These Regulations do not have effect in relation to any worker and his or her work until the first day of the first pay reference period of the worker in respect of that work.

(2) For the avoidance of doubt, before the first day of the first pay reference period of the worker in respect of that work, the principal Regulations have effect in relation to that worker and that work as if these Regulations had not been made.

(3) In this regulation, "**the first pay reference period**", in relation to a worker and his or her work, means the first pay reference period of the worker, in respect of that work, beginning on or after the date specified in regulation 4 for these Regulations to come into force.

Citation and commencement.

4. These Regulations may be cited as the Minimum Wage (Prescribed Rates and Qualifications) (Guernsey) (Amendment) Regulations, 2020, and come into force on the 1st January, 2021.

Dated this 8th day of October, 2020

M. K. LE CLERC

President of the Committee for Employment & Social Security

For and on behalf of the Committee

SCHEDULE

(Regulation 1)

SCHEDULE TO BE SUBSTITUTED FOR THE SCHEDULE TO THE PRINCIPAL
REGULATIONS

"SCHEDULE
MINIMUM WAGE RATES

Regulations 1(1) and 2(1)

Adult Minimum Wage Rate

£8.70 per hour.

Young Person's Minimum Wage Rate

£8.25 per hour."

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE FOR EMPLOYMENT & SOCIAL SECURITY

AMENDMENTS TO STATUTORY MINIMUM WAGE ARRANGEMENTS TO COME INTO
FORCE ON 1ST JANUARY 2021

The President
Policy & Resources Committee
Sir Charles Frossard House
La Charroterie
St Peter Port
GY1 1FH

8th October 2020

Dear Sir

Preferred date for consideration by the States of Deliberation

In accordance with Rule 4(2) of the Rules of Procedure of the States of Deliberation and their Committees, the Committee *for* Employment & Social Security requests that 'Amendments to Statutory Minimum Wage Arrangements' be considered at the States Meeting to be held on 25th November 2020.

It would be helpful for the Policy Letter to be considered at the earliest opportunity as employers need time to prepare for the increase in the minimum wage prior to implementation on 1st January 2021.

Yours faithfully



Michelle Le Clerc
President

Shane Langlois
Vice-President

John Gollop, Emilie McSwiggan, Peter Roffey

Mike Brown, Andrew Le Lievre
Non-States Members