



HM Treasury National Minimum Wage Workers: Travel & Subsistence Expenses Schemes Consultation Unite Submission

Introduction

This submission is by Unite the Union. Unite is the UK's largest trade union with 1.5 million members across the private and public sectors. The union's members work in a range of industries including manufacturing, financial services, print, media, construction, transport and local government, food, agriculture, education, health and the not for profit sectors.

Unite is pleased to submit a response to HM Treasury consultation on the National Minimum Wage (NMW) Workers: Travel and Subsistence Expenses Schemes. Unite considers the NMW to be one of the most important successes of the Labour Government. Its introduction and subsequent increases have not had any adverse effects on the labour market, whilst it has benefited millions of low paid workers.

Unite has obtained the views of our members through our lay member committees at national and regional level.

The Consultation Questions

The HM Treasury consultation asks a number of specific questions. This section sets out Unite's responses.

Question 1: The Government believes that amending the NMW Regulations to exclude expenses which relate to travel to a temporary workplace from counting towards NMW pay is the best approach in dealing with this problem. Are there alternative approaches which would achieve the same outcome and which you believe that the Government should consider? If so, then please give details of these.

Unite welcomes the commitment by the Government to amend the NMW regulations to exclude expenses which relate to travel to a temporary workplace from counting towards NMW pay.

The lowest paid workers in our society should not be left exposed to suffer from potential exploitation by rogue employers who are immorally profiting through this loop hole and denying hard honest workers their right to the NMW.

The Gangmasters Licensing Authority (GLA) has uncovered evidence that some NMW workers have well over 50% of their pay attributed to expenses, leaving their actual salary and the taxable amount as low as £97 for a 38-hour week.¹

An amendment of the regulations would go along way in helping to improve transparency for workers, who in many situations are unaware of even being present in such a scheme or the fact that they have other options, which is not fully explained to the worker.

At the same time the current status quo means many NMW workers are unwittingly jeopardising key benefits and entitlements such as holiday pay, PAYE, pension contributions and maternity/paternity leave due to their underpayment of NI contributions.

¹ www.gla.gov.uk/embedded_object.asp?id=1013618

In addition any worker involved in a scheme which comes to the direct attention of HMRC could then be in a position where the Revenue could seek to recoup any arrears. This could place some individuals in considerable hardship.

So Unite support the proposal to amend the NMW regulations to exclude expenses which relate to travel to a temporary workplace from counting towards NMW pay.

Question 2: Will amending the Regulations in this way adversely impact on NMW workers in a way that we have not anticipated? If so, please provide details.

Unite notes that some recruitment agencies are arguing that the closing of this loophole could see some agencies cease trading and as a result workers could lose their jobs.

However Unite does not believe that it is right to justify a businesses existence by denying the poorest pay workers in the UK the NMW that they are entitled to. If businesses are abusing the system, so greatly that it's the only way they can remain in existence then they are not a viable business in the first place.

Therefore Unite sees no reason why the regulations should adversely impact NMW workers.

Question 3: What are your views on the potential implementation date of 1 October 2010, if the proposed changes to the Regulations are adopted?

Unite are supportive of the change to the regulations being made at the first given opportunity on the 1st of October 2010, assuming that this can be done in the available timeframe.

Question 4: What would be the impact of changes to Regulations on administrative processes and costs to business?

Unite thinks the administrative processes and costs to business will be minimal.

After an initial outlay to adjust accounting practices Unite does not believe there will be any other significant administrative costs in incorporating the proposed changes. In fact administrative processes should become quicker due to the time that will be saved from previously deducting travel and subsistence expenses from basic pay and the NMW, which won't be allowed anymore.

The Impact Assessment estimates that amendments to the regulations would mean an extra tax and NIC's revenue generation of £35m in 2010-11 and £85m for 2011 onwards.² The actual costs to business will depend on how much companies have been exploiting the loop hole in the regulations in the first place. They will have to pay the difference from which they have been previously benefiting, along with the employers 12.8% (NIC's) on that amount.

Currently better employers are being placed at an economic disadvantage to businesses who are exploiting the loop hole in the regulation to the fall. So clearly amending the legislation could have a positive affect on creating a fairer market for all businesses to compete in.

In addition there is an opportunity for businesses to improve their reputation not just with their workers but with their customers by operating fairer paying practices. However this isn't all about the benefits for business, there are benefits for the Government, the consumer and let's not forget the primary reason for amending the regulations the worker.

² www.hm-treasury.gov.uk/d/consult_minimumwage_expenses.pdf

Question 5: Do you have any comments on the accompanying Impact Assessment?

Unite would once again like to welcome this consultation and believe the impact assessment to be fair.

Conclusion

Unite believes the proposed amendment to the NMW Regulations would protect the contributory benefit position of low paid workers currently participating in these schemes and stop others being potentially prejudiced. It would also result in a fairer market as there would be competition on more equal terms. Expenses for travel to a temporary workplace would no longer count as NMW pay, so more NMW pay would be subject to tax and NICs, increasing the amount paid to the Exchequer, which should be redistributed into public services.

Unite the Union – May 2010