

**GENERAL QUESTIONNAIRE  
MINIMUM WAGE  
2009 REVIEW**



**QUESTIONNAIRE 2**

**GENERAL  
MINIMUM WAGE QUESTIONNAIRE**

Please answer this Questionnaire if you are (or you are responding on behalf of);

- \* An employer, whether large or small, in any industry
- \* A trade union or an employee/staff association
- \* An employers' association or a trade representative body
- \* An independent advisory body or association
- \* Any interested employee, individual, group or association.

If you are an employee who is directly affected by the minimum wage, you should answer Questionnaire 1 which is designed specifically for employees who are being paid at, or near to, the minimum wage.

This questionnaire includes some questions that are general and suitable for any respondents, as well as other questions that are directly aimed at employers. If you feel that some of the questions are not relevant to you, please follow the directions to the next set of appropriate questions.

The Forum encourages you to complete these questionnaires electronically to allow you to type as much as you wish in the comment boxes.

Copies of both questionnaires and the background paper can be obtained from the Forum Secretary (tel. 447203, [K.Morel@gov.je](mailto:K.Morel@gov.je)) or downloaded from the States website

[www.gov.je/ChiefMinister/PublicConsultations](http://www.gov.je/ChiefMinister/PublicConsultations)

*Please return your completed questionnaire by **Wednesday 9 September 2009** to Kate Morel at the Social Security Department, either by email to [K.Morel@gov.je](mailto:K.Morel@gov.je), or by post to PO Box 55, La Motte Street, St Helier, JE4 8PE.*

*Thank you for taking the time to complete this questionnaire.*

# GENERAL QUESTIONNAIRE

## MINIMUM WAGE

### 2009 REVIEW



#### CONTENTS

- Part 1 – Your details**
- Part 2 – Effects of the economic decline**
- Part 3 – Tips and gratuities**
- Part 4 – Youth or student rate**
- Part 5 - Benefits in kind; the offsets**

#### Part 1 – Your details

1. Please tick which of the following you are responding as, or on behalf of;

- Employer
- Employers' association
- Trade representative body
- Trade union
- Staff association
- Independent body
- Employee
- Other (please describe) \_\_\_\_\_

2. If you are responding on behalf of an organisation, please indicate the nature of your business, sector or industry make it clear who the organisation represents and, where applicable, how the views of members were assembled.

Unite the Union is the UK's largest trade union with 2 million members and 4,500 members in Jersey 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 not for profit sectors. Unite seeks the views of our members through our lay member committees at national and regional level.

3. Your name and contact details (optional)

Nick Corbel - Jersey Regional Industrial Organiser – 01534 872584  
Unite the Union  
66 New Street  
St Helier  
Jersey  
Channel Islands

# GENERAL QUESTIONNAIRE

## MINIMUM WAGE

### 2009 REVIEW



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4. In the reporting of the results of this consultation, are you willing to allow the Employment Forum to quote your comments?

No       Yes, anonymously      Or       Yes, attributed to me.

5. Are you willing to allow your consultation responses to be made available to the Scrutiny Office, if requested by them? For more information about the role of Scrutiny, see the website [www.statesassembly.gov.je/scrutiny/frame.asp](http://www.statesassembly.gov.je/scrutiny/frame.asp)

Yes       No

6. The Employment Forum regularly advertises for new members. If you are interested in applying to become a member of the Forum in the future and you have not previously applied, please tick this box to receive more information.

Yes, please send me more information.

#### Part 2 – Effects of the economic decline

In 2006, the Forum expressed an intention to review the minimum wage every two years, instead of annually, unless there were circumstances, such as economic changes, to suggest that an earlier review is necessary.

Given the current economic climate, the Forum proposed in its 2008 recommendation that it would be necessary to review the minimum wage during 2009, to allow it to consider any effects of the unstable economy, any implications of GST, rising costs of products and services, especially fuel and food, as well as inflation and the performance of the Agriculture and Hospitality industries in particular.

Whilst preparing the October 2008 minimum wage recommendation, the States Economic Advisor had advised the Forum that economic conditions outside of Jersey had deteriorated significantly, suggesting that Jersey would face a significant slowdown in the economy in the subsequent 18 months. He had emphasized that significant economic uncertainty created by the onset of the credit crunch was compounded by the rise in global inflation through higher food and oil prices. Despite the impending slowdown in the economy, the Economic Advisor noted that it was still a critical time for inflation.

The Economic Advisor has updated the Forum in May 2009, commenting that, *“with the global economy facing the worst outlook for 60 years, the Jersey economy is likely to experience a significant downturn over the next 18*

# GENERAL QUESTIONNAIRE

## MINIMUM WAGE

### 2009 REVIEW



months. This requires continued caution in recommending minimum wage increases, however the concern is no longer about inflation, but relates to protecting jobs and keeping businesses competitive both in the local and international market place. The global economic crisis has been driven by a banking related financial crisis; however jobs are at risk in Jersey in both the finance and non-finance industries. In response, the States has agreed a significant package to stimulate the economy on the recommendation of the Treasury and Resources Minister with the intention to support employment and businesses in the Island, through policies that are targeted, temporary and timely.”

7. Due to the instability in the economic climate and the predicted continued decline of the economy leading into 2010, is there any particular information or issues that you would ask the Forum to take into account in this review of the minimum wage, particularly in regard to whether the minimum wage should be adjusted?

X Yes  No

Please give your comments.

Unite would like the Employment Forum to take into consideration the following:-

#### **Employment**

Since the introduction of a minimum wage in Jersey in 2005 employment levels have remained stable with 53,280 in June 2005 and the latest figure available being 53,540 for December 2008. Within this private and public sector employment has remained steady also.

Year	Month	Private Sector	Public Sector	Total
2005	Jun	46760	6530	53280
	Dec	43850	6430	50280
2006	Jun	47380	6540	53910
	Dec	45000	6560	51570
2007	Jun	48380	6730	55110
	Dec	46360	6630	52980
2008	Jun	49870	6730	56600
	Dec	46890	6650	53540

Source: <http://www.gov.je/NR/rdonlyres/ED8193EF-D06C-498D-92C6-CCF06641C28F/0/LabourMarketTotalEmployment.xls>

A look at a sector breakdown tells a similar story of consistent employment during the period that the Jersey minimum wage has been in place.

# GENERAL QUESTIONNAIRE

## MINIMUM WAGE

### 2009 REVIEW



Jersey Private Sector Manpower by Sector												
Total manpower												
	Agriculture and Fishing	Manufacturing	Construction & Quarrying	Electricity, Gas & Water	Wholesale & Retail Trades	Hotels, Restaurants & Bars	Transport, Storage & Communication	Computer & related activities	Financial & Legal Activities	Miscellaneous Business Activities	Education, Health & Other Services	Total staff
Jun-05	2,170	1,780	4,950	500	8,400	6,140	2,710	480	11,860	2,990	4,770	<b>46,760</b>
Dec-05	1,480	1,680	4,930	500	8,640	4,330	2,490	490	11,850	2,880	4,590	<b>43,850</b>
Jun-06	2,180	1,610	5,250	500	8,420	6,190	2,690	500	12,180	3,050	4,800	<b>47,380</b>
Dec-06	1,530	1,570	5,110	530	8,680	4,430	2,560	480	12,370	3,010	4,750	<b>45,000</b>
Jun-07	2,230	1,580	5,220	510	8,440	6,260	2,760	500	12,660	3,190	5,030	<b>48,380</b>
Dec-07	1,560	1,510	5,130	520	8,600	4,590	2,680	520	13,100	3,220	4,940	<b>46,360</b>
Jun-08	2,310	1,670	5,290	510	8,690	6,110	2,830	540	13,220	3,490	5,200	<b>49,870</b>
Dec-08	1,530	1,370	5,250	530	8,420	4,590	2,670	530	13,400	3,470	5,130	<b>46,890</b>

Source: States of Jersey Statistics Unit  
 Note: All data have been rounded independently to nearest 10.

### Average Earnings

The average weekly earnings of full-time equivalent employees (FTE) in Jersey in June 2009 was £620 per week, ranging from £360 per week in Hotels, restaurants and bars to £860 per week in Finance. The current weekly wage based on a 35 hour week for the minimum wage is £212.80.

In addition average earnings information tells us that in June 2009 the average weekly earnings of workers in Jersey was 3.0% higher than in June 2008.

### Inflation

The Jersey RPI decreased by -0.4% in the 12 months to June 2009. Although RPI has decreased the prices of many essentials have been rising at a far higher rate than RPI inflation (Food 4%, Household Goods 4%, Household Services 5%, Fares & other travel 4% and Leisure services 6%). It must also be noted that the 10% fall in Housing is misleading because many people are locked into fixed term deals and have received no reduction in payments at all.

***If you are an employer, please answer the following Questions.***

***If you are not an employer, please go to Question 13.***

**8. Do you consider that the downturn in the economy has led to changes in any of the following aspects of your business?**

	Significant increase	Slight increase	Slight decrease	Significant decrease	No change
Overall staffing levels					

**GENERAL QUESTIONNAIRE**  
**MINIMUM WAGE**  
**2009 REVIEW**



Profits					
Prices/tariffs					
Quality of goods/services					

**9.** Have you changed the standard working hours of your employees due to the economic downturn?

Yes       No

Please give details.

**10.** Have you reduced the number of overtime hours your staff are generally working, or have you changed employees terms and conditions regarding overtime due to the economic downturn?

Yes       No

Please give details.

**11.** Have you changed terms and conditions of employment, or general practices, regarding bonuses, commission, tips and other non-wage benefits for your employees due to the economic downturn?

Yes       No

**GENERAL QUESTIONNAIRE**  
**MINIMUM WAGE**  
**2009 REVIEW**



Please give details.

**12.** Please specify any other significant changes, not covered in the questions above, that you would ask the Forum to take into account in this review of the minimum wage, particularly in regard to whether the minimum wage should be adjusted.

**Timing of the recommendation**

Previous minimum wage reviews have been intended to allow the Forum to recommend any increases to the minimum wage rates six months in advance to give employers sufficient notice of any new rates. This has meant the announcement of the recommended new rates in September or October, to come into force the following April. This was considered particularly important by the agriculture and hospitality industries due to the need to set prices and tariffs in advance.

In view of the Economic Advisors advice regarding economic instability, the Forum wishes to consider whether it may be in the best interest of businesses if, on this occasion, the recommendation were delayed. This would mean that employers would have less notice of the new rate, however the Forum would have additional statistical information available to it and a possibly a clearer understanding of Jersey's economic prospects for 2010.

***All respondents may answer Question 13.***

**13.** When should the Forum make its minimum wage recommendation?

# GENERAL QUESTIONNAIRE

## MINIMUM WAGE

### 2009 REVIEW



As usual, recommend the minimum wage in October 2009, with any revised rates to be effective from April 2010?

Delay the recommendation until January 2010, with any revised rates to be effective from April 2010?

Delay the recommendation until \_\_\_\_\_ (specify which month), with any revised rates to be effective from April 2010?  
Please give any reasons for your response.

Unite does not believe that a delay in recommendation or rate effective dates would be necessary or indeed helpful to workers or employers. Unite sees no economic reason for the current dates do be changed and belief that the same dates bring clarity for workers and employers.

### Part 3 – Tips and Gratuities

Jersey's Minimum Wage Regulations provide that in determining whether the minimum wage has been paid, all amounts paid by the employer to the employee through the payroll representing amounts paid by customers by way of a service charge, tip, gratuity or cover charge may count towards minimum wage pay. This creates the same situation as in the UK whereby tips paid through the payroll may be used by the employer to "top up" minimum wage pay and do not have to be paid to the employee on top of their minimum wage pay.

This practice is currently legitimate (as long as the tips are paid through payroll) however the Forum notes that the UK Government recently consulted on this matter and released a response to the consultation in May 2009. This stated that the policy will change, effective from October 2009, to the effect that tips, gratuities, service charges and cover charges may not be used by employers to top up minimum wage pay.

JACS had commented on this practice during the Forum's 2006 minimum wage review, suggesting that the law should be revised. The Forum shares JACS concern and agrees that it appears contrary to the intention of the giver, however recognised that more consultation would be necessary regarding the payment, collection and distribution of tips and gratuities, particularly with relevant employers.

***If you are an employer, please answer Questions 14 to 17.***

# GENERAL QUESTIONNAIRE

## MINIMUM WAGE

### 2009 REVIEW



*If you are not an employer, please answer Questions 18 and 19.*

**14.** As an employer, do you use any of the following types of tips, gratuities, service and cover charges received from customers to top-up employees pay to the minimum wage? *Please note that this practice is legitimate, where tips are paid through payroll.*

*If yes, please tick all that apply.*

**Discretionary tips and gratuities;** spontaneous and optional payments offered by the customer, either as a cash tip (left on the table, given to the employee, put in a box on the till, etc) or offered as part of a cheque or credit card payment.

**Discretionary service charges;** an amount added to the customers bill before it is presented to the customer (typically a percentage), but only where this is clearly noted as being discretionary, i.e. there is no obligation for the customer to pay it.

**Mandatory service charges;** the same as above, except the customer is obliged to pay the service charge.

**Other;** any other types of charges or payments not covered above; please specify below.

**None of the above;** I do not use any of the above towards an employees minimum wage pay. *Please go to Question 17.*

**Not applicable to my business. Please go to Part 4.**

**15.** If this practice were no longer legitimate, would this have an impact on your

i) administrative processes  Yes  No

ii) wage costs  Yes  No

# GENERAL QUESTIONNAIRE

## MINIMUM WAGE

### 2009 REVIEW



*Note – if the practice were no longer legitimate, this would only affect those employees whose basic pay is less than the minimum wage until tips are added; it would not affect employees who earn more than minimum wage.*

**16.** If you have responded “yes” to question 9 ii) above, how much of your wage bill do you estimate is subsidised by tips, gratuities, service and cover charges? *The Forum wishes to understand the impact that there might be on certain employers and industries if the practice were to become illegitimate.*

% *Please specify*

**17.** If tips and gratuities, service and cover charges are given by customers, please describe briefly how they are collected and distributed between employees.

***Please answer Questions 18 and 19 if you are not an employer.***

***If you are an employer please go to Part 4.***

**18.** Please tick any of the following that you think an employer should no longer be able to use to top up minimum wage pay. *You may tick more than one box.*

**X Discretionary tips and gratuities;** spontaneous and optional payments offered by the customer, either as a cash tip (left on the table, given to the employee, put in a box on the till, etc) or offered as part of a cheque or credit card payment.

**X Discretionary service charges;** an amount added to the customers bill before it is presented to the customer (typically a percentage), but only where this is clearly noted as being discretionary, i.e. there is no obligation for the customer to pay it.

# GENERAL QUESTIONNAIRE

## MINIMUM WAGE

### 2009 REVIEW



**Mandatory service charges**; the same as above, except the customer is obliged to pay the service charge.

**Other**; any other types of charges or payments not covered above; please specify below.

**None of the above**; an employer should be able to use any of the above towards an employees minimum wage pay.

**19.** In your opinion, is the practice of using tips to top up minimum wage pay common in any particular industries in Jersey?

Yes       No

If yes, please give further details, including which industries.

Unite believes that this is a predominantly a problem for the hospitality industry in Jersey, like it is in the UK.

Ian McCartney who was a Minister at the Department of Trade and Industry when the NMW was created in the UK has since admitted that there was a "compromise". At the time behind the scenes, the hospitality industry was lobbying hard to ensure an opt-out for their bar and waiting staff. They won a loophole that allowed firms to use service charges and tips left on credit cards towards paying the NMW. On reflection Ian McCartney has recently expressed his disappointment that the Government allowed this loop hole to remain in the first place.

"I regret that some employers decided to use it in the way they have done," he said. "It was never intended that the Minimum Wage Act should be used in this way. A service charge is for service, to show the goodwill of the customer. It should not be a contribution to paying wages, which should already be covered in the meal costs."

Unite the Union has been campaigning for fair tips and in April 2008 joined forces with the Daily Mirror newspaper to launch a 'Fair Tips Charter' calling on businesses to adopt an ethical tips policy. Put simply, bosses should pass on 100% of tips, service charges, gratuities and cover charges to staff and not

# GENERAL QUESTIONNAIRE

## MINIMUM WAGE

### 2009 REVIEW



use them to pay for wages, breakages or customer walkouts. Consumer Focus has also now joined the campaign.

#### **Part 4– Youth or student rate**

In its 2006 recommendation, the Forum had recommended that a lower minimum wage rate should be available for students aged 16 to 18 who are in full time education. The Forum had proposed that a student rate would enable it to consider recommending that the minimum wage should be increased by more than average earnings in the future, as a student rate would assist in avoiding the possible negative consequences on labour market opportunities for young people. The Social Security Minister accepted the recommendation and proposed the student rate to the States of Jersey. The proposal was rejected by the States and was therefore not implemented.

The Forum's 2008 review did not ask respondents for their views on whether a lower minimum wage for students should be recommended, however a number of respondents proposed that the Forum should consider recommending a student rate or a youth rate again, on the basis that valuable work experience opportunities are being lost. Employers are said to be discouraged from taking on a younger employee for the same rate of pay as an older employee, particularly as they may require greater levels of supervision due to their lack of experience in the work place and in reference to age-restricted sales (e.g. alcohol and tobacco).

Arguments voiced against the student rate in the March 2007 States debate included; that the rate would introduce unnecessary complexity and is open to abuse; that it is discriminatory and exploitative to pay one 16 year old a lower rate where he is doing the same job in the school holidays as another 16 year old who is working full time; and that there is no evidence that the supply of jobs for students has become more limited.

On the matter of potential age discrimination, the Forum is aware that it is States of Jersey policy not to introduce any new legislation that may breach discrimination legislation in future. The Forum considered whether a student rate may be found to be indirectly age discriminatory on grounds that young people are more likely to be in full time education than older people.

Despite claims of age discrimination, the UK's Low Pay Commission has continued to justify different rates for different age groups on the grounds of evidence indicating that young people have continued to do less well in the labour market than older workers. The Low Pay Commission believes that lower National Minimum Wage rates for young people continue to be justified to protect their position in the labour market.

# GENERAL QUESTIONNAIRE

## MINIMUM WAGE

### 2009 REVIEW



As well as the UK, the Isle of Man, the Netherlands, Poland, Slovakia, Malta, Latvia, Belgium, Czech Republic and Ireland all have minimum wage rates for different age groups. The Isle of Man, for example, pays different rates to employees between school leaving age and 17, aged 17 but not yet 18, and a higher rate to those aged 18 years or over. Proposals for minimum wage legislation in Guernsey include a minimum hourly wage for adults aged 19 and over, and it is intended to propose a lower rate for young persons.

The Forum decided that more information would be necessary to determine whether students are missing out on work experience opportunities in any particular industries, and if so, whether the minimum wage is a contributory factor in this.

***If you are an employer, please answer Questions 20 to 26.***

***If you are not an employer, please answer Questions 27 to 30.***

**20.** How many employees do you employ between the ages of 16 and 18?

*Please specify. If you have answered zero, go to Question 22.*

**21.** How many of your employees aged 16 to 18 are still in full time education?

*Please specify*

**22.** Has the minimum wage discouraged you from employing young students?

 Yes No

**23.** Have you employed fewer young students since the introduction of the minimum wage?

 Yes No

**24.** Would you employ more young students if a lower minimum wage rate for young students was available?

 Yes No

**25.** Would a student rate benefit your business?

# GENERAL QUESTIONNAIRE

## MINIMUM WAGE

### 2009 REVIEW



Yes

No

26. Please give any reasons for your responses to the questions above regarding a student or youth rate.

***If you are an employer, please go to Part 5.***

***If you are not an employer, please answer Questions 27 to 30.***

27. Do you think that there should be a youth rate in addition to the existing trainee rate? (*This means a rate that could be paid to employees over school leaving age, up to age 18*).

Yes      No

Unite would ultimately like the minimum wage to apply as a flat rate from age 16 upwards on a 'rate for the job basis.' Unite believe that the principle of equal remuneration for work of equal value is an important one.

Research by the Employer's Forum on Age (EFA) has called for the UK Government to continue to address age discrimination in the workplace by equalising all NMW rates for those over 18.<sup>1</sup> The EFA estimate therefore that nearly a quarter million people could benefit from the pay uplift through equalising the minimum wage.

Through the EFA research they addressed some common objections and showed that equalising the development NMW rate with the adult NMW rate would not have the anticipated detrimental affects:-

***“The extra salary cost to the employer would be prohibitive.”***

Higher wages would bring more candidates to the workforce giving the employer a greater number from which to choose the most productive workers.

<sup>1</sup> Employers Forum on Age – 'Equalising the NMW.' Page 1-4, 2008.

# GENERAL QUESTIONNAIRE

## MINIMUM WAGE

### 2009 REVIEW



***“I justify paying my younger recruits less because they cost me more in training.”***

However, it is the case that older recruits will need the same amount of training and won't be penalised through pay cuts. Given that under current legislation employers are expected to provide the same induction, training, development opportunities and support to all workers regardless of age, employers need to be careful of accusations of discriminatory practice.

***“Changing the legislation will simply mean higher unemployment amongst the 18-21 year olds.”***

According to EFA estimates, less than 1% of this group would be excluded from employment in the short term. This amounts to approximately 2,000 people compared to over 244,000 who would benefit.

***“A lower minimum wage for young people provides incentives to remain in full-time education until the age of 21.”***

However, evidence shows that since 1998 the proportion of 18 to 21 year olds enrolling in full time education has hardly changed despite increases in the NMW. EFA believe that a rise in the development rate in line with the national rate would encourage more young people into the workplace, young people who may be drawing on state benefits. In fact EFA research estimates that the multiplier effect in the economy, where a rise in spending leads to a rise in national income, would benefit economic activity by approx £227 million a year.

***“Increasing wages will reduce the training opportunities for younger workers.”***

Using data from the British Household Panel Survey, a 2004 study found no evidence that the introduction of the NMW in 1999 reduced the training of those workers who were earning less than the NMW at the time. Indeed, the authors estimated that the training probability increased by 8 to 11% for workers affected by the NMW.

This result shows that it is likely that raising the youth development rate to the adult rate may actually encourage employers to increase training for the younger workers in order to increase their productivity to off-set the increased wage costs.

Some of the EFA's members have already removed the age bands:-

Denise Keating, head of People Proposition at M&S said: ***‘Pay should be based on an individual's ability to do a job. If training is required and this justifies a lower rate of pay, it should be applied to every employee whatever their age.’***

# GENERAL QUESTIONNAIRE

## MINIMUM WAGE

### 2009 REVIEW



Ray Baker, head of Social Responsibility at B&Q said: ***'Age discrimination impacts at any age, young or old, and stereotypical attitudes need to be challenged. We know that change will happen and business now needs to start preparing through active debate and careful planning.'***

Where Unite is organised, part of our bargaining strategy is for the abolition of youth rates where they apply. In those areas where Unite has abolished youth rates by negotiation there is no evidence that this has led to a decrease in young people employed. This is largely because many companies are prepared to abolish youth rates in recognition that doing so aids recruitment, retention, motivation and productivity.

Therefore Unite believes that Jersey should move towards a position where workers are not discriminated against on the basis of age, but are paid the rate for the job.

**28.** Do you think that there should be a student rate as well as the trainee rate? (*This means a rate that could be paid to employees over school leaving age, up to age 18, but only those who are still in full time education.*)

Yes       No

**29.** If a youth or student rate were to be introduced, should it be set at the same hourly rate as the trainee rate? (*The trainee rate is currently £4.56 and it set at 75% of the minimum wage.*)

Same as the trainee rate  
 Higher than the trainee rate  
 Lower than the trainee rate

Please give any reasons for your response.

Please see our answer to question 27.

**30.** In your opinion, has the minimum wage had a detrimental affect on young people or students in terms of the availability of part time job (e.g. in the school holidays, evenings and week-ends)?

Yes       No       Don't know

If yes, please provide any evidence or further information that the Forum should consider, for example, in which industries this is an issue.

# GENERAL QUESTIONNAIRE

## MINIMUM WAGE

### 2009 REVIEW



From what Unite can see from the table below the amount of non full-time posts has stayed fairly consistent since the introduction of the minimum wage in Jersey. However due to a lack of available data it doesn't give us an age breakdown of how these posts have been filled, so we cant be too conclusive but in general opportunities to non full-time posts would appear to remain the same.

	<b>Total staff</b>	<b>Total full-time staff</b>	
Jun-05	<b>46,760</b>	<b>38,300</b>	8460
Dec-05	<b>43,850</b>	<b>35,630</b>	8220
Jun-06	<b>47,380</b>	<b>38,930</b>	8450
Dec-06	<b>45,000</b>	<b>36,860</b>	8140
Jun-07	<b>48,380</b>	<b>39,870</b>	8510
Dec-07	<b>46,360</b>	<b>36,140</b>	10220
Jun-08	<b>49,870</b>	<b>40,490</b>	9380
Dec-08	<b>46,890</b>	<b>38,370</b>	8520

#### **Part 5 – Benefits in Kind; the Offsets**

A number of concerns and suggestions relating to the benefits in kind that an employer may offset against the minimum wage have been raised in previous consultations.

#### **Accommodation and Utilities**

In its 2006 minimum wage review, JACS had commented that some employers had been charging employees for electricity and fuel in addition to the maximum offset for accommodation. The Forum stated at that time that the practice is contrary to the purpose of the Forum's original recommendation; that only two benefits in kind may be off set against the minimum wage. The JACS guide to the Minimum Wage was clarified; *"No other form of benefit (e.g. utilities bills) can be taken into account in determining whether the Minimum Wage has been satisfied."*

There is nothing to stop an employer providing employees with other 'benefits in kind' such as a uniform or laundry services, however, accommodation and food are the only benefits in kind whose value can be counted as partial payment of the minimum wage. If a sum is deducted from these benefits, the amount that is left, allowing for deductions for food and accommodation, must still equal at least the minimum wage. Charges for gas, electricity, laundry and furniture are treated as part of the accommodation package.

An agricultural employer had asked the Forum to consider whether there could be more flexibility regarding offsets for other genuine benefits in kind

# GENERAL QUESTIONNAIRE

## MINIMUM WAGE

### 2009 REVIEW



provided to them, such as electricity, fuel and laundry services. Electricity, for example, may be provided more cheaply via an account than if it is metered and paid for by each individual employee; however the employer may not deduct an amount for electricity from wages (on top of the maximum accommodation offset) if the deduction means that the employee's wage per hour will fall below the minimum wage.

The Forum has previously expressed concern about overcomplicating the offsets, particularly by introducing other benefits in kind, and opening the offset up to abuse. Permitted deductions from the minimum wage are clearly defined in the Regulations and are purposely limited to limit the danger of exploitation of low paid employees, as well as the right of the employee to decide how to spend their own wages. This does however mean that some well-meaning arrangements cannot be permitted in order to prevent less well-meaning employers from abusing such benefits in kind. The Forum wishes to take into account the experience and views of other employers and the Hospitality industry.

***All respondents may answer Questions 31 to 33.***

**31.** Where accommodation and food are provided to employees, an employer may offset a maximum amount against the minimum wage each week. *The maximum weekly amounts are; accommodation - £66.52; accommodation and three meals per day - £88.69.*

**Should the maximum offsets be;**

- Changed in line with any percentage change in the minimum wage?
- Frozen at current rates?
- Other response, please specify below.

Unite believes that the current offsets for accommodation - £66.52; accommodation and three meals per day - £88.69 in Jersey should be more than sufficient.

Unite believes that offset arrangements should provide protection to the worker and give some recognition of the value of the benefit but are not intended to reflect the actual costs of provision to the employer or the commercial market value. In the UK it will be £31.57 per week (£4.51 per day) as of the 1<sup>st</sup> of October 2009.

Unite has had considerable experience of abuse of the accommodation offset and other excessive deductions from pay, in particular excessive deductions from wages for agency and migrant workers. Unite do not believe that the

# GENERAL QUESTIONNAIRE

## MINIMUM WAGE

### 2009 REVIEW



current Conduct of Employment Agencies legislation is clear enough in the UK for example. Therefore it is worth the Employment Forum of Jersey noting that although the UK Government has proposed action on preventing workers from being obliged to sign up to certain services or to take loans, the reality is that agency workers who complain will simply be 're-assigned'.

**32.** Should the Minimum Wage Regulations be changed so that employers may offset against the minimum wage other benefits in kind, services and utilities that are provided to employees, for example, gas, electricity, water, laundry services and uniforms?

Yes                       No

**33.** If yes, please give more details regarding which benefits in kind and/or utilities you think should be included and what maximums or charges should be applied.

*If you are an employer, please answer Questions 34 to 36.*

*If you are not an employer, please go to the next section about the "Food offset".*

**34.** As a result of the option to offset a maximum amount of £66.52 per week against your employee's weekly minimum wage pay for the provision of **accommodation**, have you increased the number of employees who are provided with accommodation?

Yes                       No                       Not applicable

**35.** As a result of the option to offset a maximum amount of £88.69 against your employee's weekly pay for the provision of **accommodation with food**, have you increased the number of employees who are provided with **food**?

Yes                       No                       Not applicable

# GENERAL QUESTIONNAIRE

## MINIMUM WAGE

### 2009 REVIEW



**36.** Would you offset any of the following benefits, utilities and services against the minimum wage, if the minimum wage law allowed it? *Please tick all that apply.*

- |                      |                          |     |                          |    |
|----------------------|--------------------------|-----|--------------------------|----|
| i) Gas               | <input type="checkbox"/> | Yes | <input type="checkbox"/> | No |
| ii) Electricity      | <input type="checkbox"/> | Yes | <input type="checkbox"/> | No |
| iii) Water supply    | <input type="checkbox"/> | Yes | <input type="checkbox"/> | No |
| iv) Laundry services | <input type="checkbox"/> | Yes | <input type="checkbox"/> | No |
| v) Uniform           | <input type="checkbox"/> | Yes | <input type="checkbox"/> | No |

Any others, please specify

Please give any reasons for your responses.

#### **Food offset**

The JACS guide to the Minimum Wage clarifies that *"Food" is defined as 3 adequate meals on each day on which the employee is employed. Employers may not off set a proportionate amount of pay for less than 3 meals per day and a charge for food may not be off set unless accommodation is also provided.*" Previous minimum wage reviews have raised two particular concerns regarding the current offset for food;

- 1) That a charge may not be offset against the minimum wage where food is provided without accommodation (a "live out" position). An employer association has asked the Forum to consider a "food only" offset, for employers, such as restaurants, cafes and bars who wish to provide meals to their staff.
- 2) That a charge may only be offset against the minimum wage where three meals are provided to an employee each day, and not where one or two meals are provided per day. For example, agricultural

# GENERAL QUESTIONNAIRE

## MINIMUM WAGE

### 2009 REVIEW



employers have experienced practical difficulties in providing a midday meal.

Jersey's minimum wage legislation was designed with the practices of those industries most likely to be affected in mind. The Forum understood that the Hospitality industry traditionally provides food because it is more convenient for employees who generally work and live on site, and that the Agriculture industry previously did not provide employees meals due to location difficulties. If the provision of food is unprofitable, an employer is free to stop providing meals and provide accommodation only.

The Forum is aware that very few jurisdictions permit employers to offset amounts other than accommodation against the minimum wage. Ireland however allows both food and accommodation to be offset, but unlike Jersey, employers may offset an amount where three meals each day are provided to employees, but accommodation is not.

Provinces of Canada, including Prince Edward Island, also allow both food and accommodation to be offset the minimum wage, including an offset where meals are provided without accommodation. In addition, provision is made to allow employers to offset for individual meals provided to employees. The legislation clarifies that an employer may not offset for meals that the employee did not receive, or for meals or accommodation in circumstances where the employee had no reasonable alternative.

#### **GST on food**

An Agricultural employer had noted in the previous minimum wage review that employers who provide meals to staff must to absorb the three percent Goods and Services Tax (GST) as the sum may not be offset against the minimum wage in addition to the existing food and accommodation offset. That employer considered this to be unreasonable when the employer is providing meals at an average cost of around £1 per meal.

An Income Tax Direction<sup>2</sup> already exempts from GST accommodation where it is provided under a contract of employment; the Forum considered whether this could be extended to cover "full board", i.e. meals where they are provided with tied accommodation. In 2008, there had been political moves to remove GST from food items. The Forum therefore decided to review the

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<sup>2</sup>[www.gov.je/NR/rdonlyres/E4AA453E-2E55-4A2A-B3C0-D6550BF3CA74/0/Direction200801AccommodationsuppliedunderacontractofemploymentMarch2008.pdf](http://www.gov.je/NR/rdonlyres/E4AA453E-2E55-4A2A-B3C0-D6550BF3CA74/0/Direction200801AccommodationsuppliedunderacontractofemploymentMarch2008.pdf)

# GENERAL QUESTIONNAIRE

## MINIMUM WAGE

### 2009 REVIEW



matter in 2009 and if food were not exempted, to consider whether to recommend that the Income Tax Department reviews the scope of the Direction.

**All respondents may answer the following Questions.**

**37.** Should employers have the option to offset food against the minimum wage where it is not provided with accommodation? *(The food component of the existing food and accommodation offset is worth £22.17.)*

Yes                       No

Please give any reasons for your response.

Unite does not believe that there should be an offset for food because workers are tied to the accommodation for the employers benefit and quite often have no available alternative for food due to their location of work. Unite does not think that employers should have the option to offset food against the minimum wage where it is not providing accommodation either.

**38.** Should the food offset make provision for a rate “per meal”, so that employers may offset an amount where they have provided one or two meals to an employee each day? *(Based on the existing food component, divided by 21 meals per week, this would give £1.05 “per meal”.*

Yes                       No

Please give any reasons for your response.

Unites believes that there shouldn't be a food offset in any circumstance. However if there is going be a food offset then it should be treated in the same vain as the accommodation offset and be at a price that does not reflect its actual cost. Therefore Unite would certainly expect this to be no more then the proposed £1.05 per meal.

**39.** Should provision made so that where an employer is required by the terms of an employment contract to provide meals to an employee, any charge made to that employee for meals is not subject to GST;

Yes                       No

# GENERAL QUESTIONNAIRE

## MINIMUM WAGE

### 2009 REVIEW



**40.** If yes, should this only apply where only where the meals are provided to employees with tied accommodation, i.e. board and lodgings?

Yes                       No

Please give any reasons for your responses.

Unite believes that the employer should pay the 3% GST and that this shouldn't be offset or passed on to the employee by any others means. It is a tax requirement which other employers are required to pay and should be the same for employers who pay the minimum wage.

***Please answer Question 41 only if you are an employer.***

**41.** If you are an employer, would you offset the following benefits against the minimum wage, if the minimum wage law allowed it? *Please tick all that apply.*

- |   |                              |                             |
|---|------------------------------|-----------------------------|
| vi) GST on meals  | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| vii) Meals without accommodation                              | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| viii) Individual meals ( <i>rather than 3 meals per day</i> ) | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

Please give any reasons for your responses.

**42.** If you have any other comments, concerns or suggestions about the minimum wage that have not been covered by any of the previous questions, please write them below. You may include additional sheets of paper if necessary.

Unite congratulates the Employer Forum on recommending the minimum wage rate of £6.08, which is 35p higher than the UK's NMW as it currently stands and will be 28p higher as of the 1<sup>st</sup> of October 2009.

# GENERAL QUESTIONNAIRE

## MINIMUM WAGE

### 2009 REVIEW



However Unite would like to see the Employment Forum be bolder still. The Joseph Rowntree Foundation have added evidence to the need for bolder minimum wage rates to be set.

A report from the influential Joseph Rowntree Foundation offers one of the most meaningful reports on poverty and income for some time. A Minimum Income Standard for Britain: What People Think, discovered that according to members of the public, a single person in Britain today needs to earn at least £13,900 a year before tax to afford a basic but acceptable standard of living. This “**minimum income standard**”, based on the extensive deliberations of ordinary people supported by experts, shows the cost of covering basic goods and services for different household types.<sup>3</sup> £13,900 on a 35 hour week equates to £7.63 per hour, which is £1.55 per hour or 25% above the £6.08 Jersey minimum wage.

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. These figures were not available in Jersey, so Unite has used the last ONS figures which show that full time male median earnings were £12.50 an hour as at April 2008 in the UK.<sup>4</sup> After uprating\* by average earnings and then projecting forward in line with Treasury forecasts<sup>5</sup> for earnings growth of 2.5% for 2009 half male median earnings will be around £6.69 in 2009 and with earnings growth of 2.4% expected in 2010, half male median earnings will be around £6.85 in 2010.

To this end Unite recommends the Jersey minimum wage rate should be £6.69p per hour in 2009 and £6.85 per hour in 2010.

<sup>3</sup> [www.minimumincomestandard.org/downloads/Reports/uprating\\_report.pdf](http://www.minimumincomestandard.org/downloads/Reports/uprating_report.pdf)

<sup>4</sup> [www.statistics.gov.uk/pdfdir/ashe1108.pdf](http://www.statistics.gov.uk/pdfdir/ashe1108.pdf)

\* Uprated by Average Earnings Index (AEI) from April 2008 – 132.5 to April 2009 – 136.8 by 4.3%.

<sup>5</sup> [www.hm-treasury.gov.uk/d/200906forecomp.pdf](http://www.hm-treasury.gov.uk/d/200906forecomp.pdf)