



NATIONAL MINIMUM WAGE: THE MOST COMMON MISTAKES

What happens when employers underpay?

The cost of underpaying your employees can be detrimental to your reputation and affect your business financially. Employers that fail to pay workers at least the National Minimum Wage must pay back any underpayments owed to the employee.

There is also a large fine of up to 200% of arrears capped at £20,000 per worker which is paid to the government. As an employer, you are under a legal obligation to ensure that your workers are paid at least the National Minimum wage or National Living Wage. However, we know there are a number of common mistakes many businesses make regularly leading

1

Making wage deductions for items or expenses that are not connected with the job

Employers can only make a deduction in specific situations and they must follow your employment contract terms.

A deduction must not reduce your pay below the National Minimum Wage rate (except a limited amount for accommodation). This applies even if you have given your permission for it.

2

Making wage deductions or taking payments from workers for the employer's own use or benefit

It does not matter whether or not:

- The employer makes profit from the transaction
- The deduction is made from gross or net pay
- The worker agrees to the deduction/payment
- The worker benefits from the arrangement

The wage deduction will still be investigated if the employee is being underpaid NMW or NLW.

3

Failure to pay a worker for any time during their shift when they are at the workplace and required to be available for work

The national minimum wage is worked out at an hourly rate, but it applies to all eligible workers even if they are not paid hourly. This means that you still need to work out every employee's equivalent hourly rate to ensure they are getting at least the minimum wage.

You can work out the National Minimum Wage for each employee by using an [online calculator](#).

4

Failure to pay a worker for any travelling time

Time spent travelling between home and place of work and back again does not count as working time and the minimum wage is not required.

Some examples of working time for periods of travel are:

- Travelling for the purpose of carrying out work
- Travelling from work to training venues
- Waiting to collect goods, meet someone in connection with work or start a job

5

Failure to pay a worker for any time spent training

For salaried hours work, the hours of work that count for minimum wage purposes include:

- Time spent at the workplace working
- Time spent at the workplace and required to be available for work
- Time required to be available for work, either on-standby or on call. (unless the work is at home)
- Time spent travelling on business

6

Failure to apply the annual increase to minimum wage rates that come into effect on 1st April

It is important that employers keep up to date with the annual minimum wage rate increase. This increase depends on the age of the employee and failure to increase their wage accordingly can be a common mistake many

	23 and over	21 to 22	18 to 20	Under 18	Apprentice
April 2023 (Current rate)	£10.42	£10.18	£7.49	£5.28	£5.28
	21 and over	18 to 20	Under 18	Apprentice	
April 2024	£11.44	£8.60	£6.40	£6.40	

7

Failure to pay sufficient money for any time worked during a sleep-in shift

Some sectors such as the care sector, workers perform sleep-in shifts.

This means that workers:

- Are contractually obliged to spend a shift at or near their workplace, usually at night but it could be during the day
- Are expected to sleep for all or most of that shift
- Are woken if required to undertake a specific work activity

