



March 2020

## **Bulletin: COVID – 19 and National Minimum Wage / National Living Wage**

The Government is doing all it can to support businesses and workers during this time. Please see <https://www.gov.uk/government/news/coronavirus-covid-19-guidance-for-employees-employers-and-businesses> for more information.

Throughout this document, 'National Minimum Wage' refers to both National Minimum Wage and National Living Wage.

The Government is clear that employers must continue to pay at least National Minimum Wage to workers. Workers cannot give up their entitlement to the National Minimum Wage. HMRC will continue to respond to workers' complaints and protect workers' rights. In order to support businesses during this time, HMRC are moving to provide more education for employers, and will be asking employers to self-correct in appropriate circumstances.

### **Pay Advances, Employer Loans and the National Minimum Wage**

The Government has received queries about situations where workers are temporarily not working or experiencing reduced hours but where the employer wants to continue to pay them. If this is related to the impact of Coronavirus we strongly recommend businesses consider whether the recently announced [Coronavirus Job Retention Scheme](#) might apply. This could help both employers and those that work for them manage the current situation. This scheme aims to help UK employers access support to continue paying part of their employees' salary for those employees that would otherwise have been laid off during this crisis.

Nevertheless, to respond to queries we are receiving and to help manage a range of situations the Government is providing supplementary guidance for employers who may be considering pay advances or employer loans for their workers. When dealing with workers and ensuring they continue to be paid their correct minimum wage entitlement the Government wants to help you get it right, whatever the circumstances.

This short note covers pay advances and employer loans for workers and how they relate to the minimum wage.

### **Pay Advances**

Workers can be paid an advance of pay at any time. Any such arrangement should be recorded correctly – for example on payslips or written agreements between parties – to ensure that workers are paid at least minimum wage rates for the time they do work. Any future deductions from a worker's pay to recover a previous advance of pay – where this is clearly recorded – will **not** reduce a worker's pay for minimum wage purposes.

The advance or loan does not count for NMW purposes in the period the money is paid to the worker. If a worker gets an advance or a loan for a period where they are not working all their usual hours, but are working reduced hours, then the hours that they are working still need to be paid at National Minimum Wage or above.

## Employer Loans

The same applies if an employer offers a loan to a worker. If an employer loans an amount to a worker, any deductions linked to the repayment of this loan will **not** reduce the worker's minimum wage pay. Again, this should be clearly documented with an agreement setting out amounts and any associated repayment plans.

## Example

A worker aged over 25 and paid at minimum wage rates (April 2020 rates) cannot work their normal 20 hours per week for a two-week period. To ensure the worker is not left without pay, the employer agrees they can be paid an advance and work those hours at a later time. The worker does no work for 2 weeks but is paid an advance. They then work additional hours in the following four weeks to make up the two weeks they missed. (Note, the worker does not necessarily have to make up the hours in the next pay reference period). The employer recovers the advance from those weeks where additional hours are worked, as follows:

NMW rate	£ 8.72	£ 8.72	£ 8.72	£ 8.72	£ 8.72	£ 8.72
Hours <b>due</b> to be worked	20	20	20	20	20	20
Hours <b>not</b> worked	20	20				
Additional hours worked			10	10	10	10
<b>Actual hours worked</b>	<b>0</b>	<b>0</b>	<b>30</b>	<b>30</b>	<b>30</b>	<b>30</b>
Pay	£ -	£ -	£ 261.60	£ 261.60	£ 261.60	£ 261.60
Advance	£ 174.40	£ 174.40	£ -	£ -	£ -	£ -
Recovery of advance	£ -	£ -	-£ 87.20	-£ 87.20	-£ 87.20	-£ 87.20
<b>Pay for minimum wage</b>	<b>£ -</b>	<b>£ -</b>	<b>£ 261.60</b>	<b>£ 261.60</b>	<b>£ 261.60</b>	<b>£ 261.60</b>
<b>Hourly rate for minimum wage</b>	<b>N/A</b>	<b>N/A</b>	<b>£ 8.72</b>	<b>£ 8.72</b>	<b>£ 8.72</b>	<b>£ 8.72</b>
<b>Worker's cash in hand (advance and/or earnings)</b>	<b>£174.40</b>	<b>£174.40</b>	<b>£174.40</b>	<b>£174.40</b>	<b>£174.40</b>	<b>£174.40</b>

While the worker may be receiving 'less' than their minimum wage entitlement of £261.60 in the final four weeks, the deducted amount does not affect their minimum wage pay as it is a

recovery of the advance made in the first two weeks. Again, the crucial point is that this is properly documented and agreed by all parties.

### **Further Information**

[Guidance](#) to help employers meet National Minimum Wage legislation is available at Gov.uk. Call the Advisory, Conciliation and Arbitration Service (Acas) helpline on 0300 123 1100. Acas provide free and confidential advice to both employers and workers. Use the [HMRC Community Forum](#), available at Gov.uk, to ask a question about National Minimum Wage.