

The National Minimum Wage – Tips, Gratuities and Service Charges

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The National Minimum Wage was first introduced on April 1st, 1999 and almost everyone who works in the UK is legally entitled to be paid it, even if an employer asks a worker to sign an employment contract at a lower rate of pay.

From October 1st of this year the minimum wage for workers aged 22 and over rose by 3.8% from £5.52 to £5.73. For 18-21 year olds the rate rose to £4.77 whilst 16-17 year olds increased to £3.53 up from £3.40. But worryingly a study by Bibby Financial Services found that approximately **31% of UK small business owners and managers were ‘not fully aware’ of the October changes**, while 44% of smaller businesses, those with four or fewer employees, were ‘completely unaware’ of the increase.

It is a surprising statistic that there is still so much uncertainty among small businesses about national minimum wage legislation, particularly when the government is enforcing **tougher penalties for non-compliance**. Last year, a children’s nursery owner became the first person to be prosecuted by HM Revenue & Customs for breaking minimum wage laws. Under the new legislation **firms can be fined up to £5000** or face criminal prosecution.

Business Secretary John Hutton said: "The national minimum wage remains one of the most important rights introduced by the government in the last decade. Before it was introduced, some workers could expect to be paid as little as 35p an hour, our legislation has ensured that can no longer happen."

The National Minimum Wage Act 1998 and the National Minimum Wage Regulations 1999 (‘the Regulations’) state that ‘all money paid by the employer to the worker’ should be counted towards the NMW and that excluded from this is ‘any money payment made by the employer to the worker representing amounts paid by customers by way of a service charge, tip, gratuity or cover charge that is not paid through payroll’. Employers should be able to produce single sheet documents proving they are compliant with NMW legislation.

John Hutton also revealed proposals for making tipping practices fairer and emphasised the importance of improving awareness. He called on employers to clarify how tips were distributed so that customers knew where their money was going.

Waiters and waitresses across the country have been hungry for the tips loophole to be closed and the changes will end the practice of employers using gratuities and service charges processed through [payroll](#) to top up staff wages to meet the NMW.

A Fair Tips logo will be introduced into bars and restaurants across the UK – showing that all staff receives at least the NMW and all tips.

Employers can call the Minimum Wage helpline on 0845 6000 678 for further assistance concerning national minimum wage legislation.