

BERR | Department for Business
Enterprise & Regulatory Reform

THE NATIONAL MINIMUM WAGE

Service Charges, Tips, Gratuities, and
Cover Charges:

A Consultation

NOVEMBER 2008

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Introduction

The National Minimum Wage Regulations 1999 provide that a service charge, tip, gratuity or cover charge that is paid through the employer's payroll to the worker may count towards payment of the national minimum wage by the employer. In practice, this means that some workers may find that their wages are made up to the national minimum wage from tips that are left by the customer.

This consultation looks at two aspects of national minimum wage and tips. Firstly, the treatment of service charges, tips, gratuities or cover charges and whether they should count towards the payment of the national minimum wage by the employer and secondly, how we improve information and raise awareness for consumers about the treatment and distribution of tips in businesses.

Foreword

The national minimum wage came into effect 10 years ago. Its introduction has created a level playing field for employers in the payment of wages and an essential safety net for vulnerable and low paid workers. Over the last 10 years, the Government has made it a priority to ensure that all workers who are entitled to receive the national minimum wage get it, and to prevent workers' wages from falling below it.

Through this we have seen the national minimum wage create a better rewarded and more committed workforce who have been a force in driving up standards. They have, in turn, helped to create a buoyant and competitive economy.

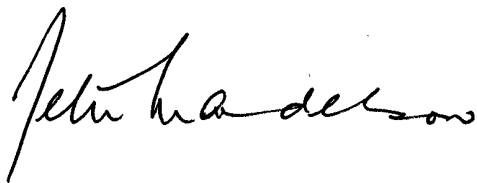
We have been mindful to protect the position of vulnerable workers. We understand that there is a role to play in balancing the desire for a minimum wage and promoting employment opportunities for the unemployed and low paid workers. It is therefore vital that we monitor the impact of our policies.

Since the National Minimum Wage Act came into force in 1999, the use of service charges, tips, gratuities and cover charges have counted towards the payment or part payment of the national minimum wage in certain circumstances, and although most employers act within the spirit of the law, I believe now is the right time to review this position to ensure equity for all workers and create a level playing field in wages amongst employers.

The Government's proposal is to amend legislation to prevent the use of mandatory and non mandatory service charges, tips and gratuities counting towards the payment of the national minimum wage. Our view is that tips should be paid to the worker on top of their pay and not be used to make up the national minimum wage.

Alongside this, it is important to ensure that there is clearer information for consumers about what happens to mandatory and non mandatory service charges, tips and gratuities. Workers are often unclear about how tips pooling systems work and consumers are often unaware of what happens to payments they make for service, be it cash left on the table or payments made using debit or credit cards or cheques. We want to improve this situation and add clarity.

I look forward to an effective consultation on the issues set out in this document.

A handwritten signature in black ink, appearing to read 'Peter Mandelson', written in a cursive style.

Peter Mandelson
Secretary of State BERR

Executive summary

The Government has made clear its view that it wishes to change the National Minimum Wage Regulations so that in future, tips are paid in addition to the national minimum wage. The purpose of this consultation document is to invite comments that will assist the Government in:

- determining the precise nature of regulatory change relating to the treatment of mandatory and non mandatory service charges, tips, gratuities and cover charges in payment of the national minimum wage, and;
- how improvements to information for consumers might be achieved.

In this consultation document we would like to seek your views on two key areas:

- 1) the nature and impact of regulatory change;
- 2) how to improve information and raise awareness for consumers.

We are very conscious that changes to the national minimum wage legislation will affect some businesses and workers. Our partial impact assessment rightly emphasizes the importance of understanding the economic as well as social implications of our recommendations.

We welcome your comments on this document whether they are responses to particular questions raised in it or more general responses to the issue.

How to respond to this consultation

Responses to this consultation must be received by 16 February 2009.

These should be submitted via survey monkey at <http://tinyurl.com/6d4xeo>

Alternatively you can respond by email to:
tippingconsultation@berr.gsi.gov.uk

Or by letter or fax to:

Jenny Celaire
National Minimum Wage Unit
BERR
1 Victoria Street
London SW1H 0ET
Tel: 020 7215 5079
Fax: 020 7215 0227

Please state if you are responding as an individual or representing the views of an organisation. If responding on behalf of a company or an organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

Additional copies

You may make copies of this document without seeking permission. Further printed copies of the consultation document can be obtained from:

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Confidentiality

Your response may be made public by the Department for Business, Enterprise and Regulatory Reform. If you do not want all or part of your response or name made public, please state clearly in the response. Any confidentiality disclaimer that may be generated by your organisation's IT system or included as a general statement in your fax coversheet will be taken to apply only to the information in your response for which confidentiality has been requested.

We will handle any personal data you provide appropriately in accordance with the Data Protection Act 1998.

Help with queries

Questions about policy issues raised in the document can be addressed to:

Karl Willes
National Minimum Wage Unit
BERR
1 Victoria Street
London SW1H 0ET
Tel: 020 7215 5655
Fax: 020 7215 6414
Email: karl.willes@berr.gsi.gov.uk

If you have comments or complaints about the way this consultation has been conducted, these should be sent to:

Kath McKinlay
BERR Consultation Co-ordinator
1 Victoria Street
London SW1H 0ET
Tel: 020 7215 2811
Fax: 020 7215 0235
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The Proposals

The use of service charges, tips, gratuities and cover charges in the payment of the national minimum wage

The National Minimum Wage Act 1998 was introduced to protect our most vulnerable workers and to ensure that they receive at least minimum rates of pay. The Act came into force on 1 April 1999. Since then the national minimum wage has become an important part of the UK labour market, creating a level playing field amongst employers by standardising minimum level of pay across many sectors.

Current legislation allows service charges, tips, gratuities and cover charges paid by customers to count towards the payment of the national minimum wage when paid to workers through the employer's payroll. This creates a pay disparity within the hospitality sector where some employers use tips to pay the national minimum wage and some pay tips in addition to the national minimum wage, arguably giving unfair market advantage to those employers that do use tips in the payment or part payment of the national minimum wage.

Consumers are often unaware of what happens to the service charge, tip or gratuity that they leave and that the employer may use tips towards payment of the national minimum wage. We believe that using tips to make up the minimum wage does not fit with consumer expectations of how their tips should be used.

In this section we consider two issues relating to the use of service charges, tips, gratuities and cover charges in payment of the national minimum wage. These are:

- the nature and impact of regulatory change
- how to improve information and raise awareness for consumers.

(1) Regulatory change

The nature and impact of regulatory change

Supporting business and safeguarding jobs

Since the introduction of the national minimum wage in April 1999 the UK labour market has fared well, with the level of employment increasing by almost 2.5 million. Employment levels remain at around 29.5 million¹ since comparable records began in 1971.

In 2006, there were approximately 165,000 businesses operating in the hospitality and leisure industries where customers are known to tip. The sectors where tipping is most common (restaurants, hotels and bars) make up a significant proportion of that (approximately 80 per cent) with an annual turnover of some £64 billion². Our upper estimate of the annual cost to the sector in making regulatory change at this time is likely to be up to £73 million per annum³.

The 2007 Labour Force Survey¹ showed that small firms make up a significant proportion of the UK labour market and employ a significant proportion of people working in the hospitality and leisure sectors. Very small (less than 10 workers) and small businesses (less than 50 workers) in the tipping sectors employ 80 per cent of the labour force. The Government seeks to ensure that these smaller companies can operate and remain in business, thus supporting the overall UK labour market and protecting jobs.

Market distortion

Whilst the inclusion of tips as an element of national minimum wage pay may give flexibility to some employers, there are concerns that this practice does not create a level playing field amongst all employers within the leisure and service sectors. Although evidence demonstrates that only a small number of employers have taken advantage of using tips to pay the national minimum wage over the last 10 years, the Government feels it is important to have clear legislation that supports equity.

The impact of changes to legislation

Regulation 31(1)(e) of the National Minimum Wage Regulations 1999 provides that any money payment paid by an employer to a worker representing amounts paid by customers by way of a service charge, tip, gratuity or cover charge, that is not paid through the payroll, is reduced from payments taken into account when calculating the national minimum wage.

¹ Source: Office for National Statistics.

² Source: Annual Business Inquiry 2006.

³ Full details in the partial impact assessment at annex C.

This means that employers may use service charges, tips, gratuities and cover charges passing through their payroll towards payment of the national minimum wage.

Using data from ASHE⁴ the Government estimates that up to 44,800 workers could get tips which are used towards their national minimum wage pay. Some evidence also suggests that this practice is more prevalent amongst medium to large size employers.

It is generally accepted that service sector businesses are more susceptible to adverse market conditions. Utilising tips, service charges, and gratuities may have enabled employers to support jobs in these sectors.

Changes to legislation

The Government proposes to amend the existing legislation to prohibit the use of all service charges, tips and gratuities paid through the payroll by the employer to be used towards payment of the national minimum wage. It is proposed that there is no circumstance when a service charge, tip or gratuity may be used in payment of the national minimum wage. It is our intention that this proposal will be effected by secondary legislation to amend regulation 31(1)(e) of the Regulations.

Service charges we take to mean those amounts that are added to the customer's bill before it is presented to the customer. If it is made clear that the amount is purely discretionary then there is no obligation for the customer to pay and the payment is voluntary. Where this is not the case, the payment is a mandatory charge.

Tips and gratuities we take to mean uncalled for and spontaneous payments offered by the customer either as cash tips left on the table or deposited in a box by the till or on a bar etc, or given to a taxi driver, hairdresser etc or offered as part of a cheque, debit or credit card payment or detailed on bill and added at the point of transaction (typically a discretionary amount added by the customer paying by credit, debit, charge card or cheque) and are entirely optional.

Cover charges we take to mean to be a mandatory fixed amount, usually per head. Such charges often pay for entertainment and other services, (not necessarily waiting service in the case of restaurants), and generally provide assistance towards other costs that might relate to expenditure that contributes to the experience (typically for items such as bread etc).

There is scope for reviewing what might be appropriate to count towards national minimum wage pay and what might not. The Government has been actively engaged with key stakeholders on this issue and has concluded that

⁴ ASHE: Annual Survey of Hours and Earnings 2007.

the payment of tips as part of national minimum wage is no longer appropriate. The Government proposes to change the law so that:

mandatory and non mandatory service charges, tips and gratuities which are a payment made by the customer to the workers in appreciation of service **cannot** be used in payment of the national minimum wage

Q1 We would welcome comments and views on the impact that changes to legislation to exclude the use of mandatory and non mandatory service charges, tips and gratuities as an element of national minimum wage pay might have on business.

Administrative burdens

The Government anticipates that changes to legislation will simplify the payment of the national minimum wage by eliminating any grey areas relating to the treatment of tips.

The Government envisages that any administrative expenditure resulting from a change in legislation to be relatively small as a whole across the affected sector. Our calculations are that the one off administration cost to business would be minimal and would not significantly result in changes to pay processes, record keeping or administration for businesses.

Accounting requirements

Employers must have sufficient records and suitable evidence to show how they are paying the national minimum wage with clear identification that at least the national minimum wage has been paid. We will be working with the hospitality, leisure and service sectors to make sure that we get this right without causing unnecessary additional burdens on employers.

Q2 We would welcome comments on what impact changes to regulations might have on administrative processes and costs to business.

Supporting low paid workers

The national minimum wage rates are recommended by the Low Pay Commission each year and aim to balance the needs of the individual worker and the employer. The Government's fundamental concern is that workers receive at least the national minimum wage, and we have made every effort to ensure that where people are entitled to the national minimum wage they achieve their entitlement.

There are approximately 1.4 million people who work in the leisure and hospitality sectors where tipping most frequently occurs, with 653,000 staff⁵ working in the hospitality sector. However, many of these workers are employed in burger bars, take-aways, sandwich shops and other similar establishments where tipping is not likely to occur. Only a proportion of these work in restaurants, hotels and cafes where tips are given and may be used in payment of the national minimum wage.

Using ASHE 2007 data the Government estimates that up to 44,800 workers receive tips as part of national minimum wage pay. The median wage amongst those working in hotels and restaurants is £6.05 per hour using (gross hourly pay, ASHE 2008), working an average of 33 paid hours per week (median paid hours, ASHE 2008).

Tips as a part of the national minimum wage

Currently workers who are paid tips through the employer's payroll are either paid at least the national minimum wage including tips or are paid at least the national minimum wage with tips paid on top.

There are a number of different systems in place to deal with the distribution of tips from informal arrangements where individuals keep those tips that customers give to them freely, to organised systems where a *tronc*⁶ might be in place and tips are distributed through a points system agreed by the *tronc* members. These systems are self-managed and the Government does not regulate them in detail and does not intend to do so now. However, under current legislation, how workers receive their tips may have an impact on the payment of income tax and both worker's and employer's National Insurance contributions.

Income tax

All tips are subject to income tax whether they are paid by the employer, distributed through a *tronc* or given to the individual by the customer. Depending upon how the tips are paid either:

⁵ Office for National Statistics, Labour Force Survey 2007.

⁶ A *tronc* is a system of pooling and distributing tips among the workers generally on a points systems and is administered by the *tronc*master.

- the employer or troncmaster must calculate and deduct income tax from workers' earnings under the PAYE system; or
- the worker must declare the receipt of tips to HM Revenue & Customs so that an adjustment can be made to their tax code to collect any income tax due.

National Insurance contributions

The Social Security (Contribution) Regulations 2001⁷ exempts certain payments of or in respect of gratuities which includes tips and discretionary service charges from National Insurance contributions.

Tips, gratuities and discretionary services charges that are freely given are exempt from the payment of National Insurance contributions so long as:

- the payments are not paid directly or indirectly to the workers by the employer, and is not money previously paid by the employer; or
- the payments are not allocated directly or indirectly, to the workers by the employer.

Where tips, discretionary services charges or gratuities are distributed through a tronc operated independently of the employer, for example by a troncmaster appointed by the workers, they will be exempt from National Insurance contributions if the employer does not decide which workers should receive payment and what amount those workers should receive.

In practice this means that it may be the case that a proportion of the workers national minimum wage pay is not, under current legislation, subject to National Insurance contributions.

Access to contributory benefits

Entitlement to contributory benefits is dependent on a worker's earnings and the National Insurance contributions they pay. A worker must earn at least £90 per week (the lower earnings limit) to start earning entitlement to contributory benefits. Where a worker earns below the lower earnings limit and is also paid tips that are exempt from National Insurance contributions, they may not earn enough to be entitled to contributory benefits.

⁷ Paragraph 5 of part 10 of schedule 3 Social Security (Contributions) Regulations 2001.

(2) Consumer information and awareness

Improving information for consumers

Greater transparency is fundamental in ensuring that consumers are aware of how service charges, tips and gratuities and cover charges are treated by businesses.

The Government is aware that there are gaps in the level of information and understanding amongst consumers about the difference between service charges, tips and gratuities and cover charges. Consumers are also not always aware of what happens to tips that they either leave on the table for the waiting staff or those that they pay through debit or credit cards, or by cheque.

There are also concerns amongst consumers that in some cases employers are using service charges, tips and gratuities to pay the national minimum wage. Many consumers expect the service charge, tip or gratuity that they leave to go to the worker for the service they have provided and may feel that they are paying an additional hidden amount to the business owner rather than the payment going to the staff as they intended.

Various agencies and consumer protection groups have already begun to advocate making information about tipping clearer. Businesses employ different practices in relation to making consumers aware of the establishment's tipping policy, these range from notification on menus, and statements on their websites to free standing information such as stickers on doors. The Government supports these practices as an excellent way of raising consumer awareness.

Consumer awareness

The Government's view is that consumers should know what is happening to their tips. We acknowledge that the leisure, hospitality and service sectors will have a significant role to play in improving information for consumers in order for it to be meaningful for both the business and the consumer, and we will be working with these sectors to help identify the right solutions.

The Government wants to empower consumers through clear information on what happens to the tips they leave, for example

- who the tips go to;
- what proportion might be absorbed by the business to cover costs; and
- how the tips are distributed amongst workers.

Early discussions with stakeholders in the leisure, hospitality and service sectors have indicated that a sector code on best practice would be supported. Best practice might include:

- how to distribute tips fairly amongst workers;
- guidance on what would be considered to be a fair administrative cost for business;
- how to make information available to consumers either through for example, free standing signage, information on menus or on websites.

Q3 We would welcome your views on adopting a sector code of best practice to achieve greater levels of consumer awareness in relation to the use and distribution of service charges, tips and gratuities.

Q4 We are open to innovative and imaginative plans to promote consumer awareness on service charges, tips and gratuities.

Q5 We would welcome your views on what the impact would be for employers and consumers if we adopted your recommendation(s).

Comments on this consultation

Q6 We welcome your comments on this document and the impact assessment found at annex C, whether in response to particular questions raised in the document or more general responses to the issue.

Next Steps

We will progress the work identified in this document in close consultation with our stakeholders, expert groups and colleagues across government. Participating groups will be notified of the outcome of the consultation and next steps in February 2009.

Annex A: Consultation questions

Q1 We would welcome comments and views on the impact that changes to legislation to exclude the use of mandatory and non mandatory service charges, tips and gratuities as an element of national minimum wage pay might have on business.

Q2 We would welcome comments on what impact changes to regulations might have on administrative processes and costs to business.

Q3 We would welcome your views on adopting a sector code of best practice to achieve greater levels of consumer awareness in relation to the use and distribution of service charges, tips and gratuities.

Q4 We are open to innovative and imaginative plans to promote consumer awareness on service charges, tips and gratuities.

Q5 We would welcome your views on what the impact would be for employers and consumers if we adopted your recommendation(s).

Q6 We welcome your comments on this document and the impact assessment found at annex C, whether in response to particular questions raised in the document or more general responses to the issue.

Annex B: The Consultation Code of Practice criteria

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out an Impact Assessment if appropriate.

The complete code is available on the Better Regulation Executive's website, at <http://bre.berr.gov.uk/regulation/consultation/code/>

Summary: Intervention & Options

Annex C

Department /Agency: BERR	Title: Partial Impact Assessment of Amending the National Minimum Wage regulations	
Stage: Consultation	Version: Final	Date: 29 October 2008
Related Publications: Consultation document		

Available to view or download at:

<http://www.berr.gov.uk/files/file48899.pdf>

Contact for enquiries: Asad Ghani

Telephone: 020 7215 1627

What is the problem under consideration? Why is government intervention necessary?

The National Minimum Wage (NMW) is part of the Government's strategy to provide fair standards in the workplace and make work pay. Since the National Minimum Wage Act came into force in 1999 c.39 and regulation section 31(1)(e) of the National Minimum Wage Regulations 1999 has permitted the use of service charges, tips, gratuities and cover charges to count towards the national minimum wage subject to certain conditions being met. Proposals in this impact assessment attempt to ensure tipping practices are made fairer ensuring all workers, whether they are paid tips or not, receive a fair wage in the form of at least the national minimum wage in basic pay and by providing greater transparency to consumers so that consumers can make a more informed choice when tipping.

What are the policy objectives and the intended effects?

The national minimum wage sets a wage floor below which pay cannot fall. The aim of this policy is to provide access to the national minimum wage in basic pay for low paid workers and create an equitable wage floor for all workers irrespective of if they are paid tips as part of their wage or not. The amendment to regulation 31(1)(e) will ensure that all eligible workers will receive at least the national minimum wage in basic pay and any tips that may be paid are in addition to that. This will create a level wage playing field for all workers and business. We also seek to improve transparency for consumers who may not be aware of what happens to their tips.

What policy options have been considered? Please justify any preferred option.

Two approaches have been considered: 1). all tips, service charges, gratuities and cover charges, whether discretionary or mandatory, are excluded from counting towards the NMW, and consumer information and awareness is improved; 2). only discretionary tips and gratuities, and mandatory and discretionary service charges are excluded from counting towards the NMW and consumer information and awareness is improved. Policy options have been compared to a benchmark 'do-nothing' scenario. At this partial impact assessment stage the Government does not have a preferred option.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

The Low Pay Commission will assess the use of tips as part of their annual national minimum wage report to be published in 2010 and then annually thereafter.

Ministerial Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

Pat McFadden

.....Date:

Summary: Analysis & Evidence

Policy Option: 1/2	Description: This summary sheet summarises options 1 and 2 (the costs and benefits of each option are similar, with option 2 allowing cover charges to be included in NMW payments).
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COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' Potential increase in employers' labour costs resulting from higher pay and employers' National Insurance contributions (NICs). An increase in workers' NICs payments towards pensions, contributory benefits and the NHS. Annual costs calculated are static and constant over time.
	One-off (Transition)	Yrs	
	£ 0m	0	
	Average Annual Cost (excluding one-off)		
	£ 7 – 73m	10	Total Cost (PV) £ 61 – 631 million
Other key non-monetised costs by 'main affected groups' one-off			
Small administrative and familiarisation costs for employers. Implementation and enforcement costs for HMRC. Associated policy costs in raising awareness amongst consumers.			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' Potential increase in basic pay for workers with tips in addition to that. Increase in NICs receipts. Annual benefits calculated are static and constant over time.
	One-off	Yrs	
	£ 0m	0	
	Average Annual Benefit (excluding one-off)		
	£ 7 – 73m	10	Total Benefit (PV) £61 – 631 million
Other key non-monetised benefits by 'main affected groups' Equalisation of NICs treatment across sectors and workers. Eligibility of workers for benefits. Greater transparency for consumers.			

Key Assumptions/Sensitivities/Risks The analysis carried out is static and does not take into account the dynamics of the labour market. The costs equal the benefits because of transfers involving employers, workers and the exchequer. Analysis of options 1 and 2 is essentially the same but option 2 could be an over estimate.

Price Base Year 2008	Time Period Years 10	Net Benefit Range (NPV) £ 0 million	NET BENEFIT (NPV Best estimate) £ 0 million
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What is the geographic coverage of the policy/option?			UK		
On what date will the policy be implemented?			Spring 2009		
Which organisation(s) will enforce the policy?			HMRC / BERR		
What is the total annual cost of enforcement for these organisations?			£ negligible		
Does enforcement comply with Hampton principles?			Yes		
Will implementation go beyond minimum EU requirements?			N/A		
What is the value of the proposed offsetting measure per year?			£ N/A		
What is the value of changes in greenhouse gas emissions?			£ N/A		
Will the proposal have a significant impact on competition?			No		
Annual cost (£-£) per organisation (excluding one-off)		Micro	Small	Medium	Large
Are any of these organisations exempt?		No	No	No	No

Impact on Admin Burdens Baseline (2005 Prices)				(Increase - Decrease)
Increase of	£ negligible	Decrease	£ negligible	Net Impact £ negligible

Key: Annual costs and benefits: Constant Prices (Net) Present Value

A. Strategic overview

Existing Government initiatives

The National Minimum Wage Act 1998 c.39 states that all workers qualifying for the national minimum wage (NMW) must be paid at least the NMW. Regulation 30 of the NMW Regulations 1999 specifies which monies paid to the worker by their employer counts towards NMW pay. Regulation 31(1)(e) reduces NMW pay where monies representing service charges, tips, gratuities and cover charges, are paid to the worker via the employer's payroll.

The use of, service charges, tips, gratuities and cover charges for payment of the NMW is a complex area. There is a myriad of different systems in place that the Government does not regulate in detail.

Some definitions:

Service charges we take to mean those amounts that are added to the customer's bill before it is presented to the customer. If it is made clear that the amount is purely discretionary then there is no obligation for the customer to pay and the payment is voluntary. Where this is not the case, the payment is a mandatory charge.

Tips and gratuities we take to mean uncalled for and spontaneous payments offered by the customer either as cash tips left on the table or deposited in a box by the till or on a bar etc, or given to a taxi driver, hairdresser etc or offered as part of a cheque, debit or credit card payment or detailed on a bill and added at the point of transaction (typically a discretionary amount added by the customer paying by credit, debit, charge card or cheque) and are entirely optional.

Cover charges we take to mean to be a mandatory fixed amount, usually per head. Such charges often pay for entertainment and other services, (not necessarily waiting service in the case of restaurants), and generally provide assistance towards other costs that might relate to expenditure that contributes to the experience (typically for items such as bread etc).

B. The issue

Ten years after the introduction of the National Minimum Wage Act, on 31 July 2008 the Government announced its intention to amend the Regulations so that tips can no longer count towards the payment of the NMW.

The changes will end the practice of employers using service charges, tips and gratuities processed through the payroll in payment or part payment of the NMW for all individuals on the youth, development and adult rates.

The Governments strategy is to provide fair standards in pay for all workers across all sectors. This partial impact assessment attempts to establish costs and benefits of the policy change detailed in the consultation. These are:

- 1). All tips, service charges, gratuities and cover charges, whether discretionary or mandatory, are excluded from counting towards the NMW, and consumer transparency and awareness is improved;
- 2). Only discretionary tips and gratuities, and mandatory and discretionary service charges are excluded from counting towards the NMW and consumer information and awareness is improved.

The reforms will also enable a 'level playing field' amongst employers and workers. At present tips and gratuities that count towards payment of the NMW may be exempt from employer and worker National Insurance contributions (NICs) depending on how they are allocated to the worker. In terms of workers in tipping sectors, those who do receive tips and gratuities as part of their NMW pay may benefit from exemptions from NICs whereas all other workers must pay NICs on earnings above the 'earnings threshold' which is currently £105 per week for each employment for the 2008/09 tax year (this figure is subject to annual change).

Consultation

Within Government

These proposals have been developed in consultation with the following Government departments: HM Revenue and Customs and HM Treasury.

Public consultation

This partial impact assessment will accompany the 12 week public consultation.

C. Objectives

The Government is intervening for three reasons:

1. To ensure that workers receive at least the NMW that is not made up from service charges, tips or gratuities and that any tips are paid in addition to the NMW.
2. To align the treatment of the tipping sectors with the other sectors, both in terms of wages and NICs.
3. Increase consumer information and greater awareness.

Background

Under the current regulations, amounts paid by a customer as service charge, tip, gratuity or cover charge can count towards NMW pay in certain circumstances.

Other sectors (i.e. non-tipping sectors) are compelled by law to pay their staff the NMW and both employer and worker pay NICs on all elements of pay above the earnings threshold (currently £105 per week).

ASHE (Annual Survey of Hours and Earnings) shows that in 2007, basic hourly pay actually exceeded the NMW in the tipping sectors – see table 1. It means that *on average*, people working in these sectors are paid a basic pay (without tips) above the NMW and that therefore the proposed amendments will have no impact on them.

The proposed change in legislation would affect people whose basic pay is less than the NMW and topped up by tips, thus potentially increasing employers and workers' NICs.

1. Basic hourly pay per sectors – 2007

SIC code	Name	Mean basic hourly pay (£)
55	Hotels and restaurants	7.04
60.22	Taxi operations	7.17
92.71	Gambling and betting activities	9.37
93.02	Hairdressing and beauty treatments	6.52

Source: ASHE

Table 2 below shows the mean hourly basic pay for workers earning less than the NMW in basic pay. We assume later on in the impact assessment that some workers earn less than the NMW in basic pay because their pay is being topped up by tips to reach the NMW. When analysing wage distributions the median is often preferred over the mean (as it is not affected by outliers). However, for the purpose of this impact assessment the use of the mean hourly wage is more appropriate when estimating the impact of legislative change.

2. Basic hourly pay for those earning less than the National minimum wage in basic pay - 2007 (£)

SIC code	Name	16-17	18-21	22 and over
55	Hotels and restaurants	2.65	3.69	4.54
60.22	Taxi operations	-	-	4.62
92.71	Gambling and betting activities	-	3.24	4.65
93.02	Hairdressing and beauty treatments	2.25	3.16	4.19

Source: ASHE. - Not possible to report a figure due to sample size

3. NMW rates (in £ per hour)

Worker's age	16 - 17	18-21	22 and over
2006/07	3.30	4.45	5.35
2007/08	3.40	4.60	5.52
2008/09	3.53	4.77	5.73

Source: LPC

In this impact assessment when analysing the difference between basic pay and the NMW the 2006/07 NMW rates have been used as these were the NMW rates at the time when the 2007 Annual Survey of Hours and Earnings was compiled.

D. Options identification

Option 1

All tips, service charges, gratuities and cover charges, whether discretionary or mandatory, are excluded from counting towards the NMW and consumer information and awareness is improved.

Option 2

Only discretionary tips and gratuities, and mandatory and discretionary service charges are excluded from counting towards the NMW and consumer information and awareness is improved.

Both of the options above have been measured against a 'do-nothing' benchmark.

E. Analysis of options

1. Business sectors affected

When measuring the impact of the proposed amendments, we are considering the tipping sectors of the economy; these are principally the hospitality and gambling sectors:

- SIC 55: Hotels and restaurants
- SIC 60.22: Taxi operations
- SIC 92.71: Gambling and betting activities
- SIC 93.02: Hairdressing and other beauty treatments

2. Costs to the employers

The proposed change to the legislation may cause an increase in employers' labour costs. The increase in labour costs would concern employers who pay their staff less than the NMW and use tips in payment or part payment of the NMW. The increase would come from:

- the additional pay the employer would have to provide, and
- the increase in employers' NIC (12.8 per cent) resulting from that.

These monetised costs would be similar under both options 1 and 2 as the impact of NIC payments in both instances will be the same.

Under option 2 (which permits cover charges counting towards payment or part payment of the NMW), cover charges already attract NICs. Although cover charges will form part of the business income we anticipate these payments to be small.

Under option 1 (all service charges, tips, gratuities and cover charges are excluded from the payment of NMW) employers concerned would have to top up basic pay with additional pay on which NICs may also need to be paid (NICs are only due on earnings in excess of the earnings threshold currently £105 per week).

Increase in labour costs

In order to calculate the increase in labour costs, the following methodology was followed:

- 1) Estimate the number of people earning a basic pay below the NMW and receiving tips in payment or part payment of the NMW, and
- 2) Differentiate between sectors and age group because NMW rates differ depending on age – see table 2.
- 3) Calculate the increase in labour costs.

Estimating the number of people earning a basic pay below the NMW and receiving tips

See Appendix B for detailed calculation. Table 3 below gives a summary of the number of estimated workers that currently receive service charges, tips, gratuities and cover charges in payment or part payment of the NMW and might be affected by the proposed amendment

BERR estimates, based on Annual Survey of Hours and Earnings (ASHE) data, are that between 4,500 and 44,800 workers could be concerned by the change in the legislation.

BERR welcomes views on the range of workers estimated to be covered by a change in legislation as well as any wider comments on this impact assessment.

3. Estimates of the population concerned by the proposed change to the legislation by age groups and receiving a basic pay below the NMW

Sectors	16 - 17		18 - 21		22 and over		Total	
	Receiving basic pay below NMW and other pay	Receiving basic pay below NMW	Receiving basic pay below NMW and other pay	Receiving basic pay below NMW	Receiving basic pay below NMW and other pay	Receiving basic pay below NMW	Receiving basic pay below NMW and other pay	Receiving basic pay below NMW
SIC 55	0	400	400	5,200	3,400	29,100	3,800	34,700
SIC 60.22	0	0	0	0	0	500	0	500
SIC 92.71	0	0	0	300	100	1,200	100	1,500
SIC 93.02	0	1,900	300	3,500	300	2,700	600	8,100
Total	0	2,400	700	9,100	3,900	33,400	4,500	44,800

Source: BERR estimates based on ASHE. Totals may not sum to the individual parts due to rounding. 4,500 workers receive basic pay below the NMW and some form of other pay. BERR estimates that 44,800 workers earn less than the NMW in basic pay.

Calculating the increase in labour costs for employers:

See Appendix C for the details of the estimate in increased labour costs. Tables 4, 5 and 6 below show a summary of the additional labour costs due to the proposed change in the legislation.

The potential increase in extra pay could total between £5.7 and £59.2 million. The increase in employers' NICs could total between £0.7 and £7.6 million. The increase in labour costs could total between £6.5 and £66.8 million.

4. Summary table for people aged between 16 and 17

Population	Total – extra pay (£m)	Employers' NICs (£m)	Total increase in labour costs (£m)
2,400	3.6	0.5	4.1

NB: Figures have been rounded and totals may not sum to individual parts due to rounding

Source: ASHE

5. Summary table for people aged between 18 and 21

Population	Total – extra pay (£m)	Employers' NICs (£m)	Total increase in labour costs (£m)
700 – 9,100	1.7 – 13.7	0.2 – 1.7	2.0 – 15.4

NB: Figures have been rounded and totals may not sum to individual parts due to rounding

Source: ASHE

6. Summary table for people aged 22 and over

Population	Total – extra pay (£m)	Employers' NICs (£m)	Total increase in labour costs (£m)
3,900 – 33,400	4.0 – 42.0	0.5 – 5.4	4.5 – 47.4

NB: Figures have been rounded and totals may not sum to individual parts due to rounding

Source: ASHE

7. Summary table for people aged 16 and over

Population	Total – extra pay (£m)	Employers' NICs (£m)	Total increase in labour costs (£m)
4,500 – 44,800	5.7 – 59.2	0.7 – 7.6	6.5 – 66.8

NB: Figures have been rounded and totals may not sum to individual parts due to rounding

Source: ASHE

Administrative costs

The implementation costs may include: rewording of contracts and adjusting the payroll. Workers who don't have a written contract containing specified information and who are employed for one month or more have a statutory right to receive a written statement of employment particulars including 'the scale or rate of remuneration or the method of calculating remuneration', which may also imply the need for a change – depending on how the employer expresses the pay arrangements. It's a reasonable assumption that the relevant employers will also need to amend their payroll arrangements, but these would be one-offs and are assumed to be negligible.

3. Costs/benefits to the workers

The proposed change to the legislation will affect workers, through an increase in their NICs and an increase in their **basic** pay.

Increase in NICs

See Appendix D for details of the calculations.

The increase in workers' NICs will total between £0.6 and £6.5 million.

8. Summary table for people aged between 16 and 17

Population	Total – extra pay (£m)	Workers' NICs (£m)
2,400	3.6	0.4

NB: Figures have been rounded and totals may not sum to individual parts due to rounding

Source: ASHE

9. Summary table for people aged between 18 and 21

Population	Total – extra pay (£m)	Workers' NICs (£m)
700 – 9,100	1.7 – 13.7	0.2 – 1.5

NB: Figures have been rounded and totals may not sum to individual parts due to rounding

Source: ASHE

10. Summary table for people aged 22 and over

Population	Total – extra pay (£m)	Workers' NICs (£m)
3,900 – 33,400	4.0 – 42.0	0.4 – 4.6

NB: Figures have been rounded and totals may not sum to individual parts due to rounding

Source: ASHE

11. Summary table for people aged 16 and over

Population	Total – extra pay (£m)	Workers' NICs (£m)
4,500 – 44,800	5.7 – 59.2	0.6 – 6.5

NB: Figures have been rounded and totals may not sum to individual parts due to rounding

Source: ASHE

Again, the increase in NICs for workers would be the same under option 1 and option 2. We assume that tips that are currently used in payment or part payment of the NMW are not currently subject to NICs, but because employers would have to increase wages to at least the NMW, that extra amount would become subject to NICs under both options 1 and 2.

Workers will see their *basic* pay increase by between £5.7 and £59.2 million.

4. Costs to the Government

Implementation costs

HMRC and BERR will have to inform employers and workers of the change to the law.

Enforcement costs are not expected to increase as a result of the amendment: HMRC investigates an employer when there is a complaint about possible non-payment of NMW and under their risk assessment programme. There is no evidence to suggest that the number of complaints will go up as a result of the changes. As is usual with NMW uprating, we would expect to see an increase in enquiries after commencement with stabilisation as employers and workers become accustomed to the new rules.

Implementation costs are assumed to be the same under option 1 and option 2 and to be small.

5. Benefits

N.B.: We have not attempted to quantify all the benefits as the population concerned by the proposed change in the Regulations is comparatively small.

- There may be increased retention of staff due to better pay for the workers and thus employers will retain skills.
- If employers pay tips on top of the NMW, there may be better quality of service because of greater incentivisation as tips become purely performance related.
- Equalisation of sectors and employers establishing a clear playing field across tipping and non-tipping sectors and amongst employers within the tipping sectors.
- Of the workers concerned by the change in the legislation, some of them may become eligible for contributory benefits (a person builds entitlement to

contributory benefits once his/her earnings become greater than the 'lower earnings limit', currently set at £90 per week) but this benefit would be small and we do not attempt to quantify it.

- Greater Government revenues, which represent a transfer from employer and workers to the Exchequer, this is the sum of workers and employers' NICs and would amount to up to between £1.4 and £14.0 million under both options.
- The time spent by employers calculating wage rates might lessen as the uncertainty over whether there will be enough tips to cover the difference between the basic pay and NMW will disappear.
- Increased consumer transparency may result in increased take-home pay for some workers as a result of fairer distribution of tips, and in customers making informed tipping decisions. The increase in take-home pay is estimated at up to between £5.7 and £59.2 million.
- Greater consumer confidence in tipping sectors.

F. Risks

The employers concerned by the amendments, and the data suggest that they are relatively few, may seek to offset the rise in their labour costs. The easiest way to do so would be to take a share or increase their existing share of the tips and discretionary service charges that they previously had not appropriated, thus possibly cancelling any increase in take-home pay for workers as a result of the increase in their basic pay.

If cover charges are allowed to count towards the NMW, employers could also introduce cover charges if they had not done so already. However, the impact of such action could potentially be very detrimental to the employers as customers may just go to their competitors' where charges are discretionary. Alternatively, firms may decide to increase prices. The 'price elasticity of demand' will determine the extent to which prices could rise. Price increases would lead to the cost being transferred to the consumer. A final risk is that firms could decide to offset increased labour costs by employing fewer staff.

Note: our upper-bound estimate (the number of people receiving a basic pay below the NMW) represents the *population that could be affected* and is an extreme estimate, but in the absence of any other data, it is our most meaningful upper estimate.

G. Enforcement

The enforcement resulting from the change in regulations of the proposed amendments will be the responsibility of HMRC. HMRC do not expect this to be significantly costlier. Initially, there may be an increase in complaints as the new legislation beds in, but once a certain period of time has passed and business and workers become familiar with the changes, we can assume that the number of NMW-related complaints will decrease.

H. Summary table of costs and benefits

Below is a table outlining the costs and benefits of the proposed change to the legislation. Options 1 and 2 have similar costs and benefits although option 2 provides more flexibility for employers as cover charges can be included in the NMW.

12. Summary table of costs and benefits

		Option 1	Option 2
Costs	Increase in employers' labour costs	Up to £6.5 - 66.8 million	Up to £6.5 - 66.8 million
	Increase in workers' NICs	Up to £0.6 - 6.5 million	Up to £0.6 - 6.5 million
	Increase in administrative costs	Small	Small
	Implementation costs	Small	Small
Benefits	Better quality of service, equalisation of NICs treatment across sectors, eligibility for statutory benefits and less administrative burden	Small - Not quantified because the number of people concerned is small	
	Transfer to the Exchequer	Up to £1.4 - 14.1 million	Up to £1.4 - 14.1 million
	Increase in pay	Up to £5.7 - 59.2 million	Up to £5.7 - 59.2 million

Figures have been rounded and totals may not sum to individual parts due to rounding

I. Implementation

BERR will work with HMRC to implement the new regulations during 2009.

J. Monitoring and evaluation

Each year the Low Pay Commission examines the impact of up-rating the NMW and publishes an annual NMW report. The Low Pay Commission will use this report to monitor the use of tips as part of the NMW.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	No	Yes
Small Firms Impact Test	No	Yes
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	No	Yes
Disability Equality	No	Yes
Gender Equality	No	Yes
Human Rights	No	No
Rural Proofing	No	No

Appendices

Appendix A: Specific impact tests

Small Firms Impact Test

The Department has already consulted the Federation of Small Business (FSB) and will seek further views from the FSB and small businesses during the public consultation period. The proposed amendment to the regulations would apply to firms of all sizes. The table below presents the distribution of workers by firm size in tipping sectors and compares this to non-tipping sectors.

A1. Distribution of workers by firm size in the tipping and non-tipping sectors

Sector	1 to 49	50 to 249	250 and more	Total (m)
SIC 55 (restaurants)	80%	16%	4%	1.2
SIC 60.22 (taxis)	79%	18%	3%	0.03
SIC 92.71 (gambling)	63%	27%	10%	0.08
SIC 93.02 (hairdressing)	96%	3%	1%	0.1
Total – tipping sectors	81%	15%	4%	1.4
Total – non-tipping sectors	47%	25%	28%	23.7

Source: LFS

The table shows the general distribution of firm size in tipping sectors, but does not represent the firm size distribution of businesses that will be affected. We believe that although it may be more likely that larger businesses are currently benefiting from the NICs exemption and using tips and gratuities to pay part of the NMW, a significant proportion of small businesses will also be following this practice. We estimate that between **4,500 and 44,800** workers will be affected and we believe there will not be a disproportional impact on small business in terms of costs or benefits.

Competition Assessment

The initial analysis of the competition filter test reveals that a detailed competition assessment is not considered necessary. The proposed legislation will apply to all firms and is a measure that will ensure a more level playing field between firms in the tipping sectors. At present some firms are using tips and gratuities to count towards the NMW and may be benefiting from the NICs exemption and others are not. The proposed legislation will change this so that all of the NMW will exclude tips from NMW pay for all firms. The table below gives the results of the competition filter test.

A.2. Results of the competition filter test – In any affected market, would the proposal:	
Directly limit the number or range of suppliers?	No
Indirectly limit the number or range of suppliers?	No
Limit the ability of suppliers to compete?	No
Reduce suppliers' incentives to compete vigorously?	No

Equality Assessment

In line with better regulation best practice and the Equalities Duties we have considered the impact of changing the law by gender and race.

Who will be affected?

The Labour Force Survey indicates that around 40 per cent of workers in the tipping sector are men and around 60 per cent are women. We believe that there will be similar proportions of men and women who are directly affected by policy changes.

The table below shows that a higher proportion of ethnic minority workers work in tipping sectors than in all sectors:

A.3. Distribution of people by ethnic minority		
	Total workers (%)	Workers in tipping sectors (%)
White	91.6	87.6
Mixed	0.6	0.8
Asian or Asian British	4.0	5.7
Black or Black British	2.1	1.8
Chinese	0.4	1.3
Other	1.5	2.8

Source: LFS Q1 2008

We estimate that up to **44,800** workers may receive tips to top up a pay below the NMW. This represents a weighted figure and it would not be sensible to attempt to disaggregate this figure further by ethnicity or disability as the results may not be reliable.

Consultation with stakeholders

BERR will be consulting with a variety of stakeholders and welcome all views on the proposed legislation.

Removal of barriers which hinder equality

The proposed changes reflect a broad policy and are designed to have a positive impact on all workers in tipping sectors regardless of their gender, race or disability. Therefore the proposed changes are unlikely to create any barriers to equality in terms of gender, race and disability.

Appendix B: Estimating the number of people earning a basic pay below the NMW and receiving tips

N.B.: The available data does not differentiate between different categories of service charges so the calculation of the increase in labour costs will be the same under both option 1 and option 2, but it will be an overestimate in the case of option 2 as employers' NICs have always been due on cover charges used to pay part or all of a worker's wages.

Data on the number of people who earn a basic pay below the NMW and are paid tips to top up wages to the NMW is not collected. Therefore, we have used ASHE (Annual Survey of Hours and Earnings) to estimate the number of workers that could potentially be affected as ASHE is the best survey on pay available.

ASHE gives details on basic pay and other pay. For the three age groups, data could be obtained on the number of people earning less than their NMW band in basic pay and receiving some form of other pay (ASHE does not provide specific data on tips, therefore the 'other pay' variable (which could encompass the following: tips, London or regional allowances, tax credits, etc) is the closest proxy on tips available) – See table B.1.

B.1. Breakdown of pay per age groups				
	16 - 17	18 - 21	22 and over	Total
Total employed in the tipping sectors	88,773	281,452	929,236	1,299,461
Receiving basic pay below NMW [#]	2,325	8,939	32,980	44,244
Receiving other pay	0	663	3,808	4,471

Source: ASHE 2007. # This is an estimate. We have scaled down the number of workers receiving a pay less than the NMW by a factor of 0.64 to remove those who earn less than the NMW because of exemptions or non-compliance. Totals may not sum to individual parts due to rounding.

We are considering in our calculations only workers earning less than the NMW. The number of people also receiving some form of other pay, like tips, but less than the NMW, forms our lower-bound estimate and the number of people receiving a basic pay below the NMW our upper-bound estimate.

According to 2007 ASHE data, 5.3 per cent (68,969) of workers in the tipping sector are on a basic pay below the NMW. The same database further indicates that 1.9 per cent of workers in the low paying sectors are paid below the NMW due to either being exempted from the NMW or due to non-compliance. Assuming this percentage is the same in the tipping sector (exempted from NMW or non-compliance), 24,725 workers will be unaffected by this regulation, as non compliant employers will not change behaviour and those exempted from the NMW will be unchanged. As a result, our upper estimate on the number of workers who earn less than the NMW in basic pay is 44,244 (68,969 – 24,725).

The latest ASHE survey was carried out in spring 2007; therefore numbers were inflated by 1.3 per cent to reflect general employment growth between April 2007 and May 2008 (which we assume reflects employment growth in the whole economy). That brings the total number of people receiving a basic pay below the NMW and other pay to **4,500**, and receiving a basic pay below the NMW to **44,800** – See table B.2 and B.3.

B.2. Workers earning less than their respective NMW rates and receiving other pay, by age groups and sectors – estimate for 2008

Sectors	18 - 21	22 and over	Total
SIC 55	391	3,392	3,783
SIC 60.22	0	0	0
SIC 92.71	0	119	119
SIC 93.02	281	347	627
Total	672	3,858	4,529

Source: ASHE and BERR estimates.

B.3. Workers earning a basic pay less than their respective NMW rates, by age groups and sectors – estimate for 2008

Sectors	16 - 17	18 - 21	22 and over	Total
SIC 55	418	5239	29064	34722
SIC 60.22	0	0	514	514
SIC 92.71	0	284	1177	1461
SIC 93.02	1938	3532	2653	8123
Total	2356	9055	33408	44819

Source: ASHE and BERR estimates. Totals may not sum to individual parts due to rounding.

Table B.4 below summarises the information above and gives a range of estimates for the population concerned by the proposed amendments to the Regulations.

Note: the number of people also receiving some form of other pay, like tips, forms our lower-bound estimate and the number of people not receiving other pay but less than the NMW our upper-bound estimate.

B.4. Estimates of the population concerned by the proposed amendment to the Regulations

Sectors	16 - 17	18 - 21	22 and over	Total
SIC 55	0 – 400	400 – 5,200	3400 – 29,100	3,800 – 34,700
SIC 60.22	0	0	0 – 500	0 – 500
SIC 92.71	0	0 – 300	100 – 1,200	100 – 1,500
SIC 93.02	0 – 1,900	300 – 3,500	300 – 2,700	600 – 8,100
Total	0 – 2,400	700 – 9,100	3,900 – 33,400	4,500 – 44,800

Source: ASHE and BERR estimates. Figures have been rounded and totals may not sum to individual parts due to rounding

Appendix C: Estimating the increase in labour costs

It has been assumed that all the workers are earning more than the earnings threshold of £105 a week (thus liable for NICs). Also, for ease of calculation, we have not adjusted for the NICs exemption on earnings below the earnings threshold.

First, we estimate the differential between basic pay and the NMW, and then the increase in labour costs.

Estimating the differential between basic pay and NMW

The 2007 ASHE survey provides figures about the wage differential, i.e. the difference between NMW and basic pay for the category of people earning less than NMW but receiving other pay. We assume later that this differential (in percentage) does not change in 2008.

C.1. Basic pay as a percentage of the NMW rate applicable (%)

Sectors	16 - 17	18 - 21	22 and over
SIC 55	80	83	85
SIC 60.22	-	-	86
SIC 92.71	-	73	87
SIC 93.02	68	71	78

Source: ASHE

Another element to take into account before estimating the increase in labour costs is the amount of time worked by workers.

C.2. Hours worked

Sectors	Mean basic paid hours per week
SIC 55	28.7
SIC 60.22	28.8
SIC 92.71	30.9
SIC 93.02	30.1

Source: ASHE 2007

Increase in labour costs

C.3. For workers aged between 16 and 17 – central estimates

Sector	Population	Wage differential for 2008 (£)	Average hours worked per week	Total extra pay (£m)	Employers' NICs (£m)	Total increase in labour costs (£m)
SIC 55	400	0.65	28.7	0.4	0.1	0.5
SIC 93.02	1,900	1.05	30.1	3.2	0.4	3.6
Total	2,400	-	-	3.6	0.5	4.1

NB: wage differential = NMW – basic pay; Employers' NICs is set at 12.8% of total extra pay

NB: due to sample size, we only estimate a central estimate. Figures have been rounded and totals may not sum to individual parts due to rounding

Source ASHE

C.4. For workers aged between 18 and 21 – lower bound estimates

Sector	Population	Wage differential for 2008 (£)	Average hours worked per week	Total extra pay (£m)	Employers' NICs (£m)	Total increase in labour costs (£m)
SIC 55	400	2.97	28.7	1.7	0.2	2.0
SIC 93.02	300	0.02	30.1	0.0	0.00	0.0
Total	700	-	-	1.7	0.2	2.0

NB: wage differential = NMW – basic pay; Employers' NICs is set at 12.8% of total extra pay. Figures have been rounded and totals may not sum to individual parts due to rounding

Source: ASHE

C.5. For workers aged between 18 and 21 – upper bound estimates

Sector	Population	Wage differential for 2008 (£)	Average hours worked per week	Total extra pay (£m)	Employers' NICs (£m)	Total increase in labour costs (£m)
SIC 55	5,200	0.76	28.7	5.9	0.8	6.7
SIC 92.71	300	1.21	30.9	0.0	0.0	0.0
SIC 93.02	3,500	1.29	30.1	7.2	0.9	8.1
Total	9,100	-	-	13.1	1.7	14.8

NB: wage differential = NMW – basic pay; Employers' NICs is set at 12.8% of total extra pay. Figures have been rounded and totals may not sum to individual parts due to rounding

Source: ASHE

C.6. For workers aged 22 and over – lower bound estimates

Sector	Population	Wage differential for 2008 (£)	Average hours worked per week	Total extra pay (£m)	Employers' NICs (£m)	Total increase in labour costs (£m)
SIC 55	3400	0.71	28.7	3.6	0.5	4.1
SIC 92.71	100	0.40	30.9	0.1	0.0	0.1
SIC 93.02	300	0.55	30.1	0.3	0.0	0.3
Total	3900	-	-	4.0	0.5	4.5

NB: wage differential = NMW – basic pay; Employers' NICs is set at 12.8% of total extra pay. Figures have been rounded and totals may not sum to individual parts due to rounding

Source: ASHE

C.7. For workers aged 22 and over – upper bound estimates

Sector	Population	Wage differential for 2008 (£)	Average hours worked per week	Total extra pay (£m)	Employers' NICs (£m)	Total increase in labour costs (£m)
SIC 55	29,100	0.81	28.7	35.3	4.5	39.8
SIC 60.22	500	0.73	28.8	0.6	0.1	0.6
SIC 92.71	1,200	0.70	30.9	1.3	0.2	1.5
SIC 93.02	2,700	1.16	30.1	4.8	0.6	5.4
Total	33,400	-	-	42.0	5.4	47.4

NB: wage differential = NMW – basic pay; Employers' NICs is set at 12.8% of total extra pay. Figures have been rounded and totals may not sum to individual parts due to rounding

Source: ASHE

Appendix D: calculating the increase in NICs for workers

D.1. Increase in NICs for workers aged between 16 and 17 – central estimates

Sector	Population	Wage differential for 2008 (£)	Average hours worked per week	Total extra pay (£m)	Workers' NICs (£m)
SIC 55	400	0.65	28.7	0.4	0.0
SIC 93.02	1,900	1.05	30.1	3.2	0.4
Total	2,400	-	-	3.6	0.4

NB: wage differential = NMW – basic pay; Workers' NICs is set at 11% of total extra pay. Figures have been rounded and totals may not sum to individual parts due to rounding

NB: due to sample size, we only estimate a central estimate.

Source: ASHE

D.2. Increase in NICs for workers aged between 18 and 21 – lower bound estimates

Sector	Population	Wage differential for 2008 (£)	Average hours worked per week	Total extra pay (£m)	Workers' NICs (£m)
SIC 55	400	2.97	28.7	1.7	0.2
SIC 93.02	300	0.02	30.1	0.0	0.0
Total	700	-	-	1.7	0.2

NB: wage differential = NMW – basic pay; Workers' NICs is set at 11% of total extra pay. Figures have been rounded and totals may not sum to individual parts due to rounding

Source: ASHE

D.3. Increase in NICs for workers aged between 18 and 21 – upper bound estimates

Sector	Population	Wage differential for 2008 (£)	Average hours worked per week	Total extra pay (£m)	Workers' NICs (£m)
SIC 55	5,200	0.76	28.7	5.9	0.7
SIC 92.71	300	1.21	30.9	0.6	0.1
SIC 93.02	3,500	1.29	30.1	7.2	0.8
Total	9,100	-	-	13.7	1.5

NB: wage differential = NMW – basic pay; Workers' NICs is set at 11% of total extra pay. Figures have been rounded and totals may not sum to individual parts due to rounding

Source: ASHE

D.4. Increase in NICs for workers aged 22 and over – lower bound estimates

Sector	Population	Wage differential for 2008 (£)	Average hours worked per week	Total extra pay (£m)	Workers' NICs (£m)
SIC 55	3400	0.71	28.7	3.6	0.4
SIC 92.71	100	0.40	30.9	0.1	0.0
SIC 93.02	300	0.55	30.1	0.3	0.0
Total	3900	-	-	4.0	0.4

NB: wage differential = NMW – basic pay; Workers' NICs is set at 11% of total extra pay. Figures have been rounded and totals may not sum to individual parts due to rounding

Source: ASHE

D.5. Increase in NICs for workers aged 22 and over – upper bound estimates

Sector	Population	Wage differential for 2008 (£)	Average hours worked per week	Total extra pay (£m)	Workers' NICs (£m)
SIC 55	29,100	0.81	28.7	35.3	4.6
SIC 60.22	500	0.73	28.8	0.6	0.1
SIC 92.71	1,200	0.70	30.9	1.3	0.2
SIC 93.02	2,700	1.26	30.1	4.8	1.7
Total	33,400	-	-	42.0	6.5

NB: wage differential = NMW – basic pay; Workers' NICs is set at 11% of total extra pay. Figures have been rounded and totals may not sum to individual parts due to rounding

Source: ASHE
