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EMPLOYMENT RIGHTS ORDINANCE, 2010

In accordance with section 10(2) of the Employment Rights Ordinance, 2010, the Report by the Employment Rights Committee dated 16 March 2015 is published in this Gazette.

Roy Burke
Chief Secretary

The Castle, St Helena
20 April 2015

ST HELENA MINIMUM WAGE

Report of the Employment Rights Committee to the Governor in Council 16 March 2015

Section 8 of the Employment Rights Ordinance requires the Employment Rights Committee ("the Committee") to make recommendations to the Governor in Council with respect to

a) the hourly minimum wage rate;
b) the pay reference period for which the hourly rate shall apply;
c) the method to be used for determining the hourly rate at which a person is to be regarded as remunerated; and
d) any exclusions or modifications that should be made for specified classes of persons.

Summary of Recommendations

i. From 1 July 2015, the hourly minimum wage should be set at
    a. £2.60 per hour for all employees having attained the age of 18 years;
    b. £1.65 per hour for all young people having attained the age of 16 and 17 years.
ii. No changes should be made to the pay reference period.
iii. No changes should be made to the method for determining the hourly rate.
iv. No changes should be made to the existing exclusions and modifications.

Membership of the Employment Rights Committee

- Honourable Leslie Paul Baldwin (Chairman)
- Mr Ian Smyth
- Miss Nicola Louise Essex
- Mr Harold Edward Horner JP
- Miss Rosemary May Mittens

Consultation Undertaken

1. Consultation was undertaken by St Helena Government (SHG) and the Chairman of the Committee during August and September 2015. This was done in conjunction with the public consultation on new regulations proposing minimum levels of paid leave. The private sector, Chamber of Commerce and Enterprise St Helena were consulted, and their views collated by the Chairman. A letter from the President of the Chamber of Commerce to SHG's Assistant Chief Secretary (Performance) dated 28 September 2014 was considered by the Committee.
2. The feedback from the consultation was discussed by the Social and Community Development Committee at its meeting on 8 October 2014, who were supportive of setting a main rate of at least £2.50 and increasing the lower age rate by the same percentage.
3. The Committee received a report from the Government Economist, Ian Smyth, outlining relevant economic and social policy considerations and comparisons.
4. The Committee met on 16 March 2015 to discuss its recommendations, and this report summarises the outcome of those discussions.

The Hourly Rate of the Minimum Wage

5. The outcome from the consultation, mainly with businesses, was a consensus that the minimum wage should be set at £2.50. The Committee used this as a starting point for its discussions.

6. Lifting the current rate of £2.30 to £2.50 represents an 8.7% increase. By 1 July 2015, the minimum wage will have been in force for 25 months (having been introduced on 1 June 2013), so the Committee noted that this increase was equivalent to an annualised increase of 4.1%.
   The percentage increases for other potential rates are laid out in the table below.

		Total Increase	Annualised Increase
Current Rate	£2.30	-	-
Increased Rate	£2.50	8.7%	4.1%
	£2.60	13.0%	6.1%
	£2.70	17.4%	8.0%
	£2.80	21.7%	9.9%

Table 1: % increases for various potential minimum wage increases.

7. The Committee considered a range of economic and social evidence, including
   a. The relationship with retail price inflation;
   b. A comparison with Income-Related Benefit (IRB);
   c. Trends in overall income from employment;
   d. The impact on businesses;
   e. A review of the economic analysis conducted prior to introduction.

Price inflation

8. Between Q2 2013 and the end of 2014, overall prices on St Helena rose by 3.1%. Based on the Government Economist's estimate of inflation in Q1 2015, the total increase in prices since the minimum wage was introduced is likely to be around 4.5%.
   - Raising the minimum wage in line with prices would mean setting a new level of £2.40 (a 4.5% nominal increase, but 0% in real terms).
   - The proposed rate of £2.50 represents a 4.2% increase in real terms.
   - A rate of £2.60 would represent an 8.5% real terms increase.

9. The Committee concluded that all the options under consideration would meet the objective of increasing the minimum wage in real terms.

Comparison with IRB

10. One of the main purposes of a minimum wage is to ensure there is an incentive to work, expanding the labour supply and helping avoid people becoming trapped on benefits. So maintaining a gap to benefit levels is important. Income-Related Benefit is currently £51.64, which is equivalent to £1.48 per hour for a 35 hour week, so there is a significant incentive to work. IRB is expected to increase by 6.3% to £54.90 per week from April 2015 (subject to Legislative Council approval).

11. The table below demonstrates that IRB has increased significantly since the introduction of the minimum wage.

	IRB	Equivalent per hour	Increase compared to June 2013	Minimum Wage p/h	Increase compared to June 2013
June 2013	£48.16	£1.38	-	£2.30	-
October 2013	£51.64	£1.48	7.2%	£2.30	0%
July 2015	£54.90	£1.57	14.0%	£2.62	14.0%

Table 2: Comparison of Income-Related Benefits and the Minimum Wage

12. In order to maintain the incentive to work and to stop the benefits trap increasing, the minimum wage would need to increase to £2.62 per hour. Increasing to only £2.50 would mean that benefits for those not working have risen more than the rate of pay for those on the minimum wage. In addition, IRB recipients have been benefiting from an interim increase since October 2013.

Trends in Overall Income from Employment

13. Incomes have increased rapidly since 2011/12, driven by a highly competitive labour market with unsustainably low levels of unemployment. A key challenge both now and during the early years of air access is to ensure sustainable economic growth that benefits everybody.
14. The minimum wage is a crucial policy tool that can be used to support this objective, ensuring that those employed in low income roles receive reasonable, fair pay rises and are not exploited. The minimum wage can benefit those on the lowest pay rates directly, but will also indirectly help those paid slightly above the minimum wage, as employers seek to maintain pay band differentials.
15. The SHG Statistics Unit has developed good quality, regular income data that covers the last two years, but it is not a rich dataset. It does not give details of employment, gender or industry. The 2012/13 data provides the baseline for when the minimum wage was introduced, with 2013/14 data showing the impact of the first 10 months of the minimum wage.
16. Despite the limitations with the data, it is clear that income inequality has grown since 2011/12, with the top 10% of earners seeing their income grow by 56%, while low earners most likely to be on the minimum wage (those in the second decile; the group above the bottom 10%, who are mostly part-time workers and those on benefits) have only seen a 7% increase. The 20:20 ratio, the measure of income inequality used in the United Nations Development Programme Human Development Index (UNDP HDI) stood at 3.6 in 2011/12, 3.7 in 2012/13 and increased to 4.4 in 2013/14. In comparison, the ratio stands at 7 in the UK and 8 in the USA.
17. However, the minimum wage does seem to have had an effect. In 2012/13, the year before introduction of the minimum wage, second decile earners saw their incomes increase by only 0.5%; significantly less than the rate of inflation. But in the year following the minimum wage introduction, second decile income increased by 6.3%, although this was still less than the mean average increase of 8.2%.
18. One way of setting the minimum wage would be to keep it at a constant proportion of the average income so that, as overall incomes rise, the minimum wage is kept in line, meaning that those on the lowest incomes also benefit from economic growth.

The table below shows that, based on estimates of current average incomes, the minimum wage needs to be increased to £2.60 to maintain its value as a proportion of average incomes. There is balance to be struck here because it is not possible to keep it in balance with both mean (the overall average) and median (the income of the middle person). But setting the minimum wage at £2.60 keeps the proportion within one or two percentage points of both averages. A rate of £2.50 is likely to maintain the balance compared to median income, but will be 3 percentage points short compared to the mean average, thereby increasing income inequality further.

	2012/13	£2.30 MW %	2013/14	£2.30 MW %	2014/15 (estimated)	£2.50 MW %	£2.60 MW %
Mean	7,910	53%	8,560	49%	9,031	50%	52%
Median	6,760	62%	7,100	59%	7,384	62%	64%

Notes: 1. The Government Economist estimates that mean average income from employment has increased by 5.5% during 2014/15, with the median increasing by 4%. These are conservative and low confidence estimates based on overall tax revenues.
2. Calculations are based on working 35 hours per week.

Table 3: Comparison between the minimum wage and overall average incomes

Impact on Businesses

19. Any rise in the minimum wage will have a short-term negative impact on business profits. However, aggregate profits have been increasing rapidly in the last two years, with business tax receipts indicating that aggregate profits rose by a third between 2011/12 and 2013/14. Consequently, the Committee's judgement is that overall, businesses can afford to pay a higher minimum wage, but that there are likely to be very important sectoral impacts, and agrees with the Chamber of Commerce that agriculture is a particular concern.
20. Overall, labour productivity in St Helena is extremely low – to a great extent this is because low salaries encourage businesses to use more labour, rather than invest in plant and machinery. Increasing the minimum wage quickly, while causing short-term difficulties, will have a positive effect in the long-term by providing a strong incentive for capital investment.
21. Suppressing the minimum wage to support one or more struggling sectors is unlikely to be effective. Most employers already pay significantly more than the current minimum wage and it is this, combined with the extremely low levels of unemployment, which is causing labour shortages in low-paying sectors. These sectors may be able to recruit more easily as airport construction is completed, but this is likely to be short-lived as the growing tourism and construction sectors expand their demand for skilled labour.
22. With most businesses in a good position to handle and absorb minimum wage, this needs to be balanced against the minority where it will cause difficulties, especially when they are concentrated in strategically important sectors such as agriculture. There are other policy levers that could be used to provide short-term, transitional support to these sectors to help them invest in machinery, reducing their reliance on labour and allowing them to match market wages.

Review of the 2013 Economic Analysis

23. Prior to introduction in 2013, the Government Economist of the time produced a report on the potential economic impact of the minimum wage. He outlined three key concerns: the impact on inflation, the likelihood of unemployment and the impact on businesses. Overall, he felt that a minimum wage of £2.00 would be most supportive of economic growth, but accepted that it would heighten the risk of a poverty trap so suggested a rate of £2.20. With the Social Policy Adviser of the time arguing for £2.50, the result was a compromise at the current rate of £2.30.
24. The Committee reviewed the 2013 analysis and reflected on actual experience. In particular:
    a. While it was estimated that a minimum wage of £2.30 could cause inflation to increase by between 1.5% and 4.6%, it actually continued decreasing for a further three quarters before slowing increasing. The main reason was the depreciation of the South African Rand, which counteracted high inflation in South Africa. Looking at sub-categories of goods, all sectors where workers on the minimum wage are likely to be concentrated have seen lower than average inflation (food, services and household goods), with above average inflation seen in sectors such as fuel & light (utility prices increases), alcohol & tobacco (tax rises) and transport (car purchase increases).
    b. St Helena has continued to experience extremely low levels of unemployment. It is likely that unemployment will start to rise towards its long-run average as airport construction is completed (between 2005 and 2010, 40 people claimed unemployment benefit on average), but there is unlikely to be high levels of unemployment. The Committee were informed that the Government is monitoring the situation closely and working with Enterprise St Helena to identify opportunities to support those affected. Overall, the Government Economist's view is that, with the right financial and careers support in place, having a small amount of short-term/cyclical unemployment can be beneficial to economic growth as it alleviates recruitment difficulties for expanding businesses and reduces wage pressures, which have been significant in recent years. The focus for this report is ensuring that the minimum wage protects vulnerable employees in the current environment, but any increases in unemployment will certainly be a very important consideration in future reports.
    c. In 2012/13, aggregate business profits grew by 14.8%, before growing by 16.4% in 2013/14. Where the 2013 economic analysis indicated that profits would be reduced by between £200,000 and £350,000, they actually increased by £475,000. Of course, profits may have been even higher in the absence of a minimum wage but, at the very least, a good balance appears to have been struck between the need for strong businesses and the needs of low-wage employees.
25. Overall, the Committee feels that the economic impact of the minimum wage has not been as negative as feared, and has been modest compared to the wage growth experienced by employers who have been competing in a buoyant labour market with significant recruitment difficulties.

Summary

- An increase to £2.50 or more will ensure that the minimum wage rises faster than inflation.
- Benefits have increased quickly. Restoring the gap between full-time minimum wage earnings and the support available through IRB to the level that existed when the minimum wage was introduced, thus maintaining the incentive to work, requires a main rate of £2.62.
- An objective of trying to ensure equitable increases across the income distribution would suggest a minimum wage of £2.60 in the coming year.
- Overall, businesses appear able to afford a higher minimum wage. However, it is clear that a sector such as agriculture, highly reliant on labour with low productivity, could struggle in the short-term even if it encourages investment in the long-term. The issue is not significant enough to justify not taking the opportunity to protect low-paid employees across the economy, but we hope that SHG and ESH will continue to consider the support offered to the agricultural sector to increase investment and improve labour productivity.
- The Committee did not receive any specific evidence on the lower-age rate, but the principal of increasing the rate by the same percentage as the main rate was recommended by the Chamber of Commerce and the Social and Community Development Committee.

Recommendation: That from 1 July 2015, the hourly minimum wage should be set at

a) £2.60 per hour for all employees having attained the age of 18 years;
b) £1.65 per hour for all young people having attained the age of 16 and 17 years.

Pay Reference Period

The pay reference period is the period of time over which an employer must ensure it has met the minimum wage requirements. It is currently set at one month, or a shorter period if that period is specified in an employee's contract of employment. This helps to ensure that employees are paid at least the minimum wage regularly, reducing the ability of employers to, for example, include annual bonuses in the minimum wage calculation.

The Committee had received representation from the Chamber of Commerce that sales-related commission and bonuses should be allowed to be included in the minimum wage calculation. The Committee discussed this suggestion but concluded that the purpose of the minimum wage is to guarantee lower earners a regular minimum level of pay, and that the inclusion of bonuses or commission would introduce a degree of uncertainty about what an employee's income will be from one month to the next. Given the current low level of the minimum wage relative to general retail prices, this was seen by the Committee as unacceptable and counter to the intentions of the policy.

Recommendation: That the pay reference period should remain at one calendar month, or in the case of an employee paid wages in accordance with his contract of employment by reference to shorter period than one calendar month, that period.

Determination of Hourly Rate

Currently, the hourly rate actually paid to an employee is calculated by dividing total pay by the number of hours worked during the pay reference period. For example, if an employee is paid £400 a month for a 7 hour day and there are 22 working days in the month, the hourly rate paid is £2.60.

There is some flexibility built in for the employer to include payments made in the preceding or next month to be included in current pay reference period calculation. This allows for variations in the number of working days in a month where people are paid a fixed total per month, and other times when pay may vary slightly from month to month for administrative reasons (for example, the backdating of pay awards). Employers must include any hours specified in the contract of employment, even if the employee wasn't supplied with work to do, and any compulsory training.

The Committee did not receive any representations or evidence to suggest that these regulations need to be changed.

Recommendation: That the Determination of Hourly Rate should remain as specified under Section 6 of the Employment Rights (Minimum Wage) Regulations, 2013

Exclusions and Modifications

The current regulations exclude those whose work is undertaken off-island, those participating in work experience, redundancy and pension payments and payments made under court order (unless in connection with the payment of the minimum wage). Employers are not allowed to include payment of work-related expenses or payments in kind (e.g. meals), apart from living accommodation.

The Committee did not receive any representations or evidence to suggest that these regulations need to be changed.

Recommendation: That the Exclusions from the minimum wage and Payments to be Excluded from Calculation should remain as specified under Sections 4 and 5 of the Employment Rights (Minimum Wage) Regulations, 2013

Honourable Leslie Baldwin
Chairman, Employment Rights Committee
16 March 2015

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