



Jersey

**EMPLOYMENT (MINIMUM WAGE)  
(JERSEY) REGULATIONS 2004**

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Jersey

## EMPLOYMENT (MINIMUM WAGE) (JERSEY) REGULATIONS 2004

### Arrangement

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Jersey

## EMPLOYMENT (MINIMUM WAGE) (JERSEY) REGULATIONS 2004<sup>1</sup>

**THE STATES**, in pursuance of Articles 17, 18 and 104 of the Employment (Jersey) Law 2003<sup>2</sup>, have made the following Regulations –

Commencement [[see endnotes](#)]

### **1 Interpretation**

In these Regulations, unless the context otherwise requires –

“accredited training” means training that is approved in writing by the Minister as accredited training for the purposes of these Regulations;

“allowance”, except in Regulation 2(2)(b), means any payment paid by the employer to an employee attributable to a particular aspect of his or her working arrangements or to his or her working or personal circumstances that is not consolidated into the employee’s standard pay, but does not mean an allowance designed to refund an employee in respect of expenses incurred by the employee in connection with his or her employment;

“employee” means an employee who has ceased to be of compulsory school age;

“food and living accommodation”, when used in relation to an employee, means 3 adequate meals that are available on each day on which he or she is employed and living accommodation;

“living accommodation” when used in relation to an employee, means living accommodation that is available to the employee from midnight to midnight on each day on which he or she is employed;

“standard pay” –

- (a) if an employee has normal working hours, means the payment that he or she is entitled to receive by way of remuneration for his or her services during the employee’s normal working hours; and

- (b) if an employee does not have normal working hours, means the payment that he or she is entitled to receive by way of remuneration for his or her services;

“the total remuneration” means the total remuneration calculated in accordance with Regulation 7;

“trainee” means an employee of any age who, by written agreement with his or her employer, is undergoing accredited training during the first year of his or her employment by that employer in the particular job for which the employee is being trained.

## **2 Meaning of “payments”**

- (1) References in these Regulations to payments paid by the employer to the employee are references to payments paid by the employer to the employee in the latter’s capacity as an employee before any deductions are made.
- (2) However, they are not references to –
- (a) any payment by way of an advance under an agreement for a loan or by way of an advance of wages;
  - (b) any payment by way of a pension, by way of an allowance or gratuity in connection with the employee's retirement or as compensation for loss of office;
  - (c) any payment of an award made by a court or tribunal or to settle proceedings which have been or might be brought before a court or tribunal, other than the payment of an amount due under the employee's contract;
  - (d) any payment referable to the employee’s redundancy; or
  - (e) any payment by way of an award under a suggestions scheme.

## **3 Benefits in kind that count as payments**

- (1) The only benefits in kind provided by an employer to an employee that shall be treated for the purposes of these Regulations as payments by the employer to the employee are –
- (a) food; and
  - (b) living accommodation.
- (2) It is immaterial for the purpose of paragraph (1) that any money value is attached to a benefit in kind that does not comprise either food or living accommodation.

## **4 Trainees may be treated as qualifying for the minimum wage at a different rate<sup>3</sup>**

An Order made for the purpose of Article 16(3) of the Employment (Jersey) Law 2003 may prescribe minimum wages for trainees at different hourly rates than those that apply to other employees who qualify for the minimum wage.

**5 Calculation of hours worked in a pay reference period**

The hours worked by an employee in a pay reference period shall be the total number of hours worked by him or her during that period.

**6 How to determine whether the minimum wage has been paid**

- (1) The hourly rate paid to an employee in a pay reference period shall be determined by dividing the total amount calculated in accordance with paragraph (2) by the number of hours specified in paragraph (3).
- (2) The total amount to which paragraph (1) refers is **A** minus **B**, where –
  - (a) “**A**” is the total remuneration calculated under Regulation 7; and
  - (b) “**B**” is the total of the payments, deductions and other amounts specified in Regulation 8(1).
- (3) The hours to which paragraph (1) refers are the number of hours worked by the employee in the pay reference period that have been ascertained in accordance with Regulation 5.

**7 Payments by the employer that are to be taken into account**

- (1) The total remuneration in a pay reference period shall be calculated by adding together –
  - (a) all payments paid by the employer to the employee in the pay reference period;
  - (b) all payments paid by the employer to the employee in the following pay reference period, in respect of the pay reference period to which paragraph (a) refers (whether in respect of work or not);
  - (c) all payments paid by the employer to the employee later than the end of that following pay reference period, in respect of work done in the pay reference period to which paragraph (a) refers, being work specified in paragraph (2); and
  - (d) where the employer has during the pay reference period provided the employee either with food and living accommodation or with living accommodation, but in respect of that provision is not entitled to make any deduction from the wages of the employee and is not entitled to receive any payment from him or her, any amount determined in accordance with Regulation 9.<sup>4</sup>
- (2) The work to which paragraph (1)(c) refers is work in respect of which –
  - (a) the employee is under an obligation to complete a record of the amount of work done;
  - (b) the employee is not entitled to payment until the completed record has been submitted by him or her to the employer; and
  - (c) the employee has failed to submit a record before the fourth working day before the end of that following pay reference period,

and in respect of which the payment is paid in either the pay reference period in which the record is submitted to the employer or in the pay reference period following that.

## **8 Things that must not be taken into account**

- (1) The payments, deductions and other amounts to which this paragraph refers are –
  - (a) all payments paid by the employer to the employee in the pay reference period that, by virtue of paragraph (1)(b) or paragraph (1)(c) of Regulation 7, are to be included in the total of remuneration for an earlier pay reference period;
  - (b) all payments paid by the employer to the employee in respect of periods when the employee was absent from work or engaged in taking industrial action;
  - (c) all payments paid by the employer to the employee by way of an allowance other than an allowance attributable to the performance of the employee in carrying out his or her work;
  - (d) all payments paid by the employer to the employee representing amounts paid by customers by way of a service charge, tip, gratuity or cover charge;
  - (e) all deductions in respect of the employee's expenditure in connection with his or her employment;
  - (f) all deductions that are made by the employer for his or her own use and benefit (and accordingly not attributable to any amount paid or payable by the employer to any other person on behalf of the employee), except deductions specified in paragraph (3); and
  - (g) the amount of all deductions that the employer is entitled to make or payments that he or she is entitled to receive from the employee, in respect of the provision by the employer to the employee in the pay reference period either of food and living accommodation or of living accommodation.<sup>5</sup>
- (2) However –
  - (a) the amount to which paragraph (1)(g) refers shall be taken into account only to the extent that it exceeds the amount determined in accordance with Regulation 9; and
  - (b) to the extent that any payment or deduction is required to be subtracted from the total of remuneration by virtue of more than one sub-paragraph of paragraph (1), it shall be subtracted only once.
- (3) The deductions to which this paragraph refers (which are deductions to which paragraph (1)(f) does not apply) are –
  - (a) any deduction in respect of conduct of the employee, or any other event, in respect of which he or she is contractually liable (whether together with any other employees or not);
  - (b) any deduction on account of an advance under an agreement for a loan or an advance of wages;



- (c) any deduction made to recover an accidental overpayment of wages made to the employee; and
- (d) any deduction in respect of the purchase by the employee of any share, other security or share option, or of any share in a partnership.

**9 Limits on amounts that may be taken into account for the provision of food and living accommodation<sup>6</sup>**

- (1) Where the employer provides food and living accommodation, the amount to which Regulations 7(1)(d) and 8(1)(g) refer is –
  - (a) in the case of an employee who is a trainee, £70.94 per week or £10.13 per day; and
  - (b) in any other case, £94.58 per week or £13.51 per day.
- (2) Where the employer provides living accommodation but does not provide food, the amount to which Regulations 7(1)(d) and 8(1)(g) refer is –
  - (a) in the case of an employee who is a trainee, £53.21 per week or £7.60 per day; and
  - (b) in any other case, £70.94 per week or £10.13 per day.

**10 Citation**

These Regulations may be cited as the Employment (Minimum Wage) (Jersey) Regulations 2004.

**ENDNOTES****Table of Legislation History**

<b>Legislation</b>	<b>Year and No</b>	<b>Commencement</b>
Employment (Minimum Wage) (Jersey) Regulations 2004	R&O.89/2004	1 July 2005
States of Jersey (Amendments and Construction Provisions No. 8) (Jersey) Regulations 2005	R&O.48/2005	9 December 2005
Employment (Minimum Wage) (Amendment) (Jersey) Regulations 2006	R&O.19/2006	1 April 2006
Employment (Minimum Wage) (Amendment No. 2) (Jersey) Regulations 2007	R&O.47/2007	1 April 2007
Employment (Minimum Wage) (Amendment No. 3) (Jersey) Regulations 2007	R&O.69/2007	22 May 2007
Employment (Minimum Wage) (Amendment No. 4) (Jersey) Regulations 2008	R&O.22/2008	1 April 2008
Employment (Minimum Wage) (Amendment No. 5) (Jersey) Regulations 2009	R&O.12/2009	1 April 2009
Employment (Minimum Wage) (Amendment No. 6) (Jersey) Regulations 2010	R&O.19/2010	1 April 2010
Employment (Minimum Wage) (Amendment No. 7) (Jersey) Regulations 2011	R&O.15/2011	1 April 2011
Employment (Minimum Wage) (Amendment No. 8) (Jersey) Regulations 2012	R&O.8/2012	1 April 2012

**Table of Renumbered Provisions**

<b>Original</b>	<b>Current</b>
10(1)	10
10(2)	Spent, omitted

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**Table of Endnote References**

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- <sup>1</sup> *These Regulations have been amended by the States of Jersey (Amendments and Construction Provisions No. 8) (Jersey) Regulations 2005. The amendments replace all references to a Committee of the States of Jersey with a reference to a Minister of the States of Jersey, and remove and add defined terms appropriately, consequentially upon the move from a committee system of government to a ministerial system of government.*
- <sup>2</sup> *chapter 05.255*
- <sup>3</sup> *Regulation 4 substituted by R&O.69/2007*
- <sup>4</sup> *Regulation 7(1) amended by R&O.47/2007*
- <sup>5</sup> *Regulation 8(1) amended by R&O.15/2011*
- <sup>6</sup> *Regulation 9 substituted by R&O.8/2012*