

GLA Board meeting: 25th November 2010 (8.6 HMRC update)

“NATIONAL MINIMUM WAGE WORKERS:  
TRAVEL AND SUBSISTENCE EXPENSES SCHEMES.”

In July 2010 the Government published a summary of responses to its February 2010 consultation: “National Minimum Wage workers: Travel and subsistence expenses schemes.”

In the responses document the Government announced its intention to amend the National Minimum Wage Regulations 1999 in order that payments made by an employer to an employee for travel expenses to a temporary workplace, and associated subsistence expenses, which are eligible for tax relief, do not count as pay for National Minimum Wage purposes.

The Department for Business, Innovation & Skills has laid amending Regulations before Parliament which will be subject to debate. Subject to the Regulations receiving the necessary affirmation from Parliament, they are to come into force with effect from 1 January 2011.

It is a matter of public record that Cordant Plc has sought Judicial Review of the Government’s decision to amend the NMW Regulations. The rolled-up permission and substantive hearing is scheduled for 20<sup>th</sup> & 21<sup>st</sup> December 2010.

Notwithstanding the Judicial Review hearing, employment businesses and umbrella companies affected by the proposed change are strongly advised to ensure that they are able to make any changes necessary with effect from 1 January 2011.

If the Regulations come into force as intended by the Government, HMRC Compliance staff will be focussing on their application to travel and subsistence schemes and umbrella companies from 1<sup>st</sup> January 2011.

HMRC is aware that schemes are already being marketed which purport to circumvent the proposed change to the Regulations. HMRC does not accept that these schemes do successfully circumvent the Regulations. If the Regulations come into force, as part of its compliance activity HMRC will focus on those employment businesses and umbrella companies using such schemes.