



GLAA Brief

Issue 52 – April 2017
Charge Rate Guidance

This Brief publishes the latest guidance on indicative minimum charge rates between labour providers and labour users, effective from 1 April 2017.

Introduction

This indicative guidance sets out the minimum charge rates to apply between a labour provider and labour user. The rates cover statutory requirements as well as a basic overhead. This latest guidance takes account of the National Living Wage for workers aged 25 and over, the new Agricultural Wages (Wales) Order 2016 and the Northern Ireland Agricultural Wages Order 2017.

These rates, effective from April 2017, take account of the National Minimum Wage (NMW) increase for workers aged under 25. The NMW, National Living Wage (NLW), Scottish, Welsh and Northern Irish Agricultural Minimum Wage have now been aligned to change every April starting April 2017.

The rates do not include any margin for a labour provider's profit. The figures have been compiled for the GLAA by the Association of Labour Providers. This Brief replaces GLA Brief 49.

Please note that these rates are purely indicative. Depending on its business model, a labour provider could charge less than the rates published. However, any figure significantly less than the published rates raises concerns of non-compliance to reduce costs. The GLAA will closely scrutinise charges that are less than the published rates to make sure the labour provider is operating compliantly.

What the figures mean

Statutory Charge Factors

This includes the appropriate Minimum Wage, employer's national insurance, statutory holiday entitlement, Apprenticeship Levy and pension auto-enrolment costs at 1 % of qualifying earnings.

Labour Provider Overhead and Service Charge

Defra analysis conducted in 2003 estimated labour provider overhead costs as 30% on top of the National Minimum Wage. In reaching this figure Defra state that the result is not intended to be a realistic description of the costs of any particular labour provider business (e.g. it makes no attempt to allow for the costs of rent / interest charges on office accommodation, which may vary widely from one business to another). It also states that this figure is likely to understate the actual costs for almost all businesses as well as making no allowance for management costs or profit. Rather this is intended to be an illustration of the minimum unavoidable costs that flow from observing the law on basic employment matters such as the minimum wage, national insurance, employers' liability insurance, and maintaining and insuring roadworthy vehicles.

The figure for Overhead and Service Charge Costs is indicative only and will vary with each contract depending on the efficiency of a labour provider and the particular circumstances of the client and site to which labour is supplied. For example, contracts where the labour provider is required to provide work wear, where there is volatility of supply, where transport or supervision costs are high, where invoices are factored and so on will all incur a greater overhead cost.

The actual rate charged is ultimately a commercial agreement between the labour provider and user. Any agreed rate should take into account the particular costs of supply. However, charge rates lower than those in the rates tables plus a sustainable net margin may indicate illegal activity - unless there is a legitimate and demonstrable explanation.

Charge Rate Tables

NATIONAL MINIMUM WAGE AND NATIONAL LIVING WAGE (Oct 16 to Apr 2017)	Apprentices	Age 16-17	Age 18-20	Age 21-24	Age 25 plus
1. Minimum wage	£3.50	£4.05	£5.60	£7.05	£7.50
2. Employers' National Insurance ("NI") Contributions				£0.43	£0.49
3. Annual Holiday Pay (5.6 weeks entitlement)	£0.42	£0.49	£0.68	£0.90	£0.96
4. Apprenticeship Levy (for businesses with over £3m paybill)	£0.02	£0.02	£0.03	£0.04	£0.04
5. Pensions Auto-Enrolment Cost (1% of qualifying earnings)				£0.04	£0.05
6. Total Wage Costs	£3.94	£4.56	£6.31	£8.47	£9.05
7. Guideline Statutory Sick/Maternity Pay cost	£0.11	£0.11	£0.11	£0.11	£0.11
8. Guideline Minimum Labour Provider Overhead & Service Cost	£0.65	£0.65	£0.65	£0.65	£0.65
9. Hourly Cost of Supply (not including Labour Provider Margin)	£4.70	£5.32	£7.07	£9.23	£9.81

WALES AGRICULTURAL EMPLOYEES	Grade 1 & Age <25 & <52 weeks	Grade 1 & Age 25+ & <52 weeks	Grade 1 & Age <25 & > 52 weeks	Grade 1 & Age 25+ & >52 weeks	Grade 1 Age <25 Over- time	Grade 1 Age >25 Over- time
1. Minimum wage	£7.05	£7.50	£7.05	£7.50	£11.25	£11.25
2. Employers' NI Contributions	£0.42	£0.48	£0.42	£0.48	£1.55	£1.55
3. Annual Holiday Pay	£1.01	£1.08	£1.01	£1.08		
4. Apprenticeship Levy (for businesses with over £3m payroll)	£0.04	£0.04	£0.04	£0.04	£0.06	£0.06
5. Pensions Auto-Enrolment Cost (1% of qualifying earnings)	£0.04	£0.05	£0.04	£0.05	£0.11	£0.11
6. Total Wage Costs	£8.56	£9.15	£8.56	£9.15	£12.97	£12.97
7. Guideline Statutory Sick/Maternity Pay cost	£0.11	£0.11	£0.32	£0.34		
8. Guideline Minimum Labour Provider Overhead & Service Cost	£0.65	£0.65	£0.65	£0.65	£0.65	£0.65
9. Hourly Cost of Supply (not including Labour Provider Margin)	£9.32	£9.91	£9.53	£10.14	£13.62	£13.62

SCOTLAND AGRICULTURAL EMPLOYEES*	All Ages	Overtime
1. Minimum wage	£7.50	£11.25
2. Employers' NI Contributions	£0.48	£1.55
3. Annual Holiday Pay	£0.96	
3a. Special Holiday Pay	£0.07	
4. Apprenticeship Levy (for businesses with over £3m payroll)	£0.04	£0.06
5. Pensions Auto-Enrolment Cost (1% of qualifying earnings)	£0.05	£0.11
6. Total Wage Costs	£9.10	£12.97
7. Guideline Statutory Sick/Maternity Pay cost	£0.11	
8. Guideline Minimum Labour Provider Overhead & Service Cost	£0.65	£0.65
9. Hourly Cost of Supply (not including Labour Provider Margin)	£9.86	£13.62

In addition, workers who have been with the same employer for more than 26 weeks and who hold a relevant qualification are entitled to be paid an additional sum of at least £1.14 per hour.

NORTHERN IRELAND AGRICULTURAL EMPLOYEES	Age <25 & <40 weeks Service	Age <25 & 40+ weeks Service	Age 25+ & <52 weeks Service	Age 25+ & 52+ weeks Service	Age <25 & <40 weeks Overtime	Age 25+ & <52 weeks Overtime
1. Minimum wage	£7.05	£7.17	£7.50	£7.50	£11.25	£11.25
2. Employers' NI Contributions	£0.42	£0.43	£0.48	£0.48	£1.55	£1.55
3. Annual Holiday Pay	£0.90	£0.92	£0.96	£1.00		
4. Apprenticeship Levy (for businesses with over £3m paybill)	£0.04	£0.04	£0.04	£0.04	£0.06	£0.06
5. Pensions Auto-Enrolment Cost (1% of qualifying earnings)	£0.04	£0.04	£0.05	£0.05	£0.11	£0.11
6. Total Wage Costs	£8.45	£8.61	£9.03	£9.07	£12.97	£12.97
7. Guideline Statutory Sick/Maternity Pay cost	£0.11	£0.11	£0.11	£0.30		
8. Guideline Minimum Labour Provider Overhead & Service Cost	£0.65	£0.65	£0.65	£0.65	£0.65	£0.65
9. Hourly Cost of Supply (not including Labour Provider Margin)	£9.21	£9.37	£9.79	£10.02	£13.62	£13.62

Definitions and Explanations

The numbers below refer to the numbered charge elements in the rates tables above:

1. The hourly minimum rate represents the National Minimum Wage, National Living Wage or the Agricultural Minimum Wage for Grade 1 workers. This rate increases in Northern Ireland after 40 weeks service for workers aged under 25. Workers employed in agriculture in Scotland, Wales and Northern Ireland have a statutory entitlement to overtime after 39 hours (after 48 hours during the first 26 weeks of employment in Scotland) in accordance with the appropriate Agricultural Wages Order. N.B. There is no protection from age discrimination for rates above the National Minimum Wage, hence the ALP has also used the overtime rate for over 25s for workers aged under 25.

2. Employer's NI must be paid at 13.8% on earnings above the secondary threshold of £157 per week for workers aged above 21. The first £157 is NI free (NI free up to the Upper Secondary Threshold for workers below 21). The NI figures for non-overtime rates are based on 40 hours worked in non-agriculture and 39 hours in agriculture.

For temporary agricultural employees on overtime, the £157 NI free amount will generally already have been used so employer's NI has been calculated at the full 13.8%.

3. Holiday Pay

- a. Calculations of holiday pay to be charged are based on the hourly rate plus Employers' NI as when holiday pay is paid to the worker, employers' NI is paid on this and therefore must be accrued from the charge rate.
- b. Non Agricultural Workers - are entitled to 5.6 weeks holiday (calculated pro rata as 12.07% of the hourly rate and NI = 5.6 weeks / (52 weeks-5.6 weeks).

Agricultural Employees in Wales - Workers are entitled under the AWO to a variable amount of "total annual holiday entitlement" depending on how many days per week they have retrospectively worked. Based on a 5 day week workers are entitled to 31 days paid annual holiday from the first day of work equivalent to 13.54% of the relevant hourly rate and NI. This is the figure shown.

Agricultural Employees in Scotland - are entitled to 5.6 weeks holiday plus 2 special days per year. A week is equivalent to the number of days that an employee would be expected to work in the course of a regular working week. This is equivalent to 13.04% of the relevant hourly rate and NI.

Agricultural Employees in Northern Ireland are entitled under the NIAWO to 5.6 weeks equivalent to 12.07% of the hourly rate and NI. After the completion of 12 months continuous employment with the same employer the annual holiday entitlement increases to 5.8 weeks paid annual holiday equivalent to 12.55% of the relevant hourly rate and NI.

- c. How holiday pay should be calculated varies dependent on workers contracts and working patterns. Pay used to calculate holiday pay should include any payments intrinsically linked to the work done such as shift pay; performance related bonuses; guaranteed and non-guaranteed compulsory overtime. Currently this does not include non-compulsory optional overtime until case law determines otherwise.
 - i. Where remuneration for normal working hours does not vary i.e. workers on a fixed wage - holiday pay is based on contractual pay i.e. includes guaranteed overtime and pay intrinsically linked to the work done.
 - ii. Where a worker's working hours are not specified by the contract and that worker works irregular hours and is not entitled to overtime pay when employed for more than a fixed number of hours in a week holiday pay is calculated by reference to the worker's average remuneration over the previous 12 weeks (replacing weeks in which no pay was received with

previous weeks) for all hours worked and including payments “intrinsically linked” to the performance of tasks.

- iii. Where a worker works irregular hours, and receives an enhanced overtime rate after a fixed number of hours (such as workers covered by Agricultural Wages Orders) and where these “normal working hours” on assignment are specified in the Worker Assignment Sheet which forms part of the contract with that worker. Holiday pay is based on the average hourly rate over the previous 12 weeks (replacing weeks in which no pay was received with previous weeks) for “normal working hours” and including payments “intrinsically linked” to the performance of tasks.
4. The Apprenticeship Levy applies to all employers with a payroll of over £3million (including agency workers on contracts for services) and is a statutory charge of 0.5% on all pay elements subject to employer’s NI.
5. Pension auto-enrolment commenced in October 2012 with staging dates depending on headcount. Currently a minimum of 1% of qualifying earnings must come from the labour provider as a statutory charge factor once due and where workers have not opted out. This rises to 2% in April 2018 and 3% in April 2019.
6. This figure shows the actual minimum unavoidable Total Wage Costs to meet minimum legal requirements.
7. Provision for statutory sick pay leave, in line with the Defra estimate, of 2 weeks is assumed at £89.35 per week. This is accrued on normal time only, not on overtime. This figure also covers the 8 per cent of statutory maternity, paternity, adoption, and statutory shared parental payments that must be met by the labour provider. Agricultural wages sick pay is payable in Wales after 52 weeks employment. In Scotland agricultural employees continuously employed by the same employer for at least 52 weeks are entitled to sick pay at normal rates for normal hours worked for a period of 13 weeks after which SSP applies.
8. Indicative guideline for minimum labour provider overhead and service cost: Defra analysis has estimated overhead costs as 30 per cent on top of the National Minimum Wage. However, this figure is illustrative only. Actual costs will vary depending on the individual circumstances of each labour provider.
9. This is the total hourly cost of supply but does not include any margin to cover labour provider profit.

Further information

10. If you any questions about this Brief, please contact the GLAA helpline on 0345 602 5020 or email licensing@gla.gsi.gov.uk.

11. For the latest news and updates from the GLAA:



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