

# RETAILERS RESPONSE: NATIONAL LIVING WAGE

Employers warned by the Chancellor to not adjust pay and benefits to offset cost of National Living Wage



Within weeks of the introduction of the National Living Wage on 1 April 2016, there have been reports that some employers - primarily those operating in the retail sector - have reduced hours, pay rates and other benefits to offset the cost of raising the wage floor. In response to this, the Chancellor, George Osborne, has warned that such measures do not abide by the "spirit of the law" and that such employers should be mindful of their social responsibilities and corporate reputation. Labour MPs have also called for penalties to be imposed on employers who make use of such offsetting measures.

The National Living Wage came into force on 1 April 2016, introducing a new minimum hourly wage rate of £7.20 for workers aged 25 and over. This rate is expected to rise to £9.00 by 2020. You can read more about the National Living Wage in our report [here](#).

Research by the Regulatory Policy Committee found that the direct cost to private-sector employers of raising wages is £700 million, with a further £137 million of related costs such as pensions and National Insurance Contributions. Perhaps unsurprisingly, many employers, primarily those operating in the retail sector, have taken steps to offset the cost of raising the wage floor. There have been recent press reports of employers introducing the following offsetting measures:

- **Reduction in working hours** (a major support services employer)
- **Withdrawal or reduction of enhanced overtime pay rates** (a major groceries retailer and a major hardware retailer)
- **Withdrawal or reduction of enhanced Sunday pay rates** (three major groceries retailers and three major hardware / homeware retailers)
- **Withdrawal or reduction of paid breaks** (a car parts manufacturer, a major groceries retailer and a major hardware retailer)
- **Withdrawal of free food / closure of staff canteens** (two major groceries retailers and a major café chain)

Reports have emerged that one major retailer has instituted a combination of measures, including cuts to Sunday and Bank Holiday pay rates and bonuses, which has resulted in a 30% reduction in take-home pay overall for some workers.

In response to these developments, Labour MP, Siobhan McDonagh, initiated a [campaign](#) to raise awareness of the impact of the National Living Wage for some workers. She has asked the Government to take action to prevent employers from instituting offsetting measures such as those set out above. One suggestion is to introduce a statutory right to a paid rest break of 20 minutes per 6-hour shift. Currently, employers are not obliged to pay for such rest breaks. Ms McDonagh also called a Parliamentary debate on the effect of the National Living Wage on 18 April 2016. At the debate, fellow Labour MP, Joan Ryan, called for penalties to be imposed on employers who had cut pay and benefits in order to circumvent the cost of the National Living Wage.

Whilst offsetting measures do not breach the National Living Wage legislation, the Government has sought to apply moral pressure on employers to resist cutting pay and benefits in this way. The Chancellor, George Osborne, said that employers should: *"...be careful about their reputation and...their social responsibility to their workforce as well as to their community"*. Further, Business Minister, Nick Boles urged MPs to notify the Government of businesses taking such measures so that "pressure" could be applied upon them.

#### **Addleshaw Goddard comment...**

Employers considering introducing offsetting measures must ensure that any changes to employees' terms and conditions of employment are effected lawfully. If the employer is unable to secure agreement to such changes, then it may need to dismiss and offer to re-engage on the new terms and conditions. Where 20 or more employees are affected within a 90-day period, this would trigger collective redundancy consultation of at least 30 days (or 45 days if 100+ employees are affected). Employers should also carefully consider the potential reputational impact of taking such measures given Siobhan McDonagh MP's campaign and the intense media scrutiny of this issue.

For more information, please contact Sally Hulston, Employment Partner and Retail and Consumer specialist: [sally.hulston@addleshawgoddard.com](mailto:sally.hulston@addleshawgoddard.com).

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