

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

First Delegated Legislation Committee

DRAFT NATIONAL MINIMUM WAGE
(AMENDMENT) (NO. 2) REGULATIONS 2016

Thursday 8 September 2016

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The Committee consisted of the following Members:

Chair: PHIL WILSON

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| † Atkins, Victoria (<i>Louth and Horncastle</i>) (Con) | † James, Margot (<i>Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy</i>) |
| † Blackford, Ian (<i>Ross, Skye and Lochaber</i>) (SNP) | † Kinnock, Stephen (<i>Aberavon</i>) (Lab) |
| † Clwyd, Ann (<i>Cynon Valley</i>) (Lab) | † Morden, Jessica (<i>Newport East</i>) (Lab) |
| † Davies, Mims (<i>Eastleigh</i>) (Con) | † Pincher, Christopher (<i>Tamworth</i>) (Con) |
| Dugher, Michael (<i>Barnsley East</i>) (Lab) | † Quince, Will (<i>Colchester</i>) (Con) |
| † Esterson, Bill (<i>Sefton Central</i>) (Lab) | Soames, Sir Nicholas (<i>Mid Sussex</i>) (Con) |
| † Fabricant, Michael (<i>Lichfield</i>) (Con) | † Stephens, Chris (<i>Glasgow South West</i>) (SNP) |
| † Griffith, Nia (<i>Llanelli</i>) (Lab) | † Throup, Maggie (<i>Erewash</i>) (Con) |
| † Hall, Luke (<i>Thornbury and Yate</i>) (Con) | Fergus Reid, <i>Committee Clerk</i> |
| † Hart, Simon (<i>Carmarthen West and South Pembrokeshire</i>) (Con) | † attended the Committee |

First Delegated Legislation Committee

Thursday 8 September 2016

[PHIL WILSON *in the Chair*]

Draft National Minimum Wage (Amendment) (No. 2) Regulations 2016

11.30 am

The Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy (Margot James): I beg to move,

That the Committee has considered the draft National Minimum Wage (Amendment) (No. 2) Regulations 2016.

It is a pleasure to serve under your chairmanship, Mr Wilson. The purpose of the draft regulations is to increase the hourly rate of the national minimum wage for all workers, and to increase the maximum amount for living accommodation that counts towards minimum wage pay, in line with recommendations from the Low Pay Commission.

The national minimum wage is designed to protect low-income workers, and to provide an incentive to work by ensuring that all workers receive at least the hourly minimum rates set. The minimum wage also helps business by ensuring that competition is based on the quality of goods and services provided, and not on low prices based on low rates of pay.

Following advice from the Low Pay Commission, the Government are uprating the minimum wage from 1 October 2016, so that the main rate for 21 to 24-year-olds will be £6.95 per hour, which represents an increase of 3.7%. Young people aged between 18 and 20 years old will be entitled to a minimum of £5.55, which is a 4.7% increase on the rate now in force, and those aged between 16 and 17 years will have a minimum wage rate of £4.00 per hour. For apprentices aged 19, or those aged 19 and over in the first year of their apprenticeship, we are increasing the minimum wage by 3%, to £3.40.

Turning back to the rate for 21 to 24-year-olds, the increase is the largest cash increase in the main rate of the national minimum wage since 2008. As a result, people working full time—35 hours a week—on the national minimum wage will see their earnings increase by about £450 a year.

The new main rate of the national minimum wage is expected to be at its highest level ever when accounting for the general increases in prices, surpassing its pre-recession peak. In all, we estimate that about 500,000 workers will benefit from all the national minimum wage increases this year.

The accommodation offset was introduced in 1999 and provides a mechanism to offset the cost of providing accommodation for workers against the national minimum wage. Following advice from the Low Pay Commission, we are increasing the accommodation offset significantly, by 12%, to £6.00 per day from 1 October 2016.

Since the introduction of the national minimum wage in 1999, it has been a success in supporting the lowest-paid UK workers. On the whole, it has increased faster than

average wages and inflation, without an adverse effect on employment. It continued to rise each year during the worst recession in living memory, and the new main rate is expected to be at its highest ever real value.

Jessica Morden (Newport East) (Lab): May I raise with the Minister the issue of Marks and Spencer workers? There is a campaign to press M&S during its consultation on reducing premium pay for Sundays and bank holidays and on reducing pension contributions—changes that would hit some of the longest-serving staff hardest. Does she agree that it is unacceptable for companies to contemplate making such changes in light of the national living wage coming in?

Margot James: I thank the hon. Lady for her intervention. I propose meeting Marks and Spencer to discuss a range of matters, including some of the points that she makes. It is important to remember that, by law, as long as companies pay the national minimum wage and, in future, pay those over 25 the national living wage, there will be a limit to what the Government can do, apart from expressing a keen concern that employers should operate within the spirit, as well as the letter, of the law.

Chris Stephens (Glasgow South West) (SNP): There is a real issue with enforcement. The National Audit Office said that, last year, 209,000 workers in the UK were not being paid the national minimum wage and that 56,000 were owed arrears. Will the Minister outline the Government's plans to enforce the national minimum wage better throughout the UK?

Margot James: We are doing a great deal to improve enforcement. Sadly, there will always be cases of employers who have the very immoral intent of getting round this law, but the powers of investigation of Her Majesty's Revenue and Customs are increasing, and we are increasing the expenditure on HMRC's enforcement team. I will come on to make other points about enforcement; there are various other things that we are doing to increase it. Every single complaint made by an employee is automatically investigated by HMRC's enforcement team. This year, we have increased the budget from between £13 million and £14 million to £20 million. We are serious about cracking down on employers that try to flout the law. I shall return to enforcement in due course, because I agree with the hon. Gentleman that it is crucial.

The Low Pay Commission has proved that a rising minimum wage can go hand in hand with rising employment. However, the carefully considered independent advice from the commission is central to this. The Government's 2016 remit for the commission asked it to make recommendations for the new rates, based on maximising the wages of the low-paid without damaging their employment opportunities. The commission has made its recommendations following thorough consultation with business, workers, and their representatives, and extensive research and analysis.

The Low Pay Commission's remit is clear: when considering the pace of increases to minimum wage rates, it should take into account the state of the economy. The commission has stated:

“the labour market had continued to perform well, with robust employment growth in low-paying sectors”.

Although the referendum result may have cast some uncertainty over forecasts and assessments made before June this year, we should remember that the labour market performed robustly during the worst recession in living memory.

The increases to the minimum wage rates are, of course, in addition to the national living wage for those aged over 25, which we implemented in April. It is the Government’s ambition for a national living wage to reach 60% of median earnings by 2020. In addition, the national minimum wage cycle will be aligned with the national living wage cycle from April 2017. That will reduce the burden on businesses of having to update their workforce’s pay more than once a year and will mean that the statutory pay floor for all ages is updated simultaneously.

Michael Fabricant (Lichfield) (Con): Is my hon. Friend aware that in the US, which had a minimum wage before we did, the rate is currently \$7.25 an hour? That is only £5.50 at the current rate of exchange. Does that not put into context how good our minimum wage is, let alone the living wage?

Margot James: I thank my hon. Friend for his informative intervention. The fact that it is more or less dollar for pound indicates that we in Britain are doing as much as we possibly can to protect the interests of low-paid workers, and to pay them the maximum that the economy can afford without damaging their employment prospects.

Chris Stephens: Since the Government announced their version of a living wage for those over 25, there has been no explanation of why the age of 25 was chosen. Will the Minister outline why that age was set for a living wage, rather than 21?

Margot James: The wages of young adults between the ages of 21 and 25 are protected by the minimum wage regulations, which will continue to apply. It is felt that prior to the age of 25, people in employment are gaining experience, and that the most important thing for them is to be in work and looking at their prospects in the workplace. I am sure that is felt by the Low Pay Commission, which advises the Government on such matters, while having a remit of having regard to the state of the economy as a whole and a mission to not damage people’s employment prospects. Those factors informed the Government’s decision to pick the age of 25 for the national living wage.

I point out to the hon. Gentleman that a lot of employers—particularly in the retail sector, for which I am responsible—are finding the prospect of a national living wage a huge challenge. If we lowered the age or dramatically increased the rate, there would be a grave danger to young people’s employment prospects, which it is the Government’s duty absolutely to protect.

If I may make some progress, I will come on to the issue of enforcement, which I know is of interest to the hon. Gentleman. We are absolutely clear that anyone entitled to the national minimum wage or the national living wage should receive it. The enforcement of the minimum wage is essential to its success, and we are

committed to cracking down on employers who break minimum wage law in all sectors across the economy. That is why we have increased HMRC’s enforcement budget, as I was saying earlier, to £20 million from £13 million last year. This will bolster HMRC’s resources and ensure that it continues to respond to every worker complaint.

The Government will continue to take a tough approach to employers that break minimum wage law, and will continue to name eligible employers in the vast majority of cases. From April this year, the Government have also significantly increased the national minimum wage penalty, taking it from 100% to 200% of the arrears owed to the worker, up to a maximum of £20,000 per worker. HMRC will continue to refer the most serious cases of wilful non-compliance for criminal investigation.

In conclusion, the Government believe that the rate set out in the regulations will increase the wages of the lowest-paid while being affordable for business.

11.42 am

Bill Esterson (Sefton Central) (Lab): It is a pleasure to serve under your chairmanship, Mr Wilson. The Minister set out the good news about the 3.7% rise in the national minimum wage that is before us. She acknowledged that it has been some time since there have been significant rises; the regulations start to rectify the fact that rates have fallen behind over many years. This good news for young workers is tempered by the fact that if someone is under 25, they do not get the national living wage. The Scottish National party spokesman asked why; I am afraid that I do not find the Minister’s answer at all convincing, any more than we did when the national living wage first came through.

Margot James: I am sorry to interrupt the hon. Gentleman so soon in his speech, but will he acknowledge that young people aged between 21 and 24 will be paid, through this increase in the minimum wage, £6.95 per hour? Would he not agree that the difference between that and the national living wage is fairly small?

Bill Esterson: Perhaps the Minister has just told us that she has no intention of putting up the so-called national living wage by very much. I remind her that the Living Wage Foundation says that a living wage in this country is £8.25, or £9.40 in London—not the lower smoke-and-mirrors figure of £7.20 that the former Chancellor introduced.

Michael Fabricant: I was quite involved in the minimum wage when it came in under Tony Blair, the former leader of the Labour party, in 1999. The age of 25 was chosen because the Labour party got good advice that if it priced the minimum wage for those under 25 at the same amount as for those aged 25 and over, those under 25 would not get employed. The Labour party wanted 21 to 25-year-olds in work; it is as simple as that. It may be that the old Labour party, as opposed to new Labour, resents or rejects that, but that was the view of the Labour party at the time, and it was correct.

Bill Esterson: I remember all too well the all-night sitting—I was a researcher at the time—during which Conservative MPs filibustered as long as they could to

[Bill Esterson]

prevent the national minimum wage from being introduced, so we will not take any lectures about the implementation of the national minimum wage. [Interruption.]

The Chair: Order.

Bill Esterson: The point is well made that there is a difference. The reality is that old and young workers will potentially be set against each other. Employers in low-paid sectors might be encouraged to recruit up to the age of 24, to replace staff by using short-term contracts, and to discriminate against older workers. There are all sorts of problems and concerns arising from the differential. I will be interested to see whether the so-called national living wage goes up by a similar amount.

There are real problems with what has happened. We had a successful partnership between the Government, business and trade unions in the Low Pay Commission, which is still operating for under-25s. The way that the previous Chancellor went about introducing the national living wage undercut that partnership approach and has caused problems for low-paid sectors such as care and hospitality. In care in particular, and where budgets have been cut in local government and in the public sector generally, it has really caused a problem. Those employers, and employers whose private businesses are engaged by the public sector, have no way of making up the shortfall in order to pay the higher national living wage. I do not think the Government have addressed that point in their introduction of the national living wage. Surely they should have increased local government budgets, so that local government could in turn pass on those increases either to its own workers or to workers employed by contractors.

We have heard about M&S, and a similar point could be made about Sports Direct. The Minister talked about enforcement and how serious the Government are about it. She spoke about the welcome increase in funding for HMRC staff from £13 million to £20 million, but how many staff is that? How many prosecutions has HMRC started? How many times has the national minimum wage penalty been applied? What level of criminal evidence does HMRC require to start an investigation?

We have heard enough about Sports Direct's behaviour for me to ask whether the Minister believes that it should be subject to a criminal investigation, notwithstanding its apparent Damascene conversion to the cause of workers and low pay over the past few days, just before its annual meeting. Of course, it turned out that the improvements in pay and conditions would affect 10 workers a year. I would like to hear a bit more about exactly what action has been taken. The SNP spokesman spoke of hundreds of thousands of cases across this country. I very much doubt there have been hundreds of thousands of investigations by HMRC, so let us have the figure, so we can see exactly how effective the measures are.

A successful economy is characterised as one where working people are paid well. There are a number of reasons for that—not just reasons of decency and prosperity. Where people are paid well, they have more money to spend with private businesses, and more people are in a

position to pay tax to fund the high-quality public services that we as individuals need, and that the private sector needs to be able to run effective businesses. So we should all support attempts to improve the rates of pay and the standard of living of ordinary working people in this country. Is that really what is happening as a result of the differential between under-25s and over-25s? Will a 3.7% one-off rise in the national minimum wage, after years of stagnation and a fall in real terms, really cut it? I rather doubt it.

I look forward to the Minister's response on the level of prosecutions, and on investigation and enforcement by HMRC. Employers who are allowed to get away with not paying the minimum wage are gaining an unfair competitive advantage over those who want to pay properly. We should be encouraging good, responsible business behaviour in this country, so let us see more enforcement. I look forward to hearing what the Minister has to say on those points.

11.50 am

Michael Fabricant: I was not going to speak, but I have been driven to do so by the hon. Member for Sefton Central. I agree with his last few words—enforcement is tremendously important—but his rewriting of history has been quite remarkable. He may have been here as a researcher when the minimum wage was introduced; I was the Opposition Whip at the time, but they would not put me on that Committee because the only row I ever had with our then leader, William Hague—now a noble Lord—was over the minimum wage. I said to him at the time that the minimum wage was something that we would come to support. He said, "It will never happen"—that was not a very good impersonation—and I said, "Oh yes it will, and it works in the United States." On that occasion, I was proved right and he was wrong.

Earlier, talking about the level of the minimum wage, I gave the example of the United States, where the federal rate is just \$7.25 an hour. Interestingly, there are many exemptions in the US. For example, disc jockeys—I was a disc jockey for a short while on a pirate radio boat—are exempt, and so are waiting staff. That is one of the reasons why people have to tip well when they go to the US—because the waiting staff live on tips. I go to the US a lot for private reasons. I was chatting to a barman who told me that he is on \$2.50 an hour, which is only £1.90, so we really can be proud of the UK's minimum wage.

The rate is tremendously important. It is all very well for the hon. Member for Sefton Central to say that it should be higher, but if people are not employed, the rate is zero per hour. It is always a balance. Tony Blair knew that; Gordon Brown knew that; sadly, the hon. Gentleman does not seem to realise that. If people are priced out of the market, they will not get anything, because they will be unemployed.

Bill Esterson: Given the hon. Gentleman's belief that the national living wage prices people out of jobs, was he against the former Chancellor's introduction of the national living wage at £7.20—a rate significantly higher than the then national minimum wage?

Michael Fabricant: I have not even mentioned the national living wage; the hon. Gentleman was not listening to what I was saying. I am talking about the national minimum wage. Whether we are talking about the national living wage or the minimum wage, it has to be set at a rate that people can be employed at. Otherwise, why not set the national minimum wage at £50 an hour? That sounds a good figure. Why not make it £100 an hour? The hon. Gentleman knows as well as I do that that would be ridiculously stupid, because it would price people out of the market. It is always a question of balance. He may or may not be a great economist—I do not know his background; forgive me, but I have not read his bio—but he would know that.

It is all too easy to score cheap political points and say, “Let’s make the rate higher,” and “Aren’t the Tories wicked and mean for not having it higher?” [HON. MEMBERS: “Yes!”] Listen to them now, Mr Wilson. They are saying, “Yes, the Tories are wicked and mean.” Well, I am not a wicked Tory, and I am not mean. [HON. MEMBERS: “Hear, hear!”] Thank you. I supported the minimum wage at the time. However, it has to be at the correct rate, and I think that on balance, this is the correct rate. All I agree with the hon. Gentleman on is that the rates must be enforced, as I said earlier.

Chris Stephens *rose*—

Michael Fabricant: I will give way. I like SNP Members, because at least they are hard-working.

Chris Stephens: I thank the hon. Gentleman, although I think I have been damned with faint praise. He is talking about the right rate. What is his view on having different rates for different age groups? That is an issue on which there is real debate, and I would like to hear his view.

Michael Fabricant: I thank the hon. Gentleman for that question. The analysis done by the Low Pay Commission and others suggests that unless we have different wage rates by age, people under the age of 24 or 25 will be unemployable. That is the problem. For example, if we set the rate too high, it would be a disincentive for companies to engage people in apprenticeships.

Margot James: Will my hon. Friend give way?

Michael Fabricant: Of course I give way to my honourable and very real Friend the Minister.

Margot James: I thank my hon. Friend for his enlightening comments and for giving way. To amplify his point about the difference between those under and over 25, he might be interested to know that unemployment among those 25-plus is just 3.7%, but it is still 13.6% for 16 to 24-year-olds. I agree with the Low Pay Commission that increasing those rates further for under-25s would put their employment prospects in serious doubt.

Michael Fabricant: Yes. Also, people pay a premium for experience, and the younger people are, the less experienced they are. Although 13%—was it 13%?

Margot James: It is 13.6%.

Michael Fabricant: Although that is too high, in Spain, youth unemployment is at 48%. In France, it is near 40%. I think we can all applaud this Government for strong management of the economy.

11.57 am

Chris Stephens: It is a pleasure to serve under your chairmanship, Mr Wilson. There are two main themes that I will touch on. The first is enforcement. We heard about some sort of strategy to address that, but I have questions for the Minister similar to those that the hon. Member for Sefton Central asked. What impact does the HMRC office closure programme have on enforcement of the minimum wage? Have any of the compulsory redundancies made by HMRC affected any minimum wage enforcement staff? It is important to get enforcement right. If 290,000 workers in the UK last year were not paid the national minimum wage, it seems that there is a real problem with enforcement, and we need to do it better. How many people are employed to deal with minimum wage enforcement? Are there any plans to increase that number?

The Minister mentioned the alignment between the living wage and national minimum wage rates. When will that alignment take place? It is important to look at the whole picture. The criticism of the UK Government’s so-called living wage is that it is actually just an additional tier of the national minimum wage. She and the hon. Member for Lichfield have argued that the rates change at 25, then 21, and then at other age bands. I think that that is wrong. I do not accept the arguments, well put though they were, that young workers should be discriminated against in terms of wages. I have never agreed with that analysis.

I say that for a couple of reasons. First, young workers have the same costs. A 21-year-old or a 19-year-old has the same costs as a fellow worker aged 25. I have never accepted the view that we should have different age bands. Another way of looking at it is that if there are two workers flipping hamburgers in a fast food restaurant, one aged 17 or 18 and the other aged 37, and both are doing the same work and producing the same output, they should be paid the same rate. Under the Government’s proposals, one would be paid £4 an hour and the other would be paid £7.20 an hour, which is a difference of £3.20 an hour between two workers working alongside each other and doing the same job. Employers address training and experience by inventing a pay grade containing different bands.

Well put though the arguments are, I am afraid that I want the Government to reconsider this and to direct the Low Pay Commission to look at the various age bands of the national minimum wage, because young workers have the same costs. When young workers go into the labour market, they should not be treated any differently from others. They should not be used as cheap labour, as some employers use them. I ask the Government to consider young workers, and I look forward to the Minister’s response to those questions.

12.1 pm

Nia Griffith (Llanelli) (Lab): I was pleased to hear the Minister speak of strengthening enforcement, which is essential both to protect workers and to stop unscrupulous employers undermining responsible ones, but she must

[Nia Griffith]

keep up the pressure to ensure that better enforcement becomes a reality. When the former Chancellor, the right hon. Member for Tatton (Mr Osborne), announced the so-called living wage of £7.20 an hour, which I consider to be simply a new minimum wage, I was disappointed to note that it would apply only to the over-25s and not to those aged 21 and over, as the national minimum wage did. By the time that young people are 21, they may have finished their higher education course, or they may have been in work for a couple of years. They may be married and they may have children. They should be receiving the same as those aged 25 and over.

I point out to the hon. Member for Lichfield that when Labour introduced the national minimum wage in 1999, the full rate applied to those aged 22 and over, not 25 and over as he indicated. Twenty-two was reduced to 21 some 10 years later.

Michael Fabricant: I am grateful to the hon. Lady for correcting me on that point, but she will concede that the age was changed to 25 under a Labour Government. Gordon Brown felt that in that way, the Government could keep under-25s nearer to full employment.

Nia Griffith: The national minimum wage was introduced for 22-year-olds and over, not for 25-year-olds and over, in 1999. That is the important point.

Michael Fabricant: Yes, but 10 years later—

Nia Griffith: Ten years later, it was reduced from 22 to 21.

If there is a valid argument that there is a higher unemployment rate among 21 to 25-year-olds and that depressing the wages of this group compared with the wages of those aged over 25 will make employers more likely to employ them, it is very exploitative and very unfair, both because it discriminates against younger adults by setting a lower rate of pay, and because it could prejudice the chances of over-25s getting work, as they may be seen as more expensive. We should instead address the underlying reasons for it being more difficult for this group to get work. We know that there have been far fewer openings in recent years, with confidence still low in the private sector, with the recovery patchy across the country, and with swingeing cuts in the public sector, which means there is little expansion in many areas. Retiring workers are often not replaced, or are replaced only by casual workers on zero-hours contracts or other such arrangements.

Moreover, there is an argument that raising the minimum wage would save the public purse by lowering the tax credit bill; that argument applies equally to those under 25. When Labour introduced the minimum wage, in the face of fierce opposition from the Conservatives, we had to proceed cautiously. The hope was that, once introduced, rates could be gradually improved. I have consistently argued for less of a differential for 18 to 20-year-olds and for 16 to 18-year-olds, with higher annual percentage increases for these groups.

When the new over-25s rate was set at £7.20, it was an increase on the existing national minimum wage of some 7.5%, whereas the proposed new rate for 21 to 24-year-olds is an increase of only 3.7%. If the Government

are not minded to give the full £7.20 to that age group, they could at least use this opportunity to raise the rate by more than 3.7%. Likewise, looking at the 4.7% increase for the 18 to 20-year-olds, from £5.30 to £5.55, and the 3.4% increase for 16 to 17-year-olds, from £3.87 to £4, the gap is now widening, not narrowing, between the three groups of younger workers and the over-25s.

I want a concerted effort to increase the 18 to 20-year-old rate by a greater percentage, to reduce the differential and bring the rate up to that for the 21 to 24-year-olds, and then to that for the over-25s, for the reasons I have already alluded to. Of course, many young people now work to fund their studies. I also want a greater percentage increase and a lesser differential for the 16 to 17-year-olds, and I feel that today's legislation is a missed opportunity to begin on this path.

12.5 pm

Ian Blackford (Ross, Skye and Lochaber) (SNP): It is a pleasure to serve under your chairmanship, Mr Wilson. I welcome the Minister to her place.

The UK national living wage is not a living wage; it is simply a further tier of the national minimum wage. The real living wage is calculated according to the basic cost of living, and therefore takes account of the adequacy of household incomes for achieving an acceptable minimum living standard. We can all remember the debates that we had in this House over the past year about tax credits, and I think we all want to get to a situation in which there is dignity in work, in which everyone can earn a decent living, and in which people do not have to look to the state to top up employees' wages for employers because people are not paid at the right level. The Government have missed an opportunity to introduce the real living wage.

Why did the UK Government decide to set an arbitrary rate for the national living wage? That fundamentally challenges the value of having an organisation that provides independent advice on wage levels across the UK. Where is the Government's analysis that suggests that their new minimum wage—that is what it is—is set at the right level? I contrast the behaviour of the Government in London with that of the Scottish Government, who support the payment of a real living wage of £8.25 an hour, and who became an accredited living wage employer in 2015. When do the UK Government expect to be an accredited living wage employer? I am proud of our record in Scotland of implementing the living wage across the public sector, but we recognise there is much more to do.

The Scottish Government appointed an independent Fair Work Convention, which published its Fair Work framework on 21 March 2016. The convention recognises that fair work is work that offers security, opportunity, fulfilment, respect and an effective voice. Our Government have taken action to promote fair working practices through procurement. For example, the Procurement Reform (Scotland) Act 2004 took every opportunity to tackle the need to ensure that people had a living wage through procurement. What action are the UK Government taking through procurement to make sure the living wage is adopted?

On 6 October 2015, we published statutory guidance addressing fair work practices, including ensuring that public contracts provided for the living wage. This goes

further than any other Administration, and makes it clear that the Scottish Government consider payment of the living wage to be a significant indicator of an employer's commitment to fair work practices. Furthermore, the Scottish Government require public bodies to consider whether a question on fair work practices, including paying the living wage, can be included as part of any procurement competition. Will the UK Government do the same?

The Chair: Order. The statutory instrument is about the national minimum wage, not the national living wage.

Ian Blackford: I am making the point that the Government should address the disparity between the minimum wage and the living wage, and I am asking what actions the Government will take. We will support the Government's regulations today, but we are saying that they do not go far enough. What will the Government do over the months ahead to strengthen the legislation to make sure that there is full dignity, as far as the real living wage is concerned?

12.9 pm

Margot James: I thank hon. Members for the interesting points they have made. I will take the issues turn by turn, starting with the valid points raised by the hon. Member for Sefton Central about the national living wage. He quoted the other organisation for a real living wage, whose deliberations I follow. However, the Government follow the recommendations of the Low Pay Commission, rather than those of the other organisation. The Low Pay Commission is independent of the Government and, as I said, it makes its recommendations on the basis of what the economy can afford without damage to the employment prospects of young people.

I also mentioned the increase represented by the national living wage, which will rise over the next few years, as we all know. We on this side of the House think that is a very good thing. A lot of employers, particularly in the retail sector, are seriously concerned about their future viability with this new cost; for example, we have already identified that people in the social care sector, which several hon. Members mentioned, are very concerned. The Government are right to follow the recommendations of the Low Pay Commission, for those good reasons.

Chris Stephens: Will the Minister give way?

Margot James: I am going to make some progress, but if I do not cover the point the hon. Gentleman wants to make, he can intervene later.

I will say a little about enforcement, which was mentioned by the hon. Member for Llanelli; I very much agree with where she is coming from, and I thank her for her comments. As I said earlier, the Government are absolutely committed to cracking down on employers who break the national minimum wage law. I mentioned the budget increase for HMRC's enforcement team; we have also increased the minimum wage underpayment penalties from 100% to 200% of the arrears owing to workers.

Employers who have underpaid their workers by more than £100 are eligible to be named. We name the vast majority of those employers: 700 have been named to date. I will make sure that that operation continues and is put on an expected footing of quarterly naming and shaming. I assure hon. Members that naming impacts on firms' reputations, especially locally, because the local media always pick these stories up. It is a serious deterrent.

We are also creating a statutory director of labour market enforcement—I hope to have the individual in place by the end of the year—who will establish a single set of priorities for all enforcement bodies, and will back up the work of the HMRC enforcement team. The increased budget for HMRC will enable it not just to continue to investigate every single employee complaint, but to carry out more targeted inspections that do not depend on employee complaints.

I recognise that some employees, particularly in small firms, are worried about their future employment security if they make a complaint. There is the facility to make confidential complaints—people can complain directly to HMRC or they can call the free helpline that ACAS operates—but there is still that worry and fear at the back of people's minds. I had someone come to my constituency surgery about it; they were so worried, and I took the matter up on their behalf. To ensure that that worry is not a barrier to enforcement, HMRC will carry out targeted inspections across various sectors of the economy.

That point leads me on to the care sector, which several hon. Members mentioned and which is a priority for the Government. HMRC is already undertaking targeted inspections: so far, it has made inquiries into almost 500 social care companies operating in the sector. It is worth pointing out that many of those inquiries result from targeted inspections; they are not dependent on employees making complaints. We have also enabled local authorities to charge a precept of up to 2.5% on council tax to provide considerably more funding for the social care sector, because we are concerned by what we have heard from companies operating in that space.

Hon. Members mentioned prosecutions—an issue that causes me concern. So far, HMRC has brought just 12 successful criminal prosecutions. I think we would all agree that that is a small number, but there is a good reason why HMRC prefers the civil remedy. It is far quicker; it is also cheaper, and we must have an eye on cost. Each criminal prosecution costs, on average, £50,000, and some cost considerably more. We need to make sure that criminal prosecution is in the armamentarium of HMRC, for the serious repeat offenders and employers who go out of their way to break the law. They should be the subject of criminal prosecution, but there is much more we can do, and hon. Members should not forget that when a civil remedy is pursued, the employees get their arrears immediately, whereas with a criminal prosecution they have to wait—and, of course, if it is not successful, they receive nothing.

I think I have dealt with most of the matters that the hon. Member for Sefton Central raised, including the Low Pay Commission. On the point about the disparity between people aged under 25 and those aged over 25, I listened attentively to the hon. Member for Llanelli, who obviously has expertise on the issue, and I accept that there is a difficulty in terms of strict equality

[Margot James]

between someone aged 18 and someone aged 37. I do not accept that they necessarily have the same costs, but there is an issue.

Let us not forget that the figure is a floor—a minimum. A lot of good employers who can afford it pay younger and older workers equally, and I think we would all like that to happen; but we must accept that the position of younger people in the labour market is different, and among the differences is the fact that sometimes they are training, or they need experience. I have already pointed out the significant difference in the unemployment rate.

I do not think that the provisions are a licence for exploitation. I think it is a realistic acknowledgement of the different position of different age groups, and the need to incentivise employers to employ younger people who do not have experience. Employers must have some kind of benefit from doing that. If they are in highly competitive and low-paid sectors that are under threat, such as the retail sector, which as I have mentioned is under severe threat for all sorts of reasons, they need that cushion, and that is what the Low Pay Commission recommends.

Chris Stephens: Some of those companies in the retail sector are multinationals making millions of pounds of profits. Is the Minister also looking at some of the companies that are changing contracts and taking away other premium payments to enforce the living wage? In debates in the House, evidence has been given of companies taking away other payments and changing hours and shifts to try to get round the living wage. Is the Minister looking at that issue?

Margot James: I am looking at that. I mentioned earlier that I was meeting one of the major retailers to discuss it. I will restate the Government's position, which is that we expect companies to follow the spirit of the national minimum wage and the national living wage, and not just the letter of the law.

I accept that some large multinationals—and I do not suppose that this is confined, by the way, to multinationals—try to get round the minimum wage in the way described. It is a difficult matter, because it is a minimum wage, and although personally I think it is mean-minded of an employer to choose to reduce someone's hours, or affect their privileges in some way, and I do not advocate it, using the law to intervene would be a challenge. However, we will keep the situation under review, and if we find there is wide abuse of the spirit of the law, I hope we will do more than just look into it.

I thank hon. Members for their valuable contributions to a crucial debate. The regulations will, as I have said, increase the national minimum wage for about 500,000 people from 1 October, and will ensure that low-paid people share in the benefits of economic growth without, importantly, damaging their employment prospects. The independent Low Pay Commission plays a crucial role in advising the Government about the minimum wage, and I thank it very much for its detailed report and recommendations. Various points were made in the debate, and I feel I have responded to them.

Question put and agreed to.

Resolved,

That the Committee has considered the draft National Minimum Wage (Amendment) (No. 2) Regulations 2016.

12.20 pm

Committee rose.