

Introduction

These rates, effective from April 2020, have been prepared by the ALP and will be posted on the GLAA website. They replace ALP Brief 201 and take account of new national minimum/living wages, national insurance thresholds and Scotland, Wales and Northern Ireland agricultural minimum wage increases.

ALP labour provider members may provide this Brief to current or prospective labour user clients to facilitate discussions towards agreement of fair and legal charge rates.

The rate paid by labour users is a key variable that the GLAA monitors. Labour users that pay unrealistically low rates are knowingly or recklessly conniving in illegality as these rates can only be achieved through worker exploitation, tax evasion or both. These businesses face reputation damaging publicity if this is exposed.

Supermarkets and other wholesale food purchasers have an ethical responsibility to ensure fair and legal rates are paid to labour providers throughout their supply chain.

The ALP "[Fair's Fair](#)" programme has been designed to raise awareness and build understanding amongst procurement professionals to ensure that agency labour charge rates and labour supply terms are underpinned by effective due diligence so that workers never pay the price of poor purchasing practice.

Labour providers are encouraged to report confidentially to the GLAA on intelligence@gla.gov.uk or 0800 432 0804 any labour users that are currently paying rates which indicate that legal responsibilities to workers cannot be met. Members may choose to discuss this information with the ALP beforehand.

Please contact the ALP directly should you wish to discuss any of the points raised in this Brief. This brief is not exhaustive nor a substitute for legal advice. ALP and its advisors exclude liability for any claim or loss alleged to have arisen from or in connection with use of the information included within.

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 3% of qualifying earnings.

Labour Provider Overhead and Service Charge Costs – 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 workwear, 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 a commercial agreement between the labour provider and user. Any agreed rate should take into account the particular costs of supply. 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.

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CHARGE RATE GUIDANCE - APRIL 2020

| NATIONAL MINIMUM AND LIVING WAGE | Apprentices | Age 16-17 | Age 18-20 | Age 21-24 | Age 25 plus |
|--|---------------|---------------|---------------|----------------|----------------|
| 1. Minimum wage | £ 4.15 | £ 4.55 | £ 6.45 | £ 8.20 | £ 8.72 |
| 2. Employers' NI Contributions | £ - | £ - | £ - | £ 0.55 | £ 0.62 |
| 3. Annual Holiday Pay (5.6 weeks entitlement) | £ 0.50 | £ 0.55 | £ 0.78 | £ 1.07 | £ 1.15 |
| 4. Apprenticeship Levy (for businesses with over £3m paybill) | £ 0.02 | £ 0.03 | £ 0.04 | £ 0.05 | £ 0.05 |
| 5. Pensions Auto-Enrolment Cost (3% of qualifying earnings) | £ - | £ - | £ - | £ 0.16 | £ 0.17 |
| 6. Total Wage Costs | £ 4.67 | £ 5.13 | £ 7.27 | £ 10.03 | £ 10.71 |
| 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 | £ 0.85 | £ 0.85 | £ 0.85 | £ 0.85 | £ 0.85 |
| 9. Hourly Cost of Supply (not including Labour Provider Margin) | £ 5.63 | £ 6.09 | £ 8.23 | £ 10.99 | £ 11.67 |

| WALES AGRICULTURAL EMPLOYEES | Grade 1 & Age 21-24 & < 52 weeks | Grade 1 & Age 25+ & < 52 weeks | Grade 1 Overtime no Holiday | Grade 1 Overtime with Holiday |
|--|----------------------------------|--------------------------------|-----------------------------|-------------------------------|
| 1. Minimum wage | £ 8.20 | £ 8.72 | £ 13.08 | £ 13.08 |
| 2. Employers' NI Contributions | £ 0.53 | £ 0.61 | £ 1.81 | £ 1.81 |
| 3. Annual Holiday Pay | £ 1.20 | £ 1.29 | | £ 2.07 |
| 4. Apprenticeship Levy (for businesses with over £3m paybill) | £ 0.05 | £ 0.05 | £ 0.07 | £ 0.08 |
| 5. Pensions Auto-Enrolment Cost (3% of qualifying earnings) | £ 0.15 | £ 0.17 | £ 0.39 | £ 0.39 |
| 6. Total Wage Costs | £ 10.14 | £ 10.83 | £ 15.34 | £ 17.42 |
| 7. Guideline Statutory Sick/Maternity Pay cost | £ 0.11 | £ 0.11 | | |
| 8. Guideline Minimum Labour Provider Overhead & Service Cost | £ 0.85 | £ 0.85 | £ 0.85 | £ 0.85 |
| 9. Hourly Cost of Supply (not including Labour Provider Margin) | £ 11.10 | £ 11.79 | £ 16.19 | £ 18.27 |

| SCOTLAND AGRICULTURAL EMPLOYEES | All Ages | Overtime no Holiday | Overtime with Holiday |
|--|----------------|---------------------|-----------------------|
| 1. Minimum wage | £ 8.72 | £ 13.08 | £ 13.08 |
| 2. Employers' NI Contributions | £ 0.61 | £ 1.81 | £ 1.81 |
| 3. Annual Holiday Pay | £ 1.15 | | £ 1.84 |
| 3a. Special Holiday Pay | £ 0.08 | | £ 0.13 |
| 4. Apprenticeship Levy (for businesses with over £3m paybill) | £ 0.05 | £ 0.07 | £ 0.08 |
| 5. Pensions Auto-Enrolment Cost (3% of qualifying earnings) | £ 0.17 | £ 0.39 | £ 0.39 |
| 6. Total Wage Costs | £ 10.77 | £ 15.34 | £ 17.33 |
| 7. Guideline Statutory Sick/Maternity Pay cost | £ 0.11 | | |
| 8. Guideline Minimum Labour Provider Overhead & Service Cost | £ 0.85 | £ 0.85 | £ 0.85 |
| 9. Hourly Cost of Supply (not including Labour Provider Margin) | £ 11.73 | £ 16.19 | £ 18.18 |

Workers with appropriate qualification are entitled to be paid an additional sum of at least £1.29 per hour.

| NORTHERN IRELAND AGRICULTURAL EMPLOYEES | Age 21-24 & <40 wks Service | Age 25+ & <52 weeks Service | Overtime no Holiday | <40 wks Overtime with Holiday |
|--|-----------------------------|-----------------------------|---------------------|-------------------------------|
| 1. Minimum wage | £ 8.20 | £ 8.72 | £ 13.08 | £ 13.08 |
| 2. Employers' NI Contributions | £ 0.53 | £ 0.61 | £ 1.81 | £ 1.81 |
| 3. Annual Holiday Pay | £ 1.07 | £ 1.15 | | £ 1.84 |
| 4. Apprenticeship Levy (for businesses with over £3m paybill) | £ 0.05 | £ 0.05 | £ 0.07 | £ 0.08 |
| 5. Pensions Auto-Enrolment Cost (3% of qualifying earnings) | £ 0.15 | £ 0.17 | £ 0.39 | £ 0.39 |
| 6. Total Wage Costs | £ 10.01 | £ 10.69 | £ 15.34 | £ 17.20 |
| 7. Guideline Statutory Sick/Maternity Pay cost | £ 0.11 | £ 0.11 | | |
| 8. Guideline Minimum Labour Provider Overhead & Service Cost | £ 0.85 | £ 0.85 | £ 0.85 | £ 0.85 |
| 9. Hourly Cost of Supply (not including Labour Provider Margin) | £ 10.97 | £ 11.65 | £ 16.19 | £ 18.05 |

- Total Wage Costs include charge items numbers 1-5 shown in red covering statutory legal requirements
- **Labour Provider Overhead Costs** – DEFRA analysis has estimated overhead costs as 30% on top of the National Minimum Wage, but state that this figure is likely to understate the actual costs of almost all businesses **as well as making no allowance for management costs or profit**. In reaching this figure of 30% 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). 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. Labour providers should ensure that their own fixed, variable and service costs are properly reflected in the charge rate offered to labour users together with sustainable business profit.

The Charge Rate tables should be read in conjunction with the Definitions and Explanations on the following page.

Definitions and Explanations

N.B. The numbering below refers to the numbered charge elements in the rates tables:

1. The hourly minimum rate represents the National Minimum/Living Wage and Agricultural Minimum Wage for Grade 1 workers on commencement. The rate increases in Northern Ireland after 40 weeks' service for workers aged under 25; and after 52 weeks' service for agricultural sick pay in Scotland, Wales and Northern Ireland (plus a holiday increment).

Workers employed in agriculture in Northern Ireland, Scotland and Wales 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 Wages Order. N.B. There is no protection from age discrimination for rates above the NMW, hence the ALP uses the overtime rate for over 25s for workers aged under 25.

2. Employer's National Insurance (NI) must be paid at 13.8% on earnings above the secondary threshold of £169 per week for workers aged above 21. The first £169 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 working overtime, the £169 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 and Pension as when holiday pay is paid to the worker, both of these must be paid and therefore need to 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 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 hourly rate and NI.

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 a regular working week. This is equivalent to 13.04% of the relevant hourly rate and NI.

Agricultural Employees in Northern Ireland - are entitled to 5.6 weeks' holiday 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. With regard to accrual of holiday for workers who work irregular hours:

When working on assignment where that worker works a fixed number of hours in a week or other period specified in the Worker Assignment Sheet (which forms part of the contract with that worker), and where for hours worked above these fixed number of hours the worker is entitled to overtime pay, these fixed hours are considered the "normal working hours". "Normal working hours" also include periods of guaranteed and non-guaranteed compulsory overtime and also voluntary overtime which is "sufficiently regular so as to amount to normal remuneration" but will not include infrequent and irregular voluntary overtime.

However, where hours are not specified in the contract or there are no fixed number of hours above which the worker is entitled to overtime pay there are no "normal working hours" and all hours worked will accrue holiday.

Holiday pay is based on the average hourly rate over the previous 52 weeks (replacing weeks in which no pay was received with previous weeks worked) for "normal working hours" or all hours where there are no "normal working hours". Pay used to calculate holiday pay should include any payments intrinsically linked to the work done such as shift pay, performance related bonuses etc. Members should refer to the ALP Brief "Calculating Paid Holiday Entitlement for Agency Workers" for more detail.

4. The Apprenticeship Levy applies to all employers with a payroll of over £3 million (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 is a statutory minimum of 3% of qualifying earnings for eligible workers who have not opted out.
6. This figure shows the actual minimum unavoidable Total Wage Costs to meet minimum legal requirements.
7. Provision for statutory sick pay absence, in line with the Defra estimate of 2 weeks at £95.85 per week accrued on normal time only, not on overtime. This figure also covers the 8% of statutory maternity, paternity, adoption and statutory shared parental pay payments that must be met by the labour provider.
Agricultural wages sick pay is payable in Northern Ireland, Scotland and Wales after 52 weeks' employment.
8. Guideline Minimum Labour Provider Overhead & Service Cost - Indicative figure. 2003 DEFRA analysis estimated overhead costs as 30% on top of the National Minimum Wage, but state that this figure is likely to understate the actual costs of almost all businesses as well as making no allowance for management costs or profit. 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 makes no allowance for any management cost or business 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.
9. This is the total hourly cost of supply but **does not include any margin to cover labour provider profit.**