

A living wage

David Clifton, director of **Clifton Davies Consultancy Limited**, highlights possible developments to the National Minimum Wage and provides a further EMRO and LNL update

In 1909, the Trade Boards Act was introduced by the Liberal Government, creating the first national system of wage regulation. In 1945, Trade Boards became Wage Councils, which existed until they were abolished in 1993 after opposition from trade unions, who were in favour of collective bargaining. The National Minimum Wage Act 1998 led to the Low Pay Commission fixing the initial minimum rate for workers aged 22 and over at £3.60 an hour (the rate is reviewed on an annual basis).

To bring things up to date, the government is carrying out an evaluation of the National Minimum Wage penalty regime, which will conclude next year, and on 18 October the first annual report of the Social Mobility and Child Poverty Commission was published. It concluded that real wages were stagnating even before the recession began and have fallen by over 10% since 2009 so that they are lower in real terms than they were in 1997.

Announcing the report, Alan Milburn, the chair of the commission, called for employers to provide higher minimum levels of pay and better career prospects, enabled by higher skills; more apprenticeships and work experience; and the Low Pay Commission to deliver a higher minimum wage.

As matters stand, the minimum wage rate depends on (a) a worker's age and (b) whether he/she is an apprentice. It is the minimum pay per hour that almost all workers are entitled by law to receive, regardless of the size of the employer's business. Since 1 October this year, the hourly rates have been £6.31 for adults (21 and over), £5.03 for 18-20 year olds, £3.72 for 16-17 year olds and £2.68 for apprentices. That may be changing if the report's recommendations are followed.

However, according to a recently reported ALMR

survey, within the hospitality industry the proportion of employees whose wages rose in line with the National Minimum Wage has been falling to pre-recession levels.

EMRO/LNL Update

Signs exist that the tide is turning in the industry's favour. 15 October was certainly a red letter day: both Woking and Warrington Licensing Committees voted against EMROs and Kingston on Thames concluded it was neither necessary nor appropriate to commence an EMRO consultation, although it may revisit the question if the police provide "detailed and focused evidence" to support such a proposal in a year's time. In addition, Harrow cancelled its EMRO hearing on 10 October and Norwich has deferred its hearing on three proposed EMRO areas in the city centre until the New Year and, it is reported, may now consider alternative measures.

What is coming through loud and clear are real concerns that EMROs would:

- Discourage local business development
- Provide insufficient money to provide any real benefits
- Fail to address particularly problematic premises
- Lead to customers migrating to late night venues elsewhere.

Elsewhere:

- Milton Keynes' Council also rejected the proposal for a post-1am LNL on 23 October
- Newcastle upon Tyne's LNL will come into force on 1 November, although members of a best practice scheme will get a 30% discount
- A similar discount scheme formed part of Plymouth's LNL consultation, which closed on 5 October.



Clifton Davies Consultancy Ltd



Clifton Davies Consultancy Limited is a consultancy business (not a law firm) which specialises in all licensing, gambling and regulatory issues affecting the pub and bar industry. David Clifton and Suzanne Davies are also consultants to Joelson Wilson LLP. The views expressed are given without any assumption of responsibility on their part. If you have any questions, do get in touch and they will be pleased to provide answers, either via this page or direct.

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Questions & Answers



Q. I want to buy a gaming machine for my pub instead of renting it. Am I allowed to do that?

A. It is not an offence for a pub owner to buy a gaming machine, but you should check that the seller is licensed by the Gambling Commission. Bear in mind also that if you want to maintain your own machine you will need to obtain the applicable operating licence from the commission. It may be preferable that you contract the maintenance out to a licensed operator.

Q. Can you settle an argument please? How is "alcohol" defined?

A. It is defined in the Licensing Act 2003 as spirits, wine, beer, cider or any other fermented, distilled or spirituous liquor. However, it does not include anything of 0.5% strength or below.

Q. I have some regulars who want to play poker in my pub. How do I make sure that's legal? Can I charge them a participation fee?

A. Poker can be played in your pub as long as you take account of the following limits on stakes and prizes prescribed in the gaming legislation. The maximum stake per player is £5 per game and the combined stakes for your pub must not exceed £100 a day. The maximum prize is £100 per game (whether that is in money or money's worth). You must not charge a participation fee, even if it's disguised in some way – e.g. as a compulsory charge for a meal. Bear in mind too that you should take specialist advice if you plan to allow poker to be played in a private room of your pub, or run a poker tournament or host a poker league. Do get back in touch with me if that's what you want to do.