



## The National Minimum Wage: historical background

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This note provides an overview of the historical background to the *National Minimum Wage Act 1998*. It discusses the establishment of Trade Boards, which subsequently became Wages Councils; the abolition of Wages Councils; proposals for a national minimum wage in the run up to the 1992 and 1997 General Elections; and the enactment of the 1998 Act.

Further background information can be found in Library Research Papers 99/18, dated 19 February 1999, on the *National Minimum Wage*, and 97/133 dated 4 December 1997, on the *National Minimum Wage Bill 1997/98*.

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## 1 Overview

Between 1909 and 1993 statutory minimum wages were set, in certain low paying industries, first by the Trade Boards and then the Wages Councils which the Trade Boards became. These were, for the most part, abolished in 1993. The National Minimum Wage was introduced in 1998, following a period without a statutory minimum wage floor. Until 2013 one Wages Council remained; the Agricultural Wages Board, which set minimum rates of pay and conditions for farm workers. The Agricultural Wages Board was abolished on 25 June 2013.<sup>1</sup>

## 2 Trade boards

Minimum wage legislation can be traced back to Winston Churchill's *Trade Boards Act 1909*, which established Trade Boards to regulate the pay of workers in industries notorious for their employment of cheap labour.<sup>2</sup> In his often-quoted speech on Second Reading of the Bill, Winston Churchill, then President of the Board of Trade, explained that the Boards were necessary to ensure that workers received “a living wage” in industries where the bargaining strength of employers greatly outweighed that of employees:

It is a serious national evil that any class of His Majesty's subjects should receive less than a living wage in return for their utmost exertions. It was formerly supposed that the working of the laws of supply and demand would naturally regulate or eliminate that evil.... Where in the great staple trades in the country you have a powerful organisation on both sides, where you have responsible leaders able to bind their constituents to their decision, where that organisation is conjoint with an automatic scale of wages or arrangements for avoiding a deadlock by means of arbitration, there you have a healthy bargaining which increases the competitive power of the industry, enforces a progressive standard of life and the productive scale, and continually weaves capital and labour more closely together. But where you have what we call sweated trades, you have no organisation, no parity of bargaining, the good employer is undercut by the bad, and the bad employer is undercut by the worst; the worker, whose whole livelihood depends upon the industry, is undersold by the worker who only takes the trade up as a second string, his feebleness and ignorance generally renders the worker an easy prey to the tyranny of the masters and middle-men, only a step higher up the ladder than the worker, and held in the same relentless grip of forces - where those conditions prevail you have not a condition of progress, but a condition of progressive degeneration.<sup>3</sup>

Trade Boards were seen as auxiliary and inferior to collective bargaining, with their rationale being in part the encouragement of trade union recognition by employers. This can perhaps most clearly be seen in the provisions of *Trade Board Act 1918*, which implemented the recommendations of the Whitley Committee.<sup>4</sup> Section 1(2) empowered a Minister to establish a trade board in any industry “if he is of opinion that no adequate machinery exists for the effective regulation of wages throughout the trade”.

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<sup>1</sup> *Enterprise and Regulatory Reform Act 2013*, section 72

<sup>2</sup> Prior to this there were efforts to regulate wages through public procurement via the *Fair Wages Resolution 1891*

<sup>3</sup> HC Deb 28 April 1909 c388

<sup>4</sup> Committee on Relations Between Employers and Employed, chaired by John Henry Whitley, appointed “to make and consider suggestions for securing a permanent improvement in the relations between employers and workmen”. See: Reconstruction Committee, Sub-Committee on Relations Between Employers and Employed, *Interim report on joint standing industrial councils*, Cd.8606, 1917. The Committee produced five reports; on trade boards see particularly: *Second report on joint standing industrial councils*, Cd. 9002, 1918

In his introduction of the Bill, the Minister of Labour, George Roberts, said that he would like to regard the Boards as:

a temporary expedient facilitating organisation within the industry, so that, in the course of time, the workers or the employers will not have need of the statutory regulations, but that their organisation will have then developed into a joint industrial council, whereby the affairs of the industry will be controlled and managed by the people concerned in the industry themselves, without any recourse to any legislative expedient.<sup>5</sup>

Thus, the Boards were very much seen as “second best” to effective collective bargaining.<sup>6</sup>

### **3 Wages councils**

The Trade Boards came to be known as Wages Councils. These were tripartite bodies made up of employer and employee representatives and independent members that conciliated during disputes. They set sectoral minimum wages and determined the general conditions of work in the sector with which they were concerned.

Following the Wages Councils Acts 1945 and 1948, the system of Wages Councils expanded at its peak to cover 2.5 million workers.<sup>7</sup> However, by the 1960s pressure from both employers and trade unions contributed to a retrenchment of the Wages Councils system. Some unions argued that the Councils marginalised their influence and discouraged employees from joining unions, with employees seeing their terms and conditions as being dependant on the Councils rather than on the activities of unions.<sup>8</sup>

The Councils came in for further criticism in 1968 from the Donovan Commission, which argued that they had made little progress in improving the position of the low paid.<sup>9</sup> Legislation followed, with the *Industrial Relations Act 1971* making it easier to abolish Wages Councils if they were no “longer necessary for the purpose of maintaining a reasonable standard of remuneration”.<sup>10</sup> Notwithstanding this mounting pressure, it was not until the 1980s that the Wages Councils system was finally dismantled.

During the 1980s and early 1990s the Conservative Government abolished the Wages Councils system, which it considered both riddled with anomalies and an unnecessary interference with the free market. The *Wages Councils Act 1986* repealed pre-existing Wages Councils legislation, and the *Trade Union Reform and Employment Rights Act 1993* abolished the Councils with the sole exception of the Agricultural Wages Board, which was established under a separate legislative scheme.

### **4 Proposals for a national minimum wage**

Both the Conservative and Labour parties agreed that the Wages Councils were no longer appropriate to the modern economy. The Conservative Party favoured abolition of the Councils, allowing the market to regulate pay, while Labour proposed to replace them with a single national minimum wage.

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<sup>5</sup> [HC Deb 17 June 1918 c70](#)

<sup>6</sup> See: Davies, P., Freedland, M., *Labour Legislation and Public Policy*, 1993, pp29-30

<sup>7</sup> *Ibid.*, p30

<sup>8</sup> *Ibid.*, p190

<sup>9</sup> See: *Royal Commission on Trade Unions and Employers' Associations 1965-1968*, Cmnd. 3632, 1968

<sup>10</sup> Schedule 8

Labour's proposals for a national minimum wage became a major political issue in the run-up to the 1992 election. Labour's manifesto included a pledge to introduce "a statutory minimum wage of £3.40 an hour". In their 1992 Election manifesto, the Conservative Party said "we reject Labour's job-destroying notion of a national minimum wage". Conservative spokesmen argued that Labour's proposals could lead to the loss of up to two million jobs. Michael Howard, then Secretary of State for Employment, said:

Their most damaging policy is for a minimum wage. At the level Labour would first introduce it, a minimum wage would destroy three quarters of a million jobs - even if only half the previous level of differentials were restored - with those job losses rising to between one and a quarter and one and a half million as Labour raised the minimum wage over time....

If Labour's union paymasters had their way, and differentials were restored in full after the introduction of a minimum wage, then job losses would soar to 1.25 million in the first instance and to 2 million as the level of the minimum was raised.<sup>11</sup>

## 5 The National Minimum Wage Bill 1997/98

Labour's manifesto for the 1997 general election promised to introduce "a sensibly-set national minimum wage". Following the election, the Queen's Speech announced that the Labour Government would introduce a minimum wage during the 1997/98 legislative programme.<sup>12</sup> The *National Minimum Wage Bill*<sup>13</sup> was published on 27 November 1997 and given its Second Reading in the Commons by 387 votes to 145 on 16 December 1997.<sup>14</sup> Conservative Members voted against, while Liberal Democrats supported the Government.

The Bill was debated in Standing Committee D for nearly 70 hours over nineteen sittings from 22 January to 17 February 1998, which included a record 26½-hour sitting.<sup>15</sup> Few amendments were made. Most of those that were made were either technical in nature or consequential on the passage of the *Employment Rights (Dispute Resolution) Act 1998*. The most significant amendment was that serving members of the armed forces and reservists while serving were to be excluded from the NMW; the Minister, Ian McCartney, argued that they would be covered by the Armed Forces Pay Review Body.<sup>16</sup>

The Bill's Report Stage and Third Reading were concluded after another all night sitting on 9 March 1998.<sup>17</sup> The most significant amendments were:

- the clause excluding voluntary workers from the NMW was rewritten to "broaden slightly the definition of 'voluntary worker' to reflect the reality of volunteering";<sup>18</sup>
- obstacles to the exchange of information between officers enforcing the agricultural minimum wage and those enforcing the NMW were removed;<sup>19</sup>

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<sup>11</sup> Conservative Party Press Release, "Michael Howard warns Labour Minimum Wage Fiasco 'could double unemployment'" 22 April 1991

<sup>12</sup> [Queen's Speech 14 May 1997](#)

<sup>13</sup> [Bill 90, 1997/98]

<sup>14</sup> HC Deb 16 December 1997 cc162-240

<sup>15</sup> The eighth sitting started at 4.30 pm on Tuesday 27 January and ended at 1 pm on Wednesday 28 January. There had been a morning sitting, starting at 10.30 am, on 27 January too. SC Deb (D) 27 January 1998, cc255-514. DTI press release, 'Another nail in the coffin of poverty pay' - Ian McCartney. *Commons complete Committee stage of National Minimum Wage Bill*, 17 February 1998

<sup>16</sup> SC Deb (D) 5 February 1998 cc776-779

<sup>17</sup> HC Deb 9 March 1998 cc21-276

<sup>18</sup> HC Deb 9 March 1998 cc22- 36; Ian McCartney cc23-24. See: Pyper, D., [National Minimum Wage: volunteers and interns](#), *Commons Library Standard Note*, SN697, 6 January 2014

- a provision protecting from detriment those who might become eligible in the future for the NMW. The Government argued that, if younger workers were exempted from NMW protections, unscrupulous employers might sack them just before they became eligible.<sup>20</sup>

The Bill received its Second Reading in the Lords on 23 March 1998.<sup>21</sup> It was debated in Committee on 11, 15 and 22 June 1998.<sup>22</sup> Only a few minor and technical amendments were made. It was debated on Report in the Lords on 20 July 1998.<sup>23</sup> Here the Government were defeated when the Lords voted by 161 votes to 103 to accept a Conservative amendment which would have given the Secretary of State the power to, by order, provide for the total or partial exemption from the provisions of the Act of:

- any area, sector of employment, trade or industry;
- undertakings of different sizes;
- persons of different ages; or
- occupations or categories of persons.

This amendment was overturned in the Commons.<sup>24</sup> Some further, largely technical and uncontroversial Government amendments were made in the Lords on Report and Third Reading. The need for some of the amendments only became apparent after the Low Pay Commission's detailed proposals had been published on 18 June 1998.<sup>25</sup> The Third Reading Stage was on 27 July 1998.<sup>26</sup> The Lords amendments were debated in the Commons on 28 July 1998.<sup>27</sup> The Lords debated the Commons reasons for disagreeing with their amendments on 29 July 1998.<sup>28</sup> The Bill received Royal Assent on 31 July 1998.<sup>29</sup>

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<sup>19</sup> HC Deb 9 March 1998 cc56-83

<sup>20</sup> HC Deb 9 March 1998 cc226-230

<sup>21</sup> HL Deb 23 March 1998 cc1026-1084

<sup>22</sup> HL Deb 11 June 1998 cc1197-1221, 1237-1280; 15 June 1998 cc1378-1387, 1394-1440; 22 June 1998 cc48-87

<sup>23</sup> HL Deb 20 July 1998 cc584-604, 633-653, 672-706

<sup>24</sup> HC Deb 28 July 1998 cc212-227

<sup>25</sup> See, eg, HL Deb 20 July 1998 cc597-598 on an amendment needed to accommodate the Low Pay Commission's recommendations on piece workers and home workers.

<sup>26</sup> HL Deb, 27 July 1998 cc1197-1227

<sup>27</sup> HC Deb 28 July 1998 cc212-279

<sup>28</sup> HL Deb 29 July 1998 cc1533-1539

<sup>29</sup> Cap 39