National Minimum Wage Act, 2000

Origin And Purpose Of The Act

The National Minimum Wage Act, 2000 became law on 1 April, 2000. It was the product of a long trade union campaign to attack the problem of low pay. Over 163,000 employees immediately benefited from the statutory increase in the hourly rate. These employees were mainly women and young workers employed in shops, public houses, cafés, restaurants, hotels, agriculture, fishing, forestry, clothing, clerical work, personal services (cleaning, security), and as carers.

What Is The National Minimum Wage?

With effect from 1 January 2018 the national minimum hourly rate of pay for experienced adult employees is €9.55.

Nothing in the Act prevents an employer from paying a higher rate of pay.

Who Is Covered By The Act?

The Act covers all employees in public or private sector employment, of any age who have entered into, or work, or have worked under a contract of employment. A contract of employment means a contract of service or apprenticeship or any other contract whereby an individual agrees with another person to do or perform personally any work or service for that person or third person – whether that third person is party to the contract or not.

The Act does not cover employees who are –

- close relatives (spouse, parent, sister, brother etc.) of the employer;
- on statutory apprenticeships within the meaning of the Industrial Training Act, 1976.

Are Part-Time Employees Covered?

Yes. The Act applies to full-time, part-time, temporary and casual employees for any hours worked.

Are Employees Who Are Paid On The Basis Of Output Or Productivity Covered?

Yes. An employer can pay an employee according to their output or productivity. The National Minimum rate of pay is expressed as an hourly rate not a piece or productivity rate. Therefore, at the end of the *Pay Reference Period,* an employer must ensure that an employee's *reckonable pay* when divided by the number of hours they have worked is not less than the employee's statutory minimum hourly rate of pay entitlement under the Act.

Who Is Entitled To Be Paid The National Minimum Wage?

An experienced adult employee must be paid an average hourly rate of pay that is not less than the National Minimum Wage, over a period determined by the employer which can be no longer than one calendar month – known as the *Pay Reference Period* for the purposes of this Act.

Who Is An Experienced Adult Employee?

For the purposes of the Act, an experienced adult employee is an employee who is not –

- under 18 years of age;
- in the first two years of first employment over the age of 18;
- a trainee undergoing a course that satisfies the conditions set out in National Minimum Wage, 2000 (Prescribed Courses Of Study Or Training) Regulations, 2000, SI 99.

Can An Employee Who Is Not An Experienced Adult Employee Be Paid A Lower Rate Than €9.55 Per Working Hour?

Yes – but this is subject to the employee being paid the correct minimum rate of pay in accordance with their employment circumstances.

The answers to the following questions are relevant in order to determine which is the correct minimum hourly rate of pay for the employee concerned, in accordance with **Table 1** set out below.

- is the employee under age 18?
- is the employee in the first or second year since the date of first employment over the age of 18, not taking into account any employment experience under age 18?
- is the employee on a course of training or study that satisfies the criteria in **Table 2** below and which third of the course is the employee now in?

If An Employee Changes Employment And Starts Work With A New Employer, Does The Legal Entitlement Of An Employee Under The Act Change?

No. The fact that an employee may change employment does not affect their entitlement to a statutory minimum hourly rate of pay as outlined in Table1 below.

Is It An Offence For An Employer Not To Pay The Statutory Minimum Hourly Rate?

Yes. An employer, by law, must pay the appropriate minimum hourly rate of pay. It is a criminal offence for an employer to pay an employee less than the minimum hourly rate of pay entitlement, or to exceed the duration permitted for the payment of an hourly rate of pay that is lower than €9.55.

TABLE 1: MINIMUM RATES OF PAY

All the statutory hourly minimum rates stated here are gross amounts – that is, before income tax/PRSI has been deducted.	**Minimum hourly rate of pay**	**% of minimum wage**
Experienced adult employee	€9.55	100%
Employee aged under 18	€6.69	70%
Employee in first year from date of first employment aged over 18 *i.e. Only employment experience acquired after age 18 is taken into account for this rate. Employment experience prior to age 18 does not count.*	€7.64	80%
Employee in second year from date of first employment aged over 18 *i.e. Only employment experience acquired after age 18 is taken into account for this rate. Employment experience prior to age 18 does not count.*	€8.60	90%
Employee aged over 18, in structured training during working hours (Trainee):		
Trainee in 1st one third period *NB Each one-third period must be at least one month and no longer than twelve months*	€7.16	75%
Trainee in 2nd one third period *NB Each one-third period must be at least one month and no longer than twelve months*	€7.64	80%
Trainee in 3rd one third period *NB Each one-third period must be at least one month and no longer than twelve months*	€8.60	90%
Experienced adult Employee named by the Labour Court in granting a temporary exemption to an employer from paying €9.25 per working hour. *NB The minimum period of temporary exemption is three (3) months and maximum period is twelve (12) months.*	Labour Court will decide the lower hourly rate of pay that the employee must be paid for the period of the temporary exemption.	N/A

Nothing in this Act prevents an employer from paying in excess of the statutory minimum hourly rates of pay.

Who Is A Trainee Within The Meaning Of The Act?

Table 2 below illustrates the criteria that a course of study or training must satisfy for the purpose of the Act, in order for an employer to pay trainee rates. An employee changing jobs should not be paid the trainees rate a second time unless they undergo a course of training or study that is different in purpose or content from the previous training or study undertaken

<u>TABLE 2 CRITERIA FOR TRAINING COURSES OR STUDY</u>

1. The employee's participation in the course is directed or approved by the employer.
2. The duration of the course is for a minimum period of 3 calendar months.
3. Subject to 4 below, the course takes place during the normal working hours of the employee.
4. The course involves at least 10% of directed training or study, (i.e. away from ordinary operational work) which may be within or outside of normal working hours.
5. Any fees concerned with the employee's participation in the course which is directed by the employer, are paid by the employer.
6. The course enables the acquisition of skills and/or knowledge expected to enhance the work performance of the employee at the end of the course.
7. The course involves directed study or training and work place training.
8. The course involves supervision of the employee during workplace training.
9. The course involves a system of recording the progress and results of the employee. Such records must be retained by the employer for three years after the end of the employee's participation in the course.
10. The course includes an assessment and certification procedure or written confirmation of completion of the course identifying the level of employee attainment against the objectives, which must include the employee's signature.
11. The course is the subject of pre-existing written document or documents detailing the following information –

- its title and purpose,
- its objectives,
- an outline plan of duration and approach,
- the record system to apply,
- the assessment and certification procedure,
- advice by the employer of any facilities, including any time-off, to be given to the employee during the period of the employee's participation in the course to enable the employee to successfully complete the course, and any changes to the employee's working arrangements during the period of the employee's participation in the course.

How Does An Employee Determine Which One Third Of A Course Of Training Or Study An Employee Is In?

An employee must establish the commencement and termination dates of any course. This period of time is then simply divided by three. Each one third period must be for a minimum of one month and maximum of twelve months. An employee is only entitled to the appropriate training rate when they are 18 or over.

What Is The Pay Reference Period?

Every employer must select a Pay Reference Period for each individual employee. A Pay Reference Period may be a week or a fortnight or some other period but can be no longer than a calendar month. Factors that might influence an employer include whether the pay is weekly, fortnightly or monthly and whether earnings fluctuate.

The Terms Of Employment (Information) Act, 1994, entitles employees to a written statement as to what is the Pay Reference Period and method of calculating pay. This statement must be given to the employee by their employer within two months of commencing employment or requesting it.

A Pay Reference Period could be a month even though an employee may be paid weekly.

How Is The Average Hourly Rate Of Pay Determined?

The gross reckonable pay earned by an employee in a Pay Reference Period is divided by the employee's working hours in that period.

*The average hourly rate of pay obtained must not be less that the minimum hourly rate of pay entitlement of the employee as detailed in **Table 1**.*

$$\frac{\textit{Total Gross Reckonable Pay in Pay Reference period}}{\textit{Working hours in Pay Reference Period}} = \textit{Average Hourly Rate of Pay}$$

Is There Guidance On "Working Hours" In The Act?

Yes. Working hours in relation to a pay reference period means the hours of work of the employee determined in accordance with –

(a) - his or her contract of employment,

- any collective agreement relating to the employee,
- any Registered Employment Agreement relating to the employee,
- an Employment Registered Order that relates to the employee,
- any statement provided in accordance with section 3(1) of the Terms of Employment (Information) Act 1994,
- any notification by the employee's employer to the employee under section 17 of the Organisation of Working Time Act 1997,
- section 18 Organisation of Working Time Act 1997,
- any other agreement between the employee and his or her employer or their representatives that includes a provision in relation to hours or work

or

(b) the total hours during which the employee carries out or performs the activities of his or her work at the workplace or is required by his or her employer to be available for work and is paid as if the employee is carrying out or performing the activities of his or her work.

whichever, of the above is greatest.

What is included as "working hours"?

The working hours of an employee include any hours in the Pay Reference Period spent on overtime, time spent on standby in the workplace, time spent travelling on official business, and any time spent training during normal working hours.

What is not included as "working hours"?

Working hours for the purpose of the Act *do not* include time spent on standby or on call at a place other than the workplace, annual leave, sick leave, protective leave, maternity leave, parental leave, lay off, strike or lock-out, time spent travelling between an employee's place of residence and the workplace and back, or time for which an employee is paid in lieu of notice.

If an employee's hours are not directly controlled by the employer, the employee must keep a daily written record of such hours. If an employee fails to produce a record, the employer may calculate hours for the Pay Reference Period from alternative sources such as the contract of employment or collective agreement.

If the employee is likely to earn, on average, €14.33 (€9.55 x 150 %) or over, per working hour in the Pay Reference Period, the employer is not obliged under the Act to keep a written record of the hours worked by the employee.

It is a criminal offence for an employee to supply an employer with information on hours of work which is known by the employee to be false or misleading.

What Is Reckonable Pay?

Some employees earn more than basic pay. *Reckonable Pay* means those payments that are allowable in calculating the average hourly rate of pay of an employee in a specific Pay Reference Period, to check compliance with the Act.

Reckonable pay may include –

- basic salary;
- shift premia;
- piece and incentive rates, commission and bonuses which are productivity related;
- the amount of any service charge distributed to the employees through payroll;
- any payments made under Section 18, Organisation Of Working Time Act, 1997, zero hours protection;
- any payment in respect of any of the above items advanced in a Previous Pay Reference Period that relates to the specific Pay Reference Period;
- any amount in respect of any of the above items earned in a specific Pay Reference Period and paid no later than the next following Pay Reference Period;
- if an employee receives board and/or lodgings then the following amounts are reckonable:
    - €0.85 per hour worked for board only
    - €22.56 per week, or €3.24 per day for lodgings only
- in the case of an employee whose hours of work are not controlled by the employer, any amount in respect of any of the above items earned in the specific Pay Reference Period and paid no later than the Pay Reference Period in which the record of working hours is received or due to be received by the employer, or the Pay Reference Period immediately after that.

Board And Lodgings

If an employer provides board and/or lodgings, a monetary allowance may be included as reckonable pay as long as it does not exceed the amounts expressed above.

What About Productivity Related Bonuses And Commission?

Productivity related bonuses and commission can be included as reckonable pay. Such payments must be made to the employee in the specific Pay Reference Period in which it is earned or no later than the next Pay Reference Period.

What Is Non-Reckonable Pay?

Some pay components are non-reckonable. These components are listed here and are non-reckonable in calculating the average hourly rate of pay of an employee within the meaning of the Act –

- overtime premium;
- call-out premium;
- service pay;
- unsocial hours premium;
- any amount distributed to the employee of tips or gratuities paid into a central fund managed by the employer and paid through payroll;
- public holiday premium, Saturday premium and Sunday premium, where any such holiday days are worked;
- allowances for special or additional duties including those of a post of responsibility;
- any payment of expenses incurred by the employee in carrying out their employment, including travel allowance, subsistence allowance, tool allowance and clothing allowance;
- on-call or standby allowances;
- any payments for or in relation to a period of absence of the employee from the workplace, such as sick pay, holiday pay, payment of Health & Safety Leave under the Maternity Protection Act, 1994, or pay in lieu of notice, but not including a payment under Section 18 of the Organisation Of Working Time Act, 1997, (zero hours protection);
- any payment by way of an allowance or gratuity in connection with the retirement or resignation of the employee as compensation for loss of office;
- pension contributions paid by the employer on behalf of the employee;
- any payment referable to an employee's redundancy;
- any advance of payment referred to of reckonable pay in the specific Pay Reference Period relating to a subsequent Pay Reference Period;
- any payment-in-kind or benefit-in-kind, except board and/or lodgings;
- any payment to an employee other than in their capacity as an employee;
- any payment representing compensation for the employee, such as for injury or loss of tools and equipment;
- an amount of any award under a staff suggestion scheme;
- any loan by the employer to the employee, other than an advance payment of earnings made in a previous Reference Pay Period.

An employer must not change a payment or benefit-in-kind listed as a non-reckonable pay component and classify it as a reckonable pay component for the purposes of the Act.

Is An Employee Entitled To A Statement Of The Average Hourly Rate Of Pay?

Yes. An employee is entitled to a written statement from an employer detailing their:

- reckonable pay,
- working hours,
- average hourly rate of pay
- statutory minimum hourly rate of pay entitlement under the Act in any Pay Reference Period (other than the employee's current pay reference period)

within the previous twelve months.

An employee requesting this information from their employer must do so in writing and the employer must provide it to the employee within four (4) weeks from the date of the request. If the statement indicates any under payment of the statutory minimum hourly rate of pay entitlement, the employee should immediately seek payment of the balance owed. Failure by the employer to do so is a criminal offence.

If the employee has earned an average hourly rate of reckonable pay of €14.33 (€9.55 x 150%) or over in the specific Pay Reference Period, the employer is not obliged to supply the employee with a written statement.

An employee who believes they are not getting the appropriate hourly rate and who wishes to make a complaint to the Workplace Relations Commission (WRC) for a hearing by an Adjudication Officer, must, ahead of making such a complaint, request a written statement from their employer detailing their reckonable pay, working hours, average hourly rate of pay and statutory minimum hourly rate of pay entitlement under the Act in any Pay Reference Period (other than the employee's current pay reference period) within the previous twelve months.

Can An Employer Plead Inability To Pay?

Yes. But to so plead, an employer must be in financial difficulty and unable to pay the experienced adult rate of at least €9.55 per working hour. If compelled to pay this rate, the employer would have to show that they would either have to terminate or lay-off the employee(s) concerned.

The employer must have the consent of an employee or at least the consent of the majority of employees affected, to apply to the Labour Court for a temporary exemption. The Labour Court decides, after convening a hearing of the parties, whether to grant a temporary exemption.

An employer is not entitled to be granted a second temporary exemption by the Labour Court and may not apply for a temporary exemption in respect of an employee being paid an hourly rate of pay lower than €9.55 – for example, an employee under 18 years.

An employer in financial difficulty is obliged to contact the Labour Court for details of the procedure for applying for a temporary exemption.

It is only the Labour Court that may grant a temporary exemption. The agreement of an employee is, of itself, not sufficient for an employer to pay an experienced adult worker less than €9.55 per working hour.

What To Do If The Statutory Minimum Rate Is Not Paid?

- **Request for a statement of the hourly rate for the Pay Reference Period**

An employee who is not being paid the National Minimum Rate, should –

- make a written request for a statement of the hourly rate for the Pay Reference Period (frivolous or vexatious requests should not be made);
- the employer must respond within four (4) weeks;

- **Complaint to the Workplace Relations Commission (WRC)**

If an employee feels that they are not getting the appropriate hourly rate or the employer refuses to respond, a complaint may be made to the Workplace Relations Commission (WRC) for a hearing by an Adjudication Officer. *However, this can only be done if the employee has first written to their employer requesting a written statement of their average hourly rate in a specific Pay Reference Period.*

The complaint must be made within six (6) months from the date the employee received a written statement or within six (6) months from the day after the date upon which a statement should have been supplied. This time limit may be extended to twelve (12) months by the Adjudication Officer if they find there was reasonable cause for not submitting the complaint within the six (6) month time limit.

Trade Union Representatives would normally request their Official to progress this matter firstly in direct discussion with the employer and then, if necessary refer the matter to the WRC. However, if this route is chosen and the matter remains unresolved the time limits for referral of the claim to the WRC must still be strictly adhered to.

- **Request to WRC Inspector to investigate the matter**

An employee may, instead of making a complaint to the WRC for a hearing by an Adjudication Officer, request a WRC Inspector to investigate the matter. WRC Inspectors also have the power to investigate such matters, i.e. without a complaint having been made by an employee or their representative, if they believe an employee has been underpaid in accordance with this Act. These Inspectors have power to enter premises and inspect documents in order to establish compliance with the Act or not. Once the matter has been investigated the Inspector must make a report to the Minister for Jobs Enterprise and Innovation.

An Inspector cannot investigate a matter if it is the subject of a complaint which has already been referred to an Adjudication Officer and the Inspector must cease any investigation that s/he has commenced on becoming aware of any such referral. An Inspector cannot investigate any matter relating to underpayments or entitlement which occurred more than three (3) years before the date of the inspection or proposed inspection.

Is Protection Against Victimisation By The Employer Provided For?

Yes. The Act prohibits the victimisation of an employee by an employer because the employee exercises or proposes to exercise their rights under the Act, or because the employee is due a pay increase under the Act.

An employer must not victimise an employee in any way in the exercise of their rights. Similarly, an employer must not reduce an employee’s working hours, without a corresponding reduction in the amount of work or duties of the employee, because the employee is due an increase under this Act.

Any complaint of victimisation, if not resolved within two weeks at the workplace, may be referred to the WRC for a hearing by an Adjucication Officer within six (6) months of the date of the alleged victimisation. This time limit may be extended to twelve (12) months by the Adjudication Officer if they find there was reasonable cause for not submitting the complaint within the six (6) month time limit.

Dismissal of an employee for exercising or proposing to exercise their rights under this Act is an unfair dismissal within the meaning of the Unfair Dismissals Acts, 1977-2015. In these circumstances, the normal requirement for a minimum of one year’s service does not apply.

Must The Employer Keep Records?

Yes. The employer must retain all records that demonstrate compliance with the Act for at least three (3) years from the date any record is made.

Who Has To Prove That The Act Has Not Been Complied With?

In any dispute about National Minimum Wage entitlements, the *onus of proof is on the employer* to prove that the law has been complied with. Records are clearly necessary if the employer is going to be able to do this. These records must be available for inspection by an Inspector of the WRC or be provided to an Adjudicator of the WRC, Labour Court or courts of law.

Examples of records which may be necessary for the employer to keep include the notification to the employee of their Pay Reference Period; the gross pay paid to the employee; any shift premia paid to the employee; any allowances or premia paid to the employee; details of board and/or lodgings provided to the employee; the working hours of the employee including any overtime; any absences of an employee from work, for example, sick leave, holidays, etc; any time spent on training during working hours; date of birth of the employee, if under 18 years of age; dates of commencement and/or termination of employment; and the CV of the employee.

An employer must also keep a copy of any statement of the average hourly rate of pay of an employee in a specific Pay Reference Period or Periods, for at least fifteen (15) months from the date it was issued to the employee.

Does The Act Provide For Any Criminal Offences?

Yes. The Act provides for a number of criminal offences including –

- failure by an employer to pay an employee their statutory minimum hourly rate of pay entitlement under this Act;
- an employer paying an employee a lower hourly rate of pay than €9.55 for a longer period than is permitted for the lower hourly rate of pay;
- the failure without reasonable cause, by an employer, on request from an employee, to supply the employee within four (4) weeks with a written statement of the average hourly rate of pay of the employee and other specified information in relation to a specific Pay Reference Period or Periods. It is also a criminal offence for an employer to supply information in the written statement which the employer knows is false or misleading;
- the failure by an employer to keep records that are necessary to demonstrate compliance with the Act for at least three years and a copy of the written statement of the employee's average hourly rate of pay for fifteen (15) months from the date it was requested
- obstructing an Inspector from carrying out their duties.

What About Repercussive Claims And Relativities?

There is no legal obligation under the Act to grant an increase in pay to an employee who is not entitled to an increase under the Act, on the basis that the employee wishes to restore the pay differential that existed between them and the lower paid employee who is entitled to an increase under the Act.

The Workplace Relations Commission (WRC) or Labour Court are not empowered to recommend or endorse a claim by an employee or group of employees, if the claim is based on the restoration of a pay differential between them and another employee who has secured or is to secure an increase in pay under the Act.

Employment Regulation Orders & Sectoral Employment Orders

If the employment of an employee is covered by a Joint Labour Committee, the employee may be entitled to a higher rate of remuneration than provided for by this Act. The appropriate Employment Regulation Order (ERO) should be displayed in the workplace and should be consulted or, if the employee has doubts, they should contact the Union. Similarly, if the employee is covered by a Sectoral Employment Order they should consult the pay rates specified in that Order.

Decision of an Adjudication Officer of the WRC under this Act

A decision of an Adjudication Officer in relation to a dispute under this Act may contain:

(a) a direction to the employer to pay the employee –

(i) an award of arrears (being the difference between any amount paid or allowed by the employer to the employee for pay and the amount the employee was entitled to under this Act for the period in dispute), and

(ii) reasonable expenses of the employee in connection with the dispute,

or,

(b) a requirement that the employer rectify, within a specified period of time (not being more than forty-two (42) days after the date of the decision is communicated to the employer) or in a specified manner, any matter, including the payment of any amount, in respect of which the employer is in contravention of this Act,

or,

(c) both such a direction and such a requirement as the Adjudication Officer considers appropriate.

Appeal To The Labour Court From A Decision Of An Adjudication Officer

Either party (the employee or the employer) may appeal an Ajudication Officer's decision in writing to the Labour Court within forty-two (42) days of the date the Adjudication Officer's decision. The Labour Court may extend the forty-two (42) day time limit for making an an appeal if there were exceptional circumstances for not submitting it within the forty-two (42) days.

The Labour Court will notify the other party of the appeal and will arrange a hearing between the parties. A hearing before the Labour Court is in public unless an application is made for special circumstances and the labour Court so determine.

The Labour Court has the power to refer a point of law to the High Court for final determination.

Following the hearing the Labour Court will make a decision in writing affirming, varying or setting aside the decision of the Adjudication officer.

Either party may appeal a Labour Court decision, within six (6) weeks of being served with the decision, to the High Court on a point of law only. A High Court decision arising out of such an appeal is final and conclusive.

National Minimum Wage (Low Pay Commission) Act 2015

Origin And Purpose Of The Act

The Low Pay Commission was established on an interim basis in February 2015. The purpose of this Act was to put the Commission on a statutory basis.

The Commission is comprised of a Chair and eight (8) ordinary members, each appointed by the Minister for Jobs Enterprise and Innovation. Of the ordinary members of the Commission, three (3) are appointed as having a knowledge and understanding of the interests of low paid workers, three (3) are appointed as having a knowledge and understanding of employer's interests and two (2) are appointed on the basis of their knowledge or expertise in economics, labour market economics, employment law and statistics.

Duty of the Commission

It is the duty of the Commission to make recommendations to the Minister regarding the national minimum hourly rate of pay.

Such recommendations on the rate of pay must:

- be designed to assist as many low paid workers as is reasonably practicable
- be set at a rate that is fair and reasonable
- where adjustment to the rate is appropriate, include incremental adjustments which over time are progressively increased

Such recommendations on the rate of pay cannot create significant adverse consequences for employment or competitiveness.

Functions of the Commission

The Commission must, on a yearly basis, examine the national minimum hourly rate of pay and make a recommendation to the Minister in respect of it. The recommendation to the Minister must be accompanied by a report. The recommendation and report must be given to the Minister on or before the third Tuesday in July in the year to which the examination of the rate relates.

When making a recommendation to the Minister the Commission must have regard to:

(a) changes in earnings during the relevant period,

(b) changes in currency exchange rates during the relevant period,

(c) changes in income distribution during the relevant period,

(d) whether during the relevant period—

(i) unemployment has been increasing or decreasing,

(ii) employment has been increasing or decreasing, and

(iii) productivity has been increasing or decreasing, both generally and in the sectors most affected by the making of an order

(e) international comparisons, particularly with Great Britain and Northern Ireland,

(f) the need for job creation, and

(g) the likely effect that any proposed order will have on—

(i) levels of employment and unemployment,

(ii) the cost of living, and

(iii) national competitiveness.

If the Minister requests the Commission to do so they must also report its views and recommendations on matters generally related to the functions of the commission under the Act. Every three (3) years the Commission is required to report on the functioning of the Act to the Minister.

National Minimum Hourly Rate of Pay

The Minister has three (3) months from the date of receiving a recommendation and report from the Commission to:

(a) by order declare a national minimum hourly rate of pay -

(i) in terms recommended by the Commission, or

(ii) in other terms

or

(b) decline to make an order

The national minimum hourly rate of pay declared by order may include an allowance in respect of board and lodgings, board only or lodging only at such rates as are specified in the order.
Where the Minister decides upon (a) (ii) or (b) then the Minister must put the reasons for such a decision before both Houses of the Oireachtas.
Where the Commission fails to make a recommendation or report to the Minister, the Minster may, by order, declare a national minimum hourly rate of pay.