



**Submission to the Low Pay Commission on the Sub-Minima
Rates of the Minimum Wage**

January 2016

Executive Summary

- NYCI believes that the current sub-minima rates are punitive and inhibit the creation of an inclusive, highly skilled and effective labour market and undermine equality, income adequacy and social inclusion
- NYCI recommends the abolition of the current sub-minima rate for trainees and job entrants over 18 years on the basis that such rates are discriminatory, leave young workers open to exploitation and breach Ireland's commitments under the European Social Charter
- NYCI recommends the abolition of the current sub-minima rates which apply to young people aged 16 and 17 years in the workforce as such rates are discriminatory and because there is little or no evidence of a link between the minimum wage and early school leaving

Background

The National Youth Council of Ireland (NYCI) is the representative body for 50 voluntary youth organisations in Ireland. NYCI functions to represent the interests of young people and youth organisations. NYCI's role is recognised in legislation (Youth Work Act, 2001), as a Social Partner. The NYCI aims through its member organisations and its representative role to empower young people to participate in society as fulfilled confident individuals. The work of NYCI is based on principles of equality, social justice and equal participation for all. In achieving these aims the NYCI seeks the emergence of a society in which young people are valued citizens who can make a meaningful contribution to their community.

Introduction

NYCI welcomes the decision of Government to refer the appropriateness of the current sub-minima rates to the Low Pay Commission (LPC) to make proposals with regard to their impact on youth unemployment and participation in education. The rate and rules of the minimum wage are of importance to young people in light of the fact that 39% of those on the minimum wage are under 30 years of age. This means that almost 30,000 young people are on the minimum wage with young people comprising a significant percentage of the 47,000 on rates below the minimum wage¹.

We outline our position with regard to the three main categories of workers who are subject to the sub-minima rates of pay below. However, in advising Government on this matter, we believe it is incumbent on the LPC to consider a number of matters, namely the current nature of the labour market, the context of the original decision to introduce sub-minima rates and the importance of an evidence informed approach.

Nature of Labour Market

The labour market has changed dramatically in recent years with significant growth in precarious employment. Those engaged in internships, temporary work, part-time jobs, 'if and when' contracts and sub-contracting comprise of an ever growing segment of the labour force. This trend impacts in particular on young people, women and migrants. Many young workers are having the traditional entry into well-paid and secure employment elongated and frustrated by the proliferation of temporary jobs on low wages. A 2013

¹ Recommendations for a National Minimum Wage, Low Pay Commission, July 2015

Eurofound report found that the number of young people aged 15-24 in temporary employment in Ireland increased from 11.2% in 2004 to 34.9% in 2012.² We note from the LPC's previous report that *"those in part-time work and in temporary contracts considerably more likely to be on minimum wage"*³. Therefore young workers on the sub-minima rates are not only enduring insecure employment but reduced level of pay.

We welcome the fact that Government recognise that such developments are unwelcome for not only our economy but society as a whole and have stated *"that work must pay"*.⁴ We believe that the LPC must take into account in its deliberations the commitment in the National Youth Strategy 2015-2020 which states Government must ensure that *"Young people are a particular focus in policies that address social inclusion and poverty"*.⁵ NYCI are of the view that it would be contradictory and untenable for Government to retain provisions such as the sub-minima rates which mean that work does not pay and instead contributes to precarious employment and social exclusion among young people.

Context of Original Decision

The sub-minima rates were part of an overall package for the introduction of the minimum wage in Ireland for the first time in 2000. At that time many concerns were expressed about the impact of the minimum wage on the business sector, employers and employment. NYCI is of the view that the sub-minima rates were largely introduced to offset these concerns and lessen the perceived impact of the minimum wage on employment and competitiveness. The reality is that most of these concerns were unfounded and therefore in our view the sub-minima rates are no longer necessary and should be abolished.

Evidence Informed

Finally it is vital that the conclusions of the LPC are evidenced informed. Policy should not be based on presumptions and perceptions. For example, in 2000 the Chambers of Commerce indicated that even the 70% sub-minima rates for the under 18s would hamper the policy objective of the then Government to reach a 90% school completion rate at second level.⁶ The evidence since then, however, does not support this assertion. In fact, the level of second level school completion rates has increased from 83.6% for the cohort entering school in 1998 to 90.6% for the cohort entering in 2008.⁷ Indeed the argument that the prospect of work is a key factor in driving early school leaving is further undermined by the evidence which demonstrates that very few young people (6%) are leaving school early and going directly into employment.⁸ We discuss this in more detail in the section below on young workers aged 16 and 17 years.

² Eurofound (2013) *Young People and Temporary Employment in Europe*. Publications Office of the European Union, Luxembourg

³ Recommendations for a National Minimum Wage, Low Pay Commission, July 2015

⁴ Speech by the Taoiseach, Enda Kenny TD at the IBEC President's Dinner, Thursday 17th September 2015, RDS Dublin 4

⁵ Department of Children and Youth Affairs (2015) *National Youth Strategy 2015–2020*, Dublin: Government Publications

⁶ Final Report of the Interdepartmental Committee on the Implementation of a National Minimum Wage.

⁷ Retention Rates of Pupils in Second Level Schools 2008 Cohort, DES, February 2015

⁸ Early Leavers-What Next? Report on Early Leavers from Post Primary Schools, DES, May 2013

Trainee Rate

NYCI recommends that the sub-minima rates for trainees should be abolished on the basis that they are discriminatory, leave young workers open to exploitation and breach Ireland's commitments under the European Social Charter.

NYCI believes that the LPC in advising Government has to take serious account of the view of the Council of Europe's Committee of Social Rights which found *"that the situation in Ireland is not in conformity with Article 4 subsection 1 of the Charter on the ground that the reduced national minimum wage applicable to adult workers on their first employment or following a course of studies is not sufficient to ensure a decent standard of living."*⁹

While the decision of the committee is not legally binding on Ireland, it is very persuasive and we believe places an onus on the Government to respond to the conclusion of the committee and in the absence of action, increases the prospects of a future legal challenge to the sub-minima rates in Ireland.

We are also very concerned at the duration of the trainee rates which can last up to three years. While we accept that all employees should receive training, we do not accept that an employee can be paid a reduced rate on the basis they need training of up to three years. The potential loss in income for the worker if the trainee rates are applied over the three year period is significant. Based on the current trainee rates the worker would receive a gross annual income over a three year period of €45,467 or 18.3% lower than if they were in receipt of the full minimum wage rate over the same period. Indeed, in its submissions to the National Minimum Wage Commission in 1998, the then national employment and training agency, FAS, recommended that the trainee rate should only apply for one year.¹⁰ While there is limited data available on the use of the trainee rates, a 2005 ESRI report found that while 27.8% of employers (self-recorded) used the first 1/3rd training rate, only 1.5% and 1.3% respectively used the second and third 1/3rd training rates.¹¹ This clearly demonstrates that the three year period is excessive and unnecessary.

The aforementioned ESRI report from 2005 also reported that the sub-minima rates were most prevalent in the hospitality (hotel, restaurant, bar) and retail sectors with 27% and 12% of firms respectively in those sectors paying sub-minima rates. We note also that based on the LPC's previous report that these sectors had an above average incidence of employment legislation breaches as reported by the National Employment Rights Authority in 2014 (food & drink 60%, hotel 45% and retail and wholesale 59%). NYCI is concerned that the training rates leave young vulnerable to exploitation. The "ex-post" regulation and inspection of these rates, given the resources available, may only capture some of the breaches of S.I. 99 of 2000 and given the loss of income for the workers involved, is no longer acceptable. Therefore the only equitable and fair solution is the abolition of these sub-minima rates.

⁹ Activity Report 2014, European Committee of Social Rights, Council of Europe.

¹⁰ Final Report of the Interdepartmental Committee on the Implementation of a National Minimum Wage

¹¹ The Minimum Wage and Irish Firms in 2005, Nolan, Williams and Blackwell, ESRI

Job Entrants Rate

NYCI recommends that the sub minima rate for jobs entrants sub minima should be abolished. As outlined above the report of the Committee on Social Rights of the Council of Europe has raised serious concerns not only about the trainee rates, but also concerning the rates of the minimum wage applying to job entrants aged over 18 years. The LPC must take this decision into account when advising Government.

We also believe it is important that the LPC takes into account the position of *the Interdepartmental Committee on the implementation of the Minimum Wage* which accepted the recommendation of the National Minimum Wage Commission in 2000 on the reduced rates but indicated that there was a “need for a prudent approach to the issue in the context of the *initial* (their emphasis) introduction of the national minimum wage.”¹² Among the key reasons articulated in this report for the reduced rate for job entrants was the perceived impact of the minimum wage on employment and competitiveness. It is our view that the overriding reason for the introduction of these reduced rates was to offset these concerns. In reality, however, many of these concerns were unfounded and there is no credible reason sixteen years later to retain these reduced rates.

As reported in the 2005 ESRI report,¹³ 22.1% of firms reported use of the first year of employment rate with 10.7% reporting use of the second year of employment rate. Even if the percentages remained stable since then this would indicate that a significant number of firms are using this rate to pay lower rates to job entrants, most of whom are young workers. We do not think the payment of a reduced rate for up to two years is proportionate, acceptable or necessary. As with the trainee rates, we are concerned about the potential exploitation of young workers. Therefore, NYCI calls on the LPC to recommend the abolition of the sub-minima rate for job entrants.

Rates for 16 and 17 year olds

We recommend the abolition of the current sub-minima rates which apply to young people aged 16 and 17 years on the basis that such rates are discriminatory and because there is little or no evidence of a link between the minimum wage and early school leaving

Our recommendation relates to young people aged 16 and 17 years in light of the fact that the State has decided that this is the age at which you have a legal right to leave formal education and seek work.

In the original decision to introduce a reduced rate for young workers under 18 years in 2000 it was suggested that the key reason for such a policy was the link between early school leaving and the rate of the minimum wage. Therefore the reduced rate was justified on the basis that it would counter early school leaving and promote participation in education and training. NYCI is of the view that the LPC has to take into account the significant changes in policy since 2000 and the actual evidence available with regard to the link between early school leaving and the minimum wage.

¹² Final Report of the Interdepartmental Committee on the Implementation of a National Minimum Wage, P32

¹³ The Minimum Wage and Irish Firms in 2005, Nolan, Williams and Blackwell, ESRI

Since the introduction of the minimum wage in 2000, the context has changed considerably and there have been many legislative changes and policy developments and progress with regard to early school leaving and school completion which can be summarised as follows:

- Minimum school leaving age increased from 15 years to 16 years
- Establishment of National Educational and Welfare Board in 2000 (subsumed in Child and Family Agency, TUSLA in 2014) with a statutory function to ensure every child attends school or otherwise receives an education and to address truancy and early school leaving
- Significant investment especially through the DEIS and School Completion Programme in tackling the main causes of early school leaving
- Second level school completion rates have increased from 83.6% for the cohort entering school in 1998 to 90.6% for the cohort entering school in 2008.¹⁴

It is our view that there is little or no evidence to suggest that there is a link between the rates of the minimum wage and early school leaving. As demonstrated by the improved school retention rates, other policy measures which invested in supporting young people to remain as long as possible in the education system (even at times of full employment when many minimum wage positions were available) has made the difference.

The causes of early school leaving are multi-faceted, and include a myriad of issues such as dislike of formal education and school work, personal and family difficulties, socio economic disadvantage, behavioural and health difficulties, among others. While we acknowledge that young people who are struggling in formal education may view the labour market and the possibility of earning money as an alternative, the evidence suggests that only a very small percentage of early school leavers are going directly into employment. The Department of Education Report entitled "*Early Leavers-What Next?*" indicates for 2010/2011 only 6.1% of early school leavers or 469 out of 7,713 early school leavers went directly into employment with the majority 55% going into further education and training programmes¹⁵.

NYCI believes further investment in measures to counter educational disadvantage are far more important and relevant to reducing early school leaving than the rate of the minimum wage which in our view has little or no impact and on this basis a reduced rate is unnecessary.

NYCI supports measures to increase school retention, however, we must recognise that some young people have made a decision to leave formal education and enter the workforce at 16 years of age and have a legal right to do so. Therefore, we do not believe that they should be discriminated against and should be paid the full rate of the minimum wage.

¹⁴ Retention Rates of Pupils in Second Level Schools 2008 Cohort, February 2015

¹⁵ Early Leavers-What Next? Report on Early Leavers from Post Primary Schools, DES, May 2013