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Stephen Hammond MP  
Parliamentary Under Secretary of State for Transport  
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In 2014 Scotland Welcomes the World



29 May 2014

Dear Stephen

## **NATIONAL MINIMUM WAGE - SEAFARERS**

I write following the recent publication from the Department for Business Innovation & Skills of "National Minimum Wage – Policy on HM Revenue & Customs enforcement, prosecutions and naming employers who break national minimum wage law".

It has recently come to our attention that a sub-contractor, working to two ferry operators who have contracts with the Scottish Government for the provision of lifeline ferry services to Scotland's remote and island communities, are paying their crew less than the national minimum wage. The company in question has used a number of devices and utilised a number of loopholes in current UK employment legislation to avoid paying some members of their crew the UK national minimum wage. For example they have flagged their vessel in the Isle of Man, used a crew made up entirely of nationals from Estonia and ensured that none of the crew are resident in the Scotland or the rest of the UK.

The affected ferry services are not international operations – they operate from the Scottish mainland to various Scottish islands. Ensuring that the crew are all paid at least the national minimum wage would enable Scottish, and UK, based workers to compete on fair terms.

Given that employment law is a matter reserved to the UK Government, I am writing to you as the Minister with responsibility for the maritime sector to ask the UK Government to close the legal loopholes that allow this situation to arise. I confirm that the Scottish Government will support the UK Government in that regard.

In the meantime I confirm that the Scottish Government will be considering whether the provisions in its current and future lifeline ferry service contracts can be used as a further mechanism to close these loopholes.

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The above contrasts starkly with the Scottish Government's policy position on the national minimum wage and the living wage. This Scottish Government takes very seriously the issue of the national minimum wage in the application to staff paid both directly and indirectly by this government. We are also looking at opportunities in Scottish Government procurement activity to identify what can be done to encourage payment of the living wage through procurement. This will be done within the limits of legislation and will help inform the development of the statutory guidance provided for under the Procurement Reform (Scotland) Bill, currently awaiting Royal Assent. The Scottish Government's policy position is that we are working within EU law to tackle the issue of payment of the Living Wage as part of public procurement processes.

In conclusion I seek your support in engagement elsewhere in the UK Government that would allow the Scottish Government to more readily enforce the application of the minimum wage on the maritime sector operating within Scotland.

Kind Regards



**KEITH BROWN**