
STATUTORY INSTRUMENTS

2000 No. 1989

TERMS AND CONDITIONS OF EMPLOYMENT

The National Minimum Wage Regulations
1999 (Amendment) Regulations 2000

Made - - - - 25th July 2000

Coming into force - - 1st October 2000

Whereas a draft of the following Regulations was laid before Parliament in accordance with section 51(5) of the National Minimum Wage Act 1998(a) and approved by resolution of each House of Parliament:

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by sections 1(3), 2, 3 and 51 of the National Minimum Wage Act 1998 hereby makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Minimum Wage Regulations 1999 (Amendment) Regulations 2000 and shall come into force on 1st October 2000.

(2) In these regulations, “the principal regulations” means the National Minimum Wage Regulations 1999(b).

Amendments to the principal regulations

2. In the definition of “worker” in paragraph (1) of regulation 2 of the principal regulations (general interpretative provisions), for “paragraph (6)” substitute “paragraphs (3) and (6)”.

3. In regulation 11 of the principal regulations (the rate of the national minimum wage), for “£3.60” substitute “£3.70”.

4.—(1) For paragraph (3) of regulation 12 of the principal regulations (workers who do not qualify for the national minimum wage) substitute—

“(3) A person is to be treated for the purposes of paragraph (2)(b) as a worker who is employed under a contract of apprenticeship if, and only if, he is—

(a) a worker within the meaning given by section 54(3) of the Act; and

(a) 1998 c. 39.
(b) S.I. 1999/584.

(b) engaged—

(i) in England or Wales, under the Government arrangements known, at 1st October 2000, as National Traineeships, Modern Apprenticeships, Foundation Modern Apprenticeships or Advanced Modern Apprenticeships;

(ii) in Scotland, under the Government arrangements known, at 1st October 2000, as Skillseekers or Modern Apprenticeships and the arrangements are for the purpose of gaining a Scottish Vocational Qualification at Level 2 or 3 or a National Vocational Qualification at Level 2 or 3; or

(iii) in Northern Ireland, under the Government arrangements known, at 1st October 2000, as Jobskills Traineeships or Modern Apprenticeships.”

(2) In the first line of paragraph (6) of regulation 12 of the principal regulations, for “worker who” substitute “person who is a worker within the meaning given by section 54(3) of the Act and”.

(3) For paragraph (8) of regulation 12 of the principal regulations substitute—

“(8) A worker who is attending a higher education course, and before the course ends is required, as part of that course, to attend a period of work experience not exceeding one year, does not qualify for the national minimum wage in respect of work done for his employer as part of that course.”

5. In paragraph (3) of regulation 14 of the principal regulations (method of determining whether the national minimum wage has been paid), for “29” substitute “29A”.

6. For paragraphs (1) to (3) of regulation 15 of the principal regulations (provisions in relation to time work) substitute—

“(1) Subject to paragraph (1A), time work includes time when a worker is available at or near a place of work for the purpose of doing time work and is required to be available for such work except where—

(a) the worker’s home is at or near the place of work; and

(b) the time is time the worker is entitled to spend at home.

(1A) In relation to a worker who by arrangement sleeps at or near a place of work and is provided with suitable facilities for sleeping, time during the hours he is permitted to use those facilities for the purpose of sleeping shall only be treated as being time work when the worker is awake for the purpose of working.

(2) Time when a worker is travelling for the purpose of duties carried out by him in the course of time work shall be treated as being time work except where—

(a) the travelling is incidental to the duties carried out in the course of time work, the time work is not assignment work and the time is time when the worker would not otherwise be working; or

(b) the travelling is between the worker’s home, or an address where he is temporarily residing other than for the purposes of performing work, and his place of work or a place where an assignment is carried out.

(3) For the purposes of paragraph (2)(a)—

(a) travelling is incidental to the duties carried out by a worker unless duties involved in his work are necessarily carried out in the course of the travelling, as in the case of a worker driving a bus, serving in a bar on a train or whose main duty is to transport items from one place to another, and

- (b) time work is assignment work if it consists of assignments of work to be carried out at a different places between which the worker is obliged to travel that are not places occupied by the worker's employer."

7. For paragraphs (1) to (3) of regulation 16 of the principal regulations (provisions in relation to salaried hours work) substitute—

"(1) Subject to paragraph (1A), time when a worker is available at or near a place of work for the purpose of doing salaried hours work and is required to be available for such work shall be treated as being working hours for the purpose of and to the extent mentioned in regulation 22(3)(d) and (4)(b) except where—

- (a) the worker's home is at or near the place or work; and
- (b) the time is time the worker is entitled to spend at home.

(1A) In relation to a worker who by arrangement sleeps at or near a place of work and is provided with suitable facilities for sleeping, time during the hours he is permitted to use those facilities for the purpose of sleeping shall only be treated as being salaried hours work when the worker is awake for the purpose of working.

(2) Time when a worker is travelling for the purpose of duties carried out by him in the course of salaried hours work shall be treated as being working hours for the purpose of and to the extent mentioned in regulation 22(3)(d) and (4)(b) except where—

- (a) the travelling is incidental to the duties carried out in the course of salaried hours work, the salaried hours work is not assignment work and the time is time when the worker would not otherwise be working; or
- (b) the travelling is between the worker's home, or an address where he is temporarily residing other than for the purposes of performing work, and his place of work or a place where an assignment is carried out.

(3) For the purposes of paragraph (2)(a)—

- (a) travelling is incidental to the duties carried out by a worker unless duties involved in his work are necessarily carried out in the course of the travelling, as in the case of a worker driving a bus, serving in a bar on a train or whose main duty is to transport items from one place to another, and
- (b) salaried hours work is assignment work if it consists of assignments of work to be carried out at different places between which the worker is obliged to travel that are not places occupied by the worker's employer."

8. In the definition of "the basic hours" in paragraph (2) of regulation 22 (determining the hours of salaried hours work where the basic hours have been exceeded), for "regulation 22" substitute "regulation 21".

9. After regulation 29 insert—

"Special provision where payment for work due only on submission of record

29A. Where at the time of the making of a determination under regulation 14 any work done by a worker in the pay reference period in question is work in respect of which—

- (a) the worker is not entitled to payment until a record of the work has been submitted to the employer, and
- (b) no such record has been submitted to the employer,

the number of hours attributable to that work shall be excluded from the total number of hours referred to in paragraph (3) of regulation 14 in making the determination."

Transitional provisions

10.—(1) The amendments to the principal regulations made by regulations 3, 5 to 7 and 9 do not apply in relation to any pay reference period (within the meaning assigned to that expression by regulation 10 of the principal regulations) beginning before 1st October 2000.

(2) The amendments to the principal regulations made by regulations 4(1) and (3) apply in relation to a person from whom they remove the entitlement to the national minimum wage with effect from the first day after the end of the pay reference period for that person that includes 30th September 2000.

25th July 2000

Alan Johnson,
Parliamentary Under Secretary of State for
Competitiveness,
Department of Trade and Industry

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1 October 2000, increase the minimum hourly rate of the national minimum wage from £3.60 to £3.70 and make a number of other amendments to the National Minimum Wage Regulations 1999.

The Regulations contain transitional provisions one of which has the effect that the increased rate applies in relation to pay reference periods beginning on or after 1 October 2000.

A Regulatory Impact Assessment of the estimated costs and benefits of these Regulations has been placed in the Libraries of both Houses of Parliament. It is available to the public from Employment Relations 5C, Department of Trade and Industry, 1 Victoria Street, London SW1H 0ET and is also available on the DTI website at www.dti.gov.uk.