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STATUTORY INSTRUMENTS

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**2020 No. 814**

**The Employment Rights Act 1996 (Coronavirus,  
Calculation of a Week's Pay) Regulations 2020**

**PART 2**

**Calculation of a week's pay**

**No normal working hours**

**8.—(1)** This regulation applies where E's working hours fell within the description in section 224(1) of the Act (no normal working hours for employee under employee's contract of employment) on the relevant date.

(2) The amount of a week's pay is the amount of E's average weekly remuneration in the relevant period.

(3) For the purposes of the calculation of E's average weekly remuneration—

(a) subject to sub-paragraphs (c) and (d) the "relevant period" means the period of twelve weeks ending—

(i) where the calculation date is the last day of a week, with that week,

(ii) otherwise, with the last complete week before the calculation date,

(b) where E is furloughed for any part of the relevant period, the amount of E's weekly remuneration attributable to being furloughed is the amount that would have been payable to E in accordance with the Coronavirus Job Retention Scheme if—

(i) the amount was calculated in relation to E's reference salary,

(ii) for that purpose the full amount of E's reference salary had been used, and

(iii) the Scheme cap did not apply,

(c) in relation to any part of the relevant period during which E is not furloughed, no account is to be taken of a week in which no remuneration was payable by the employer to E, and

(d) where sub-paragraph (c) applies, remuneration in earlier weeks, is to be taken into account so as to bring up to twelve the number of weeks of which account is taken.

(4) For the purposes of paragraph (3)(b)—

(a) "reference salary" has the meaning given in the Coronavirus Job Retention Scheme(1), and

(b) "Scheme cap" means the amount of £2,500 per month (or the appropriate pro-rata) specified in relation to qualifying costs in the Coronavirus Job Retention Scheme(2).

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(1) For an explanation of the relevant calculation of reference salary in relation to the period ending with 30th June 2020, see paragraph 7 of the Schedule to the second CJRS Direction (in particular paragraph 7.2); and in relation to the period beginning with 1st July 2020 and ending with 31st October 2020, see paragraphs 18, 19.1, and 20.1 of the Schedule to the third CJRS Direction.

(2) See, in particular, paragraph 7.1 of the Schedule to the second CJRS Direction and paragraph 16.5 of the Schedule to the third CJRS Direction.

(5) This regulation is subject to regulations 9 and 10.