
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations remake the National Minimum Wage Regulations 1999 (S.I. 1999/584) and consolidate the amendments made to those Regulations.

Part 1 contains a revocation provision (regulation 2) which, together with the Schedule, revokes the National Minimum Wage Regulations 1999 and amending instruments. Regulation 3 contains general interpretative provisions.

Part 2 sets the hourly rates of the national minimum wage. Regulation 5 sets out how to determine whether the apprenticeship rate applies to a worker. Regulation 6 prescribes the pay reference period for the Act and Regulations.

Part 3 (regulation 7) sets out the calculation to determine whether the national minimum wage has been paid. The remuneration paid by the employer in the pay reference period is divided by the hours of work in the same period to determine the hourly rate at which the worker is treated as remunerated. If the hourly rate is less than the applicable rate of the national minimum wage in the pay reference period, the worker has not been paid the national minimum wage.

Part 4 sets out how to determine the remuneration in the calculation in Part 3. The payments paid by the employer to the worker as respects the pay reference period, which form part of the remuneration, are set out in Chapter 1. The reductions which are to be subtracted from the payments to determine the remuneration are set out in Chapter 2. The amount for the provision of living accommodation is determined in accordance with Chapter 3. That amount may be treated as a payment, if the living accommodation is provided free of charge, in regulation 9, or, if living accommodation is provided by the employer for a fee, the extent of deductions by the employer or payments from the worker for that living accommodation is limited in accordance with regulation 14 (as adjusted, where applicable, for absences in accordance with regulation 15).

Part 5 sets out how to determine the hours of work in the calculation in Part 3. The hours of work are the hours of salaried hours work (Chapter 2), time work (Chapter 3), output work (Chapter 4), or unmeasured work (Chapter 5) worked or treated as worked by the worker in the pay reference period.

Part 6 excludes persons from the national minimum wage if they are involved in prescribed government training schemes (regulations 51 and 52), work experience as part of a higher or further education course (regulation 53), certain traineeships in England (regulation 54), work schemes for provision of accommodation to the homeless (regulation 55), and certain European Community programmes (regulation 56). Regulation 57 provides that work done by members of the family, or those treated as members of the family, relating to the family household is not work. Regulation 58 provides that work done by members of the family, who reside in the family home, in relation to a family business is not work.

Part 7 (regulation 59) requires employers to keep records sufficient to establish that they are paying their workers at least the rate of the national minimum wage and any applicable agricultural minimum rate.

An impact assessment has not been prepared for this instrument as no significant impact on the private, voluntary or public sector is foreseen.