
STATUTORY INSTRUMENTS

1999 No. 584

The National Minimum Wage Regulations 1999

Interpretation

General interpretative provisions

2.—(1) In these Regulations—

“the Act” means the National Minimum Wage Act 1998.

“allowance”, other than in regulation 8(b), means any payment paid by the employer to a worker attributable to a particular aspect of his working arrangements or to his working or personal circumstances that is not consolidated into his standard pay, but does not include an allowance designed to refund a worker in respect of expenses incurred by him in connection with his employment;

“arrangements made by the Government” means—

- (a) in England and Wales, arrangements made by the Secretary of State under section 2 of the Employment and Training Act 1973(1),
- (b) in Scotland, arrangements made by the Secretary of State under section 2 of the Employment and Training Act 1973 or by Scottish Enterprise or Highlands and Islands Enterprise under section 2 of the Enterprise and New Towns (Scotland) Act 1990(2),
- (c) in Northern Ireland, arrangements made by the Department of Economic Development under section 1 of the Employment and Training Act (Northern Ireland) 1950.(3);

“employer” has the meaning given to it by section 54(4) of the Act but, in relation to a worker (as defined in section 54(3) of the Act), includes in addition, except in paragraph (6) of regulation 12—

- (a) an agent or principal in relation to whom, by virtue of section 34(2) of the Act, the provisions of the Act have effect as if there were a worker’s contract between him and an agency worker for the doing of work by the agency worker, and
- (b) an employer of a home worker who is a worker by virtue of section 35 of the Act;

“performance bonus” means a performance bonus or other merit payment attributable to the quality or amount of work done in the course of more than one pay reference period, and not therefore payable directly in respect of work done in specific hours;

“the total of reductions” means the total of reductions determined in accordance with regulations 31 to 37;

“the total of remuneration” means the total of money payments determined in accordance with regulation 30;

(1) 1973 c. 50; section 2 was substituted by section 25(1) of the Employment Act 1988 (c. 19); subsections (3A) and (3B) were inserted in respect of Scotland only by section 47(1) of the Trade Union Reform and Employment Rights Act 1993 (c. 19); and subsections (4) and (6) were repealed by the Employment Act 1989 (c. 38), Schedule 7, Part I.

(2) 1990 c. 35; section 2 was amended by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 47(4) and Schedule 10.

(3) 1950 c. 59; as amended by S.I. 1988/1087 (N.I. 10) and S.I. 1990/1200 (N.I. 8).

“pay reference period” has the meaning assigned to it by regulation 10;

“worker” has the same meaning as in section 54(3) of the Act but, except in paragraph (6) of regulation 12, includes in addition—

- (a) an agency worker in relation to whom, by virtue of section 34(2) of the Act, the provisions of the Act have effect as if there were a worker’s contract for the doing of his work between him and an agent or principal; and
- (b) a home worker who is a worker by virtue of section 35 of the Act.

(2) In these Regulations “work” does not include work (of whatever description) relating to the employer’s family household done by a worker where the conditions in sub-paragraphs (a) or (b) are satisfied.

(a) The conditions to be satisfied under this sub-paragraph are—

- (i) that the worker resides in the family home of the employer for whom he works,
- (ii) that the worker is not a member of that family, but is treated as such, in particular as regards to the provision of accommodation and meals and the sharing of tasks and leisure activities;
- (iii) that the worker is neither liable to any deduction, nor to make any payment to the employer, or any other person, in respect of the provision of the living accommodation or meals; and
- (iv) that, had the work been done by a member of the employer’s family, it would not be treated as being performed under a worker’s contract or as being work because the conditions in sub-paragraph (b) would be satisfied.

(b) The conditions to be satisfied under this sub-paragraph are—

- (i) that the worker is a member of the employer’s family,
 - (ii) that the worker resides in the family home of the employer,
 - (iii) that the worker shares in the tasks and activities of the family,
- and that the work is done in that context.

(3) In these Regulations “work” does not include work (of whatever description) relating to an employer’s family business, done by a worker who satisfies the conditions in paragraph (4).

(4) The conditions to be satisfied under this paragraph are—

- (i) that the worker is a member of the employer’s family,
 - (ii) that the worker resides in the family home of the employer,
 - (iii) that the worker participates in the running of the family business,
- and that the work is done in that context.