STATUTORY INSTRUMENTS

2015 No. 621

TERMS AND CONDITIONS OF EMPLOYMENT

The National Minimum Wage Regulations 2015

Made - - - -	*9th March 2015*
Coming into force - -	*6th April 2015*

A draft of these Regulations was laid before Parliament in accordance with section 51(5) of the National Minimum Wage Act 1998(**1**) and approved by a resolution of each House of Parliament.

These Regulations are made by the Secretary of State in exercise of the powers conferred by sections 1(3) and (4), 2, 3, 9 and 51(1)(b) of the National Minimum Wage Act 1998(**2**). Section 9 of that Act is extended by section 5 of the Agricultural Sector (Wales) Act 2014(**3**), section 3A(1) of the Agricultural Wages (Scotland) Act 1949(**4**) and Article 8A(1) of the Agricultural Wages (Regulation) (Northern Ireland) Order 1977(**5**).

PART 1

General and Interpretation

Citation and commencement

1. These Regulations may be cited as the National Minimum Wage Regulations 2015 and come into force on 6th April 2015.

Revocations

2. The instruments specified in the Schedule are revoked.

General interpretative provisions

3. In these Regulations—

(**1**) 1998 c.39; sections 51(6) and 51(7) were amended by the Employment Act 2008 (c.23), sections 9(3) and 20 and the Schedule, Part 2.
(**2**) 1998 c.39; section 3 was amended by SI 1999/583, regulation 2.
(**3**) 2014 anaw.6.
(**4**) 1949 c.30. Section 3A(1) was inserted by the National Minimum Wage Act 1998 (c.39), Schedule 2, paragraph 13.
(**5**) S.I. 1977/2151 (N.I. 22). Article 8A(1) was inserted by the National Minimum Wage Act 1998 (c.39), Schedule 2, paragraph 26.

"the Act" means the National Minimum Wage Act 1998(**6**);

"basic hours" has the meaning given in regulation 21(5);

"compulsory school age" has the meaning given in section 8 of the Education Act 1996(**7**);

"days" includes a fraction of a day, other than as specified in regulation 16(2) (amount for provision of living accommodation);

"further education course" means—

(a) in England, a course of education, other than a higher education course, that is suitable to the requirements of persons who are over compulsory school age and that—

(i) is funded by the Secretary of State under section 14 of the Education Act 2002(**8**),

(ii) is funded by the Chief Executive of Skills Funding(**9**),

(iii) is funded by a local authority,

(iv) leads to a qualification to which Part 7 of the Apprenticeships, Skills, Children and Learning Act 2009(**10**) applies which is awarded or authenticated by a body which is recognised by the Office of Qualifications and Examinations Regulation under section 132 of that Act in respect of the qualification, or

(v) leads to a qualification that is approved pursuant to section 98 of the Learning and Skills Act 2000(**11**);

(b) in Wales, a course of education, other than a higher education course, that is suitable to the requirements of persons who are over compulsory school age and that—

(i) is funded by the Welsh Ministers,

(ii) is funded by a local authority,

(iii) leads to a qualification that is accredited by the Welsh Ministers pursuant to section 30 of the Education Act 1997(**12**), or

(iv) leads to a qualification that is approved pursuant to section 99 of the Learning and Skills Act 2000(**13**);

(c) in Scotland, a course of "fundable further education" as defined in section 5(1) and (2) of the Further and Higher Education (Scotland) Act 2005(**14**);

(**6**) 1998 c.39.
(**7**) 1996 c.56; section 8 had words substituted by the Education Act 1997 (c. 44), section 52.
(**8**) 2002 c.32; in section 14, the heading and subsection (2) were amended, and subsection (2A) inserted, by the Children Act 2004 (c.31), section 59; subsection (2ZA) was inserted, and subsection (3) was amended, by the Education Act 2005 (c.18), Schedule 14, paragraph 23; subsection (2)(ca) was inserted and subsection (2ZA) was amended by the Education Act 2011 (c.21), section 15(2); section 14 and subsection (3) were amended by S.I. 2010/1158.
(**9**) The office of the Chief Executive of Skills Funding was established by section 81 of the Apprenticeships, Skills , Children and Learning Act 2009 (c.22).
(**10**) 2009 c.22; Part 7 was amended by the Education Act 2011 (c.21), section 22 and 23 and Schedule 8, paragraph 23 and 24.
(**11**) 2000 c.21; subsection (1) of section 98 was amended, subsection (2A) was repealed and subsection (2B)and (2C) were inserted, by the Apprenticeships, Skills, Children and Learning Act 2009, section 44, Schedule 16, Part 2 and Schedule 12, paragraph 28; subsections (4), (7) and (8) were omitted by the Education and Skills Act 2008 (c.25), section 159 and Schedule 16, paragraph 14.
(**12**) 1997 c.44; the heading and subsections (1) and (2) of section 30 were amended, subsection (1A) to -(1C) were inserted, and subsection (4) was omitted by S.I. 2005/3239, Schedule 1, paragraph 14 and paragraph 15; the heading and subsection (1) to (1B) were amended, subsections (5) to (5C) were substituted for subsection (5), and subsections (1C), (1D), (2) and (6) were omitted, by Apprenticeships, Skills, Children and Learning Act 2009, Schedule 12, paragraph 15 and Schedule 16, Part 4; subsection (3) was omitted by the Learning and Skills Act 2000, section 103.
(**13**) 2000 c.21; subsections (1) and (2)(a) and (b) of section 99 were amended, subsections (2)(za) and (2ZA) were inserted, and subsection (2A) was omitted, by the Apprenticeships, Skills, Children and Learning Act 2009, Schedule 6, paragraph 45, Schedule 12, paragraph 29 and Schedule 16, Part 2; subsections (7) and (8) were omitted by SI 2005/3239, Schedule 1, paragraph 30.
(**14**) 2005 asp 6.

(d) in Northern Ireland, a course of education or training as defined in article 3(1) and (2) of the Further Education (Northern Ireland) Order 1997(**15**);

"higher education course" means—

(a) in England and Wales, a course of a description referred to in Schedule 6 to the Education Reform Act 1988(**16**);

(b) in Scotland, a course of "fundable higher education" as defined in section 5(3), (4) and (5) of the Further and Higher Education (Scotland) Act 2005;

(c) in Northern Ireland, a course of a description referred to in Schedule 1 to the Further Education (Northern Ireland) Order 1997;

"hours" includes a fraction of an hour;

"hours of work" has the meaning given in regulation 17;

"output work" has the meaning given in regulation 36;

"pay reference period" has the meaning given in regulation 6;

"performance bonus" has the meaning given in regulation 21(6);

"remuneration" has the meaning given in regulation 8;

"salaried hours work" has the meaning given in regulation 21;

"time work" has the meaning given in regulation 30;

"unmeasured work" has the meaning given in regulation 44;

"work" is to be construed subject to regulations 57 and 58.

PART 2

Rates of the National Minimum Wage and Pay Reference Period

National minimum wage rates

4.—(1) The national minimum wage is the single hourly rate of—

(a) £6.50 for a worker who is aged 21 years or over;

(b) £5.13 for a worker who is aged 18 years or over (but is not yet aged 21 years);

(c) £3.79 for a worker who is aged under 18 years;

(d) £2.73 for a worker to whom the apprenticeship rate applies, as determined in accordance with regulation 5.

(2) The single hourly rate of the national minimum wage at which a worker is entitled to be remunerated as respects work, in a pay reference period, is the rate which applies to the worker on the first day of that period.

(3) If the rate in paragraph (1)(d) applies to a worker, the rates in paragraph (1)(a), (b) and (c) do not apply to that worker.

Determining whether the apprenticeship rate applies

5.—(1) The apprenticeship rate applies to a worker—

(**15**) S.I. 1997/1772 (N.I.15).
(**16**) 1988 c.40.

(a) who is employed under a contract of apprenticeship or apprenticeship agreement (within the meaning of section 32 of the Apprenticeships, Skills, Children and Learning Act 2009), or is treated as employed under a contract of apprenticeship, and

(b) who is within the first 12 months after the commencement of that employment or under 19 years of age.

(2) A worker is treated as employed under a contract of apprenticeship if the worker is engaged—

(a) in England, under Government arrangements known as Apprenticeships, Advanced Apprenticeships, Intermediate Level Apprenticeships, Advanced Level Apprenticeships or under a Trailblazer Apprenticeship;

(b) in Scotland, under Government arrangements known as Modern Apprenticeships;

(c) in Northern Ireland, under Government arrangements known as Apprenticeships NI; or

(d) in Wales, under Government arrangements known as Foundation Apprenticeships, Apprenticeships or Higher Apprenticeships.

(3) In paragraph (1)(b), a worker does not commence employment with an employer where that worker has previously been employed by another employer and the continuity of employment is preserved between the two employments by or under any enactment.

(4) In this regulation—

(a) "Government arrangements" means—

(i) in England, arrangements made by the Secretary of State under section 2 of the Employment and Training Act 1973(**17**) or section 17B of the Jobseekers Act 1995(**18**),

(ii) in Wales, arrangements made by the Secretary of State or the Welsh Ministers under section 2 of the Employment and Training Act 1973 or the Secretary of State under section 17B of the Jobseekers Act 1995,

(iii) in Scotland, arrangements made by the Secretary of State or the Scottish Ministers 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(**19**),

(iv) in Northern Ireland, arrangements made by the Department for Employment and Learning under section 1 of the Employment and Training Act (Northern Ireland) 1950(**20**);

(b) "Trailblazer Apprenticeship" means an agreement between an employer and a worker which provides for the worker to perform work for that employer and for the employer, or another person, to provide training in order to assist the worker to achieve the apprenticeship standard in the work done under the agreement;

(**17**) 1973 c.50; section 2 was substituted by the Employment Act 1988 (c.19), section 25; subsections (3A) to (3B) were inserted by the Trade Union Reform and Employment Rights Act 1993 (c.19), section 47; subsections (2) and (6) were repealed by the Employment Act 1989 (c.38), section 29(4) and Schedule 7, paragraph 1; the powers under section 2 are exercisable by the Welsh Ministers concurrently with the Secretary of State by virtue of S.I. 1999/672 and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32) .

(**18**) 1995 c.18.

(**19**) 1990 c.35 (S.); subsections (3)(b) to (c) and (4) of section 2 were amended, and subsection (3)(d) was inserted, by the Trade Union Reform and Employment Rights Act 1993 (c.19), section 47 and Schedule 10, paragraph 1; subsection (4)(a) was amended by the Equality Act 2010 (c.15), Schedule 26(1), paragraph 20; subsection (6) was amended by S.I.1999/1820 .

(**20**) 1950 c.29 (N.I.); the powers of the Department under section 1 were extended by S.I. 1974/2144 (N.I.7), Article 7; subsections (1) to (1C) were substituted for subsections (1)to (1A) by S.I. 1988/1087 (N.I. 10,; subsections (2) and (3) were amended by S.I. 1990/1200 (N.I. 8), Article 5; section 1(1A)(d) was amended by the Employment Act (Northern Ireland) 2010 c.12 (N.I.), Schedule 1, paragraph 1.

(c) "apprenticeship standard" means the standard published by the Secretary of State in connection with the Government arrangements known as Trailblazer Apprenticeships, which applies as respects the work done under the agreement.

Pay reference period

6. A "pay reference period"(**21**) is a month, or in the case of a worker who is paid wages by reference to a period shorter than a month, that period.

PART 3

Calculation of the hourly rate

Calculation to determine whether the national minimum wage has been paid

7. A worker is to be treated as remunerated by the employer in a pay reference period at the hourly rate determined by the calculation—

$$\frac{R}{H}$$

where—

"R" is the remuneration in the pay reference period determined in accordance with Part 4;

"H" is the hours of work in the pay reference period determined in accordance with Part 5.

PART 4

Remuneration for the Purposes of the National Minimum Wage

Remuneration in a pay reference period

8. The remuneration in the pay reference period is the payments from the employer to the worker as respects the pay reference period, determined in accordance with Chapter 1, less reductions determined in accordance with Chapter 2.

CHAPTER 1

Payments from the employer to the worker

Payments as respects the pay reference period

9.—(1) The following payments and amounts, except as provided in regulation 10, are to be treated as payments by the employer to the worker as respects the pay reference period—

(a) payments paid by the employer to the worker in the pay reference period (other than payments required to be included in an earlier pay reference period in accordance with sub-paragraphs (b) or (c));

(b) payments paid by the employer to the worker in the following pay reference period as respects the pay reference period (whether as respects work or not);

(c) payments paid by the employer to the worker later than the following pay reference period where the requirements in paragraph (2) are met;

(**21**) This is the period prescribed for the purpose of section 1(4) of the Act.