Draft Legislation: *This is a draft item of legislation and has not yet been made as a UK Statutory Instrument. This draft has been replaced by a new draft, The National Minimum Wage Regulations 1999 (Amendment) Regulations 2009 ISBN 978-0-11-148039-7*

Draft Regulations laid before Parliament under section 51(5) of the National Minimum Wage Act 1998, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2008 No.

TERMS AND CONDITIONS OF EMPLOYMENT

The National Minimum Wage Regulations 1999 (Amendment) Regulations 2008

Made - - - - 2008

Coming into force in accordance with regulation 1

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.

The Secretary of State, in exercise of the powers conferred by sections 1(3), 2, 3 and 51 of the National Minimum Wage Act 1998, makes the following Regulations.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Minimum Wage Regulations 1999 (Amendment) Regulations 2008.

(2) Regulations 1, 4 and 7 shall come into force on the day after the day on which these Regulations are made and the rest of these Regulations shall come into force on 1st October 2008.

(3) In these Regulations the "Principal Regulations" means the National Minimum Wage Regulations 1999(**2**).

Amendments to the Principal Regulations

2. In regulation 2(1)(**3**) of the Principal Regulations (general interpretative provisions), in the definition of "arrangements made by the Government"—

(a) for "arrangements made by the Government" substitute "Government arrangements";

(b) in paragraph (b), after "Secretary of State" insert "or the Scottish Ministers".

(**1**) 1998 c.39; section 3(1A) was inserted by S.I. 1999/583 and amended by S.I. 2007/2042.
(**2**) S.I. 1999/584.
(**3**) Regulation 2 was amended by S.I. 2000/1989 and S.I. 2001/1108.

3. In regulation 11(**4**) of the Principal Regulations (the rate of the national minimum wage), for "£5.52" substitute "£5.73".

4.—(1) The following amendments are made to regulation 12(**5**)of the Principal Regulations (workers who do not qualify for the national minimum wage).

(2) For paragraph (6) substitute the following—

"(6) Paragraph (5) does not apply to a person who—

(a) is a worker within the meaning given by section 54(3) of the Act,

(b) is participating in a scheme falling within sub-paragraph (a) of paragraph (5),

(c) is employed by the employer for whom he works under the scheme, and

(d) is—

(i) remunerated by the employer in respect of that employment, or

(ii) entitled to remuneration from the employer under his contract with the employer, or

(iii) participating in a trial period of work with a prospective employer under Government arrangements for a period in excess of six weeks.

(6A) For the purposes of paragraph (6)(d)(i) and (6)(d)(ii), remuneration does not include a payment by an employer to a person in respect of expenses—

(a) actually incurred in the performance of that person's duties, or

(b) reasonably estimated as likely to be or to have been so incurred.

(6B) For the purposes of paragraph (6A), expenses which—

(a) are incurred in order to enable the person to perform his duties, and

(b) are reasonably so incurred,

are to be regarded as actually incurred in the performance of his duties.".

(3) In paragraph (7), for "three" substitute "six".

5. In regulation 13 of the Principal Regulations (workers who qualify for the national minimum wage at a different rate)—

(a) in paragraph (1)(**6**), for "£4.60" substitute "£4.77"; and

(b) in paragraph (1A)(**7**), for "£3.40" substitute "£3.53".

6. In regulation 36(1)(**8**) of the Principal Regulations (amount permitted to be taken into account where living accommodation is provided), for "£4.30" substitute "£4.46".

Transitional Provision

7. The amendments to the Principal Regulations made by regulation 4 do not apply in relation to any work trial commencing before the day after the day on which these Regulations are made.

(**4**) Regulation 11 was amended, and the amount increased, by S.I. 2000/1989, S.I. 2001/2673, S.I. 2002/1999, S.I. 2003/1923, S.I. 2004/1930, S.I. 2005/2019, S.I. 2006/2001 and S.I. 2007/2318.

(**5**) Regulation 12 was amended by S.I. 2000/1989, S.I. 2001/1108, S.I. 2004/1930, S.I. 2005/2019, S.I. 2006/1031 and S.I. 2007/2318.

(**6**) Regulation 13(1) was amended and the amount increased by, S.I. 2004/1930, S.I. 2005/2019, S.I. 2006/2001 and S.I. 2007/2318.

(**7**) Regulation 13(1A) was inserted by S.I. 2004/1930 and amended and the amount increased by S.I. 2005/2019, S.I. 2006/2001 and S.I. 2007/2318.

(**8**) Regulation 36(1) was amended and the amount increased by S.I. 2004/1930, S.I. 2005/2019, S.I. 2006/2001 and S.I. 2007/2318.