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

DRAFT STATUTORY INSTRUMENTS

2004 No.

TERMS AND CONDITIONS OF EMPLOYMENT

The National Minimum Wage Regulations 1999 (Amendment) Regulations 2004

Made - - - -	*2004*
Coming into force	
Regulations 3 and 4(3)	*6th April 2005*
All other Regulations	*1st October 2004*

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

Now, therefore, the Secretary of State, in exercise of the powers conferred upon her by sections 2 and 51 of the National Minimum Wage Act 1998 hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Minimum Wage Regulations 1999 (Amendment) Regulations 2004.

(2) Except for regulations 3 and 4(3), which shall come into force on 6th April 2005, these Regulations shall come into force on 1st October 2004.

(3) In these Regulations, the "principal regulations" means the National Minimum Wage Regulations 1999(**2**) and "pay reference period" has the meaning assigned to that expression by regulation 10 of the principal regulations.

Amendments to the Principal Regulations

2. For regulations 24 (output work), 25 ("fair estimate" agreements for output work), and 26 (determining the hours of output work where there is a "fair estimate" agreement) of the principal regulations substitute—

(**1**) 1998 c39.
(**2**) SI 1999/584.

"**Output Work**

24.—(1) The output work of a worker in a pay reference period relating to a type of piece produced or a type of task performed shall be the number of hours spent by the worker during the pay reference period in producing that type of piece, or performing that type of task, except where the output work relating to that type of piece or task is rated output work.

(2) Output work is rated output work if —

(a) it satisfies the conditions in paragraph (1) of regulation 25, and

(b) it is work in respect of which the employer has given the worker a notice that satisfies the requirements of paragraph (2) of regulation 25.

Rated output work: conditions and notice

25.—(1) The conditions referred to in regulation 24(2)(a) are—

(a) that the output work relating to the type of piece in question ("the subject piece") or the type of task in question ("the subject task") is work in respect of which the worker's contract does not set any normal, minimum or maximum working hours;

(b) that the employer does not in practice determine or control the hours worked by the worker in relation to the subject piece or the subject task; and

(c) that the employer has determined the mean hourly output rate, as defined in paragraph (3) of regulation 26, for the subject piece or the subject task.

(2) A notice satisfies the requirements of this paragraph if—

(a) it was given in writing to the worker at any time before the beginning of the pay reference period (whether or not it was given before the beginning of, and had effect in relation to, any earlier pay reference periods); and

(b) it contains statements conveying the following information—

(i) that it is being given to inform the worker that, for the purpose of securing compliance with the national minimum wage legislation, he will be treated, in respect of, as appropriate, his production of the subject piece or his performance of the subject task during the pay reference period, as working for a certain period of time;

(ii) that, for the purpose of determining the period of time the worker will be treated as working, the employer has conducted a test or, where applicable, made an estimate of the average speed at which workers employed by the employer produce the subject piece or perform the subject task, as appropriate;

(iii) what the mean hourly output rate for the subject piece or the subject task is;

(iv) the rate to be paid to the worker for the production of a single subject piece or the performance of a single subject task, as appropriate; and

(v) the telephone number of the national minimum wage helpline, which number is identified as being the national minimum wage helpline number.

Rated output work: determination of hours worked

26.—(1) Where output work is rated output work consisting of the production of subject pieces, the number of hours of output work spent by the worker in producing subject pieces during the pay reference period shall be treated as being the number of hours that a worker producing the subject pieces at the mean hourly output rate would have taken to produce the number of subject pieces produced by the worker in the pay reference period.