
DRAFT STATUTORY INSTRUMENTS

2015 No.

The National Minimum Wage Regulations 2015

PART 5

Hours Worked for the Purposes of the National Minimum Wage

CHAPTER 4

Output work

The meaning of average hourly output rate (rated output work)

42.—(1) In this Chapter, the “average hourly output rate” is the mean number (including any fraction) of the measure of output per hour.

- (2) To determine the average hourly output rate the employer must either—
- (a) conduct a test which satisfies the requirements in paragraph (3); or
 - (b) make an estimate of the mean speed the output work is done which satisfies the requirements in paragraph (4).
- (3) The requirements are—
- (a) the test is conducted on—
 - (i) all the employer’s workers who do the output work, or
 - (ii) a sample of those workers which, as respects the speed, is representative of the worker’s work as respects that measure of output;
 - (b) the test is conducted in similar physical conditions to those in which the worker will be doing the work; and
 - (c) the total output per hour during the test is divided by the number of workers tested.
- (4) The requirements are—
- (a) a test is conducted on a sample of the employer’s workers which is, so far as reasonably practicable, representative as respects the speed at which they work, of the speed at which the workers who produce the measure of output work;
 - (b) that test is carried out in relation to work which—
 - (i) is reasonably similar to the output work and was done in similar physical conditions to those of the worker, or
 - (ii) is the same as the output work but was done in different physical conditions to those of the worker; and
 - (c) the average speed is reasonably adjusted to take into account the likely difference in time involved in the worker doing the output work in the worker’s physical conditions in comparison to the test which was carried out.

(5) If there are changes in the number or identity of workers who do the output work, the employer is not required to conduct a further test or make a further estimate unless the employer has reason to believe that the changes materially affect the average hourly output rate.