
STATUTORY INSTRUMENTS

1999 No. 584

The National Minimum Wage Regulations 1999

PART III

**WORKING TIME FOR THE PURPOSES
OF THE NATIONAL MINIMUM WAGE**

The hours worked in a pay reference period

Determining the hours of salaried hours work in certain cases where the employment terminates

23.—(1) This regulation applies, in the circumstances specified in paragraphs (2) and (3), to the final pay reference period of a worker whose employment terminates in the course of a calculation year and in cases where the employment of a worker is treated as being terminated by virtue of paragraph (4).

(2) Where the basic hours have not been exceeded at the end of the final pay reference period but, at the end of that pay reference period, the total of the hours to be taken into account under regulation 22(3) since the beginning of the calculation year (the “A” hours) exceeds the total of the number of hours determined in accordance with regulation 21 in relation to all of the pay reference periods (including the final pay reference period) since the beginning of the calculation year (the “B” hours), the salaried hours work worked by the worker in that pay reference period shall be regarded as including (in addition to the number of hours determined in relation to the pay reference period in accordance with regulation 21) the number of hours by which the “A” hours exceed the “B” hours.

(3) Where the basic hours have been exceeded at any time during the calculation year before the end of the final pay reference period, the salaried hours work worked by the worker in that pay reference period shall be regarded as including (in addition to the number of hours determined in relation to the pay reference period in accordance with regulation 22(5) or, as the case may be, (6)) the number of hours that result from applying regulation 21(2) in relation to the period beginning with the day immediately following the last day of the worker’s final pay reference period and ending at the end of the calculation year (“the subsequent period”), as if—

- (a) the whole of the subsequent period was a single pay reference period (containing the number of days in it), and
- (b) the worker had continued to be employed under his contract to do salaried hours work for the whole of the subsequent period and had not been absent from work during it for any hours in respect of which regulation 21(3) requires a reduction.

(4) Where a worker’s contract is varied so that any salaried hours work required to be done under the contract becomes work that is not salaried hours work, this regulation shall apply as if—

- (a) the employment of the worker had been terminated; and
- (b) the last day of the worker’s final pay reference period had fallen on the day before the day on which the variation took effect.