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STATUTORY INSTRUMENTS

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**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*

**“Fair estimate” agreements for output work**

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

- (a) that there is an agreement in writing between the worker and his employer, made at any time before the beginning of the pay reference period, that—
  - (i) contains a fair estimate of the number of hours of output work (including any time which is to be treated as output work) the worker is likely to spend in performing the work to be done in the pay reference period, and
  - (ii) requires the worker to keep a record of the hours of output work done by him in the pay reference period and to supply a copy of the record to the employer as soon as is reasonably practicable after the end of it; and
- (b) that the worker is contractually entitled to be paid the agreed rate for each piece produced or agreed rate of commission for each sale made or transaction completed by him in the pay reference period or, as the case may be, for each sale made or transaction completed as a result of output work done by him in the pay reference period.

(2) An estimate of the number of hours a worker is likely to work purporting to satisfy the condition in paragraph (1)(a)(i) is not a fair estimate if the employer cannot show that the number is at least four-fifths of the number of hours that an average worker doing the same work as the worker in the same working circumstances and producing, by reference to the same measure of output, the same output would on average spend working in a pay reference period.

(3) Unless otherwise agreed the agreement referred to in paragraph (1)(a) has effect solely for the purpose of determining the amount of output work the worker is to be treated as doing for the purpose of these Regulations and does not vary the worker’s contract.