
STATUTORY INSTRUMENTS

2015 No. 621

The National Minimum Wage Regulations 2015

PART 4

Remuneration for the Purposes of the National Minimum Wage

CHAPTER 1

Payments from the employer to the worker

Payments as respects the pay reference period

9.—(1) The following payments and amounts, except as provided in regulation 10, are to be treated as payments by the employer to the worker as respects the pay reference period—

- (a) payments paid by the employer to the worker in the pay reference period (other than payments required to be included in an earlier pay reference period in accordance with sub-paragraphs (b) or (c));
- (b) payments paid by the employer to the worker in the following pay reference period as respects the pay reference period (whether as respects work or not);
- (c) payments paid by the employer to the worker later than the following pay reference period where the requirements in paragraph (2) are met;
- (d) where a worker's contract terminates then as respects the worker's final pay reference period, payments paid by the employer to the worker in the period of a month beginning with the day after that on which the contract was terminated;
- (e) amounts determined in accordance with regulation 16 (amount for provision of living accommodation) where—
 - (i) the employer has provided the worker with living accommodation during the pay reference period, and
 - (ii) as respects that provision of living accommodation, the employer is not entitled to make a deduction from the worker's wages or to receive a payment from the worker.

(2) The requirements are that as respects the work in the pay reference period—

- (a) the worker is under an obligation to complete a record of the amount of work done,
- (b) the worker is not entitled to payment until the completed record has been given to the employer,
- (c) the worker has failed to give the record to the employer before the fourth working day before the end of that following pay reference period, and
- (d) the payment is paid in either the pay reference period in which the record is given to the employer or the pay reference period after that.

Payments and benefits in kind which do not form part of a worker's remuneration

10. The following payments and benefits in kind do not form part of a worker's remuneration—

- (a) payments by way of an advance under an agreement for a loan or by way of an advance of wages;
- (b) payment of a pension, allowance or gratuity in connection with the worker's retirement or as compensation for loss of office;
- (c) payment of an award made by a court or tribunal or a payment to settle proceedings which have been or might be brought before a court or tribunal, other than the payment of an amount due under the worker's contract;
- (d) payments referable to the worker's redundancy;
- (e) payment of an award for a suggestion made by the worker under a scheme established by the employer to reward suggestions made by workers;
- (f) benefits in kind provided to the worker, whether or not a monetary value is attached to the benefit, other than living accommodation;
- (g) a voucher, stamp or similar document capable of being exchanged for money, goods or services (or for any combination of those things);
- (h) payments as respects hours which are not, or not treated as—
 - (i) hours of time work in accordance with regulation 35 (absences, industrial action, rest breaks),
 - (ii) hours of output work in accordance with regulation 40 (industrial action), or
 - (iii) hours of unmeasured work in accordance with regulation 48 (industrial action);
- (i) payments, in the context of salaried hours work, attributable to the hours to be reduced under regulation 23 (worker entitled to less than normal proportion of annual salary because of absence) whether directly or by reason of regulation 28(3) (where the worker works more than the basic hours);
- (j) payments paid by the employer to the worker as respects hours of time work or output work in the pay reference period if—
 - (i) there is a lower rate per hour which could be payable under the contract as respects that work (including if the work was done at a different time or in different circumstances), and
 - (ii) to the extent that such payments exceed the lowest rate;
- (k) payments paid by the employer to the worker attributable to a particular aspect of the working arrangements or to working or personal circumstances that are not consolidated into the worker's standard pay unless the payments are attributable to the performance of the worker in carrying out the work;
- (l) payments paid by the employer to the worker as respects the worker's expenditure in connection with the employment;
- (m) payments paid by the employer to the worker representing amounts paid by customers by way of a service charge, tip, gratuity or cover charge;
- (n) payments paid by the employer to the worker as respects travelling expenses that are allowed as deductions from earnings under section 338 of the Income Tax (Earnings and Pensions) Act 2003(1).

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*
