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STATUTORY INSTRUMENTS

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**2015 No. 621**

The National Minimum Wage Regulations 2015

PART 5

Hours Worked for the Purposes of the National Minimum Wage

CHAPTER 2

Salaried hours work

**The meaning of salaried hours work**

**21.**—(1) “Salaried hours work” is work which is done under a worker’s contract and which meets the conditions in paragraphs (2) to (5) of this regulation.

(2) The first condition is that the worker is entitled under their contract to be paid an annual salary or an annual salary and performance bonus.

(3) The second condition is that the worker is entitled under their contract to be paid that salary or salary and performance bonus in respect of a number of hours in a year, whether those hours are specified in or ascertained in accordance with their contract (“the basic hours”).

(4) The third condition is that the worker is not entitled under their contract to a payment in respect of the basic hours other than an annual salary or an annual salary and performance bonus.

(5) The fourth condition is that the worker is entitled under their contract to be paid, where practicable and regardless of the number of hours actually worked in a particular week or month—

- (a) in equal weekly or monthly instalments, or
- (b) in monthly instalments that vary but have the result that the worker is entitled to be paid an equal amount in each quarter.

(6) Circumstances where it may not be practicable to pay a worker by equal instalments, or by an equal amount in each quarter, include where—

- (a) a performance bonus is awarded;
- (b) the annual salary is varied;
- (c) a payment is made in respect of hours in addition to basic hours; or
- (d) the employment starts or terminates during a week or month with the result that the worker is paid a proportionate amount of their annual salary for that week or month.

(7) Work may be salaried hours work whether or not—

- (a) all the basic hours are working hours;
- (b) the worker works hours in excess of the basic hours (whether the worker is entitled to be paid for those additional hours or not);
- (c) the annual salary may be reduced due to an absence from work.

(8) A “performance bonus” is a payment paid to a worker on merit attributable to the quality or amount of work done in the course of more than one pay reference period.