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STATUTORY INSTRUMENTS

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**2015 No. 621**

**The National Minimum Wage Regulations 2015**

**PART 2**

**Rates of the National Minimum Wage and Pay Reference Period**

**Determining whether the apprenticeship rate applies**

- 5.—(1) The apprenticeship rate applies to a worker—
- (a) who is employed under a contract of apprenticeship or apprenticeship agreement (within the meaning of section 32 of the Apprenticeships, Skills, Children and Learning Act 2009), or is treated as employed under a contract of apprenticeship, and
  - (b) who is within the first 12 months after the commencement of that employment or under 19 years of age.
- (2) A worker is treated as employed under a contract of apprenticeship if the worker is engaged—
- (a) in England, under Government arrangements known as Apprenticeships, Advanced Apprenticeships, Intermediate Level Apprenticeships, Advanced Level Apprenticeships or under a Trailblazer Apprenticeship;
  - (b) in Scotland, under Government arrangements known as Modern Apprenticeships;
  - (c) in Northern Ireland, under Government arrangements known as Apprenticeships NI; or
  - (d) in Wales, under Government arrangements known as Foundation Apprenticeships, Apprenticeships or Higher Apprenticeships.
- (3) In paragraph (1)(b), a worker does not commence employment with an employer where that worker has previously been employed by another employer and the continuity of employment is preserved between the two employments by or under any enactment.
- (4) In this regulation—
- (a) “Government arrangements” means—
    - (i) in England, arrangements made by the Secretary of State under section 2 of the Employment and Training Act 1973<sup>(1)</sup> or section 17B of the Jobseekers Act 1995<sup>(2)</sup>,
    - (ii) in Wales, arrangements made by the Secretary of State or the Welsh Ministers under section 2 of the Employment and Training Act 1973 or the Secretary of State under section 17B of the Jobseekers Act 1995,
    - (iii) in Scotland, arrangements made by the Secretary of State or the Scottish Ministers under section 2 of the Employment and Training Act 1973 or by Scottish Enterprise

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(1) 1973 c.50; section 2 was substituted by the Employment Act 1988 (c.19), section 25; subsections (3A) to (3B) were inserted by the Trade Union Reform and Employment Rights Act 1993 (c.19), section 47; subsections (2) and (6) were repealed by the Employment Act 1989 (c.38), section 29(4) and Schedule 7, paragraph 1; the powers under section 2 are exercisable by the Welsh Ministers concurrently with the Secretary of State by virtue of S.I. 1999/672 and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32).

(2) 1995 c.18.

or Highlands and Islands Enterprise under section 2 of the Enterprise and New Towns (Scotland) Act 1990(3),

(iv) in Northern Ireland, arrangements made by the Department for Employment and Learning under section 1 of the Employment and Training Act (Northern Ireland) 1950(4);

- (b) “Trailblazer Apprenticeship” means an agreement between an employer and a worker which provides for the worker to perform work for that employer and for the employer, or another person, to provide training in order to assist the worker to achieve the apprenticeship standard in the work done under the agreement;
- (c) “apprenticeship standard” means the standard published by the Secretary of State in connection with the Government arrangements known as Trailblazer Apprenticeships, which applies as respects the work done under the agreement.

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(3) 1990 c.35 (S.); subsections (3)(b) to (c) and (4) of section 2 were amended, and subsection (3)(d) was inserted, by the Trade Union Reform and Employment Rights Act 1993 (c.19), section 47 and Schedule 10, paragraph 1; subsection (4)(a) was amended by the Equality Act 2010 (c.15), Schedule 26(1), paragraph 20; subsection (6) was amended by S.I.1999/1820 .

(4) 1950 c.29 (N.I.); the powers of the Department under section 1 were extended by S.I. 1974/2144 (N.I.7), Article 7; subsections (1) to (1C) were substituted for subsections (1)to (1A) by S.I. 1988/1087 (N.I. 10.); subsections (2) and (3) were amended by S.I. 1990/1200 (N.I. 8), Article 5; section 1(1A)(d) was amended by the Employment Act (Northern Ireland) 2010 c.12 (N.I.), Schedule 1, paragraph 1.