Draft Regulations laid before Parliament under section 51(5) of the National Minimum Wage Act 1998, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2007 No.

TERMS AND CONDITIONS OF EMPLOYMENT

The National Minimum Wage Regulations 1999 (Amendment) Regulations 2007

Made - - - -	*2007*
Coming into force - -	*1st October 2007*

A draft of these Regulations was laid before Parliament in accordance with section 51(5) of the National Minimum Wage Act 1998(**a**) and approved by a resolution of each House of Parliament.

The Secretary of State, in exercise of the powers conferred by sections 1(3), 2, 3 and 51 of the National Minimum Wage Act 1998, makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Minimum Wage Regulations 1999 (Amendment) Regulations 2007 and shall come into force on 1st October 2007.

(2) In these Regulations the "Principal Regulations" means the National Minimum Wage Regulations 1999(**b**).

Amendments to the Principal Regulations

2. In regulation 11(**c**) of the Principal Regulations (the rate of the national minimum wage), for "£5.35" substitute "£5.52".

3.—(1) The following amendments are made to regulation 12(**d**) of the Principal Regulations (workers who do not qualify for the national minimum wage).

(2) In sub-paragraph (a) of paragraph (4A), after "Entry to Employment", insert "or under the Government arrangements known at 1st October 2007, as Programme Led Apprenticeships".

(3) In paragraph (8), for "attending" substitute "undertaking".

(4) In paragraph (9)—

(a) after "paragraph (8)", insert "and paragraph (9B)";

(**a**) 1998 c.39; section 3(1A) was inserted by S.I. 1999/583 and amended by S.I. 2007/

(**b**) S.I. 1999/584.

(**c**) Regulation 11 was amended, and the amount increased, by S.I. 2000/1989, S.I. 2001/2673, S.I. 2002/1999, S.I. 2003/1923, S.I. 2004/1930, S.I. 2005/2019 and S.I. 2006/2001.

(**d**) Regulation 12 was amended by S.I. 2000/1989, S.I. 2001/1108, S.I. 2004/1930, S.I. 2005/2019 and S.I. 2006/1031.

(b) for "section 38 of the Further and Higher Education (Scotland) Act 1992" substitute "the definition of "fundable higher education" as defined in section 5(3), (4) and (5) of the Further and Higher Education (Scotland) Act 2005(**a**)".

(5) After paragraph (9) insert—

"(9A) A worker who is undertaking a further education course and before the course ends is required, as part of that course, to attend a period of work experience not exceeding one year, does not qualify for the national minimum wage in respect of work done for his employer as part of that course.

(9B) For the purposes of paragraph (9A) "a further education course" means—

(a) in England, a full-time or part-time course of education that is suitable to the requirements of persons who are over compulsory school age and that—

(i) is funded by the Learning and Skills Council for England,

(ii) is funded by a local authority,

(iii) leads to a qualification that is accredited by the Qualifications and Curriculum Authority pursuant to section 24 of the Education Act 1997(**b**), or

(iv) leads to a qualification that is approved pursuant to section 98 of the Learning and Skills Act 2000(**c**),

except that it does not include a higher education course;

(b) in Wales, a full-time or part-time course of education that is suitable to the requirements of persons who are over compulsory school age and that—

(i) is funded by the Welsh Ministers,

(ii) is funded by a local authority,

(iii) leads to a qualification that is accredited by the Welsh Ministers pursuant to section 30 of the Education Act 1997(**d**), or

(iv) leads to a qualification that is approved pursuant to section 99 of the Learning and Skills Act 2000(**e**),

except that it does not include a higher education course;

(c) in Scotland, a course of "fundable further education" as defined in section 5(1) and 5(2) of the Further and Higher Education (Scotland) Act 2005(**f**);

(d) in Northern Ireland, a full-time or part-time course of education or training as defined in article 3(1) and 3(2) of the Further Education (Northern Ireland) Order 1997(**g**);

(9C) In paragraph (9B)(a) and (9B)(b) "compulsory school age" has the same meaning given by section 8 of the Education Act 1996(**h**).".

(6) After paragraph (13), insert—

(**a**) 2005 asp 6.

(**b**) 1997 c.44. Section 24 was amended by the Learning and Skills Act 2000 (c. 21), section 103(2) and (3), the Education Act 2002 (c. 32), Schedule 17, paragraph 2 and the Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), Schedule 1, paragraph 7.

(**c**) 2000 c.21.

(**d**) Section 30 was amended by the Learning and Skills Act 2000 (c. 21), section 103(4), Schedule 11 and the Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), Schedule 1, paragraphs 14 and 15. Functions of the National Assembly for Wales under section 30 of the Education Act 1997, transferred to the Welsh Ministers, by virtue of paragraph 30 of Schedule 11 of the Government of Wales Act 2006 (c. 32).

(**e**) Section 99 was amended by the Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), article 9(1), Schedule 1, paragraph 30. Functions of the National Assembly for Wales under section 99 of the Learning and Skills Act 2000, transferred to the Welsh Ministers, by virtue of paragraph 30 of Schedule 11 of the Government of Wales Act 2006 (c. 32).

(**f**) 2005 asp 6.

(**g**) S.I. 1997/1772 (N.I. 15).

(**h**) 1996 c.56. Section 8 was amended by the Education Act 1997 (c. 44), section 52(2) and (3).

"(14) A worker who is participating in the European Community Leonardo da Vinci programme (established pursuant to Decision No. 1720/2006/EC of the European Parliament and the Council of the European Union establishing an action programme in the field of lifelong learning(**a**)), does not qualify for the national minimum wage in respect of work done for his employer as part of that scheme.

(15) A worker who is participating in the European Community Youth in Action Programme (established pursuant to Decision No. 1719/2006/EC of the European Parliament and the Council of the European Union(**b**), does not qualify for the national minimum wage in respect of work done for his employer as part of that programme.".

4. In regulation 13 of the Principal Regulations (workers who qualify for the national minimum wage at a different rate)—

(a) in paragraph (1)(**c**), for "£4.45" substitute "£4.60"; and

(b) in paragraph (1A)(**d**), for "£3.30" substitute "£3.40".

5. After regulation 31(2) of the Principal Regulations (reductions from payments to be taken into account) insert—

"(3) Any payment made to or deduction by a local housing authority or a registered social landlord in respect of the provision of living accommodation shall be exempted from the operation of sub-paragraph (i) of paragraph (1), except where the living accommodation is provided to the worker in connection with his employment with the local housing authority or registered social landlord.

(4) For the purposes of paragraph (3), "local housing authority" means—

(a) in England and Wales, a local housing authority as defined in Part 1 of the Housing Act 1985(**e**) and shall in addition include county councils;

(b) in Scotland, a local authority landlord as defined in section 11(3) of the Housing (Scotland) Act 2001(**f**);

(c) in Northern Ireland, the Northern Ireland Housing Executive.

(5) For the purposes of paragraph (3), "registered social landlord" means—

(a) in England and Wales, a social landlord registered under Part 1 of the Housing Act 1996(**g**) and shall in addition include subsidiaries or associates as defined in that Act;

(b) in Scotland, a body registered in the register maintained under section 57 of the of the Housing (Scotland) Act 2001(**h**);

(c) in Northern Ireland, a housing association registered under Chapter II of Part II of the Housing (Northern Ireland) Order 1992(**i**).".

6. At the end of paragraph (d) of regulation 33 of the Principal Regulations (deductions not to be subtracted under regulation 31(1)(g)) add—

"or

(e) any deduction in respect of the provision of living accommodation which is exempted from regulation 31(1)(i) by regulation 31(3).".

(**a**) OJ No. L327, 24.11.2006, p.45.
(**b**) OJ No. L327, 24.11.2006, p.30-44.
(**c**) Regulation 13(1) was amended and the amount increased by, S.I. 2004/1930, S.I. 2005/2019 and S.I. 2006/2001.
(**d**) Regulation 13(1A) was inserted by S.I. 2004/1930 and amended and the amount increased by S.I. 2005/2019 and S.I. 2006/2001.
(**e**) 1985 c.68. Section 1 was amended by the Local Government (Wales) Act 1994 (c. 19), Schedule 8, paragraph 5(1).
(**f**) 2001 asp 10.
(**g**) 1996 c.52.
(**h**) 2001 asp 10.
(**i**) S.I. 1992/1725 (N.I.15).

7. At the end of paragraph (e) of regulation 35 of the Principal Regulations (payments not to be subtracted under regulation 31(1)(h)), add—

"or

(f) any payment in respect of the provision of living accommodation which is exempted from regulation 31(1)(i) by regulation 31(3).".

8. In regulation 36(1)(**a**) (amount permitted to be taken into account where living accommodation is provided), for "£4.15" substitute "£4.30".

Transitional Provision

9. The amendments to the Principal Regulations made by regulations 3 and 5 do not apply in relation to any pay reference period beginning before 1st October 2007.

Revocation Provision

10. Regulation 2 of the National Minimum Wage Regulations 1999 (Amendment) Regulations 2006(**b**) is revoked.

Parliamentary Under Secretary of State for Employment Relations
Date Department of Trade and Industry

(**a**) Regulation 36(1) was amended and the amount increased by S.I. 2004/1930, S.I. 2005/2019 and S.I. 2006/2001.
(**b**) S.I. 2006/2001.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Minimum Wage Regulations 1999 (the "Principal Regulations") and come into force on the 1st October 2007.

Regulation 2 increases the principal rate of the national minimum wage from £5.35 to £5.52 per hour (Regulation 2). The Regulations also increase the rate paid to workers aged between 18 and 21 from £4.45 to £4.60 per hour (Regulation 4(a)) and the rate to be paid to workers aged below 18 who have ceased to be of compulsory school age from £3.30 to £3.40 per hour (Regulation 4(b)).

Regulation 8 amends the per day value of the accommodation amount which is applicable where an employer provides a worker with living accommodation. The amendment increases the amount from £4.15 to 4.30 for each day that accommodation is provided.

Regulation 3(2) amends Regulation 12 of the Principal Regulations to add to the categories of workers who do not qualify for the national minimum wage, workers who are participating in the Programme Led Apprenticeships scheme in England.

Regulation 3(3) amends Regulation 12(8) of the Principal Regulations so that the Regulation applies to workers undertaking courses of higher education instead of workers attending courses of higher education.

The Regulations insert three new classes of persons who do not qualify for the national minimum wage. These are workers who attend a period of work experience as part of a course of further education, workers participating in the latest phase of the Leonardo da Vinci Programme, a specific European Community scheme intended to provide its participants with vocational training and workers participating in the European Community Youth in Action Programme.

Regulation 5 inserts Regulation 31(3) to (5) into the Principal Regulations so that Regulation 31(1)(i) of the Principal Regulations (reductions from payments to be taken into account) will not apply to deductions made by or payments to a local housing authority or registered social landlord in respect of the provision of living accommodation save where a connection exists between the provision of the living accommodation and the employment with the local housing authority or registered social landlord. Regulations 6 and 7 provide that where the deduction or payment in respect of the provision of living accommodation is exempted from regulation 31(1)(i) by regulation 31(3) it will not be taken into account under Regulation 31(1)(g) or (h).

The Regulations contain two transitional provisions and a revocation provision. The latter revokes previous provisions which increased the principal hourly rate of the national minimum wage, the rate to be paid to those who qualified for the national minimum wage at a different rate and the daily value of the accommodation amount.

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