

*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.*

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DRAFT STATUTORY INSTRUMENTS

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**2011 No. 0000**

**TERMS AND CONDITIONS OF EMPLOYMENT**

**The National Minimum Wage (Amendment) Regulations 2011**

*Made* - - - - \*\*\*\*\*

*Coming into force*

*Regulations 1 and 4*

*1st August 2011*

*Remainder*

*1st October 2011*

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 (Amendment) Regulations 2011.

(2) Regulations 1 and 4 shall come into force on 1st August 2011 and all other regulations shall come into force on 1st October 2011.

(3) In these Regulations “the Principal Regulations” means the National Minimum Wage Regulations 1999(b).

**Amendments to the Principal Regulations**

2. In regulation 2(1) of the Principal Regulations (general interpretative provisions) in the definition of “Government arrangements” in paragraph (a) after “section 2 of the Employment and Training Act 1973(c)” insert “or section 17B of the Jobseekers Act 1995(d)”.

3. In regulation 11 of the Principal Regulations (the rate of the national minimum wage), for “£5.93” substitute “£6.08”.

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(a) 1998 c.39; section 3(1A) was inserted by S.I. 1999/583 and amended by S.I. 2007/2042; sections 51(6) and 51(7) were amended by the Employment Act 2008 (c. 23), sections 9(3), 20 and Schedule, Part 2.

(b) S.I. 1999/584; relevant amending instruments are S.I. 2000/1989, S.I. 2001/2673, S.I. 2002/1999, S.I. 2003/1923, S.I. 2004/1930, S.I. 2005/2019, S.I. 2006/2001, S.I. 2007/2318, S.I. 2008/1894, S.I. 2009/1902 and S.I. 2010/1901.

(c) 1973 c.50; section 2 was substituted by the Employment Act 1988 (c.19), section 25 (1). There are amendments to section 2 but none are relevant to these Regulations.

(d) 1995 c.18; section 17B was inserted by the Welfare Reform Act 2009 (c.24), section 1 (1), (2).

4. In regulation 12 of the Principal Regulations (workers who do not qualify for the national minimum wage) in paragraph (4A)(d) after “Skill Build,” insert “or known, at 1st August 2011, as Traineeships or Steps to Employment,”.

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

- (a) in paragraph (1) for “£4.92” substitute “£4.98”;
- (b) in paragraph (2) for “£3.64” substitute “£3.68”; and
- (c) in paragraph (3) for “£2.50” substitute “£2.60”.

6. In regulation 36(1) of the Principal Regulations (amount permitted to be taken into account where living accommodation is provided), for “£4.61” substitute “£4.73”.

#### **Regulation 11(3) of the Agency Workers Regulations 2010**

7. In regulation 11(3) of the Agency Workers Regulations 2010(a) (calculating the minimum amount of pay) for “National Minimum Wage Regulations 1999 (Amendment) Regulations 2010” substitute “National Minimum Wage (Amendment) Regulations 2011”.

#### **Transitional Provision**

8. The amendments to the Principal Regulations made by regulations 3, 5 and 6 do not apply in relation to any pay reference period beginning before 1st October 2011.

	<i>Name</i>
	Minister for Employment Relations, Consumer and Postal Affairs
Date	Department for Business, Innovation and Skills

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(a) S.I. 2010/93; amended by S.I. 2010/1901.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the National Minimum Wage Regulations 1999 (the “Principal Regulations”). Regulations 1 and 4 come into force on 1st August 2011 because regulation 4 concerns new Welsh apprenticeship programmes which start on that date and regulation 1 is the citation, commencement and interpretation provision. The remaining regulations come into force on 1st October 2011.

Regulation 2 amends regulation 2(1) of the Principal Regulations to extend the definition of “Government arrangements” to include arrangements made pursuant to section 17B of the Jobseekers Act 1995.

Regulation 3 increases the principal rate of the national minimum wage from £5.93 to £6.08 per hour (regulation 11 of the Principal Regulations).

Regulation 4 provides that a worker participating in a Government scheme in Wales known as Traineeships or Steps to Employment will not qualify for the national minimum wage in respect of work done for an employer as part of the scheme (regulation 12(4A)(d) of the Principal Regulations).

Regulation 5 increases (a) the rate paid to workers aged between 18 and 20 from £4.92 to £4.98 per hour; (b) the rate paid to workers aged below 18 who have ceased to be of compulsory school age from £3.64 to £3.68 per hour; and (c) the rate paid to apprentices within the first 12 months of their employment or engagement under Government arrangements specified in regulation 13(6)(b) of the Principal Regulations or who have not attained the age of 19 from £2.50 to £2.60 per hour (paragraphs (1), (2) and (3) of regulation 13 of the Principal Regulations respectively).

Regulation 6 increases the accommodation amount which is applicable where an employer provides a worker with living accommodation from £4.61 to £4.73 for each day that accommodation is provided (regulation 36(1) of the Principal Regulations).

Regulation 7 amends regulation 11(3) of the Agency Workers Regulations 2010 so that it refers to the national minimum wage entitlements as prescribed by this instrument. Regulation 8 provides that regulations 3, 5 and 6 do not apply in relation to any pay reference period beginning before 1st October 2011.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is annexed to the Explanatory Memorandum which is available alongside the instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk).

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D R A F T   S T A T U T O R Y   I N S T R U M E N T S

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