
STATUTORY INSTRUMENTS

2015 No. 621

The National Minimum Wage Regulations 2015

PART 5

Hours Worked for the Purposes of the National Minimum Wage

CHAPTER 5

Unmeasured work

The meaning of unmeasured work

44. Unmeasured work is any other work that is not time work, salaried hours work or output work.

Determining hours of unmeasured work in a pay reference period

- 45.** The hours of unmeasured work in a pay reference period are the total number of hours—
- (a) which are worked (or treated as hours of unmeasured work in accordance with regulations 46 and 47) by the worker in that period; or
 - (b) which the worker is treated as working under a daily average agreement in that period, as determined in accordance with regulation 50.

Training treated as hours of unmeasured work

46. The hours when a worker is training, where the worker would otherwise be doing unmeasured work, are to be treated as hours of unmeasured work.

Travelling treated as hours of unmeasured work

47. The hours when a worker is travelling for the purposes of unmeasured work are to be treated as hours of unmeasured work.

Industrial action not to be unmeasured work

48. The hours when a worker takes part in industrial action are not to be treated as hours of unmeasured work.

The daily average agreement

- 49.—(1)** A “daily average agreement” is an agreement between a worker and employer—
- (a) which specifies the average daily number of hours the worker is likely to spend working where the worker is available to work for the full amount of time contemplated by the contract, and
 - (b) is made in writing before the beginning of the pay reference period to which it relates.

(2) The requirement in paragraph (1)(a) is not satisfied unless the employer can show that the average daily number of hours specified is a reasonable estimate.

(3) Unless the worker and employer agree otherwise, the daily average agreement has effect solely for the purpose of determining the amount of unmeasured work the worker is to be treated as having worked for the purposes of these Regulations.

Determining the hours treated as worked under a daily average agreement

50. The hours treated as worked under a daily average agreement for each day on which the worker worked in the pay reference period are—

- (a) where the worker was available to work for at least the full amount of time contemplated under the contract, the average daily number of hours specified in the daily average agreement;
- (b) where the worker was available to work for only part of the time contemplated by the contract, the proportion of the average daily number of hours specified in the daily average agreement which that part bears to the full amount of time contemplated under the contract.