

Will your current payslip format comply with the new regulations to show hours from April 2019?

Requirement to show Hours on Payslips from 6 April 2019

From **6 April 2019 all employers will be required to include on payslips the number of hours worked** by an employee for which they are being paid, but only in situations where the employee's pay varies as a consequence of the time worked.

Where this applies, the number of hours paid for on this basis (i.e. on the amount of time worked) must be shown. Any other hours do not need to be shown (although of course best practice would be to show them). For example, where a worker has a fixed salary each month, and works variable overtime with additional pay at an hourly rate, only the hours of overtime need to be shown.

The hours can be shown either as a single total of all such hours in the pay period, or they can be broken down into separate figures for different types of work or different rates of pay. It should be clear which pay period they were worked in, but only need to be shown for pay periods which begin on or after 6 April 2019.



The Employment Rights Act 1996 (Itemised Pay Statement) (Amendment) Order 2018

The Employment Rights Act 1996 (Itemised Pay Statement) (Amendment) Order 2018 was laid before parliament on 8 February 2018 and comes into force on 6 April 2019. This instrument amends section 8 of the Employment Rights Act 1996 (c. 18), adding to the list of particulars which must be included in the itemised pay statement which an employee has a right to be given. The Amendment states:



...where the amount of wages or salary varies by reference to time worked, the total number of hours worked in respect of the variable amount of wages or salary either as

*(i) a single aggregate figure, or
(ii) separate figures for different types of work or different rates of pay*



The amendments made by this Order do not apply in relation to wages or salary paid in respect of a period of work which commences before this Order comes into force.

Examples

Example 1:

A salaried worker with no variable pay, Fred is contracted to work 40 hours a week for his employer at a salary of £24,000 per year. In his role no overtime is required, and he only works his contracted 40 hours per week. As Fred's pay does not vary by the number of hours worked, there is no requirement to show any of his hours worked on his payslip.



Example 2:

Sally is a day rate worker. This means she is paid the same amount for each day she works regardless of how many hours she works in the day. As her pay varies by how many days she works, i.e. by the amount of time she works, her hours worked need to be included on her payslip even though her pay varies by the day not by the hour.



Example 3:

A worker paid by the hour George is paid National Minimum Wage for his age group for each hour he works. He is paid weekly depending on how many hours he worked that week. All hours George works each week must be included on his payslip, because they are all paid on the basis of how much time he worked.

**Example 4:**

Amrita is contracted to work 40 hours per week for a salary of £30,000 per year. Amrita's basic hours are Monday to Friday between the hours of 9 to 5 but as her work load fluctuates there are some periods when her work load is much higher, and she needs to stay late or come in on Saturdays as well. When this happens, she is paid an additional hourly overtime rate for any hours worked outside her basic hours.

In her last pay period aside from her basic hours Amrita also worked 6 hours of overtime. Amrita's payslip does not need to show the basic hours for which she is paid a salary, as this does not vary based on the number of hours worked. The only variable amount of Amrita's pay in this pay period is the 6 hours of overtime, and it is this figure of 6 hours that must be included on her payslip.

**Enforcement**

A worker who thinks that they have not received a payslip, or that the payslip they have received lacks the required information, may bring a claim to the Employment Tribunal. If the tribunal agrees, they may order repayment of unnotified deductions made in the 13 weeks preceding the presentation of the claim, even where the employer was otherwise entitled to make the deductions.

This is different to a claim that a worker has not been paid correctly, such as a claim for unlawful deduction of wages, where other remedies are available.

Next Steps

Employers should determine any workers who are paid according to the number of days / hours worked each pay period, and what information is shown on their payslips currently. If payslips do not currently show the breakdown of the number of hours worked during the period for fluctuating pay, then employers need to decide how to show this moving forward from April 2019.

Further guidance and examples can be found:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/764576/payslips-legislation-april-2019-additional-info-on-payslips.pdf

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