

## EMPLOYMENT UPDATE

# Minimum wage: When does travel time count?

The Court of Appeal in *Revenue and Customs Commissioners v Taylors Services Ltd* [2025] EWCA Civ 956 has clarified when time spent by workers travelling between home and various work sites will, and will not, constitute "time work" for the purposes of the National Minimum Wage Regulations.

## Background

Taylors Services engaged workers on zero-hours contracts, transporting them from their homes to poultry farms across the country (often requiring four hours travel each way). Travel time was not paid.

HMRC asserted that this travel time was "work" for the purposes of the National Minimum Wage Regulations 2015 (the **Regulations**) therefore the workers should be paid the national minimum wage (**NMW**) for this travel time. Accordingly, it issued underpayment notices.

The matter went before the Employment Tribunal, which agreed with HMRC's position that NMW was payable. This was, however, overturned by the Employment Appeal Tribunal (EAT).

## Court of Appeal decision

The Court of Appeal (CA) upheld the EAT's decision. It clarified the position on whether travel time could be considered work for which NMW was payable:

**General position on travel time:** Travelling to/from a place of work is not ordinarily considered "time work".

**Actual work whilst travelling:** If actual work is being done whilst travelling, then NMW is payable as per Reg. 30 – for example, lorry drivers, train drivers, or individuals reviewing documents or undertaking meetings.

**Travel when the worker would "otherwise be working":** Even if no actual work was being carried out, then NMW may still be payable where, as per Reg. 34, the worker is travelling but the worker would otherwise be working. The CA clarified that "otherwise be working" means:

- › travel between assignments, but does not include travel from a worker's home (or the employer's site) to the first assignment of the day; or
- › where the worker is travelling but it is uncertain whether the worker would be working because their hours are variable.

## Outcome in the Taylors Services case

In this case, no actual work was being carried out while travelling and it could not be said that the workers were travelling in time that would otherwise be spent working. Crucially, although their hours varied from day to day, the hours were in fact 'certain' as the workers were given a clear indication of their start and finish time in advance.

The CA therefore considered NMW was not payable in respect of the travel time.

## Key takeaways for employers

### **When NMW will not be payable**

Where a worker is travelling from home to their work locations, unless the worker would otherwise be working in this time, the travel will not constitute "time work" and NMW will not be payable. This is the case even where an employer is able to exert significant control over workers in transporting them to work sites.

### **When NMW should be payable**

Although every case will be fact-specific, taking a football club as an example, travel to/from matches by workers may be subject to NMW in two circumstances:

- › where actual work is being carried out; or
- › where travel is being undertaken when the player/coaching staff would otherwise be working.

Therefore, where travel to and from matches is used for e.g. discussions about tactics, or watching videos of the opposition, then clubs should be mindful that this may allow HMRC or a player/member of coaching staff to argue that they are conducting "actual work" during travel time, and as a result NMW should be payable.

Further, where particularly long journeys are being planned, which require travel over a day that would usually be used for training, then this case would suggest that HMRC may consider that NMW would apply to those journeys.

**If you would like any further advice or assistance on this topic, please contact the Northridge Employment team ([Jamie Feldman](#) and [Gino Murugesan](#)).**