



National Minimum Wage Act 1998

1998 CHAPTER 39

Enforcement

21 Financial penalty for non-compliance

- (1) If an officer acting for the purposes of this Act is satisfied that a person on whom an enforcement notice has been served has failed, in whole or in part, to comply with the notice, the officer may serve on that person a notice (a “penalty notice”) requiring the person to pay a financial penalty to the Secretary of State.
- (2) A penalty notice must state—
 - (a) the amount of the financial penalty;
 - (b) the time within which the financial penalty is to be paid (which must not be less than four weeks from the date of service of the notice);
 - (c) the period to which the financial penalty relates;
 - (d) the respects in which the officer is of the opinion that the enforcement notice has not been complied with; and
 - (e) the calculation of the amount of the financial penalty.
- (3) The amount of the financial penalty shall be calculated at a rate equal to twice the hourly amount of the national minimum wage (as in force at the date of the penalty notice) in respect of each worker to whom the failure to comply relates for each day during which the failure to comply has continued in respect of the worker.
- (4) The Secretary of State may by regulations from time to time amend the multiplier for the time being specified in subsection (3) above in relation to the hourly amount of the national minimum wage.
- (5) A financial penalty under this section—
 - (a) in England and Wales, shall be recoverable, if a county court so orders, by execution issued from the county court or otherwise as if it were payable under an order of that court;
 - (b) in Scotland, may be enforced in the same manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland;

- (c) in Northern Ireland, shall be recoverable, if the county court so orders, as if it were payable under an order of that court.
- (6) Where a person has appealed under subsection (4) of section 19 above against an enforcement notice and the appeal has not been withdrawn or finally determined, then, notwithstanding the appeal,—
- (a) the enforcement notice shall have effect; and
 - (b) an officer may serve a penalty notice in respect of the enforcement notice.
- (7) If, in a case falling within subsection (6) above, an officer serves a penalty notice in respect of the enforcement notice, the penalty notice—
- (a) shall not be enforceable until the appeal has been withdrawn or finally determined; and
 - (b) shall be of no effect if the enforcement notice is rescinded as a result of the appeal; but
 - (c) subject to paragraph (b) above and section 22(4) and (6)(a) below, as from the withdrawal or final determination of the appeal shall be enforceable as if paragraph (a) above had not had effect.
- (8) Any sums received by the Secretary of State by virtue of this section shall be paid into the Consolidated Fund.