



# National Minimum Wage Act 1998

## 1998 CHAPTER 39

### *Enforcement*

#### **22 Appeals against penalty notices.**

- (1) A person on whom a penalty notice is served may appeal against the notice before the end of the period of four weeks following the date of service of the notice.
- (2) An appeal under subsection (1) above lies to an employment tribunal.
- (3) On an appeal under subsection (1) above, the employment tribunal shall dismiss the appeal unless it is shown—
  - (a) that, in the case of each of the allegations of failure to comply with the enforcement notice, the facts are such that an officer who was aware of them would have had no reason to serve any penalty notice on the appellant; or
  - [<sup>F1</sup>(b) that the amount of the financial penalty is too great because the penalty notice is incorrect in some of the particulars which affect that amount; or
  - (c) that the amount of the financial penalty is too great because its calculation is incorrect.]

and for the purposes of any appeal relating to a penalty notice, the enforcement notice in question shall (subject to rescission or rectification on any appeal brought under section 19 above) be taken to be correct.

- (4) Where an appeal is allowed by virtue of paragraph (a) of subsection (3) above, the employment tribunal shall rescind the penalty notice.
- (5) If, in a case where subsection (4) above does not apply, an appeal is allowed by virtue of paragraph (b) or (c) of subsection (3) above—
  - (a) the employment tribunal shall rectify the penalty notice; and
  - (b) the penalty notice shall have effect as if it had originally been served as so rectified.
- (6) Where a person has appealed under subsection (1) above against a penalty notice and the appeal has not been withdrawn or finally determined, the penalty notice—

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*Status: Point in time view as at 06/04/2005. This version of this provision has been superseded.*

*Changes to legislation: There are currently no known outstanding effects for the National Minimum Wage Act 1998, Section 22. (See end of Document for details)*

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- (a) shall not be enforceable until the appeal has been withdrawn or finally determined; but
- (b) subject to subsection (4) above and section 21(7)(a) and (b) above, as from the withdrawal or final determination of the appeal shall be enforceable as if paragraph (a) above had not had effect.

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**Textual Amendments**

- F1** S. 22(3)(b)(c) substituted (6.4.2005) by Employment Relations Act 2004 (c. 24), **ss. 46(3), 59(3)** (with s. 46(4)); S.I. 2005/872, art. 4, Sch. (with art. 15)

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**Modifications etc. (not altering text)**

- C1** S. 22 modified (*prosp.*) by 1948 c. 47, **s. 3A(1)-(4)** (as inserted by 1998 c. 39, ss. 47(1)(a), 56(2), **Sch. 2 Pt. I**, para. 3 (with s. 36))  
S. 22 modified (*prosp.*) by 1949 c. 30, **s. 3A(1)-(3)** (as inserted by 1998 c. 39, ss. 47(1)(b), 56(2), **Sch. 2 Pt. II**, para. 13 (with s. 36))
- C2** S. 22 extended (with modifications) (*prosp.*) by S.I. 1997/2151 (N.I. 22), **art. 8A** (as inserted by 1998 c. 39, ss. 47(1)(c), 56(2), **Sch. 2 Pt. III**, para. 26 (with s. 36))

**Status:**

Point in time view as at 06/04/2005. This version of this provision has been superseded.

**Changes to legislation:**

There are currently no known outstanding effects for the National Minimum Wage Act 1998, Section 22.