



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
 - (b) that the penalty notice is incorrect in some of the particulars which affect the amount of the financial penalty; or
 - (c) that the calculation of the amount of the financial penalty 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- (6) Where a person has appealed under subsection (1) above against a penalty notice and the appeal has not been withdrawn or finally determined, the penalty notice—
 - (a) shall not be enforceable until the appeal has been withdrawn or finally determined; but

Status: This is the original version (as it was originally enacted).

- (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.