



National Minimum Wage Act 1998

1998 CHAPTER 39

Enforcement

[^{F1}19A Notices of underpayment: financial penalty

- (1) A notice of underpayment must, subject to this section, require the employer to pay a financial penalty specified in the notice to the Secretary of State within the 28-day period.
- (2) The Secretary of State may by directions specify circumstances in which a notice of underpayment is not to impose a requirement to pay a financial penalty.
- (3) Directions under subsection (2) may be amended or revoked by further such directions.
- (4) The amount of any financial penalty is, subject as follows, to be [^{F2}the total of the amounts for all workers to whom the notice relates calculated in accordance with subsections (5) to (5B).]
- [^{F3}(5) The amount for each worker to whom the notice relates is the relevant percentage of the amount specified under section 19(4)(c) in respect of each pay reference period specified under section 19(4)(b).
- (5A) In subsection (5), “the relevant percentage”, in relation to any pay reference period, means [^{F4}200%].
- (5B) If the amount as calculated under subsection (5) for any worker would be more than £20,000, the amount for the worker taken into account in calculating the financial penalty is to be £20,000.]
- (6) If a financial penalty as calculated under subsection (4) above would be less than £100, the financial penalty specified in the notice shall be that amount.
- [^{F5}(7)
- (8) The Secretary of State may by regulations—
 - (a) amend subsection [^{F6}(5A)] above so as to substitute a different percentage for the percentage at any time specified there;

Changes to legislation: There are currently no known outstanding effects for the National Minimum Wage Act 1998, Section 19A. (See end of Document for details)

- (b) amend subsection [F7(5B) or (6)] above so as to substitute a different amount for the amount at any time specified there.
- (9) A notice of underpayment must, in addition to specifying the amount of any financial penalty, state how that amount was calculated.
- (10) In a case where a notice of underpayment imposes a requirement to pay a financial penalty, if the employer on whom the notice is served, within the period of 14 days beginning with the day on which the notice was served—
- (a) pays the amount required under section 19(2) above, and
 - (b) pays at least half the financial penalty,
- he shall be regarded as having paid the financial penalty.
- (11) A financial penalty paid to the Secretary of State pursuant to this section shall be paid by the Secretary of State into the Consolidated Fund.]

Textual Amendments

- F1** Ss. 19-19H substituted for ss.19-22F (6.4.2009) by [Employment Act 2008 \(c. 24\)](#), **ss. 9(1)**, 22(1)(a) (with s. 9(7)); S.I. 2009/603, art. 2 (with art. 3, Sch.)
- F2** Words in s. 19A(4) substituted (26.5.2015) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), **ss. 152(2)**, 164(1) (with s. 152(6)); S.I. 2015/1329, reg. 2(f)
- F3** Ss. 19A(5)-(5B) substituted for s. 19A(5) (26.5.2015) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), **ss. 152(3)**, 164(1) (with s. 152(6)); S.I. 2015/1329, reg. 2(f)
- F4** Word in s. 19A(5A) substituted (1.4.2016) by [The National Minimum Wage \(Amendment\) Regulations 2016 \(S.I. 2016/68\)](#), regs. 1(2), **2** (with reg. 4)
- F5** S. 19A(7) omitted (26.5.2015) by virtue of [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), **ss. 152(4)**, 164(1) (with s. 152(6)); S.I. 2015/1329, reg. 2(f)
- F6** Word in s. 19A(8)(a) substituted (26.5.2015) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), **ss. 152(5)(a)**, 164(1) (with s. 152(6)); S.I. 2015/1329, reg. 2(f)
- F7** Words in s. 19A(8)(b) substituted (26.5.2015) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), **ss. 152(5)(b)**, 164(1) (with s. 152(6)); S.I. 2015/1329, reg. 2(f)

Changes to legislation:

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