



National Minimum Wage Act 1998

1998 CHAPTER 39

Enforcement

[^{F1}19H Effect of replacement notice of underpayment

- (1) This section applies where a notice of underpayment is withdrawn under section 19F above and a replacement notice is served in accordance with section 19G above.
- (2) If an appeal has been made under section 19C above against the original notice and the appeal has not been withdrawn or finally determined before the time when that notice is withdrawn—
 - (a) that appeal (“the earlier appeal”) shall have effect after that time as if it were against the replacement notice; and
 - (b) the employer may exercise his right of appeal under section 19C above against the replacement notice only if he withdraws the earlier appeal.
- (3) After the withdrawal no complaint may be presented or other civil proceedings commenced by virtue of section 19D above in reliance on any non-compliance with the notice before it was withdrawn; but any complaint or proceedings so commenced before the withdrawal may be proceeded with despite the withdrawal.
- (4) If a sum was paid by or recovered from the employer by way of financial penalty under the original notice—
 - (a) an amount equal to that sum (or, if more than one, the total of those sums) shall be treated as having been paid in respect of the replacement notice; and
 - (b) any amount by which that sum (or total) exceeds the amount payable under the replacement notice must be repaid to the employer with interest at the appropriate rate running from the date when the sum (or, if more than one, the first of them) was paid or recovered.
- (5) In subsection (4)(b) above “the appropriate rate” means the rate that, on the date mentioned in that provision, was specified in section 17 of the Judgments Act 1838.]

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

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

- C1** S. 19H applied (with modifications) (E.W.) (30.7.2014) by [Agricultural Sector \(Wales\) Act 2014 \(anaw 6\)](#), **ss. 5(1)(2)(i)(3)-(7)**, **19** (with s. 14(1))

Changes to legislation:

There are currently no known outstanding effects for the National Minimum Wage Act 1998, Section 19H.