
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend section 19A of the National Minimum Wage Act 1998 (“the NMW Act”) and regulation 4 of the National Minimum Wage Regulations 2015 (“the NMW Regulations”).

Regulation 2 amends section 19A(5A) of the NMW Act. Section 19A provides that a notice of underpayment must require an employer to pay a financial penalty to the Secretary of State. The financial penalty is calculated as a percentage of the amount by which a worker has been paid below the national minimum wage in each pay reference period specified in the relevant notice of underpayment.

Section 19A(5A) makes provision for the amount of the percentage. Regulation 2 increases the percentage figure from 100% to 200%. The transitional provision in regulation 4 provides that the increased percentage of 200% is not to apply in respect of pay reference periods which begin before 1st April 2016.

Regulation 3 of these Regulations substitutes new regulations 4 to 4B for regulation 4 of the NMW Regulations. New regulation 4 makes provision for the single hourly rate of the national minimum wage for the purposes of section 1(3) of the Act (“the National Living Wage rate”). New Regulation 4A makes provision for other hourly rates of the national minimum wage and new regulation 4B makes provision for determining the applicable national minimum wage for a pay reference period.

A full impact assessment of the effect regulation 3 of these Regulations will have on the costs of business and the voluntary sector is available from the Department for Business, Innovation and Skills and is annexed to the Explanatory Memorandum which is available alongside the instrument on www.legislation.gov.uk. A full impact assessment has not been produced in relation to the remainder of this instrument as no impact on businesses which comply with minimum wage laws is foreseen.