

These notes refer to the Small Business, Enterprise and Employment Act 2015 (c.26) which received Royal Assent on 26 March 2015

SMALL BUSINESS, ENTERPRISE AND EMPLOYMENT ACT 2015

EXPLANATORY NOTES

BACKGROUND AND SUMMARY

Part 11: Employment

National Minimum Wage

82. The National Minimum Wage Act 1998 (“NMWA”) provides that, subject to some exceptions, a worker who qualifies for the national minimum wage (“NMW”) shall be remunerated by the employer at a rate which is not less than the NMW. Any employer who has underpaid one or more of its workers can be served with a notice of underpayment (“NOU”) which sets out the level of arrears for each worker covered by the NOU and the period to which it relates. Unless the Secretary of State has otherwise directed, the NOU also sets out a fixed penalty calculated by reference to the arrears owed to the workers covered by notice for the period covered by the NOU. This penalty is subject to a maximum figure for the notice; this figure can be amended by secondary legislation and at present is £20,000.
83. On 27 November 2013 the Prime Minister David Cameron announced “We are also clamping down on those who employ people below the minimum wage. They will pay the price with a fine of up to £20,000 for every under-paid employee”. Part 11 of the Act contains measures that amends section 19A of the NMWA so that the maximum penalty will be determined by the amount owed to each worker as stated in the NOU and the limit on the penalty will be on the extent to which the amount owed to each individual worker can be taken into account.