

*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

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 11: EMPLOYMENT**

#### **National Minimum Wage**

#### ***Section 152: Amount of financial penalty for underpayment of national minimum wage***

839. This section amends section 19A of the National Minimum Wage Act 1998. Under section 19 of this Act an enforcement officer can issue a notice of underpayment to an employer requiring that employer to pay its workers any underpayment of the national minimum wage specified in the notice. The notice of underpayment also contains a financial penalty calculated in accordance with section 19A of the Act. Section 19A sets maximum and minimum limits for the penalty; the maximum is £20,000 per notice. This section amends section 19A so that the maximum penalty which can be imposed on an employer by a notice of underpayment is limited by the amount owed to each worker within the scope of the notice.
840. Subsection (3) provides that the arrears owed to each worker, subject to a maximum figure for each worker, forms the basis of the penalty calculation. The maximum arrears per worker provided for is £20,000 but can be increased (or decreased) by statutory instrument. The relevant percentage of the arrears owed which is taken into account in setting the penalty (currently 100%) can also be replaced by a different percentage by statutory instrument.
841. Subsections (4) and (5)(b) remove the power to make regulations to set an overall limit on the penalty which can be imposed through a notice of underpayment.