

Draft Regulations laid before Parliament under section 51(5) of the National Minimum Wage Act 1998, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2014 No. XXXX

TERMS AND CONDITIONS OF EMPLOYMENT

The National Minimum Wage (Variation
of Financial Penalty) Regulations 2014

Made - - - - ***
Coming into force - - - - ***

A draft of these Regulations was laid before Parliament in accordance with section 51(5) of the National Minimum Wage Act 1998(1) and approved by resolution of each House of Parliament.

The Secretary of State, in exercise of the powers conferred by section 19A(8)(2) of that Act, makes the following Regulations.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Minimum Wage (Variation of Financial Penalty) Regulations 2014.

(2) These Regulations come into force on the day after the day on which these Regulations are made.

Amendments to the financial penalty for underpayment

2. Section 19A of the National Minimum Wage Act 1998 (notices of underpayment: financial penalty) is amended as follows—

- (a) in subsection (4) for “50%” substitute “100%”;
- (b) in subsection (7) for “£5000” substitute “£20,000”.

(1) 1998 c.39.

(2) Section 19A was inserted by section 9(1) of the Employment Act 2008 (c.24).

Transitional provision

3. The amendments made by regulation 2 do not apply in relation to a notice of underpayment in respect of which the sum due to the worker specified in the notice includes a sum for a pay reference period⁽³⁾ beginning before the day on which these Regulations come into force.

Date

Name
Parliamentary Under Secretary of State for
Employment Relations and Consumer Affairs
Department for Business, Innovation and Skills

(3) Section 1(4) of the National Minimum Wage Act 1998 provides that a 'pay reference period' is such period as the Secretary of State may prescribe. 'Pay reference period' has the meaning assigned to it by regulation 10 of the National Minimum Wage Regulations 1999 (S.I. 1999/584).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the amounts specified in section 19A of the National Minimum Wage Act 1998 which are used to calculate financial penalties. Section 19A provides that a notice of underpayment must require the employer to pay a financial penalty to the Secretary of State within 28 days of service of the notice unless the Secretary of State has, by directions, specified circumstances in which a penalty is not to be imposed.

The financial penalty is calculated as a percentage of the total underpayment of the national minimum wage as set out in the notice of underpayment. Regulation 2(a) of these Regulations amends the percentage figure from 50% to 100%.

Regulation 2(b) increases the figure for the maximum financial penalty in section 19A from £5000 to £20,000.

The transitional provision in regulation 3 provides that the increased percentage of 100% and increased figure for the maximum financial penalty of £20,000 do not apply to a notice of underpayment relating to a pay reference period beginning before the day these Regulations come into force.

A full regulatory impact assessment has not been produced for this instrument as no impact on businesses which comply with minimum wage laws is foreseen. The Explanatory Memorandum is published alongside the Regulations on www.legislation.gov.uk.