



National Minimum Wage Act 1998

1998 CHAPTER 39

Enforcement

17 Non-compliance: worker entitled to additional remuneration.

- (1) If a worker who qualifies for the national minimum wage is remunerated for any pay reference period by his employer at a rate which is less than the national minimum wage, the worker shall [^{F1} at any time (“the time of determination”)] be taken to be entitled under his contract to be paid, as additional remuneration in respect of that period, [^{F2} whichever is the higher of—
- (a) the amount described in subsection (2) below, and
 - (b) the amount described in subsection (4) below.]
- (2) [^{F3} The amount referred to in subsection (1)(a) above] is the difference between—
- (a) the relevant remuneration received by the worker for the pay reference period; and
 - (b) the relevant remuneration which the worker would have received for that period had he been remunerated by the employer at a rate equal to the national minimum wage.
- (3) In subsection (2) above, “relevant remuneration” means remuneration which falls to be brought into account for the purposes of regulations under section 2 above.
- [^{F4}(4) The amount referred to in subsection (1)(b) above is the amount determined by the formula—
- $$AR1 \times R2$$
- where—
- A is the amount described in subsection (2) above,
 - R1 is the rate of national minimum wage which was payable in respect of the worker during the pay reference period, and
 - R2 is the rate of national minimum wage which would have been payable in respect of the worker during that period had the rate payable in respect

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of him during that period been determined by reference to regulations under section 1 and 3 above in force at the time of determination.

- (5) Subsection (1) above ceases to apply to a worker in relation to any pay reference period when he is at any time paid the additional remuneration for that period to which he is at that time entitled under that subsection.
- (6) Where any additional remuneration is paid to the worker under this section in relation to the pay reference period but subsection (1) above has not ceased to apply in relation to him, the amounts described in subsections (2) and (4) above shall be regarded as reduced by the amount of that remuneration.]

Textual Amendments

- F1** Words in s. 17(1) inserted (6.4.2009) by [Employment Act 2008 \(c. 24\)](#), **ss. 8(2)**, 22(1)(a) (with s. 8(7)(8)); S.I. 2009/603, art. 2 (with art. 3, Sch.)
- F2** Words in s. 17(1) substituted (6.4.2009) by [Employment Act 2008 \(c. 24\)](#), **ss. 8(3)**, 22(1)(a) (with s. 8(7)(8)); S.I. 2009/603, art. 2 (with art. 3, Sch.)
- F3** Words in s. 17(2) substituted (6.4.2009) by [Employment Act 2008 \(c. 24\)](#), **ss. 8(4)**, 22(1)(a) (with s. 8(7)(8)); S.I. 2009/603, art. 2 (with art. 3, Sch.)
- F4** S. 17(4)-(6) inserted (6.4.2009) by [Employment Act 2008 \(c. 24\)](#), **ss. 8(5)**, 22(1)(a) (with s. 8(7)(8)); S.I. 2009/603, art. 2 (with art. 3, Sch.)

Modifications etc. (not altering text)

- C1** S. 17 modified by 1948 c. 47, **s. 3A(1)-(4)** (as inserted (1.4.1999) by 1998 c. 39, ss. 47(1)(a), 56(2), **Sch. 2 Pt. I**, para. 3 (with s. 36); S.I. 1999/685, art. 2, Sch.)
S. 17 modified by 1949 c. 30, **s. 3A(1)-(3)** (as inserted (1.4.1999) by 1998 c. 39, ss. 47(1)(b), 56(2), **Sch. 2 Pt. II**, para. 13 (with s. 36); S.I. 1999/685, art. 2, Sch.)
- C2** S. 17 extended (with modifications) by S.I. 1997/2151 (N.I. 22), **art. 8A** (as inserted (1.4.1999) by 1998 c. 39, ss. 47(1)(c), 56(2), **Sch. 2 Pt. III**, para. 26 (with s. 36); S.I. 1999/685, art. 2, Sch.)
- C3** S. 17 modified (1.4.1999) by 1948 c. 47, **s. 3A(3A)** (as amended (1.4.1999) by S.I. 1999/712, **reg. 2(3)**)
- C4** S. 17 amended (1.4.1999) by 1949 c. 30, **s. 3A(3A)** (as inserted (1.4.1999) by S.I. 1999/750, **reg. 2(3)**)
- C5** S. 17 applied (with modifications) (E.W.) (30.7.2014) by [Agricultural Sector \(Wales\) Act 2014 \(anaw 6\)](#), **ss. 5(1)(2)(c)(3)-(7)**, 19 (with s. 14(1))

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Changes to legislation:

There are currently no known outstanding effects for the National Minimum Wage Act 1998, Section 17.