



# National Minimum Wage Act 1998

## 1998 CHAPTER 39

### *Enforcement*

#### **19 Power of officer to issue enforcement notice.**

- (1) If an officer acting for the purposes of this Act is of the opinion that a worker who qualifies for the national minimum wage has not been remunerated for any pay reference period by his employer at a rate at least equal to the national minimum wage, the officer may serve a notice (an “enforcement notice”) on the employer requiring the employer to remunerate the worker for pay reference periods ending on or after the date of the notice at a rate equal to the national minimum wage.
- (2) An enforcement notice may also require the employer to pay to the worker within such time as may be specified in the notice the sum due to the worker under section 17 above in respect of the employer’s previous failure to remunerate the worker at a rate at least equal to the national minimum wage.

[<sup>F1</sup>(2A) If an officer acting for the purposes of this Act is of the opinion that a worker who has at any time qualified for the national minimum wage has not been remunerated for any pay reference period (whether ending before or after the coming into force of this subsection) by his employer at a rate at least equal to the national minimum wage, the officer may serve on the employer an enforcement notice which imposes a requirement under subsection (2) above in relation to the worker, whether or not a requirement under subsection (1) above is, or may be, imposed in relation to that worker (or any other worker to whom the notice relates).

- (2B) An enforcement notice may not impose a requirement under subsection (2) above in respect of any pay reference period ending more than 6 years before the date on which the notice is served.]
- (3) The same enforcement notice may relate to more than one worker (and, where it does so, may be so framed as to relate to workers specified in the notice or to workers of a description so specified).
- (4) A person on whom an enforcement notice is served may appeal against the notice before the end of the period of four weeks following the date of service of the notice.

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*Status: Point in time view as at 08/07/2003. This version of this provision has been superseded.*

*Changes to legislation: There are currently no known outstanding effects for the National Minimum Wage Act 1998, Section 19. (See end of Document for details)*

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- (5) An appeal under subsection (4) above lies to an employment tribunal.
- (6) On an appeal under subsection (4) above, the employment tribunal shall dismiss the appeal unless it is established—
- (a) that, in the case of the worker or workers to whom the enforcement notice relates, the facts are such that an officer who was aware of them would have had no reason to serve any enforcement notice on the appellant; or
  - (b) where the enforcement notice relates to two or more workers, that the facts are such that an officer who was aware of them would have had no reason to include some of the workers in any enforcement notice served on the appellant; or
  - (c) where the enforcement notice imposes a requirement under subsection (2) above in relation to a worker,—
    - (i) that no sum was due to the worker under section 17 above; or
    - (ii) that the amount specified in the notice as the sum due to the worker under that section is incorrect;
 and in this subsection any reference to a worker includes a reference to a person whom the enforcement notice purports to treat as a worker.
- (7) Where an appeal is allowed by virtue of paragraph (a) of subsection (6) above, the employment tribunal shall rescind the enforcement notice.
- (8) If, in a case where subsection (7) above does not apply, an appeal is allowed by virtue of paragraph (b) or (c) of subsection (6) above—
- (a) the employment tribunal shall rectify the enforcement notice; and
  - (b) the enforcement notice shall have effect as if it had originally been served as so rectified.
- (9) The powers of an employment tribunal in allowing an appeal in a case where subsection (8) above applies shall include power to rectify, as the tribunal may consider appropriate in consequence of its decision on the appeal, any penalty notice which has been served under section 21 below in respect of the enforcement notice.
- (10) Where a penalty notice is rectified under subsection (9) above, it shall have effect as if it had originally been served as so rectified.

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#### **Textual Amendments**

- F1** S. 19(2A)(2B) inserted (8.7.2003) by [National Minimum Wage \(Enforcement Notices\) Act 2003 \(c. 8\)](#), [ss. 1, 2\(2\)](#)

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#### **Modifications etc. (not altering text)**

- C1** S. 19 modified by [1948 c. 47, s. 3A\(1\)-\(4\)](#) (as inserted (1.4.1999) by 1998 c. 39, s. 47, Sch. 2 Pt. I para. 3 (with s. 36); S.I. 1999/685, art. 2, Sch.)  
 S. 19 modified by [1949 c. 30, s. 3A\(1\)-\(3\)](#) (as inserted (1.4.1999) by 1998 c. 39, s. 47, Sch. 2 Pt. II para. 13 (with s. 36); S.I. 1999/685, art. 2, Sch. (with art. 3))
- C2** S. 19 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.)

**Status:**

Point in time view as at 08/07/2003. This version of this provision has been superseded.

**Changes to legislation:**

There are currently no known outstanding effects for the National Minimum Wage Act 1998, Section 19.