



National Minimum Wage Act 1998

1998 CHAPTER 39

Enforcement

[^{F1}22B Replacement of enforcement notice

- (1) This section applies if an officer withdraws an enforcement notice.
- (2) The officer may at the same time as he serves the notice of withdrawal (and if he is of the opinion mentioned in section 19(1) or (2A)) serve on the employer a new enforcement notice under section 19 relating to some or all of the workers to whom the old enforcement notice related.
- (3) The new enforcement notice may not relate to any workers to whom the old enforcement notice did not relate (but this is without prejudice to any power that arises apart from this section to serve an enforcement notice relating to those workers).
- (4) If the new enforcement notice contravenes subsection (3)—
 - (a) the case shall be treated as falling within paragraph (b) (or, if none of the workers included in the old enforcement notice is included in the new enforcement notice, paragraph (a)) of section 19(6); and
 - (b) the new enforcement notice is not to be treated for the purposes of sections 22A(2), 22C(1) and 22D(1) as served in accordance with this section.
- (5) If the new enforcement notice includes a requirement under section 19(2) as respects a worker, it must relate to the sum due to the worker under section 17 in respect of the employer's failure previous to the new notice to remunerate the worker as mentioned in section 19(2) (regardless of whether that failure occurred to any extent before or after the service of the old notice).
- (6) Subsection (5) is subject to section 19(2B) to (2D) as they apply in relation to the new enforcement notice; but section 19(2B) applies in relation to that notice as if the reference to 6 years before the date on which the notice is served were a reference to 6 years before the date on which the old notice was served.
- (7) The new enforcement notice must—

Status: Point in time view as at 06/04/2005. This version of this provision has been superseded.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 22B. (See end of Document for details)

- (a) indicate the differences between it and the old enforcement notice that it is reasonable for the officer to consider are material; and
 - (b) unless the notice of withdrawal states that section 22A(3) applies, indicate the effect of sections 22C and 22D.
- (8) A failure to comply with subsection (7) does not make the new enforcement notice ineffective, but a notice that does not comply with that subsection is not to be treated for the purposes of sections 22A(2), 22C(1) and 22D(1) as served in accordance with this section.
- (9) The reference in subsection (1) to an enforcement notice does not include an enforcement notice served by virtue of this section.]

Textual Amendments

- F1** Ss. 22A-22F inserted (6.4.2005) by [Employment Relations Act 2004 \(c. 24\)](#), **ss. 46(1)**, 59(3); S.I. [2005/872](#), [art. 4](#), [Sch.](#) (with [art. 15](#))

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