



National Minimum Wage Act 1998

1998 CHAPTER 39

Enforcement

[^{F1}22F Replacement of penalty notice with notice imposing lower penalty

- (1) This section applies if a penalty notice is withdrawn because the officer is of the opinion mentioned in section 22E(1)(b) or (c).
- (2) The officer may, at the same time as that notice is withdrawn, serve by way of replacement a new penalty notice under section 21 in which—
 - (a) the amount of the financial penalty is the amount (which must be less than that in the old penalty notice) that the officer now considers should have been the amount stated in the old penalty notice; and
 - (b) the particulars stated under section 21(2)(c) to (e) are as he now considers they should have been in that notice.
- (3) The new penalty notice must indicate—
 - (a) the differences between it and the old penalty notice that it is reasonable for the officer to consider are material, and
 - (b) the effect of subsections (4) to (7),but a failure to comply with this subsection does not make the new penalty notice ineffective.
- (4) If a sum was paid or recovered in respect of the old penalty notice—
 - (a) an amount equal to that sum (or, if more than one, the total of those sums) shall be treated as having been paid in respect of the new penalty notice; and
 - (b) any amount by which that sum (or total) exceeds the amount payable under the new penalty notice must be repaid to the employer with interest at the appropriate rate running from the date when the sum (or, if more than one, the first of them) was paid or recovered.
- (5) In subsection (4)(b) “the appropriate rate” means the rate that, on the date mentioned in subsection (4)(b), was specified in section 17 of the Judgments Act 1838.
- (6) Subsection (7) applies where—

Status: Point in time view as at 05/12/2005. This version of this provision has been superseded.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 22F. (See end of Document for details)

- (a) a new penalty notice is served by virtue of this section; and
 - (b) an appeal has been made under section 22(1) against the old penalty notice and has not been withdrawn or finally determined before the time when that notice is withdrawn.
- (7) In such a case—
- (a) that appeal (“the earlier appeal”) shall have effect after that time as if it were against the new penalty notice; and
 - (b) the employer may exercise his right of appeal under section 22 against the new penalty notice only if he withdraws the earlier appeal.
- (8) The reference in subsection (1) to a penalty notice does not include a penalty notice served by virtue of this section.
- (9) This section is without prejudice to any power arising apart from this section to serve two or more penalty notices in respect of the same enforcement notice.]

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](#))

Status:

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