

*These notes refer to the National Minimum Wage (Enforcement Notices) Act 2003 (c.8) which received Royal Assent on 8th May 2003*

# **NATIONAL MINIMUM WAGE (ENFORCEMENT NOTICES) ACT 2003**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Section 1: Enforcement Notices***

12. *Section 1* of the Act deals with the power of enforcement officers to serve enforcement notices on employers for the recovery of the national minimum wage. The section inserts new subsections (2A) and (2B) after section 19(2) of the 1998 Act.
13. Subsection (2A) will allow an enforcement officer to serve an enforcement notice on an employer imposing a requirement on him to pay to a worker who has at any time qualified for the minimum wage any arrears of pay in respect of one or more past pay reference periods. He will be able to serve such a notice whether or not he imposes, or could impose, a requirement on the employer to pay the worker the minimum wage for the future. So it will not matter if the worker no longer qualifies to be paid the minimum wage by that employer because, for example, he is no longer employed by that employer. The notice can relate to that worker only or, by virtue of section 19(3) of the 1998 Act, to a number of workers. The same notice can therefore deal with any combination of past or future periods and past or current employees.
14. Enforcement officers will be able to issue notices by virtue of subsection (2A) for pay reference periods that ended before the passing of the Act. But workers themselves are already entitled under the 1998 Act to bring claims in respect of such periods. So the Act will not give workers any new entitlement to minimum wage arrears that they did not previously have.
15. Subsection (2B) limits the arrears that may be the subject of an enforcement notice to arrears in respect of pay reference periods ending no more than 6 years before the date of service of the notice. Currently there is no limit on how far back an enforcement notice can go.
16. The amendments made by the Act to the 1998 Act will also have effect in the application of the 1998 Act to the enforcement of the agricultural national minimum wage (except in relation to Scotland, as explained below).