

Naming employers who fail to pay minimum wage to be resumed under revamped rules

- Employers who fail to pay their workers the National Minimum Wage to be publicly named
- review of public naming scheme ensures government calls out cases of abuse
- changes to National Minimum Wage regulations will ensure compatibility with modern pay arrangements, protecting workers while reducing the burden on businesses

The naming scheme will resume calling out businesses failing to pay their workers the National Minimum Wage, while increasing support for employers to comply with NMW legislation. The changes, which will see naming rounds occur more often, will enhance the effectiveness of the measure as a deterrent.

The government has also increased the threshold for naming employers, meaning that firms which owe arrears of more than £500 in National Minimum Wage payments to their workforces will now be named. The threshold was previously £100. This new proportionate approach will mean that some businesses falling foul of the rules by minimal sums will not be named, provided they correct any errors. These businesses that underpay by less than £100 will have the chance to correct their mistakes without being named, still have to pay back workers and can face fines of up to 200% of the arrears.

Business Minister Kelly Tolhurst said:

Anyone who is entitled to the minimum wage should receive it – no ifs, no buts – and we’re cracking down on companies that underpay their workers.

We also want to make it as easy as possible for employers, especially small businesses and those trying to do right by their staff, to comply with the NMW rules, which is why we’re reforming regulations.

The government is today changing regulations to widen the range of pay arrangements available to business employing ‘salaried hours workers’, which are workers who receive an annual salary in equal instalments for a set number of contracted hours. Under these changes, workers who are often paid hourly or per day and consequently have different pay checks every month, such as those in the retail industry, can be classified as salaried workers. The changes will provide more flexibility in how salaried workers are paid, without reducing protections for workers. At the same time, businesses employing these workers are less likely to be caught out by the NMW legislation

due to the differences in their hours from one month to the next.

These changes include:

- permitting additional payment cycles for salaried workers, including fortnightly and 4-weekly cycles, providing choice and flexibility to employers and workers
- allowing employers to choose the 'calculation year' fit for their workers, helping them to better monitor the hours worked by salaried workers and identify potential underpayment of wages
- ensuring salaried workers can receive premium pay, for example for working on Bank Holidays, without losing their entitlement to equal and regular instalments in pay

These changes are expected to come into force on 6 April 2020, subject to normal Parliamentary approvals.

Matthew Taylor, Director of Labour Market Enforcement, said:

I welcome today's announcement by the government and believe employers will benefit from the greater clarity these revisions bring to the minimum wage rules for salaried workers.

Particularly welcome is the news of the reintroduction of the NMW Naming Scheme, that both recognises the sharper focus advocated by my predecessor and follows a stronger compliance and education approach to help employers get it right.

Additionally, the government has decided that employers offering salary sacrifice and deductions schemes will no longer be subject to financial penalties if the scheme brings payment below the National Minimum Wage rate (which can be up to 200% of arrears). For example, benefit schemes where staff buy products from their employer and pay for these via salary deductions. The waiver will be subject to strict criteria – including that the worker has opted into the scheme. Deductions of NMW for uniform and other items connected with the worker's employment will continue to be penalised. Full details will be published later today in the National Minimum Wage enforcement policy document.

As well as making changes to the rules, the government is doing more to support businesses to comply with National Minimum Wage, so that they pay their staff correctly first time. The government will:

- improve NMW guidance available through the GOV.UK website, making it more accessible and easier to navigate. This includes new thematic guides on specific compliance issues, such as pay deductions and uniform policy. This revamped guidance will be published shortly.
- proactively support new, small businesses. HMRC will visit selected new, small businesses to educate them on the National Minimum Wage and support those businesses in getting their practices right from the start
- provide more support via a helpline for employers who operate deduction

or salary sacrifice schemes. Employers will be able to access support and information directly from HMRC

This update to National Minimum Wages regulations comes ahead of a major overhaul of labour market enforcement, with the creation of a Single Enforcement Body to crack down on employment law breaches, set to be announced as part of the forthcoming Employment Bill.

Additional information

- a worker is classified as doing 'salaried hours' work if they are paid a set number of hours each year under their contract and an annual salary in equal weekly or monthly amounts
- workers cannot currently be classified as salaried hours if they are paid every 2 or 4 weeks. These workers are 'time-paid' workers, paid hourly or per day. This will change, giving greater stability to workers and clarity about earnings. It is likely to affect a relatively small number of workers, particularly in the retail industry
- premium payments: under the current NMW rules, premium payments (such as for working on a bank holiday) can prohibit workers from being treated as salaried workers under the NMW regulations and this could affect enforcement by HMRC

The government is committed to NMW enforcement:

- budget for enforcing £27.4 million for 2019 to 2020, up from £13.2 million in 2015 to 2016
- in 2018 to 2019, HMRC identified £24.4 million in arrears, for over 220,000 workers
- in 2018 to 2019, a record amount of penalties (over 1,000) issued, totalling over £17 million