

In the Know....

Largest number of employers named and shamed for underpayments



The latest list of employers who have failed to pay their workers the National Minimum Wage has been published by the Government. Here, we report on the latest statistics.

Latest "Naming and Shaming" Exercise

The Government has publicly named the largest list of employers who have failed to pay workers the legal minimum wage. The list is made up of 197 companies owing £465,291 in total. Since the tougher scheme of 'naming and shaming' was introduced in October 2013, nearly 700 employers have been named with total wage arrears calculated at more than £3.5 million.

Getting It Right

It may not be so surprising that the largest number of employers being named and shamed has occurred shortly after the introduction of the National Living Wage (NLW) rate. Since April 2016, workers who are aged 25 or over are entitled to the NLW, currently £7.20 per hour, whilst other workers remain entitled to the NMW rate based on their age. The large numbers failing to pay the correct minimum wage appears to show that employers may still be unaware of the new right to receive NLW or have failed to correctly amend wages for relevant workers.

Common Themes

The list of named employers highlights some common themes. Interestingly, the list contains 130 instances where employers failed to pay the correct rate of NMW or NLW to one individual. This shows that HM Revenues and Customs (HMRC) are taking a tough stance and cracking down on all underpayments, not just those where significant numbers are involved. The largest sector where employers were named for underpayments was retail. Employers should ensure that common practices such as bag searches, locking up and restocking are not causing the worker's hourly wage to fall below the required legal minimum. Employers from the care sector were also named numerous times for underpaying workers. This sector covers tricky

payment matters such as payments for sleep in time, travel time and on-call time and employers should ensure they are making and keeping accurate records of worker's working patterns to ensure each individual's wage entitlement is calculated correctly.

Enforcement

Workers who feel they have been underpaid can address this in a number of ways. Employers should encourage workers to address the problem informally and raise the matter internally so this can be resolved. If the worker does not feel able to do so, or the matter is ignored by the employer, the Government has created an online form for workers to report complaints about NMW and NLW which will be sent to HMRC for investigation. HMRC officers have the right to carry out a check at any time and can examine pay records to ensure workers are receiving the legal minimum.

It is important that employers pay the correct NMW and NLW to their workers to avoid harsh penalties. Where HMRC believe the correct legal minimum hasn't been paid to the worker they will serve a notice of underpayment on the employer. Not only do employers face being publicly 'named and shamed' if they have been issued with a notice, there are also costly financial consequences of failing to provide workers with their legal entitlement. Employers will have to pay all outstanding wages to all workers and face a potential fine of up to £20,000 per each worker. In serious cases, the employer may also be prosecuted.

The content of this briefing is correct at the time of publishing.

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