

NATIONAL MINIMUM WAGE PROSECUTIONS

HMRC have issued a warning to employers about their programme of targeted enforcement of national minimum wage (NMW) procedures. The programme, which is now in its third year, was introduced to work with employers and workers to address issues and concerns around the NMW.

They are proposing to target the hotel sector which employs a large number of migrant workers. The programme is expected to run for 12 months from November 2007. They propose to target the hospitality sector more generally throughout 2008/09.

HMRC have reminded employers that failure to meet obligations under the National Minimum Wage Act constitutes a criminal offence and could result in a heavy fine.

It is a criminal offence to:

- refuse or wilfully neglect to pay the NMW
- fail to keep or preserve records
- cause or allow false entries in records
- produce or furnish false records or information
- delay or obstruct an HMRC compliance officer
- refuse or neglect to answer any questions or produce documents for an HMRC compliance officer.

HMRC are willing to use their powers under the NMW legislation as the following case illustrates.

Landmark NMW case

At the end of August, a children's nursery owner was fined £2,500 and ordered to pay £500 costs in the first NMW criminal prosecution case.

The owner of the day nursery, which was based in Walthamstow, pleaded guilty to a charge of obstruction at the Magistrates' Court. She had apparently prevented compliance officers from seeing employee records. The compliance officers were trying to find out whether nursery workers were being paid the correct amount under the NMW legislation.

Judge Gott commented that the owner had "demonstrated a clear and deliberate intent to obstruct officers and this was a scandalous breach of the National Minimum Wage legislation."

Andy Millican, the Criminal Investigations team leader said:

"This prosecution sends a clear message to employers that we will actively pursue those we suspect of flouting National Minimum Wage law ... We have a duty to ensure workers

October 2007

receive their salary entitlement. If employers obstruct us and refuse to comply with the law they could receive a fine and a criminal record."

National Minimum Wage (NMW) rates rose with effect from 1 October 2007. The current rates are:

Adult rate (workers aged 22 and over) £5.52

Development rate for 18-21 year olds £4.60

Development rate for 16-17 year olds £3.40

Internet Links: [Employers Bulletin](#) and [NMW rates](#)