Fast track: EANCB validation
Origin: domestic
RPC reference number: RPC-3141(1)-BIS
Date of implementation: 1 April 2016

Regulatory Policy Committee

Increased national minimum wage financial penalty calculation

Department for Business, Innovation and Skills

RPC rating: validated

Description of proposal

The Government believe that the consequences for employers that break national minimum wage regulation are insufficient and, therefore, intend to raise the financial penalty that employers face for underpaying workers.

The penalty is currently calculated as 100 per cent of the total underpayment for all the workers specified in a notice of underpayment issued to an employer. The measure will double the penalty to 200 per cent of the total underpayment, while retaining a discount for prompt payment of the penalty. The current maximum penalty of £20,000 per worker will remain.

Impacts of proposal

The impact assessment (IA) states that there will be no costs to businesses that comply with national minimum wage (NMW) regulation as they will not be affected by any increase in the penalty. The IA addresses the issue of possible familiarisation costs to compliant businesses but explains that, as a NMW penalty for underpayment currently exists and the measure will change only the calculation of the penalty, these would not be significant. This seems reasonable. In addition, the IA explains that there is no requirement, or need, for businesses to change their record-keeping practices.

The Department has classified the measure as being out of scope of the business impact target because it simply changes the level of the penalty for businesses in breach of NMW regulation. On the basis that there are no direct impacts on compliant businesses, the Department has assessed the equivalent annual net cost to business as zero.

Quality of submission

Equivalent annual cost to business (EANCB)

The IA provides sufficient analysis and explanation for the RPC to be able to validate the EANCB of zero. Under the Better Regulation Framework Manual (March 2015) this would have been considered out of scope of the One-in, Two-out policy in the last parliament. Based on current working assumptions, the RPC expects this to be a non-qualifying regulatory provision under the business impact target.

Although not affecting the EANCB, the IA would benefit from the inclusion of an assessment of costs to non-compliant businesses and the corresponding benefits to the Exchequer, based on the data and evidence from the previous increase in the level of penalties.

Departmental assessment

Classification	Out of scope
EANCB	Zero
Business net present value	Zero

RPC assessment

Classification	Non-qualifying regulatory provision (fines and penalties)
EANCB – RPC validated	Zero
Small and micro business assessment	Not required (fast track low-cost regulation)

Michael Gibbons CBE, Chairman