

**BERR**

Department for Business  
Enterprise & Regulatory Reform

**NATIONAL MINIMUM WAGE AND  
EMPLOYMENT AGENCY  
STANDARDS ENFORCEMENT**

**GOVERNMENT RESPONSE TO  
PUBLIC CONSULTATION**

DECEMBER 2007

**NATIONAL MINIMUM WAGE AND EMPLOYMENT AGENCY STANDARDS  
ENFORCEMENT**

**GOVERNMENT RESPONSE TO THE PUBLIC CONSULTATION**

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## **Chapter 1: Introduction**

### **Background to proposals**

1.1 On 16 May 2007, the Government launched a formal consultation to seek views on enforcement of the National Minimum Wage (NMW) and Employment Agency Standards. The consultation closed on 8 August 2007.

1.2 The consultation addressed three issues:

- Ensuring that workers who are underpaid the NMW receive fair arrears which are calculated so that workers do not lose out in real terms as a result of that underpayment;
- Ensuring that a simple, effective penalty regime is in place to encourage employers to pay the NMW where it is due from the outset; and
- Ensuring that an effective enforcement regime is in place for dealing with the minority of employment agencies that do not comply with agency legislation.

1.3 A full list of the questions in the consultation document can be found at Annex A.

1.4 To ensure that stakeholder views were taken into account a number of stakeholder meetings were held alongside this consultation.

### **Consultation responses and the Government's intention**

1.5 The Government received 33 written responses and is grateful to all those who responded. A list of respondents is attached at Annex B. 27% of responses came from unions; 40% from business organisations or sector associations.

1.6 This document summarises the comments made by respondents and indicates the Government's intentions on each of the consultation issues.

## **Next steps**

1.7 A number of the measures set out in the consultation document require primary legislation to implement. On 11 July, the Prime Minister announced the draft legislative programme for the 2007-2008 Parliamentary session. The programme included an employment bill which will include provisions to address the issues set out in the consultation. Further details are included in this document.

## **Chapter 2: NMW fair arrears**

### **Consultation proposals**

2.1 The consultation document sought views on whether the method of calculating arrears of NMW should be changed to remedy the loss of purchasing power suffered by workers as a result of the initial underpayment. Under the current legislation, no account is taken of loss in real terms when calculating arrears owed to the worker.

2.2 The Government has set out two policy aims for fair arrears. Firstly, arrears should be reimbursed in a way that restores what the worker has lost in real terms since the arrears were incurred. Secondly, the approach to calculating fair arrears should be clear, straightforward and uniform.

2.3 The consultation document set out four options for fair arrears:

- Take no action;
- Apply interest on arrears;
- Repay all arrears at the current rate of NMW; or
- Repay actual underpayment plus an adjustment. The document sets out two alternative ways of determining the adjustment: a fixed percentage of arrears, or the “band” of arrears the underpayment falls into.

### **Response to consultation**

2.4 Of the 33 respondents to the consultation, 27 commented on fair arrears. Of these, only 1 respondent favoured either Option A (take no action) or Option D (adjusted arrears). Option B (interest on arrears) was supported by 9 respondents, whilst 15 favoured Option C (arrears at the current rate). The overwhelming majority of respondents fully agreed with the aim of fair arrears.

2.5 Respondents favouring interest on arrears included the Low Pay Commission, one business representative (the British Hospitality Association) and a number of unions (the Communication Workers Union, Equity, Usdaw and the PCS). Respondents generally favoured this option on the basis that it would provide fair arrears for workers whose arrears fell within the current NMW rate. Of the respondents who preferred alternative options, one commented that using interest in calculating fair arrears may confuse underpaid workers as many people do not fully understand the concept of interest.

2.6 Respondents favouring arrears at the current rate included business representatives (the CBI, British Retail Consortium and British Chambers of Commerce) small business representatives (the Federation of Small Businesses and Forum of Private Businesses) and a number of unions (the TUC, UNISON and RMT). Respondents recognised that this option would not provide any additional recompense beyond the actual amount of underpayment for workers whose arrears fell within the current NMW rate; a couple of respondents suggested that this might be addressed by providing for additional payments for circumstances where underpayment had been within the current year. A number of respondents cited the fact that a major benefit of reimbursing arrears at the current NMW rate was that this option would not require changes to tax legislation (although this would not be the case if provision was made for additional payments for underpayment within the current year).

## **The Government's intention**

2.7 The Government has concluded that repaying arrears at the current NMW rate would best achieve the policy aims for fair arrears. This would also apply to the Agricultural Minimum Wage (AMW) where underpayment would be reimbursed at the relevant current rate of AMW. The employment bill will contain provisions to bring in this approach for calculating arrears.

2.8 The Government recognises that the simplest option for change would be to charge adjusted arrears, i.e. a fixed percentage of the basic arrears. However, this would not take account of the length of time that arrears have been outstanding, and thus the loss to the worker in real terms. If the basic arrears were the same, a worker whose underpayment had been outstanding for six months would receive the same amount of fair arrears as a worker whose underpayment had been outstanding for six years. We agree with the consensus of stakeholder responses that this option would not meet the policy aims for fair arrears.

2.9 We have carefully considered the relative merits of the two other options for change: charging interest on arrears and charging arrears at the current NMW rate. The main benefit of charging interest is that it would provide an additional element of reimbursement beyond the actual amount of underpayment for those workers whose underpayment occurred in the same NMW rate as the repayment; this would not be the case where arrears were charged at the current NMW rate. However, under current tax rules, interest on arrears would be taxable as interest rather than as pay and pensions. Workers would therefore have to account for this through self assessment and, in order to avoid this, it would be necessary to amend tax and National Insurance Contributions (NIC) legislation to reclassify the interest as pay.

2.10 For the AMW, charging interest on arrears might be somewhat less complicated to calculate than arrears at the current rate, as there are a number of different minimum rates of pay according to the grade of the worker, whether the worker is a flexible worker and in relation to overtime pay. However, we consider that it is important that there is consistency of approach between the treatment of arrears of NMW and AMW, and we have therefore concluded that the possible additional complexity for the AMW is outweighed by the overall benefits of transparency and consistency of charging arrears at the current rate. Therefore, in the rest of this chapter, references to the NMW include references to the AMW.

2.11 Repaying arrears at the current NMW rate would mean that the additional element of reimbursement beyond the actual amount of underpayment would be treated as earnings and taxed through the PAYE system. The arrears would accurately reflect what the appropriate national minimum was currently considered to be and it would provide an incentive for employers to resolve underpayments before any rate change. The issue of self assessment would not arise, so no changes to tax or NIC legislation would be required. Some respondents suggested that an additional element of reimbursement of pay should be added to make up for underpayment within the current year. However, such payment would not have the character of earnings and would therefore result in the problem of self assessment mentioned in paragraph 2.9 above.

2.12 The Government acknowledges that the current rate option means that workers who were underpaid during the current NMW rate would not receive any additional element of reimbursement beyond the actual underpayment if they were also repaid during that period (unless this was specifically provided for, with consequential changes to tax and NIC law). We estimate that above a quarter of claims relate to arrears that were incurred solely within the current year; there will also be an additional number of claims where a proportion of arrears fall within the current year. However, the loss of purchasing power suffered by workers would be less in relation to arrears incurred within the current year than for arrears incurred earlier NMW rate periods. We do not believe that implementing this option without adjustment for current year underpayment would have a significant adverse effect for workers and have therefore concluded that such an adjustment would add unnecessary complexity.

### **Application of fair arrears - retrospection**

2.13 The Government considers that the fair arrears provisions of the Bill should have retrospective effect so that where arrears of the minimum wage are outstanding after commencement of the new legislation, all entitlement to repayments of minimum wage are calculated to reimburse underpayment of pay in accordance with the new legislation, notwithstanding that the underpayment may have occurred before the commencement date.

2.14 Without such retrospection, fair arrears would apply only in respect of pay reference periods after commencement. This would mean that workers would be unable to obtain any benefit from fair arrears until at least a year after the new legislation comes into effect, and then only if the current rate is higher than the rate during which the arrears accrued. It would also result in additional complexity as there would be two methods of calculation of arrears in force at the same time, the current method of calculation for arrears before commencement, and “fair arrears” for subsequent periods.

2.15 The fair arrears provisions will only apply where arrears of the NMW are outstanding after commencement of the legislation. Where an employer has settled existing claims for arrears prior to commencement, there will be no requirement to reimburse arrears according to the new legislation.

## Method of calculating fair arrears

2.16 The Government has considered the methodology for calculating arrears and has concluded that the following method should apply, which involves the following steps:

- Calculate the total underpayment for each period (1 October – 30 September) NMW has been underpaid. The underpayment is calculated in the same way as at present, i.e. the difference between the remuneration received by the worker and the NMW rate which applied at the time that they should have been paid;
- Divide the total underpayment for each rate period by the rate applicable during the period, to derive a notional total of unpaid time for that period in hours;
- Multiply the total derived unpaid hours by the current rate; and
- Total each year's arrears.

2.17 An illustrative example is set out below.

### EXAMPLE

Worker A is underpaid by £104 per year for two and a half years from 1 October 2005 to 1 May 2008, a total underpayment of £260.

The fair arrears are calculated at 1 May 2008 when the NMW current rate is £5.52 per hour. Previous NMW rates are: £5.05 (October 2005 – September 2006) and £5.35 (October 2006 – September 2007).

A's fair arrears are calculated as follows:

*Oct 2005 – Sept 2006.* Basic arrears for period: £104. Unpaid time: 20.59 hours (£104/£5.05).  $20.59 \times £5.52 = £113.66$ .

*Oct 2006 – Sept 2007.* Basic arrears for period: £104. Unpaid time: 19.44 hours (£104/£5.35).  $19.44 \times £5.52 = £107.31$ .

*October 2007 – May 2008.* Basic arrears for period: £52. Unpaid time: 9.42 hours (£52/£5.52).  $9.42 \times £5.52 = £52.00$ .

**A's fair arrears would therefore be £272.97.**

## Chapter 3: NMW penalties

### Consultation proposals

3.1 The consultation document sought views on the proposal to introduce a penalty for all employers found to be underpaying the NMW<sup>1</sup>. Under the current legislation, a penalty is only imposed where an employer fails to comply with an enforcement notice issued by the enforcement body, HM Revenue & Customs (HMRC), or DEFRA in the case of the AMW. The Government's policy aim is to introduce a simpler penalty regime which deters non-compliant employers from underpaying their workers.

3.2 The consultation document set out five options for a penalty:

- Take no action;
- Fixed penalty (per employer);
- Fixed penalty per worker;
- Penalty which is a multiple of arrears; and
- Banded fixed penalty.

3.3 The consultation document asked for views on whether there were any circumstances in which the automatic penalty should not apply; whether there should be an upper or lower limit to the penalty; and how the penalty should escalate. It also asked for comments on whether the Government could do more to offer guidance or raise awareness of how to comply with the NMW.

### Response to consultation

3.4 Of the 33 respondents to the consultation, 29 commented on penalties. Of these, only 1 respondent favoured Option B (fixed penalty per employer) and 2 respondents favoured Option A (take no action). Option E (banded fixed penalty) was favoured by 4 respondents, whilst 5 supported Option C (fixed penalty per worker) and 10 favoured option D (multiple of arrears).

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<sup>1</sup> References to the NMW should be read as including references to the AMW.

3.5 Respondents favouring a fixed penalty per worker included the TUC, UNISON and Unite. Respondents generally favoured this option on the basis that it was simple to calculate, was linked to the number of workers affected and was consistent with treatment elsewhere, for example fines re illegal workers.

3.6 Respondents favouring a penalty which is a multiple of arrears included the Low Pay Commission, the CBI, the British Retail Consortium, the British Chambers of Commerce and the Forum of Private Business. Respondents considered that this option was proportionate to the level of non-compliance.

### **Government's intention**

3.7 The Government has concluded that the penalty for underpayment of the NMW should be based on a multiple of arrears.

3.8 We consider that taking this approach would act as an effective deterrent to non-compliance as the penalty would reflect the total extent of underpayment. Although there is often a relationship between the number of workers and the amount of arrears, situations occur where there is either a large number of workers with a low level of arrears owed to each or, conversely, a small number of workers with a large amount of arrears owing to each. We therefore consider that applying a penalty per worker would not be as proportionate and as effective a deterrent as a penalty which is based on the total arrears.

### **Applicability of penalty**

3.9 We have carefully considered whether the penalty should be due in all cases of underpayment investigated by the enforcement body. Although a number of respondents argued that a penalty should not be applied in certain cases (such as unintentional errors), we have concluded that a penalty should be due in all cases where underpayment of the NMW is still outstanding at the date the enforcement body starts its investigation. We consider that the new penalty regime would be more difficult to apply if enforcement officers had to consider the employer's intention when considering a case of underpayment of NMW. In addition, a key objective of the penalty is to encourage employers to ensure they are paying their workers correctly. If a worker considers that an employer has underpaid the NMW, it is open to them to take the issue up with the employer; if the issue is settled without the involvement of HMRC then no penalty would be applied.

3.10 Unlike the requirements on reimbursement of arrears (see above, paragraphs 2.13 – 2.15), the penalty provisions will not be retrospective. The penalty will therefore only apply in respect of arrears relating to pay reference periods starting on or after the commencement date of the new legislation.

3.11 The Government will be providing support for employers to help them understand their obligations to pay the NMW. The legislation will not require enforcement officers to issue penalties in all cases, although as a matter of policy they will be expected to do so in all but the most exceptional cases.

### **Penalty – level, minimum/maximum, escalation/reduction**

3.12 Our consideration of the civil penalty and, in particular whether it should escalate and what the upper limit should be, has been influenced by two separate factors: ensuring that the civil regime complies with Article 6 of the ECHR and balancing the relationship between the civil penalty regime and the criminal prosecution regime for NMW offences. We have concluded that:

- The multiplier for the penalty should be 0.5 (i.e. a penalty that is half the amount of arrears);
- The penalty should be reduced by one half if the employer reimburses their worker(s) quickly;
- The penalty should not be increased if the employer fails to reimburse their worker(s) by the date specified by the enforcement body;
- There should be a minimum penalty threshold of £100, i.e. applying to amounts of underpayment less than £200; and
- There should be an upper civil penalty ceiling of £5,000.

3.13 We agree with the view of a number of respondents that a lower limit to the penalty is necessary to keep the penalty at a meaningful level in cases where the amount of underpayment was very small. We have concluded that there should be a lower limit for the penalty of £100. We have also concluded that an upper limit is needed to ensure that the penalty does not become so large that it is a disproportionate means of achieving the policy objective of compliance with the NMW and that this maximum penalty should be £5,000. We consider that this level would ensure that the civil penalty met the requirements for compliance as a civil charge with Article 6 of the ECHR.

3.14 Based on statistics for arrears discovered by HMRC in 2005/06, only 3% of cases of non-compliance would have incurred a penalty above this maximum as they involved arrears of more than £10,000 (and the multiplier for the penalty is 0.5). Although a number of respondents were concerned that a maximum penalty of £5,000 would be an insufficient deterrent and an inadequate penalty in the most serious cases of non-compliance, we believe that such a deterrent is more effectively provided by strengthening of the criminal prosecution regime for NMW offences (see paragraphs 3.17 – 3.19 below).

3.15 We believe that it is important that there should be an incentive for non-compliant employers to reimburse their workers quickly. We have therefore concluded that the penalty should be reduced if there is prompt payment. After careful consideration, we have also concluded that the penalty should not be increased if the employer fails to reimburse their worker(s) by the date specified by the enforcement body. However, it would be open for the enforcement body to consider criminal prosecution for employers who have refused to pay after a notice has been served as this constitutes refusal to pay the NMW.

### **Additional civil enforcement powers**

3.16 At present, HMRC compliance officers only have the power to examine records and copy them at the employer's premises. This has the potential to cause problems, for example where photocopying equipment is not available or there is too much information to copy in the time available. We have concluded that the efficiency of NMW enforcement would be increased if compliance officers were able to take information away for a reasonable time to allow them to take copies.

### **Criminal prosecution regime**

3.17 As noted above, in developing the new civil penalty regime we have considered the relationship between the civil penalty regime and the criminal prosecution regime for NMW offences, although the latter was not part of the formal consultation. We have also taken into account the views expressed by a number of stakeholders that £5,000 was an inadequate penalty for the most serious offences.

3.18 At present, offences under the NMW Act (such as refusal to pay the NMW or obstructing a compliance officer) are triable only in a magistrates' court and the maximum fine available is £5,000. We consider that this is insufficient to provide an appropriate deterrent in the most serious cases. We have therefore concluded that the offences should be triable either way, that is, as either summary offences in a magistrates' court or as indictable offences in a crown court. In the latter case, the court would have the power to impose an effectively unlimited penalty as well as, for example, disqualification of a director.

3.19 We have also considered whether the current powers for collecting evidence are sufficient. At present, prosecutors do not have specific powers to collect evidence from the employer, and so rely on the evidence gathered by compliance officers for NMW civil enforcement purposes. These information gathering powers currently do not allow an officer to search and seize information if an employer is being un-cooperative and, in practice, this acts as a barrier to prosecution of the most serious offences. We have concluded that, in order to make the prosecution regime effective, we need to provide prosecutors with powers to search and seize information.

### **Guidance/raising awareness**

3.20 The Government will also be working with business representative organisations to ensure that employers have access to the information they will need about the NMW in order to help them comply with the requirements of the new legislation.

## Chapter 4: Employment Agency Standards

### Consultation proposals

4.1 The consultation document contained proposals to strengthen the penalties regime for offences committed against employment agency legislation and give clearer investigative powers for the Employment Agency Standards (EAS) Inspectorate. It sought views on the criminal offences under the Employment Agencies Act 1973; whether serious cases should be capable of being tried in a Crown Court and, whether such cases, should carry a maximum penalty of an unlimited fine. It also sought comments on whether the Employment Agency Standards Inspectorate should be given more effective investigative powers in order to obtain financial information regarding those suspected of offences under the Employment Agencies Act.

4.2 These proposed changes are part of ensuring an effective enforcement regime and the new powers would benefit the law-abiding by making the EAS better equipped to deal with the small minority who deliberately seek to break the law and provide unfair competition to other agencies as well as mistreat their workers.

4.3 The consultation paper set out the following 3 options:

- Option 1. Do nothing.
- Option 2. Make offences under the Employment Agencies Act 1973 and the Conduct of Employment Agencies and Employment Businesses Regulations 2003 triable either as summary offences in a Magistrate's Court or as indictable offences in a Crown Court. The penalties and powers of prosecution would depend on which court the case came before.
- Option 3. As Option 2 and amend Section 9 of the Employment Agencies Act 1973 to clarify powers available to EAS inspectors to be able to demand and secure copies of financial information from an agency suspected of an offence under the Act either directly or from their bank or building society if the agency fails to provide the information.

## **Response to consultation**

4.4 Of the 15 responses on the proposals on EAS enforcement, 7 were from trade unions and 5 from business and trade associations. Nearly all the respondents were supportive of both proposals to strengthen penalties and give more effective investigation powers. None of those responding opposed to either proposal although one business association expressed concerns that burdens on business should be taken into account.

4.5 Some respondents sought clarification on what is meant by a prosecution being “under active consideration”, in relation to the proposed powers of the EAS to seek financial information from third parties. EAS only consider prosecution in cases where the offences are very serious or an agency is unwilling to act compliantly. On the basis of past and current experience, the number of cases is approximately 10 each year.

4.6 Most of the responses from Trade Unions took the view that the proposals do not go far enough and argued for implementation of the proposed EU Agency Workers Directive, licensing of all agencies and an increase in EAS resources in order to ensure that the proposals were effectively enforced.

## **Government’s intention**

4.7 The Government considers that it is important to strengthen the enforcement regime to target those who cut corners illegally to the detriment of agency workers, hirers and reputable agencies who are disadvantaged by such practices. We have concluded that the penalties for offences under the Employment Agencies Act 1973 should be increased by making them triable either way; and that the powers of inspection for officers appointed under the Act should be extended.

## **Increased penalties**

4.8 The Government intends to bring forward provisions in the forthcoming Bill on employment law to provide that the offences of failure to comply with a prohibition order; failure to comply with regulations made under the Act; and seeking a fee for work-finding services will be triable either way. On conviction on indictment a person will be liable to an unlimited fine; on summary conviction a person will remain liable to a fine not exceeding £5,000.

4.9 Having the most serious cases tried in a Crown Court would mean that the sentences would be more of a deterrent in cases where an agency was making a lot of money through illegal practices (an unlimited fine rather than a maximum of £5,000). This is particularly appropriate for offence of running an agency while subject to a prohibition order. It would also reduce the EAS's dependence on witnesses prepared to stand up in court in order to achieve a conviction. The Government recognises that witnesses can be reluctant to give evidence due to fears of intimidation or being seen as a trouble-maker; however, making the offences triable as indictable offences would allow the EAS to bring charges of "attempting to" commit offences which would overcome this problem.

### **Increased powers**

4.10 The Government has concluded that more effective powers to obtain information are necessary to enable EAS inspectors to establish the extent and scale of illegal practices, such as; identifying other mistreated workers, in addition to those who have complained. The Bill will therefore contain provisions to enable EAS inspectors to seek information from third parties, such as banks and other financial institutions, where such information is needed to determine the extent of non-compliance and where the EAS is considering prosecution. Before seeking information from third parties, the EAS will have to formally request the person carrying on or connected with the carrying on of the business of an agency, to supply the necessary financial information by a specified deadline. If the agency fails to provide the information by the stated date, EAS will be able to seek the information directly from the bank or other financial institution.

4.11 We will also extend inspectors' powers to remove records and documents where there are no facilities to take copies inspected on the agency's premises, for the sole purpose of making such copies and to return them as soon as is reasonably practicable.

4.12 Failure to comply with a request made under the new power will be an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

4.13 We will also put into place safeguards to protect agencies from any abuse of the new powers and to ensure that the changes are human rights and data protection compliant.

## **Annex A: List of questions**

### **A. NMW fair arrears**

A1. The government is interested in introducing a new way to calculate fair arrears for all workers. Do you have any comments on this?

A2. Please indicate which of the following options you prefer:

- Option A: Take no action
- Option B: Interest on arrears
- Option C: Charge all arrears at the current rate
- Option D: Arrears plus additional sum

A3. Why do you prefer the option you have indicated?

*Option A. Take no action*

A4. Do you have any comments on this?

*Option B. Interest on arrears*

A5. How should this be calculated?

A6. Do you have any other comments on this?

*Option C. Charging all arrears at the current rate*

A7. Do you have any other comments on this?

*Option D. Arrears plus adjustment*

A8. How should the adjustment be calculated?

A9. If the adjustment is calculated by percentage, what should the percentage be and why?

A10. If the adjustment is calculated by adding a sum determined by the band of arrears incurred, what should the bands be and why?

A11. If the adjustment is calculated by adding a sum determined by the band of arrears incurred what should the sums be for the bands you have identified and why?

A12. Do you have any other comments on this proposal?

A13. Do you have any other comments or suggestions on how fair arrears could be calculated?

A14. If the government introduces fair arrears, do you have any comments on how awareness and guidance could be made available to workers and employers?

## **B. NMW penalties**

B1. The government is interested in introducing a penalty for all employers found to be underpaying the NMW. Do you have any comments on this?

B2. Are there any circumstances when you think that an automatic penalty for underpaying the NMW should not apply?

B3. Do you have any views on whether there should be an upper or lower limit to the penalty options, and what the limit should be?

B4. Please indicate which of the following options you would prefer:

- Option A: Take no action
- Option B: Fixed penalty
- Option C: Fixed penalty per worker
- Option D: Penalty which is a multiple of arrears
- Option E: Banded fixed penalty

B5. Why do you prefer the option you have indicated?

*Option A. Take no action*

B6. Do you have any comments on this option?

*Option B. Fixed penalty*

B7. What should the level of the penalty be and why?

B8. How should the fixed penalty escalate?

*Option C. Fixed penalty per worker*

B9. What should the level of the fixed penalty be and why?

B10. How should the fixed penalty escalate?

*Option D. Penalty which is a multiple of arrears*

B11. What should the multiplier or level of the fixed penalty be and why?

B12. How should the fixed penalty escalate?

*Option E. Banded fixed penalty*

B13. What should the bands be, and what should the level of the fixed penalty be?

B14. How should the fixed penalty escalate?

B15. Do you have any comments on what more the government could do to offer guidance / raise awareness of how to comply with the NMW?

## **C. Employment Agency penalties**

C1. Do you consider that prosecutions under employment agency legislation should be capable of being tried in the Crown Court in the most serious cases?

C2. Do you agree that the maximum penalty for such serious offences should be an unlimited fine?

C3. Do you consider that enabling such prosecutions to be tried in the Crown Court have any implications for reputable agencies, and if so, what do you consider these implications would be?

C4. Do you agree the EAS should have powers to seek financial information from third parties such as banks and financial authorities where an agency or individual suspected for a serious offence under the Employment Agencies Act:

- where a prosecution is under active consideration?
- in any other circumstances? (if yes, please state what these circumstances are)

C5. What, if any, implications do you consider the grant of such powers would have for reputable agencies?

## **Annex B: List of respondents**

Acas  
Association of Convenience Stores  
British Chambers of Commerce  
British Holiday & Home Parks Association  
British Hospitality Association  
British Retail Consortium  
British Shop and Stores Association  
Business in Sport and Leisure  
CBI  
Citizens Advice Northern Ireland  
Communication Workers Union  
Cinema Exhibitors' Association  
Cleaning and Support Services Association  
Crisis Centre Ministries  
R J Davies  
Equity  
Federation of Small Businesses  
Forum of Private Business  
Low Pay Commission  
Daryl Martin  
Modelling Information Service  
National Group on Homeworking  
National Hairdresser's Federation  
National Union of Rail, Maritime and Transport Workers  
PCS  
PCS (Cambridge Revenue Branch)  
Professional Contractors Group  
Recruitment and Employment Confederation  
Karen Shann  
TUC  
UNISON  
Unite  
Usdaw

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