



National Minimum Wage Act 1998

1998 CHAPTER 39

Records

11 Failure of employer to allow access to records.

- (1) A complaint may be presented to an employment tribunal by a worker on the ground that the employer—
 - (a) failed to produce some or all of the relevant records in accordance with subsections (8) and (9) of section 10 above; or
 - (b) failed to allow the worker to exercise some or all of the rights conferred by subsection (1)(b) or (4)(b) of that section.
- (2) Where an employment tribunal finds a complaint under this section well-founded, the tribunal shall—
 - (a) make a declaration to that effect; and
 - (b) make an award that the employer pay to the worker a sum equal to 80 times the hourly amount of the national minimum wage (as in force when the award is made).
- (3) An employment tribunal shall not consider a complaint under this section unless it is presented to the tribunal before the expiry of the period of three months following—
 - (a) the end of the period of fourteen days mentioned in paragraph (a) of subsection (9) of section 10 above; or
 - (b) in a case where a later day was agreed under paragraph (b) of that subsection, that later day.
- (4) Where the employment tribunal is satisfied that it was not reasonably practicable for a complaint under this section to be presented before the expiry of the period of three months mentioned in subsection (3) above, the tribunal may consider the complaint if it is presented within such further period as the tribunal considers reasonable.

[^{F1}(4A) Where the complaint is presented to an employment tribunal in England and Wales or Scotland, section 11A applies for the purposes of subsection (3).]

Changes to legislation: There are currently no known outstanding effects for the National Minimum Wage Act 1998, Section 11. (See end of Document for details)

[^{F2}(4B) Where the complaint is presented to an industrial tribunal in Northern Ireland, Article 249B of the Employment Rights (Northern Ireland) Order 1996 applies for the purposes of subsection (3) and that subsection and this subsection are to be treated as provisions of that Order for the purposes of that Article.]

(5) Expressions used in this section and in section 10 above have the same meaning in this section as they have in that section.

Textual Amendments

- F1** S. 11(4A) inserted (6.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 2 para. 37**; S.I. 2014/253, art. 3(g)
- F2** S. 11(4B) inserted (N.I.) (27.1.2020) by Employment Act (Northern Ireland) 2016 (c. 15), s. 29(2), **Sch. 2 para. 43**; S.R. 2020/1, art. 2(n)

Modifications etc. (not altering text)

- C1** S. 11 modified by 1948 c. 47, **s. 3A(1)-(4)** (as inserted (1.4.1999) by 1998 c. 39, ss. 47(1)(a), 56(2), **Sch. 2 Pt. I**, para. 3 (with s. 36); S.I. 1999/685, art. 2, Sch.)
S. 11 modified by 1949 c. 30, **s. 3A(1)-(3)** (as inserted (1.4.1999) by 1998 c. 39, ss. 47(1)(b), 56(2), **Sch. 2 Pt. II**, para. 13 (with s. 36); S.I. 1999/685, art. 2, Sch. (with art. 3))
- C2** S. 11 extended (with modifications) by S.I. 1997/2151 (N.I. 22), **art. 8A** (as inserted (1.4.1999) by 1998 c. 39, ss. 47(1)(c), 56(2), **Sch. 2 Pt. III**, para. 26 (with s. 36); S.I. 1999/685, art. 2, Sch.)
- C3** S. 11 applied (with modifications) (E.W.) (30.7.2014) by Agricultural Sector (Wales) Act 2014 (anaw 6), **ss. 5(1)(2)(a)(3)-(7)**, 19 (with s. 14(1))

Changes to legislation:

There are currently no known outstanding effects for the National Minimum Wage Act 1998, Section 11.