



# National Minimum Wage Act 1998

## 1998 CHAPTER 39

### *Rights not to suffer unfair dismissal or other detriment*

#### **23 The right not to suffer detriment.**

- (1) A worker has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by his employer, done on the ground that—
  - (a) any action was taken, or was proposed to be taken, by or on behalf of the worker with a view to enforcing, or otherwise securing the benefit of, a right of the worker's to which this section applies; or
  - (b) the employer was prosecuted for an offence under section 31 below as a result of action taken by or on behalf of the worker for the purpose of enforcing, or otherwise securing the benefit of, a right of the worker's to which this section applies; or
  - (c) the worker qualifies, or will or might qualify, for the national minimum wage or for a particular rate of national minimum wage.
- (2) It is immaterial for the purposes of paragraph (a) or (b) of subsection (1) above—
  - (a) whether or not the worker has the right, or
  - (b) whether or not the right has been infringed,but, for that subsection to apply, the claim to the right and, if applicable, the claim that it has been infringed must be made in good faith.
- (3) The following are the rights to which this section applies—
  - (a) any right conferred by, or by virtue of, any provision of this Act for which the remedy for its infringement is by way of a complaint to an employment tribunal; and
  - (b) any right conferred by section 17 above.
- <sup>F1</sup>(4) This section does not apply where the detriment in question amounts to dismissal within the meaning of—
  - (a) Part X of the Employment Rights Act 1996 (unfair dismissal), or
  - (b) Part XI of the Employment Rights (Northern Ireland) Order 1996 (corresponding provision for Northern Ireland),

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*Changes to legislation: There are currently no known outstanding effects for the National Minimum Wage Act 1998, Section 23. (See end of Document for details)*

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F2  
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#### Textual Amendments

- F1** S. 23(4) substituted (25.10.1999) by 1999 c. 26, s. 18(4); S.I. 1999/2830, art. 2(1)(2), **Sch. 1**
- F2** Words in s. 23(4) repealed (1.12.1999) by S.I. 1999/2790 (N.I. 9), arts. 1(2), 20(5), **Sch. 9(3)**; S.R. 1999/470, art. 2(3), **Sch. 2 Pt. I** (subject to exceptions as mentioned in the Sch.)

#### Modifications etc. (not altering text)

- C1** S. 23 modified (*prosp.*) by 1948 c.47, s. 3A(1)-(4) (as inserted by 1998 c. 39, ss. 47(1)(a), 56(2), **Sch. 2 Pt. I**, para. 3 (with s. 36))
- S. 23 modified (*prosp.*) by 1949 c. 30, s. 3A(1)-(3) (as inserted by 1998 c. 39, ss. 47(1)(b), 56(2), **Sch. 2 Pt. II**, para. 13 (with s. 36))
- C2** S. 23 extended (with modifications) (*prosp.*) by S.I. 1997/2151 (N.I. 22), **art. 8A** (as inserted by 1998 c. 39, ss. 47(1)(c), 56(2), **Sch. 2 Pt. III**, para. 26 (with s. 36))
- C3** S. 23 applied (with modifications) (E.W.) (30.7.2014) by Agricultural Sector (Wales) Act 2014 (anaw 6), **ss. 5(1)(2)(j)(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 23.