



National Minimum Wage Act 1998

1998 CHAPTER 39

Civil procedure, evidence and appeals

28 Reversal of burden of proof.

- (1) Where in any civil proceedings any question arises as to whether an individual qualifies or qualified at any time for the national minimum wage, it shall be presumed that the individual qualifies or, as the case may be, qualified at that time for the national minimum wage unless the contrary is established.
- (2) Where—
 - (a) a complaint is made—
 - (i) to an employment tribunal under section 23(1)(a) of the ^{M1}Employment Rights Act 1996 (unauthorised deductions from wages), or
 - (ii) to an industrial tribunal under Article 55(1)(a) of the ^{M2}Employment Rights (Northern Ireland) Order 1996, and
 - (b) the complaint relates in whole or in part to the deduction of the amount described as additional remuneration in section 17(1) above,it shall be presumed for the purposes of the complaint, so far as relating to the deduction of that amount, that the worker in question was remunerated at a rate less than the national minimum wage unless the contrary is established.
- (3) Where in any civil proceedings a person seeks to recover on a claim in contract the amount described as additional remuneration in section 17(1) above, it shall be presumed for the purposes of the proceedings, so far as relating to that amount, that the worker in question was remunerated at a rate less than the national minimum wage unless the contrary is established.

Modifications etc. (not altering text)

- C1** S. 28 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))

Changes to legislation: There are currently no known outstanding effects for the National Minimum Wage Act 1998, Section 28. (See end of Document for details)

S. 28 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. 28 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. 28 applied (with modifications) (E.W.) (30.7.2014) by Agricultural Sector (Wales) Act 2014 (anaw 6), **ss. 5(1)(2)(k)(3)–(7)**, 19 (with s. 14(1))

Marginal Citations

M1 1996 c. 18.

M2 S.I. 1996/1919 (N.I.16).

Changes to legislation:

There are currently no known outstanding effects for the National Minimum Wage Act 1998, Section 28.