

Draft Order laid before Parliament under section 236(3) of the Employment Rights Act 1996, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2015 No. 0000

TERMS AND CONDITIONS OF EMPLOYMENT

The Protected Disclosures (Extension
of Meaning of Worker) Order 2015

Made - - - - ***
Coming into force - - 6th April 2015

The Secretary of State makes the following Order in exercise of the powers conferred by section 43K(4) of the Employment Rights Act 1996(1).

In accordance with section 236(3) of the Employment Rights Act 1996(2) a draft of this Order was laid before Parliament and approved by a resolution of each House of Parliament.

Citation and Commencement

1. This Order may be cited as the Protected Disclosures (Extension of Meaning of Worker) Order 2015 and comes into force on 6th April 2015.

Amendment to the Employment Rights Act 1996

2.—(1) Section 43K of the Employment Rights Act 1996 (extension of meaning of “worker” etc. for Part 4A) is amended as follows.

(2) Before subsection (1)(d) insert—

“(cb) is or was provided with work experience provided pursuant to a course of education or training approved by, or under arrangements with, the Nursing and Midwifery Council in accordance with article 15(6)(a) of the Nursing and Midwifery Order 2001 (S.I. 2002/253), or”.(3)

(3) In subsection (2)(c) after “paragraph” insert “(cb) or”.

(1) 1996 c.18. Section 43K(4) was inserted by the Enterprise and Regulatory Reform Act 2013 (c. 24), section 20(7).

(2) Section 236(3) was amended by the Enterprise and Regulatory Reform Act 2013, section 20(8).

(3) The Nursing and Midwifery Council was established by article 3 of the Nursing and Midwifery Order 2001 (S.I. 2002/253).

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory
Instrument: *The Protected Disclosures (Extension of Meaning of Worker) Order 2015 No. 491*

Date

Name
Parliamentary Under Secretary of State for
Employment Relations and Consumer Affairs
Department for Business, Innovation and Skills

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends section 43K of the Employment Rights Act 1996 (“1996 Act”) in relation to protected disclosures. ‘Protected disclosure’ has the meaning given in section 43A of the 1996 Act.

The 1996 Act provides protection for workers who suffer a detriment or are dismissed as a result of making a qualifying disclosure in accordance with any of sections 43C to 43H of the 1996 Act (commonly referred to as whistleblowing). ‘Qualifying disclosure’ has the meaning given in section 43B of the 1996 Act. Section 43K extends the meaning of “worker” for Part 4A of the 1996 Act. The effect of the amendments to section 43K is that student nurses and student midwives who undertake work experience as part of a course of education or training approved by, or under arrangements with, the Nursing and Midwifery Council in accordance with article 15(6)(a) of the Nursing and Midwifery Order 2001 will fall within the extended definition of worker who may make a protected disclosure. In light of section 47B(3), a student nurse or student midwife who makes a protected disclosure concerning their work experience may bring a claim against the person providing that work experience. Under the 1996 Act, a claim brought under section 47B will be determined in an employment tribunal.

An impact assessment of the effect that this instrument will have on the costs of business and the public sector is annexed to the Explanatory Memorandum which is available alongside the instrument on www.legislation.gov.uk.