

Draft Order laid before Parliament under section 42(2) of the Employment Relations Act 1999, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2018 No. 000

TERMS AND CONDITIONS OF EMPLOYMENT

The Employment Rights Act 1996 (Itemised Pay Statement) (Amendment) (No. 2) Order 2018

Made - - - - - ***
Coming into force - - - - - 6th April 2019

The Secretary of State, in exercise of the powers conferred by section 23 of the Employment Relations Act 1999⁽¹⁾, makes the following Order.

In accordance with section 42(2) of that Act, a draft of this Order has been laid before, and approved by a resolution of, each House of Parliament.

Citation and commencement

1. This Order may be cited as the Employment Rights Act 1996 (Itemised Pay Statement) (Amendment) (No. 2) Order 2018 and comes into force on 6th April 2019.

Amendment to the Employment Rights Act 1996

2.—(1) The Employment Rights Act 1996⁽²⁾ is amended as follows.

(2) In section 8(1)⁽³⁾, for “An employee” substitute “A worker”.

(3) In section 9—

(a) for “the employee”, in each place it occurs, substitute “the worker”;

(b) in subsection (4), for “an employee” substitute “a worker”.

(4) In section 11⁽⁴⁾—

(a) for subsection (1) substitute—

(1) 1999 c. 26. Section 23 was amended by sections 41 and 53 of, and paragraph 54 of Schedule 7 to, the Employment Act 2002 (c. 22) and sections 39 and 57 of, and Schedule 2 to, the Employment Relations Act 2004 (c. 24).

(2) 1996 c. 18.

(3) Section 8 was amended by S.I. 2018/147.

(4) Section 11 was amended by section 1(2) of the Employment Rights (Dispute Resolution) Act 1998 (c. 8); section 8 of, and paragraphs 15 and 16 of Schedule 2 to, the Enterprise and Regulatory Reform Act 2013 (c. 24); section 24 of, and paragraphs 66 and 68 of Schedule 13 to, the Pensions Act 2014 (c. 19); and S.I. 2011/1133 and S.I. 2014/431.

- “(1) Where an employer does not give—
- (a) an employee a statement as required by section 1 or 4, or
 - (b) a worker a statement as required by section 8,
- (either because he gives him no statement or because the statement he gives does not comply with what is required), the employee or the worker may require a reference to be made to an employment tribunal to determine what particulars ought to have been included or referred to in a statement so as to comply with the requirements of the section concerned.”
- (b) in subsection (2)—
- (i) in paragraph (a), after “4” insert “has been given to an employee”;
 - (ii) in paragraph (a), for “section 8 or 9, has been given to an employee” substitute “section 8 or 9 has been given to a worker”;
 - (iii) in the words after paragraph (b), leave out “the employee” and insert “the person to whom the statement has been given”.
- (5) In section 12(5)—
- (a) in subsection (3), for “an employee” substitute “a worker”;
 - (b) in subsections (4) and (5), for “the employee”, in each place it occurs, substitute “the worker”.

Application

3. The amendments made by this Order do not apply in relation to wages or salary paid in respect of a period of work which commences before this Order comes into force.

Address
Date

Name
Parliamentary Under Secretary of State
Department for Business, Energy and Industrial
Strategy

EXPLANATORY NOTE

(This note is not part of the Order)

This instrument amends Part I of the Employment Rights Act 1996 (c. 18) (“the 1996 Act”), to confer the right to an itemised pay statement and associated enforcement provisions upon all workers. Presently, employers are required to provide an itemised pay statement to ‘employees’ only, a particular class of worker that works under an employment contract.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Labour Market Directorate, Department for Business, Energy and Industrial Strategy, 1 Victoria Street, London SW1H 0ET, and is annexed to the Explanatory Memorandum which is available alongside the instrument on www.legislation.gov.uk.