



Employment Rights Act 1996

1996 CHAPTER 18

[^{F1}PART IVA

PROTECTED DISCLOSURES

[^{F1}43K Extension of meaning of “worker” etc. for Part IVA.

- (1) For the purposes of this Part “worker” includes an individual who is not a worker as defined by section 230(3) but who—
- (a) works or worked for a person in circumstances in which—
 - (i) he is or was introduced or supplied to do that work by a third person, and
 - (ii) the terms on which he is or was engaged to do the work are or were in practice substantially determined not by him but by the person for whom he works or worked, by the third person or by both of them,
 - (b) contracts or contracted with a person, for the purposes of that person’s business, for the execution of work to be done in a place not under the control or management of that person and would fall within section 230(3)(b) if for “personally” in that provision there were substituted “(whether personally or otherwise)”,
 - [works or worked as a person performing services under a contract entered into by him with a Primary Care Trust [^{F3}under section 84 or 100 of the National Health Service Act 2006 or with a Local Health Board under section 42 or 57 of the National Health Service (Wales) Act 2006] ,]
 - [works or worked as a person performing services under a contract entered into by him with a Health Board under section 17J of the National Health Service (Scotland) Act 1978,]
 - (c) works or worked as a person providing ^{F5} . . . general dental services, general ophthalmic services or pharmaceutical services in accordance with arrangements made—
 - (i) by a [^{F6}Primary Care Trust [^{F7}under section 126 of the National Health Service Act 2006,] or][^{F8}Local Health Board] under [^{F9}section 71 or 80 of the National Health Service (Wales) Act 2006] , or

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- (ii) by a Health Board under section ^{F10} . . . 25, 26 or 27 of the National Health Service (Scotland) Act 1978, or
- (d) is or was provided with work experience provided pursuant to a training course or programme or with training for employment (or with both) otherwise than—
- (i) under a contract of employment, or
- (ii) by an educational establishment on a course run by that establishment; and any reference to a worker’s contract, to employment or to a worker being “employed” shall be construed accordingly.
- (2) For the purposes of this Part “employer” includes—
- (a) in relation to a worker falling within paragraph (a) of subsection (1), the person who substantially determines or determined the terms on which he is or was engaged,
- ^{F11}(aa) [in relation to a worker falling within paragraph (ba) of that subsection, the Primary Care Trust or Local Health Board referred to in that paragraph,]
- ^{F12}(ab) [in relation to a worker falling within paragraph (bb) of that subsection, the Health Board referred to in that paragraph,]
- (b) in relation to a worker falling within paragraph (c) of that subsection, the authority or board referred to in that paragraph, and
- (c) in relation to a worker falling within paragraph (d) of that subsection, the person providing the work experience or training.
- (3) In this section “educational establishment” includes any university, college, school or other educational establishment.]

Textual Amendments

- F1** Pt. IVA (ss. 43A-43L) inserted (2.7.1998 for specified purposes and otherwise 2.7.1999) by 1998 c. 23, s. 1; S.I. 1999/1547, art. 2
- F2** S. 43K(1)(ba) inserted (1.4.2004 for E.W.) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 184, 199(1)(4), Sch. 11 para. 65(2); S.I. 2004/288, art. 5(2)(x) (with transitional provision in art. 7(11)) (as amended by S.I. 2004/866, S.I. 2004/1009 and S.I. 2005/2925); S.I. 2004/480, art. 4(2)(bb) (as amended by S.I. 2004/1019 and S.I. 2006/345)
- F3** Words in s. 43K(1)(ba) substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8(2), Sch. 1 para. 178(a) (with Sch. 3 Pt. 1)
- F4** S. 43K(1)(bb) inserted (1.4.2004) by The Primary Medical Services (Scotland) Act 2004 (Consequential Modifications) Order 2004 (S.I. 2004/957), art. 2, Sch. para. 8(a)(i)
- F5** Words in s. 43K(1)(c) repealed (1.4.2004) by The Primary Medical Services (Scotland) Act 2004 (Consequential Modifications) Order 2004 (S.I. 2004/957), art. 2, Sch. para. 8(a)(ii)
- F6** Words in s. 43K(1)(c)(i) inserted (1.10.2002) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), s. 2(5), Sch. 2 Pt. 2 para. 63; S.I. 2002/2478, arts. 2(1), 3(1)
- F7** Words in s. 43K(1)(c)(i) inserted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8(2), Sch. 1 para. 178(b)(i) (with Sch. 3 Pt. 1)
- F8** Words in s. 43K(1)(c)(i) substituted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961), art. 3, Sch. {para. 27(2)}
- F9** Words in s. 43K(1)(c)(i) substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8(2), Sch. 1 para. 178(b)(ii) (with Sch. 3 Pt. 1)
- F10** Word in s. 43K(1)(c)(ii) repealed (1.4.2004) by The Primary Medical Services (Scotland) Act 2004 (Consequential Modifications) Order 2004 (S.I. 2004/957), art. 2, Sch. para. 8(a)(iii)

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- F11** S. 43K(2)(aa) inserted (1.4.2004 for E.W.) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), ss. 184, 199(1)(4), [Sch. 11 para. 65\(3\)](#); S.I. 2004/288, [art. 5\(2\)\(x\)](#) (as amended by S.I. 2004/866, S.I. 2004/1009 and S.I. 2005/2925); S.I. 2004/480, [art. 4\(2\)\(bb\)](#) (as amended by S.I. 2004/1019 and S.I. 2006/345)
- F12** S. 43K(2)(ab) inserted (1.4.2004) by [The Primary Medical Services \(Scotland\) Act 2004 \(Consequential Modifications\) Order 2004 \(S.I. 2004/957\)](#), art. 2, [Sch. para. 8\(b\)](#)

Modifications etc. (not altering text)

- C1** S. 43K(1)(ba) modified (E.) (1.4.2004) by [The General Medical Services and Personal Medical Services Transitional and Consequential Provisions Order 2004 \(S.I. 2004/865\)](#), [art. 109\(2\)\(f\)](#)
- C2** S. 43K(1)(ba) modified (W.) (1.4.2004) by [The General Medical Services Transitional and Consequential Provisions \(Wales\) \(No. 2\) Order 2004 \(S.I. 2004/1016\)](#), [art. 85\(2\)\(f\)](#)
- C3** S. 43K(1)(bb) modified (S.) (1.4.2004) by [The General Medical Services and Section 17C Agreements \(Transitional and other Ancillary Provisions\) \(Scotland\) Order 2004 \(S.S.I. 2004/163\)](#), [art. 96\(2\)\(d\)](#)

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