



# National Minimum Wage Act 1998

## 1998 CHAPTER 39

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

#### **24 Enforcement of the right**

- (1) A worker may present a complaint to an employment tribunal that he has been subjected to a detriment in contravention of section 23 above.
- (2) Subject to the following provisions of this section, the provisions of—
  - (a) sections 48(2) to (4) and 49 of the Employment Rights Act 1996 (complaints to employment tribunals and remedies), or
  - (b) in relation to Northern Ireland, Articles 71(2) to (4) and 72 of the Employment Rights (Northern Ireland) Order 1996 (complaints to industrial tribunals and remedies),

shall apply in relation to a complaint under this section as they apply in relation to a complaint under section 48 of that Act or Article 71 of that Order (as the case may be), but taking references in those provisions to the employer as references to the employer within the meaning of section 23(1) above.

- (3) Where—
  - (a) the detriment to which the worker is subjected is the termination of his worker's contract, but
  - (b) that contract is not a contract of employment,any compensation awarded under section 49 of the Employment Rights Act 1996 or Article 72 of the Employment Rights (Northern Ireland) Order 1996 by virtue of subsection (2) above must not exceed the limit specified in subsection (4) below.
- (4) The limit mentioned in subsection (3) above is the total of—
  - (a) the sum which would be the basic award for unfair dismissal, calculated in accordance with section 119 of the Employment Rights Act 1996 or Article 153 of the Employment Rights (Northern Ireland) Order 1996 (as the case may be), if the worker had been an employee and the contract terminated had been a contract of employment; and

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*Status: This is the original version (as it was originally enacted).*

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- (b) the sum for the time being specified in section 124(1) of that Act or Article 158(1) of that Order (as the case may be) which is the limit for a compensatory award to a person calculated in accordance with section 123 of that Act or Article 157 of that Order (as the case may be).
- (5) Where the worker has been working under arrangements which do not fall to be regarded as a worker's contract for the purposes of—
- (a) the Employment Rights Act 1996, or
  - (b) in relation to Northern Ireland, the Employment Rights (Northern Ireland) Order 1996,

he shall be treated for the purposes of subsections (3) and (4) above as if any arrangements under which he has been working constituted a worker's contract falling within section 230(3)(b) of that Act or Article 3(3)(b) of that Order (as the case may be).