
DRAFT STATUTORY INSTRUMENTS

2018 No.

**The Employment Rights Act 1996 (NHS Recruitment
– Protected Disclosure) Regulations 2018**

Action for breach of statutory duty

8.—(1) A contravention of regulation 3 is actionable as a breach of statutory duty.

(2) If there are facts from which the court could conclude, in the absence of any other explanation, that the defendant has contravened, or is likely to contravene, regulation 3, the court must find that such a contravention has occurred, or is likely to occur, unless the defendant shows that it did not, or is not likely to occur.

(3) In proceedings brought by virtue of this regulation, the court may (without prejudice to any of its other powers)—

- (a) make such order as it considers appropriate for the purpose of restraining or preventing the defendant from contravening regulation 3; and
- (b) award damages, which may include compensation for injured feelings.

(4) Except as provided in paragraph (5), an applicant may not complain to an employment tribunal under regulation 4 and bring an action for breach of statutory duty in respect of the same conduct.

(5) An applicant may complain to an employment tribunal under regulation 4 and bring an action for breach of statutory duty in respect of the same conduct for the purpose of restraining or preventing the defendant from contravening regulation 3.