

*Draft Regulations 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

2022 No. XXXX

EMPLOYMENT

**The Prescribed Persons (Reports on Disclosures
of Information) (Amendment) Regulations 2022**

Made - - - - *****
Coming into force - - *15th December 2022*

The Secretary of State, in exercise of the powers conferred by section 43FA of the Employment Rights Act 1996(1), makes the following Regulations.

A draft of these Regulations was laid before Parliament in accordance with section 236(3) of the Employment Rights Act 1996(2) and approved by a resolution of each House of Parliament.

Citation and commencement

1. These Regulations may be cited as the Prescribed Persons (Reports on Disclosures of Information) (Amendment) Regulations 2022 and come into force on 15th December 2022.

Amendment to the Prescribed Persons (Reports on Disclosures of Information) Regulations 2017

2. In Regulation 2 of the Prescribed Persons (Reports on Disclosures of Information) Regulations 2017(3), in the definition of “relevant prescribed person”—

- (a) after sub-paragraph (a), insert “(aa) a member of the Scottish Parliament,”;
- (b) after sub-paragraph (d), insert “or”; and
- (c) omit sub-paragraph (e).

(1) 1996 c. 18. Section 43FA was inserted by section 148(1) and (2) of the Small Business, Enterprise and Employment Act 2015 (c. 26).
(2) Section 236(3) was amended by paragraphs 5 and 42(1) and (2) of Part III of Schedule 4 to the Employment Relations Act 1999 (c. 26) and section 148(1) and (3) of the Small Business, Enterprise and Employment Act 2015; there are other amending instruments but none is relevant.
(3) S.I. 2017/507.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument:
The Prescribed Persons (Reports on Disclosures of Information) (Amendment) Regulations 2022 No. 1324

Date

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

Under section 43F of the Employment Rights Act 1996, whistleblowers may qualify for employment protections if they disclose information to a “prescribed person”. The list of prescribed persons is in the Schedule to the Public Interest Disclosure (Prescribed Persons) Order 2014.

The Prescribed Persons (Reports on Disclosures of Information) Regulations 2017 specify requirements for relevant prescribed persons to report annually on disclosures of information that they receive from workers. Regulation 2 of the 2017 Regulations defines “relevant prescribed person” as a person prescribed for the purposes of section 43F of the Employment Rights Act 1996, with the exception of particular listed prescribed persons.

The Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2022, which will come into force at the same time as this instrument, makes members of the Scottish Parliament prescribed persons. Regulation 2 of this instrument adds members of the Scottish Parliament to the list of prescribed persons which do not fall within the definition of “relevant prescribed persons” in the 2017 Regulations. This means that members of the Scottish Parliament will not be required to report annually on the disclosures of information that they receive.

The Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2022 also removes the European Securities and Markets Authority from the list of prescribed persons. Regulation 2 of this instrument therefore removes reference to the European Securities and Markets Authority from the definition of “relevant prescribed person” in the 2017 Regulations.

A full impact assessment has not been produced for this instrument as no significant impact on the private, voluntary or public sector is foreseen.