
STATUTORY RULES OF NORTHERN IRELAND

2016 No. 242

The Posted Workers (Enforcement of Employment Rights) Regulations (Northern Ireland) 2016

PART 2

Posted Workers in the Construction Sector

Complaints to industrial tribunals

5.—(1) A posted worker in the construction sector may present a complaint against a contractor to an industrial tribunal that the contractor is to be treated as having made an unauthorised deduction of the relevant sum from the worker's wages by virtue of regulation 4(2).

(2) Paragraph (1) does not apply to a posted worker in the construction sector who has—

- (a) presented a claim against the employer under Article 55 (1)(a) of the Employment Rights (Northern Ireland) Order 1996 ^{M1} (deductions from worker's wages in contravention of Article 45 of that Order) to an industrial tribunal in respect of the sum due; or
- (b) commenced other civil proceedings against the employer for the recovery, on a claim in contract, of the sum due.

(3) In any complaint brought under paragraph (1), it is a defence for the contractor to show that it exercised all due diligence to ensure that the worker's employer would remunerate the worker in respect of the relevant sum due to the worker.

(4) Subject to paragraph (6) [^{F1}and regulation 5A] an industrial tribunal must not consider a complaint under this regulation unless it is presented before the end of the period of three months beginning with the date of payment of the relevant wages from which the deduction was made.

(5) Where a complaint is brought under this regulation in respect of a series of deductions, the reference in paragraph (4) to the deduction is to the last deduction in the series.

(6) Where the industrial tribunal is satisfied that it was not reasonably practicable for a complaint under this regulation to be presented before the end of the relevant period of three months, the tribunal may consider the complaint if it is presented within such further period as the tribunal considers reasonable.

(7) A posted worker in the construction sector who presents a complaint under this regulation is prohibited from—

- (a) presenting a complaint against the employer under Article 55(1)(a) of the Employment Rights (Northern Ireland) Order 1996 (deductions from worker's wages in contravention of Article 45 of that Order) to an industrial tribunal in respect of the sum due; or
- (b) commencing other civil proceedings against the employer for the recovery, on a claim in contract, of the sum due,

unless the tribunal dismisses the complaint under this regulation in accordance with paragraph (3).

Changes to legislation: *There are currently no known outstanding effects for the The Posted Workers (Enforcement of Employment Rights) Regulations (Northern Ireland) 2016, Section 5. (See end of Document for details)*

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Textual Amendments

F1 Words in [reg. 5\(4\)](#) inserted (27.1.2020) by [The Industrial Tribunals \(1996 Order\) \(Application of Conciliation Provisions\) Order \(Northern Ireland\) 2020 \(S.R. 2020/4\)](#), art. 1, **Sch. para. 61**

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Marginal Citations

M1 [S.I.1996/1919](#) (N.I 16)

Changes to legislation:

There are currently no known outstanding effects for the The Posted Workers (Enforcement of Employment Rights) Regulations (Northern Ireland) 2016, Section 5.