



Employment Protection (Consolidation) Act 1978

1978 CHAPTER 44

PART III

MATERNITY

Maternity pay

43 Complaints and appeals to industrial tribunal

- (1) A person who has—
 - (a) made a claim for a maternity pay rebate under section 39, in a case to which subsection (1) of that section applies; or
 - (b) applied for a payment under section 40,may, subject to subsection (5), present a complaint to an industrial tribunal that—
 - (i) the Secretary of State has failed to make any such payment; or
 - (ii) any such payment made by the Secretary of State is less than the amount which should have been paid.
- (2) Where an industrial tribunal finds that the Secretary of State ought to make any such payment or further payment, it shall make a declaration to that effect and shall also declare the amount of any such payment which it finds the Secretary of State ought to make.
- (3) An employer who has made a claim for a maternity pay rebate under section 39, in a case to which subsection (2) of that section applies, may, subject to subsection (5), appeal to an industrial tribunal on the ground that—
 - (a) the Secretary of State has refused to pay a maternity pay rebate; or
 - (b) any rebate paid by the Secretary of State is less than the amount which should have been paid,

Status: This is the original version (as it was originally enacted).

and if on any such appeal the tribunal is satisfied that it is just and equitable having regard to all the relevant circumstances that a maternity pay rebate should be paid or, as the case may be, finds that a further payment by way of rebate should be made, the tribunal shall determine accordingly, and the Secretary of State shall comply with the determination.

- (4) Where the Secretary of State determines that an amount is recoverable from an employer under section 41, the employer may, subject to subsection (5), appeal to an industrial tribunal; and if on any such appeal the tribunal is satisfied that no amount should be recovered from the employer, or that a lesser or greater amount should be recovered (but in any case not exceeding the amount of maternity pay which the employer failed to pay) the tribunal shall determine accordingly and the amount, if any, so determined shall be the amount recoverable from the employer by the Secretary of State.
- (5) An industrial tribunal shall not entertain a complaint or appeal under this section unless it is presented to the tribunal within the period of three months beginning with the date on which the relevant decision of the Secretary of State was communicated to the complainant or appellant or within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint or appeal to be presented within the period of three months.