



Wages Act 1986

1986 CHAPTER 48

PART I

PROTECTION OF WORKERS IN RELATION TO THE PAYMENT OF WAGES

5 Complaints to industrial tribunals in respect of unauthorised deductions etc.

- (1) A worker may present a complaint to an industrial tribunal—
- (a) that his employer has made a deduction from his wages in contravention of section 1(1) (including a deduction made in contravention of that provision as it applies by virtue of section 2(3)), or
 - (b) that his employer has received from him a payment in contravention of section 1(2) (including a payment received in contravention of that provision as it applies by virtue of section 3(1)), or
 - (c) that his employer has recovered from his wages by means of one or more deductions falling within section 2(1) an amount or aggregate amount exceeding the limit applying to the deduction or deductions under that provision, or
 - (d) that his employer has received from him in pursuance of one or more demands for payment made (in accordance with section 3) on a particular pay day, a payment or payments of an amount or aggregate amount exceeding the limit applying to the demand or demands under section 3(4).
- (2) An industrial tribunal shall not entertain a complaint under this section unless it is presented within the period of three months beginning with—
- (a) in the case of a complaint relating to a deduction by the employer, the date of payment of the wages from which the deduction was made, or
 - (b) in the case of a complaint relating to a payment received by the employer, the date when the payment was received,

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 to be presented within the relevant period of three months.

Status: This is the original version (as it was originally enacted).

- (3) Where a complaint is brought in respect of—
- (a) a series of deductions or payments, or
 - (b) a number of payments falling within subsection (1)(d) and made in pursuance of demands for payment subject to the same limit under section 3(4) but received by the employer on different dates,
- subsection (2) shall be read as referring to the last deduction or payment in the series or to the last of the payments so received (as the case may require).
- (4) Where a tribunal finds that a complaint under this section is well-founded, it shall make a declaration to that effect; and subject to subsections (5) and (6)—
- (a) in the case of a complaint under subsection (1)(a) or (b), the tribunal shall order the employer to pay to the worker the amount of any deduction, or to repay to him the amount of any payment, made or received in contravention of section 1; and
 - (b) in the case of a complaint under subsection (1)(c) or (d), the tribunal shall order the employer to pay or (as the case may be) repay to the worker any amount recovered or received from him in excess of any such limit as is mentioned in that provision.
- (5) Where, in the case of any complaint under subsection (1)(a) or (b), a tribunal finds that, although neither of the conditions set out in section 1(1)(a) and (b) was satisfied with respect to the whole amount of a deduction or payment, one of those conditions was satisfied with respect to any lesser amount, the amount of the deduction or payment shall for the purposes of subsection (4)(a) be treated as reduced by the amount with respect to which that condition was satisfied.
- (6) An employer shall not under subsection (4)(a) or (b) be ordered by a tribunal to pay or repay to a worker any amount in respect of a deduction or payment, or (as the case may be) in respect of any combination of deductions or payments, in so far as it appears to the tribunal that he has already paid or repaid any such amount to the worker.
- (7) Where a tribunal has under subsection (4)(a) or (b) ordered an employer to pay or repay to a worker any amount in respect of a particular deduction or payment falling within subsection (1)(a) to (d) ("the relevant amount") the amount which the employer shall be entitled to recover (by whatever means) in respect of the matter in respect of which the deduction or payment was originally made or received shall be treated as reduced by the relevant amount.
- (8) Where a tribunal has under subsection (4)(b) ordered an employer to pay or repay to a worker any amount in respect of any combination of deductions or payments falling within subsection (1)(c) or (d) ("the relevant amount") the aggregate amount which the employer shall be entitled to recover (by whatever means) in respect of the cash shortages or stock deficiencies in respect of which the deductions or payments were originally made or required to be made shall be treated as reduced by the relevant amount.