



# Employment Rights Act 1996

## 1996 CHAPTER 18

### PART I

#### EMPLOYMENT PARTICULARS

##### *Enforcement*

#### **11 References to industrial tribunals.**

- (1) Where an employer does not give an employee a statement as required by section 1, 4 or 8 (either because he gives him no statement or because the statement he gives does not comply with what is required), the employee may require a reference to be made to an industrial tribunal to determine what particulars ought to have been included or referred to in a statement so as to comply with the requirements of the section concerned.
- (2) Where—
  - (a) a statement purporting to be a statement under section 1 or 4, or a pay statement or a standing statement of fixed deductions purporting to comply with section 8 or 9, has been given to an employee, and
  - (b) a question arises as to the particulars which ought to have been included or referred to in the statement so as to comply with the requirements of this Part, either the employer or the employee may require the question to be referred to and determined by an industrial tribunal.
- (3) For the purposes of this section—
  - (a) a question as to the particulars which ought to have been included in the note required by section 3 to be included in the statement under section 1 does not include any question whether the employment is, has been or will be contracted-out employment (for the purposes of Part III of the <sup>M1</sup>Pension Schemes Act 1993), and

*Status: Point in time view as at 22/08/1996.*

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- (b) a question as to the particulars which ought to have been included in a pay statement or standing statement of fixed deductions does not include a question solely as to the accuracy of an amount stated in any such particulars.
- (4) An industrial tribunal shall not consider a reference under this section in a case where the employment to which the reference relates has ceased unless an application requiring the reference to be made was made—
  - (a) before the end of the period of three months beginning with the date on which the employment ceased, or
  - (b) within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the application to be made before the end of that period of three months.

#### Marginal Citations

M1 1993 c. 48.

## 12 Determination of references.

- (1) Where, on a reference under section 11(1), an industrial tribunal determines particulars as being those which ought to have been included or referred to in a statement given under section 1 or 4, the employer shall be deemed to have given to the employee a statement in which those particulars were included, or referred to, as specified in the decision of the tribunal.
- (2) On determining a reference under section 11(2) relating to a statement purporting to be a statement under section 1 or 4, an industrial tribunal may—
  - (a) confirm the particulars as included or referred to in the statement given by the employer,
  - (b) amend those particulars, or
  - (c) substitute other particulars for them,
 as the tribunal may determine to be appropriate; and the statement shall be deemed to have been given by the employer to the employee in accordance with the decision of the tribunal.
- (3) Where on a reference under section 11 an industrial tribunal finds—
  - (a) that an employer has failed to give an employee any pay statement in accordance with section 8, or
  - (b) that a pay statement or standing statement of fixed deductions does not, in relation to a deduction, contain the particulars required to be included in that statement by that section or section 9,
 the tribunal shall make a declaration to that effect.
- (4) Where on a reference in the case of which subsection (3) applies the tribunal further finds that any unnotified deductions have been made from the pay of the employee during the period of thirteen weeks immediately preceding the date of the application for the reference (whether or not the deductions were made in breach of the contract of employment), the tribunal may order the employer to pay the employee a sum not exceeding the aggregate of the unnotified deductions so made.

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- (5) For the purposes of subsection (4) a deduction is an unnotified deduction if it is made without the employer giving the employee, in any pay statement or standing statement of fixed deductions, the particulars of the deduction required by section 8 or 9.

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