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# Employment Rights Act 1996

## 1996 CHAPTER 18

### PART VII

#### SUSPENSION FROM WORK

##### *General*

#### **69 Calculation of remuneration.**

- (1) The amount of remuneration payable by an employer to an employee under section 64 or 68 is a week's pay in respect of each week of the period of suspension; and if in any week remuneration is payable in respect of only part of that week the amount of a week's pay shall be reduced proportionately.
- (2) A right to remuneration under section 64 or 68 does not affect any right of an employee in relation to remuneration under the employee's contract of employment ("contractual remuneration").
- (3) Any contractual remuneration paid by an employer to an employee in respect of any period goes towards discharging the employer's liability under section 64 or 68 in respect of that period; and, conversely, any payment of remuneration in discharge of an employer's liability under section 64 or 68 in respect of any period goes towards discharging any obligation of the employer to pay contractual remuneration in respect of that period.

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#### **[<sup>F1</sup>69A Calculation of remuneration (agency workers)**

- ( ) The amount of remuneration payable by a temporary work agency to an agency worker under section 68C is a week's pay in respect of each week for which remuneration is payable in accordance with section 68C; and if in any week

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remuneration is payable in respect of only part of that week the amount of a week's pay shall be reduced proportionately.

- ( ) A right to remuneration under section 68C does not affect any right of the agency worker in relation to remuneration under the contract with the temporary work agency (“contractual remuneration”).
- ( ) Any contractual remuneration paid by the temporary work agency to an agency worker in respect of any period goes towards discharging the temporary work agency's liability under section 68C in respect of that period; and, conversely, any payment of remuneration in discharge of a temporary work agency's liability under section 68C in respect of any period goes towards discharging any obligation of the temporary work agency to pay contractual remuneration in respect of that period.
- ( ) For the purposes of subsection (1), a week's pay is the weekly amount that would have been payable to the agency worker for performing the work, according to the terms of the contract with the temporary work agency, but for the fact that the supply of the agency worker to the hirer was ended on maternity grounds.
- ( ) Expressions used in this section and sections 68A to 68C have the same meaning as in those sections (see section 68D).]

#### Textual Amendments

**F1** S. 69A inserted (1.10.2011) by [The Agency Workers Regulations 2010 \(S.I. 2010/93\)](#), Reg. 25, Sch. 2 para. 13

## 70 Complaints to [<sup>F2</sup>employment tribunals].

- (1) An employee may present a complaint to an [<sup>F2</sup>employment tribunal] that his or her employer has failed to pay the whole or any part of remuneration to which the employee is entitled under section 64 or 68.
- (2) An [<sup>F2</sup>employment tribunal] shall not consider a complaint under subsection (1) relating to remuneration in respect of any day unless it is presented—
  - (a) before the end of the period of three months beginning with that day, 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 complaint to be presented within that period of three months.
- (3) Where an [<sup>F2</sup>employment tribunal] finds a complaint under subsection (1) well-founded, the tribunal shall order the employer to pay the employee the amount of remuneration which it finds is due to him or her.
- (4) An employee may present a complaint to an [<sup>F2</sup>employment tribunal] that in contravention of section 67 her employer has failed to offer to provide her with work.
- (5) An [<sup>F2</sup>employment tribunal] shall not consider a complaint under subsection (4) unless it is presented—
  - (a) before the end of the period of three months beginning with the first day of the suspension, or

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- (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 complaint to be presented within that period of three months.
- (6) Where an [F<sup>2</sup>employment tribunal] finds a complaint under subsection (4) well-founded, the tribunal may make an award of compensation to be paid by the employer to the employee.
- (7) The amount of the compensation shall be such as the tribunal considers just and equitable in all the circumstances having regard to—
  - (a) the infringement of the employee’s right under section 67 by the failure on the part of the employer to which the complaint relates, and
  - (b) any loss sustained by the employee which is attributable to that failure.

#### Textual Amendments

**F2** Words in s. 70(1)-(6) and sidenote to s. 70 substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a)(b) (with s. 16(2)); S.I. 1998/1658, art. 2(1), Sch. 1

#### Modifications etc. (not altering text)

**C1** Ss. 66-68, 70-71, 92-93, Pt. X (ss. 94-134) modified (E.W.) (2.3.1998) by S.I. 1998/218, art. 3, Sch. (which S.I. was revoked (1.9.1999) by S.I. 1999/2256, art. 1(2))

**C2** S. 70 modified (E.W.) (1.9.1999) by S.I. 1999/2256, art. 3, Sch.

**C3** S. 70 modified (E.) (1.9.2003) by The Education (Modification of Enactments Relating to Employment) (England) Order 2003 (S.I. 2003/1964), art. 3, Sch.

**C4** Ss. 70, 71 modified (W.) (12.5.2006) by The Education (Modification of Enactments Relating to Employment) (Wales) Order 2006 (S.I. 2006/1073), arts. 1(1), 3, {Sch. }

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#### [F<sup>3</sup>70A Complaints to employment tribunals: agency workers

- ( ) An agency worker may present a complaint to an employment tribunal that the temporary work agency has failed to pay the whole or any part of remuneration to which the agency worker is entitled under section 68C.
- ( ) An employment tribunal shall not consider a complaint under subsection (1) relating to remuneration in respect of any day unless it is presented—
  - (a) before the end of the period of three months beginning with the day on which the supply of the agency worker to a hirer was ended on maternity grounds, 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 complaint to be presented within that period of three months.
- ( ) Where an employment tribunal finds a complaint under subsection (1) well-founded, the tribunal shall order the temporary work agency to pay the agency worker the amount of remuneration which it finds is due to her.

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- ( ) An agency worker may present a complaint to an employment tribunal that in contravention of section 68B the temporary work agency has failed to offer to propose the agency worker to a hirer that has suitable alternative work available.
- ( ) An employment tribunal shall not consider a complaint under subsection (4) unless it is presented—
  - (a) before the end of the period of three months beginning with the day on which the supply of the agency worker to a hirer was ended on maternity grounds, 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 complaint to be presented within that period of three months.
- ( ) Where an employment tribunal finds a complaint under subsection (4) well-founded, the tribunal shall order the temporary work agency to pay the agency worker the amount of compensation which it finds is due to her.
- ( ) The amount of the compensation shall be such as the tribunal considers just and equitable in all the circumstances having regard to—
  - (a) the infringement of the agency worker's right under section 68B by the failure on the part of the temporary work agency to which the complaint relates, and
  - (b) any loss sustained by the agency worker which is attributable to that failure.
- ( ) Expressions used in this section and sections 68A to 68C have the same meaning as in those sections (see section 68D).]

#### Textual Amendments

- F3** S. 70A inserted (1.10.2011) by [The Agency Workers Regulations 2010 \(S.I. 2010/93\)](#), reg. 25, [Sch. 2 para. 14](#)

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