
STATUTORY INSTRUMENTS

1996 No. 1919

The Employment Rights (Northern Ireland) Order 1996

PART IV

PROTECTION OF WAGES

Enforcement

Complaints to industrial tribunals

55.—(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 Article 45 (including a deduction made in contravention of that Article as it applies by virtue of Article 50(2)),
- (b) that his employer has received from him a payment in contravention of Article 47 (including a payment received in contravention of that Article as it applies by virtue of Article 52(1)),
- (c) that his employer has recovered from his wages by means of one or more deductions falling within Article 50(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 Article 52) 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 Article 53(1).

(2) Subject to paragraph (4), an industrial tribunal shall not consider a complaint under this Article unless it is presented before the end of 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.

(3) Where a complaint is brought under this Article in respect of — —

- (a) a series of deductions or payments, or
- (b) a number of payments falling within paragraph (1)(d) and made in pursuance of demands for payment subject to the same limit under Article 53(1) but received by the employer on different dates,

the references in paragraph (2) to the deduction or payment are to the last deduction or payment in the series or to the last of the payments so received.

(4) Where the industrial tribunal is satisfied that it was not reasonably practicable for a complaint under this Article 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.

Determination of complaints

56. Where a tribunal finds a complaint under Article 55 well-founded, it shall make a declaration to that effect and shall order the employer—

- (a) in the case of a complaint under Article 55(1)(a), to pay to the worker the amount of any deduction made in contravention of Article 45,
- (b) in the case of a complaint under Article 55(1)(b), to repay to the worker the amount of any payment received in contravention of Article 47,
- (c) in the case of a complaint under Article 55(1)(c), to pay to the worker any amount recovered from him in excess of the limit mentioned in that provision, and
- (d) in the case of a complaint under Article 55(1)(d), to repay to the worker any amount received from him in excess of the limit mentioned in that provision.

Determinations: supplementary

57.—(1) Where, in the case of any complaint under Article 55(1)(a), a tribunal finds that, although neither of the conditions set out in Article 45(1)(a) and (b) was satisfied with respect to the whole amount of the deduction, one of those conditions was satisfied with respect to any lesser amount, the amount of the deduction shall for the purposes of Article 56(a) be treated as reduced by the amount with respect to which that condition was satisfied.

(2) Where, in the case of any complaint under Article 55(1)(b), a tribunal finds that, although neither of the conditions set out in Article 47(1)(a) and (b) was satisfied with respect to the whole amount of the payment, one of those conditions was satisfied with respect to any lesser amount, the amount of the payment shall for the purposes of Article 56(b) be treated as reduced by the amount with respect to which that condition was satisfied.

(3) An employer shall not under Article 56 be ordered by a tribunal to pay or repay to a worker any amount in respect of a deduction or payment, or 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.

(4) Where a tribunal has under Article 56 ordered an employer to pay or repay to a worker any amount in respect of a particular deduction or payment falling within Article 55(1)(a) to (d), the amount which the employer is entitled to recover (by whatever means) in respect of the matter in relation to which the deduction or payment was originally made or received shall be treated as reduced by that amount.

(5) Where a tribunal has under Article 56 ordered an employer to pay or repay to a worker any amount in respect of any combination of deductions or payments falling within Article 55(1)(c) or (d), the aggregate amount which the employer is entitled to recover (by whatever means) in respect of the cash shortages or stock deficiencies in relation to which the deductions or payments were originally made or required to be made shall be treated as reduced by that amount.

Complaints and other remedies

58. Article 55 does not affect the jurisdiction of an industrial tribunal to consider a reference under Article 43 in relation to any deduction from the wages of a worker; but the aggregate of any amounts ordered by an industrial tribunal to be paid under Article 44(4) and under Article 56 (whether on the same or different occasions) in respect of a particular deduction shall not exceed the amount of the deduction.