

## **UNLAWFUL DEDUCTIONS FROM PAY**

The Employment Rights (NI) Order 1996 (ERO1996) defines the term “wages” as sums of money paid to employees for the tasks they complete.

The term wages includes various parts of your pay. This includes any sums payable to you in connection with your employment.

Here are some examples of wages:

- Any salary, holiday pay, bonuses or contractual commissions whether payable under your contract or otherwise.
- One-off payments. For example, overtime payments.
- Statutory payments. For example, statutory sick pay or maternity pay.
- Statutory payments made in lieu of wages.

### **What is an unlawful deduction from wages?**

Unlawful deduction from wages is when a worker or employee has not received correct payment, through either an **underpayment** or failure to receive your **whole** wages.

The Employment Rights (NI) Order 1996 protects employees and workers from unauthorised deductions of wages, including late payments payable under your contract.

Here are some examples of illegal deductions:

- **Unpaid bonuses**
- **Unpaid, or underpayment of commissions**
- **Untaken holiday pay**
- **Delayed wage payment**
- **Failing to pay an agreed pay rise is generally considered an unlawful deduction**

The law states that all workers are entitled to receive protection from unlawful deduction of wages. This includes not just employees but any individual who has an employment contract to perform work or a service.

**It does not matter how long you have been employed in order to bring a claim to an industrial tribunal.**

## Can your employer deduct wages without your consent?

Yes, there are some cases in which they can deduct wages payable to you. There are two cases where this could happen:

1. If the deduction is required or authorised by law: These are regular deductions required by the government, such as income tax, national insurance deductions, and student loan repayments.
2. If it is in your contract: You should be given a written copy of what you have agreed to and the terms explained. You have to agree to it in writing.

If you have received an **overpayment of wages** then your employer must agree a suitable way for you to repay the money. They cannot just take it and they cannot take it all at once, if to do so makes you fall below the national minimum wage required weekly to live upon

## Retail Industry Workers

Employers can lawfully take 10% of your gross wages to cover any shortfall on your till and they can take this deduction over a course of weeks/months as long as they do not take upwards of 10% of that pay period. However if you **leave their employment** they can take the **full outstanding** amount from the last pay check. However they cannot take deductions from **staff tips** unless it is a contractual term or agreed with you in writing.

## Unlawful deduction from pay and sick pay

Your employer does not have to provide sick pay unless you qualify for Statutory Sick Pay (SSP). You may have contractual sick pay but it cannot be lower than SSP.

## I believe I have had an unlawful deduction - what should I do?

In the first instance take the matter up with your employer and ask them to explain the deduction and why they made it. If it does not fall into any of the categories above try raising a formal grievance (set out in writing). If the matter is not resolved then you can take the next step and start Industrial Tribunal proceedings. **No length of service is required to bring an unlawful deduction claim. However it should be noted that you must bring your claim within three months of the unlawful deduction.**

Your claim must be specific and a quantifiable sum of money to be heard in an Industrial Tribunal. If it is not quantifiable then it must be brought in the County or High Court.

Evidence is critical to the strength of your claim so try to produce all relevant documents, emails, signed contracts, payslips, time sheets and bank statements in preparation for the hearing.

If the Law Centre's Employment team can help, please contact us on 028 9024 4401:  
Monday – Friday: 9.30am – 1.00pm