

DOCUMENT NAME:	Unlawful Deduction of Wages Factsheet
LINKED DOCUMENTS:	This factsheet is part of a suite of factsheets.
HEALTH WARNING/USAGE RESTRICTIONS:	This factsheet sets out the basics/law on unlawful deduction of wages.

Disclaimer

This document has been prepared on the basis of what is required by law at December 2025 what is good practice, and our understanding of common issues. This document is not intended to be a comprehensive guide, may not be suitable for your circumstances and should not be considered a substitute for the advice of a lawyer. You agree you use this document at your own risk in these respects.

Unlawful Deduction of Wages

Factsheet

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1 Legal terms explained

“**Wages**” are sums payable to the worker by their employer in connection with their employment including any fees, bonuses, commission or holiday pay. However, expenses and pension contributions are not wages;

“**Deduction from wages**” is where an employer deducts money from a worker’s wages. A worker can make a claim to the Employment Tribunal for unpaid or underpaid wages while the employment relationship continues or where it has ended, within three months of the date of the last deduction;

“**Overpayments**” means situation where an employer has paid too much money to an employee, usually in error;

“**Employment Rights Act 1996 (ERA 1996)**” is an act of Parliament providing that certain deductions from wages will be unlawful.

2 What are wages?

Wages are the amount a worker is paid by their employer for the work they undertake and includes:

- Any fees, bonuses, commission, holiday pay or other payments connected with the job
- Statutory payments such as statutory sick pay or statutory maternity, paternity and adoption pay
- Luncheon vouchers, gift tokens or other vouchers of fixed value that can be exchanged for money, goods or services

Wages do not include:

- Loans or advances of wages
- Payments of expenses incurred in employment
- Pension and redundancy payments
- Lump sums on retirement or in compensation for loss of office
- Payments in kind other than vouchers or tokens that can be exchanged or have a fixed value.

3 Unlawful deduction from wages

The ERA 1996 protects workers from unauthorised deductions from their wages being made by their employers. Making a deduction from wages has a

wide meaning and it includes the non-payment or partial payment of wages.

4 When can deductions be made?

4.1 Deductions authorised by statute

An employer can lawfully make a deduction from a worker’s wages if the payment is required or authorised by statute. This includes:

- Deductions for income tax and national insurance contributions under the PAYE system
- Deductions made pursuant to the Attachment of Earnings Act 1971, which enables the courts to make attachment of earnings orders as part of civil recovery proceedings.

4.2 Deductions authorised by contract

Some employment contracts include terms that permit the employer to make a deduction from wages. The contract must be in writing and must be given to the worker before the deduction is made.

In some circumstances, the employer may be able to rely on an implied term which is not in writing. In such a case, the employer must notify the employee of the implied term in writing before the deduction is made.

4.3 Written consent

If an employee has given prior written consent a deduction may be lawful.

The written consent must be given before the event giving rise to the deduction, not just before the deduction itself. For example, a worker who has asked their employer for a loan agrees to pay back the loan via regular deductions from their wages.

However authorised, any deductions must not reduce a worker’s pay below the National Minimum Wage rate except in limited circumstances. This applies even if the worker has given permission for the deduction to be made.

5 Excluded deductions

There are some deductions that are excluded from the protection of wages provisions which the employer can make. In these cases, the employer does not have to conform to the requirements set out in the ERA 1996 and a worker cannot complain to an Employment Tribunal if they disagree with the deduction. However, they may be able to bring a civil claim in the County Court to recover the amount of the deduction.

The following payments are excluded:

- An overpayment of wages or expenses
- Payments to third parties on behalf of workers including trade union dues and payments to a pension scheme
- Deductions made for strikes and industrial action
- Deductions made to satisfy a court or tribunal order.

6 Special rules for retail workers

There are special rules for retail workers such as those working in shops or restaurants that mean a worker can sometimes be made responsible for stock shortages or cash missing from the till.

If there is a shortfall in the till or stock shortage which is due to the worker's dishonesty or conduct an employer can recover the whole amount of the shortfall from the worker responsible for the loss. However, this is subject to important limitations:

- An employer cannot take more than 10% of the worker's gross wages for a pay period
- If the worker still owes money after the deduction, the employer can take money from the worker's wages on subsequent paydays but again not more than 10% on a single payday
- If the worker leaves his job, the employer can take the full amount owed.

In order to deduct money an employer should:

- notify the worker in writing of the total the employee is liable for and the reasons for this
- make a demand for payment which is in writing
- make the demand no later than 12 months after the date when the employer discovered, or ought reasonably to have discovered, the shortage.

7 Remedies

An employer who does not follow the rules for making lawful deductions from wages may become liable to repay the money wrongfully deducted.

Claims for unlawful deduction of wages under the ERA 1996 are statutory claims, which can only be brought in an Employment Tribunal. However, some deductions may also be in breach of contract and in these circumstances a worker can bring a civil claim in the County or High Court.

There are important time limits that apply:

- In an Employment Tribunal, claims must be brought within three months from the date of the deduction, or where a series of deductions are made, within three months of the last of these. This is known as the **"primary limitation period"**. It may not be possible to bring a claim for a series of unlawful deductions if more than three months has expired between individual deductions
- Claims for breach of contract in Employment Tribunals can only be made after the employment has come to an end and must be made within three months of the breach. This is known as the 'primary limitation period'.
- A breach of contract claim in the County or High Court must be brought within six years of the breach.

We strongly advise you to obtain full advice on any potential claim as quickly as possible after the deduction and, at least within three months of the deduction, to ensure that you do not miss any deadline. This is because you may find that in your specific circumstances, a claim can only be brought in the Employment Tribunal.

Please note, if the claim can only be brought in the Employment Tribunal employees are required to engage in a process known as ACAS Early Conciliation before they can issue proceedings. Employees are required to contact ACAS on or before the 'primary limitation date' to start Early Conciliation. If they fail to do so, the Employment Tribunal will not be able to consider their claim.

ACAS Early Conciliation enables the employee and employer to try and resolve the dispute without the need to bring a claim in the Tribunal. If the parties agree, an ACAS conciliator will act as a **"go between"** and try and reach agreement.

There is no need for the employee to communicate directly with their employer unless they wish to do so.

This can last for up to twelve weeks. If Early Conciliation fails, the employee will be issued with a Certificate which the employee needs before he/she can issue a claim in the Employment Tribunal.

Limitation is paused from the day after the employee submits the Early Conciliation Form until the date the employee receives a Certificate. Generally the employee will have a minimum of one calendar month from the date of the Certificate to issue a claim in the Employment Tribunal.

Details about Early Conciliation are available from ACAS: **Error! Hyperlink reference not valid.**

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