

## 2014 No. 3322

### TERMS AND CONDITIONS OF EMPLOYMENT

#### The Deduction from Wages (Limitation) Regulations 2014

*Made* - - - - 17th December 2014

*Laid before Parliament* 18th December 2014

*Coming into force* - - 8th January 2015

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972<sup>(a)</sup> in relation to employment rights and duties<sup>(b)</sup>.

The Secretary of State, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972, makes the following Regulations:

#### **Citation, commencement and extent**

**1.**—(1) These Regulations may be cited as the Deduction from Wages (Limitation) Regulations 2014 and come into force on the 8th January 2015.

(2) These Regulations extend to England and Wales and Scotland only.

#### **Amendment to the Employment Rights Act 1996**

**2.** In section 23 of the Employment Rights Act 1996<sup>(c)</sup> (protection of wages: complaints to employment tribunals) after subsection (4) insert—

“(4A) An employment tribunal is not (despite subsections (3) and (4)) to consider so much of a complaint brought under this section as relates to a deduction where the date of payment of the wages from which the deduction was made was before the period of two years ending with the date of presentation of the complaint.

(4B) Subsection (4A) does not apply so far as a complaint relates to a deduction from wages that are of a kind mentioned in section 27(1)(b) to (j).”

#### **Amendment to the Working Time Regulations 1998**

**3.** In paragraph (4) of regulation 16 of the Working Time Regulations 1998<sup>(d)</sup> (payment in respect of periods of leave) after “(“contractual remuneration”)” insert “(and paragraph (1) does not confer a right under that contract)”.

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(a) 1972 c.68.

(b) S.I. 2000/738; article 2 and Schedule 1 of the European Communities (Designation) Order 2000.

(c) 1996 c.18; references in section 23 to “industrial tribunal” were substituted with “employment tribunal” by virtue of section 1(2) of the Employment Rights (Dispute Resolution) Act 1998 (c.8).

(d) S.I. 1998/1833; regulation 16 was amended by regulation 2(1) and (5) of S.I. 2007/2079.

## Transitional provision

4. The amendment made by regulation 2 only applies in relation to complaints presented to an employment tribunal on or after 1st July 2015.

*Jo Swinson*

Parliamentary Under Secretary of State for Employment Relations and Consumer Affairs  
17th December 2014  
Department for Business, Innovation and Skills

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Employment Rights Act 1996 and the Working Time Regulations 1998.

Regulation 2 amends section 23 of the Employment Rights Act 1996 to insert a limitation on how far back in time an employment tribunal is able to consider when determining whether a worker has suffered unauthorised deductions from their wages. The effect of this amendment is that the Employment Tribunal can only consider deductions from wages where the wages from which the deduction was made were paid within the previous two years before the worker brought their complaint in an Employment Tribunal.

The limitation applies to complaints in relation to deductions from those wages that fall under section 27(1) of the Act, except for those wages specified in section 27(1)(b) to (j). In particular these changes relate to complaints in respect of deductions from wages which arise as a result of the employer failing to pay appropriate levels of holiday pay in accordance with the requirements of the Working Time Regulations 1998 which implements the UK's obligations under the Working Time Directive (Directive 2003/88/EC of the European Parliament and of the Council (a)). The changes adjust our implementation the on-going EU obligation to provide procedural rules governing claims in respect of rights under the Directive.

Regulation 3 makes an amendment to the provisions in the Working Time Regulations 1998 that deal with the right to payment in respect of periods of annual leave under those Regulations. It clarifies that the right to payment in respect of annual leave provided for by the Regulations is not intended to operate in such a way so as to provide that right under a worker's contract. It is a separate statutory right.

Regulation 4 provides for a transitional period before the changes made by regulation 2 take place. Those new provisions will only apply to complaints presented to an Employment Tribunal on or after 1st July 2015.

A full impact assessment of the effect that the changes made by Regulation 2 of this instrument will have on the costs of business and the voluntary sector is annexed to the Explanatory Memorandum which is available alongside the instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk).

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(a) O.J. L 299, 18.11.2003, p. 9.



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