



Employment Protection (Consolidation) Act 1978

1978 CHAPTER 44

PART II

RIGHTS ARISING IN COURSE OF EMPLOYMENT

Suspension from work on medical grounds

19 Right to remuneration on suspension on medical grounds

- (1) An employee who is suspended from work by his employer on medical grounds in consequence of—
 - (a) any requirement imposed by or under any provision of any enactment or of any instrument made under any enactment, or
 - (b) any recommendation in any provision of a code of practice issued or approved under section 16 of the Health and Safety at Work etc. Act 1974,which is a provision for the time being specified in Schedule 1 shall, subject to the following provisions of this Act, be entitled to be paid by his employer remuneration while he is so suspended for a period not exceeding twenty-six weeks.
- (2) For the purposes of this section and sections 20 to 22 and 61, an employee shall be regarded as suspended from work only if, and so long as, he continues to be employed by his employer, but is not provided with work or does not perform the work he normally performed before the suspension.
- (3) The Secretary of State may by order add provisions to or remove provisions from the list of specified provisions in Schedule 1.

20 General exclusions from right under s. 19

- (1) An employee shall not be entitled to remuneration under section 19 in respect of any period during which he is incapable of work by reason of disease or bodily or mental disablement.
- (2) An employee shall not be entitled to remuneration under section 19 in respect of any period during which—
 - (a) his employer has offered to provide him with suitable alternative work, whether or not work which the employee is under his contract, or was under the contract in force before the suspension, employed to perform, and the employee has unreasonably refused to perform that work ; or
 - (b) he does not comply with reasonable requirements imposed by his employer with a view to ensuring that his services are available.

21 Calculation of remuneration

- (1) The amount of remuneration payable by an employer to an employee under section 19 shall be a week's pay in respect of each week of the period of suspension referred to in subsection (1) of that section, and if in any week remuneration is payable in respect only of part of that week the amount of a week's pay shall be reduced proportionately.
- (2) Subject to subsection (3), a right to remuneration under section 19 shall not affect any right of an employee in relation to remuneration under his contract of employment (in this section referred to as " contractual remuneration ").
- (3) Any contractual remuneration paid by an employer to an employee in respect of any period shall go towards discharging the employer's liability under section 19 in respect of that period, and conversely any payment of remuneration in discharge of an employer's liability under section 19 in respect of any period shall go towards discharging any obligation of the employer to pay contractual remuneration in respect of that period.

22 Complaint to industrial tribunal

- (1) An employee may present a complaint to an industrial tribunal that his employer has failed to pay the whole or any part of remuneration to which the employee is entitled under section 19.
- (2) An industrial tribunal shall not entertain a complaint relating to remuneration under section 19 in respect of any day unless the complaint is presented to the tribunal before the end of the period of three months beginning with that day, or 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 the period of three months.
- (3) Where an industrial tribunal finds a complaint under subsection (1) well-founded the tribunal shall order the employer to pay the complainant the amount of remuneration which it finds is due to him.