

Draft Order in Council laid before Parliament under the Northern Ireland Act 1974, Schedule 1 paragraph 1(4)(a), for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

1999 No. (N.I.)

NORTHERN IRELAND

**Trade Union Subscription Deductions
(Northern Ireland) Order 1999**

Made - - - -

Coming into operation

At the Court at the day of 1999

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Title and commencement

1.—(1) This Order may be cited as the Trade Union Subscription Deductions (Northern Ireland) Order 1999.

(2) This Order shall come into operation on the expiration of two months from the day on which it is made.

Interpretation

2. The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

Deduction from wages of trade union subscriptions

3.—(1) For Article 35 of the Trade Union and Labour Relations (Northern Ireland) Order 1995 (“the 1995 Order”) (right not to suffer deduction of unauthorised or excessive subscriptions) and the heading immediately preceding it there shall be substituted—

“Right not to suffer deduction of unauthorised union subscriptions

Right not to suffer deduction of unauthorised subscriptions

35.—(1) Where arrangements (“subscription deduction arrangements”) exist between the employer of a worker and a trade union relating to the making from workers' wages of deductions representing payments to the union in respect of the workers' membership of the union (“subscription deductions”), the employer shall ensure that no subscription deduction is made from wages payable to the worker on any day unless—

- (a) the worker has authorised in writing the making from his wages of subscription deductions; and
- (b) the worker has not withdrawn the authorisation.

(2) A worker withdraws an authorisation given for the purposes of paragraph (1), in relation to a subscription deduction which falls to be made from wages payable to him on any day, if a written notice withdrawing the authorisation has been received by the employer in time for it to be reasonably practicable for the employer to secure that no such deduction is made.

(3) A worker's authorisation of the making of subscription deductions from his wages shall not give rise to any obligation on the part of the employer to the worker to maintain or continue to maintain subscription deduction arrangements.

(4) In this Article and Article 36, “employer”, “wages” and “worker” have the same meanings as in the Employment Rights Order.”.

(2) In Article 36 of the 1995 Order (complaint of infringement of rights), for paragraph (2) there shall be substituted—

“(2) Where a tribunal finds that a complaint under this Article is well-founded, it shall make a declaration to that effect and shall order the employer to pay to the worker the whole amount of the deduction, less any such part of the amount as has already been paid to the worker by the employer.”.

Transitional arrangements

4.—(1) The substitution made by Article 3 does not affect the continued operation of Article 35 of the 1995 Order (in its original form) in relation to an authorisation permitting the deduction of trade union subscriptions given before this Order comes into operation to an employer by a worker for the purposes of Article 35 of the 1995 Order.

Such an authorisation is referred to in this Article as “a preserved authorisation”.

(2) While a preserved authorisation is in force, the worker may be given (whether by the employer or by a person acting on his behalf) a notice in the form set out in the Schedule that the employer proposes to treat the preserved authorisation as an authorisation given under Article 35 of the 1995 Order as substituted by Article 3 (and so treat it as being of unlimited duration until withdrawn and as not requiring advance notice of any increase in the amount to be deducted).

(3) If no written notice to the contrary is received by the employer from the worker within the period of 14 days beginning with the day on which the worker received the notice mentioned in paragraph (2), the preserved authorisation shall be treated as if it were an authorisation given under Article 35 of the 1995 Order as substituted by Article 3.

(4) Expressions used in this Article and in Article 35 of the 1995 Order as substituted by Article 3 have the same meanings in this Article as they have in that Article.

Repeal

5. In Schedule 1 to the Employment Rights (Northern Ireland) Order 1996, the entry relating to Article 35(11) of the Trade Union and Labour Relations (Northern Ireland) Order 1995 is hereby repealed.

Clerk of the Privy Council

SCHEDULE

Article 4(2).

FORM OF NOTICE TO BE GIVEN UNDER ARTICLE 4(2)

DEDUCTION OF TRADE UNION SUBSCRIPTIONS FROM WAGES

Following the coming into operation of the Trade Union Subscription Deductions (Northern Ireland) Order 1999 you no longer need to re-authorise payments of trade union subscriptions by “check off” (deduction from wages by your employer) every three years and your employer need not give you advance written notice of any increase in the rate of deductions. The law continues to require your written authorisation before check off can start, and you continue to have the right to stop paying by check off at any time, by giving notice in writing to your employer.

This notice affects you if you pay your union subscriptions by check off and you gave your current authorisation before the date on which the Order came into operation.

If you are content for the new arrangements to apply for you, you need do nothing.

If, however, you wish the previous arrangements to continue to apply to you, you must give notice to that effect in writing to your employer at [*name and address of employer*] within 14 days of receiving this notice.

If you do so, your current authorisation will expire three years after you gave it, but any subsequent authorisation will be subject to the new arrangements.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order substitutes Article 35 and amends Article 36 of the Trade Union and Labour Relations (Northern Ireland) Order 1995 (“the 1995 Order”).

Under Article 35 of the 1995 Order, employers must ensure that no deduction of trade union subscriptions direct from wages is made unless the worker concerned has given his written authorisation. Article 3 of this Order removes the restrictions whereby such authorisations remain valid for a maximum period of three years, and employers may not increase the amount to be deducted unless they have given written notice at least a month in advance to the worker affected. Article 36, which makes provision for complaints that Article 35 has been contravened, is amended accordingly.

Article 4 of this Order makes transitional provision for authorisations given under Article 35 before the coming into operation of this Order. It provides that such authorisations will be treated as given under Article 35 as amended by this Order if the employer of the worker concerned gives the worker a notice to that effect (in the form set out in the Schedule to this Order) and the worker does not give notice to the contrary within 14 days of receiving it.