
STATUTORY INSTRUMENTS

1998 No. 1265

**The Employment Rights (Dispute
Resolution) (Northern Ireland) Order 1998**

PART II

INDUSTRIAL TRIBUNALS

Other provisions

Jurisdiction in cases about political fund contributions

7. For Article 61 of the Trade Union and Labour Relations (Northern Ireland) Order 1995 (which provides that a person who alleges that his employer has failed to comply with Article 60 of that Order by wrongly deducting a political fund contribution or refusing to deduct union dues may make an application to a county court) there shall be substituted—

“Complaint in respect of employer’s failure

61.—(1) A person who claims his employer has failed to comply with Article 60 in deducting or refusing to deduct any amount from emoluments payable to him may present a complaint to an industrial tribunal.

(2) A tribunal shall not consider a complaint under paragraph (1) unless it is presented—

- (a) within the period of three months beginning with the date of the payment of the emoluments or (if the complaint relates to more than one payment) the last of the payments, or
- (b) where the tribunal is satisfied that it was not reasonably practicable for the complaint to be presented within that period, within such further period as the tribunal considers reasonable.

(3) Where on a complaint under paragraph (1) arising out of paragraph (3) (refusal to deduct union dues) of Article 60 the question arises whether the employer’s refusal to deduct an amount was attributable to the giving of the certificate or was otherwise connected with the duty imposed by paragraph (1) of that Article, it is for the employer to satisfy the tribunal that it was not.

(4) Where a tribunal finds that a complaint under paragraph (1) is well-founded—

- (a) it shall make a declaration to that effect and, where the complaint arises out of paragraph (1) of Article 60, order the employer to pay to the complainant the amount deducted in contravention of that paragraph less any part of that amount already paid to him by the employer, and
- (b) it may, if it considers it appropriate to do so in order to prevent a repetition of the failure, make an order requiring the employer to take, within a specified time,

the steps specified in the order in relation to emoluments payable by him to the complainant.

(5) A person who claims his employer has failed to comply with an order made under paragraph (4)(b) on a complaint presented by him may present a further complaint to an industrial tribunal; but only one complaint may be presented under this paragraph in relation to any order.

(6) A tribunal shall not consider a complaint under paragraph (5) unless it is presented—

- (a) after the end of the period of four weeks beginning with the date of the order, but
- (b) before the end of the period of six months beginning with that date.

(7) Where on a complaint under paragraph (5) a tribunal finds that an employer has, without reasonable excuse, failed to comply with an order made under paragraph (4)(b), it shall order the employer to pay to the complainant an amount equal to two weeks' pay.

(8) Chapter IV of Part I of the Employment Rights (Northern Ireland) Order 1996 (calculation of a week's pay) applies for the purposes of paragraph (7) with the substitution for Article 21 of the following—

“For the purposes of this Chapter in its application to paragraph (7) of Article 61 of the Trade Union and Labour Relations Order, the calculation date is the date of the payment, or (if more than one) the last of the payments, to which the complaint related.””.