

# Unlawful deductions from pay

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Last year 71,300 claims for unauthorised deductions were brought in front of the employment tribunal, the second most common claim brought by employees.

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The most common examples of unlawful deductions made by employers are:

- **Bonuses** – many of the reported cases relate to the payment of bonuses. The employment tribunals have decided that, if the amount of the unpaid bonus can be quantified, the employee can claim it as an unlawful deduction.
- **Underpayment of commission** – if the employee is paid less commission than is due, this may be an unlawful deduction.
- **Tips** – if a worker is entitled to tips (or part of a “tronc”), which are not paid, he can bring a claim.
- **Holiday pay** – a failure to pay outstanding holiday pay when the employment terminates has been held to be a deduction from wages.
- **Late payment of wages** – this can lead to a claim.
- **Reduction in pay** – if the employer reduces pay and does not

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have the contractual right to do so or has not obtained the employee's agreement, the shortfall will be an unlawful deduction.

- **Pay rises** – conversely, if the employer promotes an employee or agrees an annual pay rise then fails to implement the new rate of pay, this will be an unlawful deduction.

Employers must take care and in order to avoid making an unlawful deduction, you should:

- Check contracts of employment to ensure there are suitable provisions for making deductions?
- Before lending money to an employee, ensure there is a valid written agreement to repay it.
- Before making a deduction, check that it is lawful.
- If a worker complains that you had no right to deduct a sum from his wages, treat this as a formal grievance, investigate it and repay the sum if you were wrong.
- If a claim is brought, in most cases it is not difficult to decide if the deduction was lawful or not. If it was unlawful, repay it.

## Contact us

**Ware & Kay's specialist, Gill Wilkinson, has extensive experience in all aspects of employment law. Contact her on 01904 716000 or [gillian.wilkinson@warekay.co.uk](mailto:gillian.wilkinson@warekay.co.uk).**

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