

Lawful deductions from pay

As the recession continues to bite and many employers feel the need to run a tight ship, care should be taken that deductions from employees' wages are made lawfully to avoid expensive tribunal claims.

"Wages" are defined broadly and cover any sums payable to the worker in connection with employment, including any fee, bonus, commission, holiday pay or other payment referable to the worker's employment.

A deduction from a worker's wages can only be made lawfully if:

- the deduction is required or authorised by law, and this includes tax, national insurance and attachment of earnings;
- the deduction is required or authorised by the worker's contract, for example a company car clause; or
- the worker has given prior written consent to the deduction, such as a season ticket loan agreement or the purchase of childcare vouchers.

Where the total wage paid to a worker is less than the net amount properly payable, the difference counts as a deduction unless it is due to a mistake in the calculation of the wages.

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Some deductions are allowed by law and cannot lead to a claim, such as:

- recoupment of an overpayment of wages or expenses;
- deductions made in connection with a statutory requirement to deduct and pay money over to a public authority;
- payment to a third party, which includes pension contributions and trade union subscriptions; or
- deductions made as a result of industrial action.

For retail staff, deductions made from their wages in respect of cash shortages or stock deficiencies cannot exceed 10% of their gross wages per day.

There are many situations in which making a deduction from pay is necessary and the correct course of action. Should an employee complain of an unlawful deduction, it should be treated as a formal grievance, investigated and the sum repaid if you were wrong.

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good on paper, even better in person

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.

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