

Employees have a statutory right to receive a written pay statement at or before the time when any wages or salary are paid.

The pay statement must contain:

- **gross pay;**
- **the amount of any deductions** from the gross amount, and the purpose for which the deductions were made. Deductions may be **variable** (e.g. tax/national insurance) or **fixed** (e.g. trade union subscriptions);
- **net pay;** and
- where net pay is split into different part payments, **the amount and method of each part payment.**

In the case of **fixed deductions**, your employer is allowed to give you a written "standing statement of fixed deductions", showing the amount and purpose of each deduction, together with the intervals at which they are to be made. This statement must be updated where there are changes, and, in any case, at least every 12 months.

If a standing statement of fixed deductions is provided, an employer does not then have to break down the fixed deductions on your pay slip, but can simply give the total figure in question.

What if I don't get a proper pay slip?

If your employer does not provide you with pay slips, or they are not complete, you can go to an Employment Tribunal to determine what ought to have been included. The tribunal can make a declaration that your employer has failed to give you a pay statement or that the statement provided does not contain all the details prescribed. However, the tribunal does not have the power to order your employer to provide you with pay statements. Nor does it have power, under the legislation relating to itemised pay statements, to settle whether or not the *amount* of deductions is justified: this has to be dealt with as a separate claim for unlawful deduction of wages – see ERAS Leaflet "**Unlawful Deduction of Wages**"

Your complaint should be made on an ET1 form, (you can obtain this from your local Citizens Advice Bureau or Job Centre) while you are still in employment, or within 3 months of the date on which your job ends.

What if my employer has taken money without putting it on my pay slip?

If you take your employer to an Employment Tribunal and the tribunal finds that you have not received a pay statement, or that you have received one and deductions have been made without being recorded, the tribunal must make a declaration to that effect. Tribunals *can* also award compensation, although whether they do in practice is up to them, and could depend, for example, on whether they regard the employer's failure as a technical failure or a deliberate one.

The amount of any compensation award will not be more than the total amount of deductions which the employer failed to record during the 13 weeks immediately before the date of your application to the Employment Tribunal. In other words, it is best to act quickly if you notice that money has been deducted, which is not recorded on your pay slip.

Cash in hand payment

Many employers offer "cash-in-hand" payments to avoid paying national insurance and tax. If you earn more than the national insurance lower earnings limit or above the tax thresholds this is against the law – see ERAS leaflet "**Tax and national insurance contributions 2002/2003**".

You can lose your right to social security benefits if you have not paid national insurance contributions. You can also lose some of your employment rights, if your contract of employment is considered to be "tainted with illegality". A lot may depend on how far you are an innocent victim and how far you have colluded in any fraud.

If you think your employer is not paying tax and national insurance contributions, you can contact ERAS for confidential advice.

Payment in Cash

The method of payment of wages is determined by agreement with your employer and should be stated in your written statement of terms and conditions. Workers cannot insist on payment in cash, and employers can insist on paying you through a bank.

Get advice about going to an Employment Tribunal

It is important that you receive itemised pay slips. They are evidence of the wages which you have received, of deductions for tax and national insurance, and of any other deductions which you may have agreed.

If you have experienced problems over pay slips, you should contact your trade union; alternatively you can get advice from your local Law Centre, Citizens Advice Bureau or other independent advice centre. They can advise you on whether it is worth bringing a claim to an employment tribunal.

Unfair Dismissal for Asserting a Statutory Right

Normally you need to have worked for an employer continuously for over one year before you can make a complaint of Unfair Dismissal to an Employment Tribunal.

However where you are dismissed for “asserting a statutory right”, you can claim Unfair Dismissal from the first day of your employment.

If you are dismissed because you have requested an itemised pay statement, that will count as “asserting a statutory right”. If you can prove that was the reason for your dismissal, the dismissal will be automatically unfair and you will be entitled to compensation.

You can make a complaint for unfair dismissal to an Employment Tribunal on Form ET1 (available from your local Citizens Advice Bureau or the Jobcentre Plus network). You must make your complaint within three months of the date on which you are dismissed.

For further details contact:
Employment Rights Advice Service (ERAS)
Low Pay Unit
10 Dukes Road
London WC1H 9AD
Advice line: 020 7387 2522
www.lowpayunit.org.uk
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