

## **AN tACHT UM ÍOC PÁ 1991**

Leabhrán Míniúcháin d'Fhostóirí agus d'Fhostaithe

## **PAYMENT OF WAGES ACT, 1991**

Explanatory Booklet for Employers and Employees

## **AN tACHT UM ÍOC PÁ, 1991**

### *Leabhráin Miniúcháin d'Fhostóirí agus d'Fhostaithe*

Treoir ghinearálta atá sa leabhrán seo faoin Acht thuasluaite agus ní forléiriú dlíthiúil é. Is é is aidhm dó ghearrthuirisc a thabhairt i bhfoclaíocht nach bhfuil dlíthiúil ar chearta agus ar dhualgais fhostóirí agus fostaithe a bhfuil soláthar déanta dóibh san Acht.

I gcásanna amhrais, nó mar a bhfuil tuilleadh eolais ag teastáil, féach le do thoil ar an Acht nó scríobh chuig: An tAonad Faisnéise, An Roinn Fiontar, Trádála agus Fostaíochta, Teach Dáibhid, 65A Bothar Adelaide, Baile Átha Cliath 2.

Is féidir cóipeanna den leabhrán seo a fháil ón Aonad Faisnéise.

An Roinn Fiontar, Trádála agus Fostaíochta  
Átha Cliath 2

## **PAYMENT OF WAGES ACT, 1991**

### *Explanatory Booklet for Employers and Employees*

This booklet gives general guidance about the above-named Act and is not a legal interpretation. Its purpose is to present in non-legal language an outline of the rights and obligations of employers and employees provided for in the Act.

In cases of doubt or where further information is required, please refer to the Act or contact Employment Rights Information Unit, Department of Enterprise, Trade and Employment, Davitt House, 65A Adelaide Road, Dublin 2, telephone (01) 631 3131 or 1890 201 615 (lo-call if outside 01 area). Web: [www.entemp.ie](http://www.entemp.ie) E-mail: [erinfo@entemp.ie](mailto:erinfo@entemp.ie)

Copies of this booklet may be obtained from the Information Unit.

Department of Enterprise, Trade and Employment  
Dublin 2.

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## AN tACHT UM ÍOC PÁ, 1991

### 1. ACHOIMRE AR AN ACHT AGUS A RÉIMSE

#### Na príomhfhórála

1.1 Leagtar síos den chéad uair faoin Acht um Íoc Pá, 1991, réimse cearta do *gach* fostaí, i dtaca le híoc pá. Is iad na príomhchearta a leagtar síos san Acht ná:

- ceart ar mhodh inchaibidlí go réidh chun pá a íoc,
- ceart ar ráiteas i scríbhinn i dtaobh pá agus asbhaintí, agus
- cosaint i gcoinne asbhaintí neamhdhleathacha as pá.

1.2 Forálann an tAcht go mbeidh an ceart chun gearán a dhéanamh le Coimisinéir um Chearta ag fostaí ar bith a ndearnadh go neamhdhleathach asbhaint as a phá. Tá ceart ar fáil don fhostóir nó don fostaí achomharc a dhéanamh leis an mBinse Achomharc Fostaíochta i gcoinne chinneadh Choimisinéir um Chearta.

1.3 Faoin Acht ceaptar “oifigigh údaraithe” ag an Aire Fiontar, Trádála agus Fostaíochta lena chinntiú go gcuirtear na fórála i bhfeidhm. Is féidir leis an Aire an dlí a chur ar pháirtí ar bith i leith coire faoin Acht. Is é uasmhéid na fineála a ghearrtar, ar é a chiontú go hachomair, ná £1,000 i leith gach coire.

1.4 Tháinig an tAcht um Íoc Pá, 1991, i bhfeidhm ar an 1 Eanáir 1992. Tá socruithe idirthréimhseacha ann d’fhostaithe ar íocadh a bpá leo, ar theacht i bhfeidhm don Acht, in airgead tirim nó ar shlí seachas in airgead tirim de bhua comhaontaithe a rinneadh faoin Acht um Íoc Pá, 1979.

#### Na hearnálacha fostaí a mbaineann an tAcht leo - alt 1

1.5 Baineann an chosaint a sholáthraítear faoin Acht le haon duine atá

- ag obair faoin chonradh fostaíochta nó printíseachta,
- fostaithe trí ghníomhaireacht fostaíochta nó trí fhochonraitheoir agus

## **PAYMENT OF WAGES ACT, 1991**

### **1. SUMMARY OF THE ACT AND ITS SCOPE**

#### **Main provisions**

1.1 The Payment of Wages Act, 1991 establishes for the first time a range of rights for all employees relating to the payment of wages. The key rights established in the Act are:

- a right to a readily negotiable mode of wage payment,
- a right to a written statement of wages and deductions, and
- protection against unlawful deductions from wages.

1.2 The Act provides a right of complaint to a Rights Commissioner for any employee who has had an unlawful deduction made from wages. There is a right of appeal for the employer or the employee from a decision of a Rights Commissioner to the Employment Appeals Tribunal.

1.3 “Authorised officers” are appointed under the Act by the Minister for Enterprise, Trade and Employment for the purpose of ensuring that its provisions are observed. The Minister may prosecute any party for an offence under the Act. The maximum fine on summary conviction is £1,000 for each offence.

1.4 The Payment of Wages Act, 1991, came into operation on 1 January, 1992. There are transitional arrangements for employees who, when the Act came into operation, were paid their wages in cash or by a mode other than cash in accordance with an agreement under the Payment of Wages Act, 1979.

#### **Categories of employee covered by the Act - section 1**

1.5 The protections provided in the Act apply to any person

- working under a contract of employment or apprenticeship,
- employed through an employment agency or through a sub-contractor, and

- ag fónamh i seirbhís an Stáit (lena n-áirítear comhaltaí den Gharda Síochána agus de na Fósaí Cosanta, státseirbhísigh agus fostaithe d'aon údarás áitiúil, bord sláinte, údarás poirt nó coiste garmoideachais).

### **An bhrí atá le pá faoin Acht - alt 1**

1.6 Chun críocha an Achta, áirítear mar phá na híocaíochtaí seo a leanas:

- gnáth-bhunphá chomh maith le haon ragobair,
- liúntais sealoibre nó íocaíocht eile dá leithéid,
- aon táille, bónas nó comisiún,
- pá ar bith saoire, breoiteachta nó máithreachais,
- brabús nó íocaíocht ar bith eile as obair (cibé acu an faoin gconradh fostaíochta nó ar shlí eile a rinneadh), agus
- aon suim is iníochta le fostaí in ionad fógra scoir fostaíochta.

Ní áirítear mar phá na híocaíochtaí seo a leanas:

- aon íocaíocht chaiteachais a thabhaigh an fostaí ag comhíonadh a fhostaíochta dó.
- íocaíocht ar bith mar phinsean, liúntas nó aisce i dtaca le bás, éirí as, nó scor an fhostaí nó mar chúiteamh as cailliúint oifige,
- íocaíocht ar bith a bhaineann le hiomarcaíocht an fhostaí,
- íocaíocht ar bith leis an bhfostaí seachas ina cháil mar fhostaí, agus
- aon íocaíocht le hábhar in ionad airgid nó sochar comchineáil.

- in the service of the State (including members of the Garda Síochána and the Defence Forces, civil servants and employees of any local authority, health board, harbour authority or vocational education committee).

### **Meaning of wages in the Act - section 1**

1.6 For the purposes of the Act, the following payments are regarded as wages:

- normal basic pay as well as any overtime,
- shift allowances or other similar payments,
- any fee, bonus or commission,
- any holiday, sick or maternity pay,
- any other return or payment for work (whether made under the contract of employment or otherwise), and
- any sum payable to an employee in lieu of notice of termination of employment.





The following payments are not regarded as wages:

- any payment of expenses incurred by the employee in carrying out his/her employment,
- any payment by way of a pension, allowance or gratuity in connection with the death, retirement or resignation of the employee or as compensation for loss of office,
- any payment referable to the employee's redundancy,
- any payment to the employee otherwise than in his/her capacity as an employee, and
- any payment in kind or benefit in kind.

## 2. MODHANNA CHUN PÁ A ÍOC

### Na príomh-mhodhanna is inghlactha go díseathach chun pá a íoc - alt 2(1)

2.1 Sonraíonn an tAcht raon modhanna is inghlactha go dleathach chun pá a íoc. Folaíonn siad:\*

Seic Dréacht bainc		arna tharraingt ar cheann ar bith de na bainc tráchtála nó ar Bhanc Taisce Iontaobhais
Ordú Iníochta Barántas		arna eisiúint ag Aire Rialtais, Údarás Poiblí, etc.
Ordú Poist Ordú Airgid Ordú Iníochta Barántas		arna eisiúint ag nó arna tharraingt ar An Post
Aistriú Creidmheasa		Chuig cuntas arna shonrú ag an bhfostaí
Airgead Tirim		

### Socruithe speisialta i gcás stailceanna bainc, etc. - alt 2(2)





2.2 Caithfidh fostóirí socruithe eile a dhéanamh chun pá a íoc i gcás go gcuireann stailc nó beart tionsclaíoch eile isteach ar institiúid airgeadais agus de thoradh air sin, nach bhfuil airgead tirim ar fáil go héasca d'fhostaithe a n-íoctar a bpá leo ar shlí seachas in airgead tirim. I gcúinsí dá leithéid is féidir pá a íoc, le haontú an fhostaí, ar cheann eile de na modhanna is inghlactha go dleathach chun pá a íoc (seachas in airgead tirim) atá liostáilte ag alt 2(1) den Acht. Mar mhalairt air sin caithfidh an fostóir an pá a íoc in airgead tirim.

\* Léiríonn an liosta seo na gnáthmhodhanna le hairgead a aistriú chun críocha pá. Cuimsíonn an liosta atá sonraithe in alt 2 den Acht modhanna eile nach n-úsáidtear chomh coitianta sin chun airgead a aistriú. Is modhanna iad atá inghlactha go dleathach chun pá a íoc ach fághtar ar lár sa leabhrán seo iad ar mhaithe le giorracht.

## 2 MODES OF WAGE PAYMENT

### Main legally acceptable modes of wage payment - section 2(1)

2.1 The Act specifies a range of legally acceptable modes of wage payment. They include:\*

Cheque Bank Draft		drawn on any of the commercial banks or a Trustee Savings Bank
Payable Order Warrant		issued by a Minister of the Government, a public authority etc.
Postal Order Money Order Paying Order Warrant		issued by or drawn on An Post
Credit transfer		to an account specified by the employee
Cash		

### Special arrangements in the case of strikes in banks etc. - section 2(2)

2.2 Employers are required to make alternative arrangements for wage payment where a strike or other industrial action affects a financial institution and as a result of which cash is not readily available to employees who are paid wages other than in cash. In such circumstances, wages may be paid with the employee's consent by another one of the legally acceptable modes of wage payment (other than cash) listed in section 2(1) of the Act. Otherwise, the employer must pay the wages in cash.

\*Listed here are all the normal modes of money transfer for wage purposes. The list specified in section 2 of the Act may include other less common modes of money transfer which, though legally acceptable modes of wage payment, are excluded from this booklet for the sake of brevity.

### **3. CEART AR RÁITEAS PÁ I SCRÍBHINN - alt 4**

3.1 Caithfidh fostóirí a shocrú go dtabharfar ráiteas pá i scríbhinn do gach fostaí le gach íocaíocht phá. Má íoctar pá trí aistriú creidmheasa, ba chóir an ráiteas pá a thabhairt don fhostaí go gairid tar éis don aistriú creidmheasa a bheith curtha i gcrích. I ngach cás eile, caithfidh an ráiteas pá bheith istigh leis an íocaíocht phá.

3.2 Caithfidh gach ráiteas pá an méid comhlán pá is iníochta leis an bhfostaí a thaispeáint agus cineál agus méid gach asbhainte a thabhairt ina míreanna. Faoin Acht leagtar dualgas ar an bhfostóir an teolas atá i ráiteas pá a choimeád faoi rún. Is ráiteas pá dlísteanaigh é ráiteas pá ina bhfuil earráid nó easnamh más féidir a thaispeáint gur dearmad cléireachais is cúis leis an earráid nó leis an easnamh nó seachas sin, gur de thionóisc agus de mheon macánta a tharla sé.

### **4. ASBHAINTÍ AS PÁ AGUS ÍOCAÍOCHTAÍ LEIS AN bhFOSTÓIR - alt 5**

#### **Asbhaintí dleathacha (agus íocaíochtaí leis an bhfostóir) as pá - alt 5(1)**

4.1 Faoin Acht ceadaítear d'fhostóir na hasbhaintí seo a leanas a dhéanamh (nó na híocaíochtaí seo a leanas a fháil) as pá an fhostaí:

- aon asbhaint (nó íocaíocht) a éilítear nó a údaraítear faoin dlí (m.s. ÍMAT nó ÁSPC),
- aon asbhaint (nó íocaíocht) a éilítear nó a údaraítear faoi théarma chonradh an fhostaí (m.s. ranníocaí áirithe faoi scéim pinsean ceirde nó easnaimh áirithe sa scipéad airgid), nó
- aon asbhaint a bhfuil aontaithe roimh ré leo ag an bhfostaí (m.s. síntiúis do cheardchumann nó préimheanna ÁSS).

#### **Srianta ar asbhaintí áirithe (nó íocaíochtaí) - alt 5(2)**

4.2 Leagtar srianta speisialta ar fhostóirí i dtaca le hasbhaintí (nó fáil íocaíochtaí) as pá, a:



### **3. RIGHT TO A WRITTEN STATEMENT OF WAGES - section 4**

3.1 Employers must arrange that a written statement of wages be given to every employee with every payment of wages. If wages are paid by credit transfer, the statement of wages should be given to the employee as soon as possible after the credit transfer has taken place. In every other case, the statement of wages must accompany the wage payment.

3.2 Each statement of wages must show the gross amount of the wages payable to the employee and itemise the nature and amount of each deduction. The Act places an obligation on the employer to treat the information contained in a pay statement with confidentiality. A statement of wages which includes an error or omission is a valid statement of wages providing it can be shown that the error or omission was due to a clerical mistake or was made otherwise accidentally and in good faith.

### **4 DEDUCTIONS FROM WAGES AND PAYMENTS TO EMPLOYER - section 5**

#### **Valid deductions (and payments to the employer) from wages - section 5(1)**

4.1 The Act allows an employer to make the following deductions (or receive the following payments) from the wages of an employee:

- any deduction (or payment) required or authorised by law (e.g. PAYE or PRSI),
- any deduction (or payment required or authorised by a term of the employee's contract (e.g. some occupational pensions scheme contributions or particular till shortages), or
- any deduction agreed to in writing in advance by the employee (e.g. trade union subscriptions or VHI premia).

#### **Restrictions on certain deductions (or payments) - section 5(2)**

4.2 Special restrictions are placed on employers in relation to deductions (or the receipt of payments) from wages which:

- (a) eascraíonn as aon ghníomh nó fhaillí de chuid an fhostaí (m.s. easnamh sa scipéad airgid, droch-cheardaíocht, brisiúnais) nó
- (b) a bhaineann le soláthar, don fhostaí, ag an bhfostóir, earraí nó seirbhísí atá riachtanach don fhostaíocht (m.s. soláthar nó glanadh éidí)

Caithfidh aon asbhaint (nó íocaíocht) as pá den chineál atá luaite ag (a) nó (b) na coinníollacha seo a leanas a chomhlíonadh:

- (i) caithfidh foráil a bheith déanta sa chonradh fostaíochta don asbhaint (nó íocaíocht leis an bhfostóir) i dtéarma cibé acu is téarma sainráite nó intuigte é agus, más téarma sainráite é, cibé acu is téarma ó bhéal nó i scríbhinn é,
- (ii) caithfidh méid na hasbhainte (nó íocaíocht leis an bhfostóir) as pá a bheith cothrom réasúnta ag féachaint do na cúinsí ar fad ar a n-áirítear an méid pá atá ag an bhfostáí,
- (iii) ní foláir sonraí i scríbhinn i dtaobh na dtéarmaí sa chonradh fostaíochta a bhaineann le hasbhaint (nó íocaíocht leis an bhfostóir) as pá a bheith tugta don fhostaí am éigin roimh an ngníomh nó an bhfaillí nó roimh sholáthar na n-earraí nó na seirbhísí. I gcás go bhfuil conradh scríofa ann, ní foláir cóip de théarma an chonartha a bhaineann leis an asbhaint (nó íocaíocht) a thabhairt don fhostaí. In aon chás eile, ní foláir fógra i scríbhinn a thabhairt don fhostaí faoin téarma a bheith ann agus faoin éifeacht atá leis.

### **Srianta breise ar asbhaintí (nó íocaíochtaí) i leith ghníomhaíochtaí no faillíochta an fhostaí - 5(2)**

4.3 Asbhaint ar bith (nó íocaíocht leis an bhfostóir) a eascraíonn as aon ghníomh nó fhaillí de chuid an fhostaí, caithfidh sí, chomh maith leis na ceanglais atá luaite ag (i) go (iii) d'alt 4.2 a chomhlíonadh, na coinníollacha seo a leanas a shásamh freisin:

- (iv) ní foláir sonraí i scríbhinn faoin ngníomh nó faoin bhfaillí agus faoin mhéid na hasbhainte (nó íocaíochta) a thabhairt don fhostaí seachtain amháin ar a lghad sula ndéantar an asbhaint (nó íocaíocht),

- (a) arise from any act or omission of the employee (e.g. till shortages, bad workmanship, breakages) or
- (b) are in respect of the supply to the employee by the employer of goods or services which are necessary to the employment (e.g. the provision or cleaning of uniforms).

Any deduction (or payment) from wages of the kinds described at (a) or (b) must satisfy the following conditions:

- (i) the deduction (or payment to the employer) must be provided for in the contract of employment in a term whether express or implied and, if express, whether oral or in writing,
- (ii) the amount of the deduction (or payment to the employer) from wages must be fair and reasonable having regard to all the circumstances including the amount of the wages of the employee,
- (iii) the employee must be given at some time prior to the act or omission or the provision of the goods or services, written details of the terms in the contract of employment governing the deduction (or payment to the employer) from wages. When a written contract exists, a copy of the term of the contract which provides for the deduction (or payment) must be given to the employee. In any other case, the employee must be given written notice of the existence and effect of the term.

#### **Additional restrictions on deductions (or payments) for acts or omissions of the employee - section 5(2)**

4.3 Any deduction (or payment to the employer) arising from any act or omission of an employee, in addition to meeting the requirements set out at (i) to (iii) of paragraph 4.2, must satisfy the following conditions:

- (iv) the employee must be given particulars in writing of the act or omission and the amount of the deduction (or payment) at least one week before the deduction (or payment) is made,

(v) ní foláir an asbhaint (nó íocaíocht) a dhéanamh tráth nach déanaí ná sé (6) mhí tar éis don fhostóir eolas a fháil faoin ngníomh nó faoin bhfaillí. Más gá, áfach, sraith asbhaintí (nó íocaíochtaí) a dhéanamh i leith gnímh nó faillí ar leith, ní foláir an chéad asbhaint nó íocaíocht sa sraith a dhéanamh laistigh den tréimhse sé mhí.

### **Srianta breise ar asbhaintí (nó íocaíochtaí) i leith cailleanais nó damáiste - alt 5(2)**

4.4 I gcás go ndéanann fostóir asbhaint as pá (nó go bhfaigheann sé íocaíocht ón bhfostaí) mar chúiteamh leis as cailleanas nó damáiste a eascraíonn as aon ghníomh nó fhaillí de chuid an fhostaí, ní foláir don asbhaint na coinníollacha atá leagtha síos ag (i) go (v) de mhíreanna 4.2 agus 4.3 a shásamh. Ina theannta sin caithfidh:

(vi) méid na hasbhainte (nó na híocaíochta) gan bheith níos mó ná an cailleanas nó an damáiste a d'fhulaing an fostóir.

Féadfar finneáil smachta, i gcás go bhfuil foráil déanta dá leithéid sa chonradh, a asbhaint chomh maith le hasbhaint i leith cailleanais nó damáiste. Bheadh fineáil ar bith dá leithéid faoi réir na gcoinníollacha atá leagtha síos ag (i) go (v) de mhíreanna 4.2 to 4.3

### **Srianta breise ar asbhaintí (nó íocaíochtaí) i leith earraí nó seirbhísí áirithe - alt 5(2)**

4.5 Caithfidh aon asbhaint (nó íocaíocht leis an bhfostóir) as pá i leith soláthar don fhostaí earraí nó seirbhísí atá riachtanach don fhostaíocht na ceanglais atá leagtha síos ag (i) go (iii) d'alt 4.2 a chomhlíonadh. Ina theannta sin caithfidh aon asbhaint (nó íocaíocht) dá leithéid na coinníollacha seo a leanas a shásamh:

(iv) caithfidh nach mbeidh an asbhaint (nó íocaíocht) níos mó ná an costas ar an bhfostóir a bhain le soláthar earraí agus seirbhísí. Is é sin le rá, níor cheart go mbeadh brabús le fáil ag an bhfostóir as díol na n-earraí nó seirbhísí leis an bhfostaí,

(v) ní foláir an asbhaint (nó íocaíocht) a dhéanamh tráth nach déanaí ná sé (6) mhí tar éis soláthar na n-earraí nó seirbhísí don fhostaí.

- (v) the deduction (or payment), must be made no later than 6 months after the act or omission became known to the employer. However, if a series of deductions (or payments) are to be made in respect of a particular act or omission, the first deduction (or payment) in the series must be made within the 6 month period.

#### **Additional restrictions on deductions (or payments) for loss or damage - section 5(2)**

4.4 Where an employer makes a deduction from wages (or receives a payment from the employee) to compensate for loss or damage arising from any act or omission of the employee, the deduction must comply with the conditions set down at (i) to (v) of paragraphs, 4.2 and 4.3. In addition, the deduction (or payment):

- (vi) must be of an amount not exceeding the loss or damage sustained by the employer,

A disciplinary fine, where provision for such is made in the contract, may be deducted as well as a deduction for loss or damages. Any such fine would, of course, be subject to the conditions set down at (i) to (v) in paragraphs 4.2 and 4.3.

#### **Additional restrictions on deductions (or payments) for certain goods or services - section 5(2)**

4.5 Any deduction (or payment to the employer) from wages for the supply to the employee of goods or services which are necessary to the employment must meet with the requirements set out at (i) to (iii) of paragraph 4.2. In addition, any such deduction (or payment) must comply with the following conditions:

- (iv) the deduction (or payment) must not exceed the cost to the employer of providing the goods or services. In other words, the employer should not stand to profit by the sale of the goods or services to the employee,
- (v) the deduction (or payment) must be made no later than 6 months after the supply of the goods or services to the employee.

Más gá, áfach, sraith asbhaintí (nó íocaíochtaí) a dhéanamh i leith soláthar earra nó seirbhíse ar leith, ní mór an chéad asbhaint (nó íocaíocht) sa tsraith a dhéanamh laistigh den tréimhse sé mhí.

### **Íocaíochtaí a dhéanann fostaí le fostóir - alt 5(3)**

4.6 Ní foláir d'fhostóir a ghlacann íocaíocht ó fhostaí i leith ceann ar bith de na nithe atá luaite ag (a) nó (b) de mhír 4.2, bheith sásta ar dtús go bhfuil an íocaíocht dleathach. Nuair a ghlacann an fostóir an íocaíocht caithfidh sé/sí admháil a eisiúint i leith na híocaíochta don fhostaí.

### **Soláthar earraí nó seirbhísí i gcoitinne - alt 5(4)**

4.7 Féadfaidh conradh fostaíochta a fhoráil go soláthrófar earraí nó seirbhísí d'fostaí ag fostóir agus go ndéanfar asbhaint as pá (nó íocaíocht ag an bhfostaí leis an bhfostóir) i leith na n-earraí nó na seirbhísí sin. Ní féidir leis an bhfostóir foráil dá leithéid sa chonradh fostaíochta a chur i bhfeidhm i gcás, mar shampla, go gcinneann an fostaí nach dteastaíonn na hearraí nó na seirbhísí sin uaid/uaithi a thuilleadh. Ní bhaineann an fhoráil seo, áfach, le téarma conartha i dtaca le hearraí nó seirbhísí den chineál a luaitear ag (b) de mhír 4.2. Is ceadaithe don fostóir, mar sin, asbhaintí (nó íocaíochtaí) i leith a soláthar a chur i bhfeidhm sa gnáthshlí.

### **Easnamh sa phá nó neamh-íoc - alt 5(6)**

4.8 Féachfar ar neamh-íoc pá nó ar easnamh ar bith i méid an phá atá iníochta ó cheart ag fostóir le fostaí ar ócáid ar bith, mar asbhaint neamhdhleathach as pá mura suítear gur dearmad áirimh ba chúis leis an easnamh nó leis an neamh-íoc.

However, if a series of deductions (or payments) are to be made in respect of the supply of a particular good or service, the first deduction (or payment) in the series must be made within the 6 month period.

### **Payments by an employee to an employer - section 5(3)**

4.6 An employer who accepts a payment from an employee in respect of any of the matters described at (a) or (b) of paragraph 4.2, must first be satisfied that the payment is lawful. When the employer accepts the payment, he/she must immediately issue a receipt for the payment to the employee.

### **The supply of goods or services generally - section 5(4)**

4.7 A contract of employment may provide for the supply of goods or services by an employee to an employer and for the making of a deduction from wages (or payment by the employee to the employer) in respect of those goods or services. Such a provision in the contract of employment cannot be enforced by the employer where, for example, the employee decides that he/she no longer requires the goods or services provided. However, a term of a contract relating to goods or services of the nature described at (b) of paragraph 4.2 is not subject to this provision. Accordingly, deductions (or payments) arising from their supply may be enforced by the employer in the normal way.

### **Deficiency in or non-payment of wages - section 5(6)**

4.8 Non-payment of wages or any deficiency in the amount of wages properly payable by an employer to an employee on any occasion will be regarded as an unlawful deduction from wages unless the deficiency or non-payment is attributable to an error of computation.

## **5. NÓS IMEACHTA GEARÁN I LEITH ASBHAINTÍ NEAMHDHLEATHACHA - alt 6**

### **Gearáin ó fhostaithe**

5.1 Is féidir le fostaí a dhéanamh le Coimisinéir um Chearta má fheictear go ndearna an fostóir asbhaint neamhdhleathach (nó gur éiligh sé íocaíocht neamhdhleathach) as pá. Caithfear gearán a chur faoi bhráid Choimisinéir um Chearta laistigh de sé (6) mhí ó dháta na hasbhainte (nó na híocaíochta) as ar eascair an gearán. Má tá an Coimisinéir um Chearta sásta go bhfuil cúinsí eisceachtúla i gceist, féadfaidh sé cinneadh ar an tréimhse seo a fhadú suas le sé mhí eile.

5.2 Chomh luath agus a gheobhaidh an Coimisinéir um Chearta gearán, cuirfidh sé cóip d'fhógra an ghearáin chuig an fostóir. Tabharfaidh sé deis ansin do na páirtithe éisteacht a fháil uaidh agus aon fhianaise a bhaineann leis an ngearán a chur faoina bhráid. Tar éis dó na páirtithe a éisteacht, tabharfaidh sé breith i scríbhinn ar an ngearán agus cuirfidh sé an dá pháirtí ar an eolas faoin toradh. Is go poiblí a bheidh na himeachtaí os comhair an Choimisinéara um Chearta mura gcinneann an Coimisinéir um Chearta a mhalairt an iarratas ó cheann de na páirtithe don ghearán.

### **Dámhadh cúitimh - alt 6(2)**

5.3 Má chineann an Coimisinéir um Chearta go bhfuil bunús maith faoin ngearán ordóidh sé don fhostóir cúiteamh a íoc leis an bhfostaí. Is é an t-uasmhéid cúitimh, is féidir leis an gCoimisinéir um Chearta a dhámhadh ná:

- (a) an pá glan, tar éis na an-asbhaintí dleathacha ar fad a bheadh íochta ag an bhfostaí sa tseachtain díreach roimh dháta na hasbhainte neamhdhleathaí (nó má bhain an gearán le híocaíocht, an pá glan a íocadh leis an bhfostaí i leith na seachtaine díreach roimh dháta na híocaíochta), nó
- (b) más mó méid na hasbhainte (nó na híocaíochta) ná an pá atá sonraithe ag (a), dhá oiread na hasbhainte (nó na híocaíochta).



## **5 COMPLAINTS PROCEDURE FOR UNLAWFUL DEDUCTIONS - section 6**

### **Complaints by employees**

5.1 An employee may complain to a Rights Commissioner if it appears that the employer has made an unlawful deduction (or required an unlawful payment) from wages. A complaint must be presented to a Rights Commissioner within 6 months of the date of the deduction (or payment) which gave rise to the complaint. If the Rights Commissioner is satisfied that there are exceptional circumstances he/she may decide to extend the period for up to a further 6 months.

5.2 The Rights Commissioner on receipt of a complaint will send a copy of the notice of complaint to the employer. He/she will then give the parties an opportunity to be heard by him/her and to present to him/her any evidence relevant to the complaint. After hearing the parties, he/she will give a decision in writing in relation to it and let both parties know the outcome. Proceedings before the Rights Commissioner will be in public unless the Rights Commissioner decides otherwise at the request of one of the parties to the complaint.

### **Award of compensation - section 6(2)**

5.3 If the Rights Commissioner decides that a complaint is well founded, he/she shall order the employer to pay compensation to the employee. The maximum compensation which the Rights Commissioner can award is:

- (a) the net wage, after all lawful deductions, that would have been paid to the employee in respect of the week immediately preceding the unlawful deduction (or if the complaint related to a payment, the net wages that were paid to the employee in respect of the week immediately preceding the date of the payment), or
- (b) if the amount of the deduction (or payment) is greater than the wage specified at (a), twice the amount of the deduction (or payment).

### **Cúiteamh sna Cúirteanna Sibhialta - alt 6(3)**

5.4 Féadfaidh fostaí dámhachtain a fháil, i leith aon asbhainte nó íocaíochta neamhdhleathaí ar leith, in imeachtaí os comhair Choimisinéir um Chearta nó os comhair na gCúirteanna ach ní os a gcomhair araon.

### **Conas gearán a thionscnamh le Coimisinéir um Chearta**

5.5 Is féidir gearán a dhéanamh leis an gCoimisinéir um Chearta ach fógra ina leith a thabhairt dó i scríbhinn ar an bhfoirm chuí. Tá an fhoirm ar fáil ón tSeirbhís Choimisinéirí um Chearta, Coimisiún um Chaidreamh Oibreachais, Teach Thomás Mac Seáin, Bóthar Haddington, Áth Cliath 4 (Fón 6608444).

## **6. NÓS IMEACHTA ACHOMHAIRC LE HAGHAIDH ASBHANTÍ NEAMHDHLEATHACHA - alt 7**

### **Achomharc in aghaidh chinneadh Choimisinéir um Chearta**

6.1 Is féidir le fostóir nó fostaí achomharc a dhéanamh leis an mBinse Achomharc Fostaíochta in aghaidh chinneadh Choimisinéir um Chearta. Caithfear achomharc a dhéanamh laistigh de sé (6) sheachtain ón dáta a chuir an Coimisinéir um Chearta a bhreith in iúl do na páirtithe.

6.2 Chomh luath agus a gheobhaidh an Binse an t-achomharc, tabharfadh sé deis éisteachta do na páirtithe, agus deis fianaise ar bith a bhaineann leis an achomharc a chur faoina bhráid. Déanfaidh sé cinneadh i scríbhinn i dtaca leis an achomharc ag deimhniú, ag athrú nó ag cur ar neamhní cinneadh an Choimisinéara um Chearta. Coinníonn an Binse Achomharc Fostaíochta Clár gach cinneadh. Is féidir an Clár sin a scrúdú le linn uaire oifige.

### **Conas achomharc a thionscnamh leis an mBinse Achomharc Fostaíochta**

6.3 Féadfaidh an páirtí lena mbaineann achomharc a dhéanamh trí fógra faoin achomharc a thabhairt i scríbhinn don Bhinse Achomharc Fostaíochta, 65A Bóthar Adelaide, B.A.C. 2 agus d'aon pháirtí eile don

### **Compensation in the Civil Courts - section 6(3)**

5.4 An employee may obtain an award, in respect of any particular unlawful deduction or payment, in proceedings either before a Rights Commissioner or before the Courts but not before both.

### **How to initiate a complaint to a Rights Commissioner**

5.5 A complaint to the Rights Commissioner may be made by giving him/her notice of it in writing on the appropriate form. The form is available from Rights Commissioner Service, Labour Relations Commission, Tom Johnson House, Haddington Road, Dublin 4 (phone 613 6666).

## **6. APPEAL PROCEDURE FOR UNLAWFUL DEDUCTIONS - section 7**

### **Appeal from decision of a Rights Commissioner**

6.1 An employer or an employee may appeal to the Employment Appeals Tribunal from a decision of a Rights Commissioner. An appeal must be made within 6 weeks of the date when the Rights Commissioner communicated the decision to the parties.

6.2 On receipt of an appeal, the Tribunal will give the parties an opportunity to be heard by it and to present to it any evidence relevant to the appeal and will make a determination in writing in relation to the appeal affirming, varying or setting aside the decision of the Rights Commissioner. A Register of determinations is maintained by the Employment Appeals Tribunal and may be inspected during office hours.

### **How to initiate an appeal to the Employment Appeals Tribunal**

6.3 An appeal may be made by the party concerned by giving notice of the appeal in writing both to the Employment Appeals Tribunal, 65A Adelaide Road, Dublin 2 and to any other party to the appeal. Regulations governing the appeals procedure, including the information to be contained in the notice of appeal, are contained in the Payment of

achomharc chomh maith. Tá rialacháin a bhaineann leis an nós imeachta achomharc, lean n-áirítear an fhaisnéis atá le cur isteach san fhógra achomhairc folaithe san Rialacháin um Íoc Pá (Achomhairc) 1991 (I.R. Uimh 351 1991). Is féidir cóipeanna de na Rialacháin seo a cheannach ón Oifig Díolta Foilseacháin Rialtais, Sráid Theach Laighean, Baile Átha Cliath 2. Is féidir cóipeanna den fhógra achomhairc a fháil ón Roinn Fíontar, Trádála agus Fostaíochta, 65A Bóthar Adelaide, B.A.C. 2.

### **Achomharc leis an Ard-Chúirt - alt 7(4)**

6.4 Is féidir le páirtí amháin d'imeachtaí atá os comhair an Bhinse Achomharc Fostaíochta achomharc a dhéanamh leis an Ard-Chúirt ar phointe dlí i gcoinne chinneadh an Bhinse.

## **7. ASBHAINTÍ (AGUS ÍOCAÍOCHTAÍ) LASMUIGH DE NÓS IMEACHTA GEARÁN AN ACHTA - alt 5(5)**

### **Ni bhaineann nós imeachta gearán an Achta le:**

- o *Asbhaintí Reachtúla* - asbhaint as pá arna leagan de chúram ar an bhfostóir faoi aon fhoráil reachtúil, ordú cúirte, etc. (m.s. ÍMAT, ÁSPC nó Ordú Astaithe Tuillimh). Fanann an cineál seo asbhainte lasmuigh de réimse nós imeachta na ngearán chomh fada agus a dhéantar an asbhaint faoi chinneadh an údaráis chuí.

- o *Asbhaintí a íoctar trasna le tríú páirtí* - asbhaint as pá íocann an fortóir trasna le tríú páirtí cibé acu an de réir téarmaí an chonartha fostaíochta nó le réamhaontú i scribhinn an fhostaí é (m.s. síntiúis cheardchumainn, préimheanna ÁSS, ranniocaí do ghrúpscéim coigiltis, etc. Fanann an cineál seo asbhainte lasmuigh de réimse an nós imeachta gearán chomh fada agus a íocann an fostóir an méid ceart trasna leis an tríú páirtí faoin dáta cuí.

- o *Asbhaintí (no íocaíochtaí) chun ró-íocaíochtaí a aisghabháil* - asbhaint as pá fostaí (nó íocaíocht ar bith a fhaigheann fostóir ó fhostaí) d'fhonn ró-íocaíocht phá nó chaiteachais a chúiteamh leis an bhfostóir. Fanann an cineál seo asbhainte lasmuigh de réimse an nós imeachta gearán murar mó méid na hasbhainte (nó na híocaíochta) ná méid na ró-íocaíochta.

Wages (Appeals) Regulations, 1991 (S.I. No. 351 of 1991) Copies of these Regulations may be purchased from the Government Publications Sale Office, Molesworth Street, Dublin 2. Copies of the notice of appeal form may be obtained from the Department of Enterprise, Trade and Employment, 65A Adelaide Road, Dublin 2.

### **Appeal to High Court - section 7(4)**

6.4 A party to proceedings before the Employment Appeals Tribunal may appeal to the High Court on a point of law from a determination of the Tribunal.

## **7. DEDUCTIONS (AND PAYMENTS) OUTSIDE THE COMPLAINTS PROCEDURE OF THE ACT - section 5(5)**

### **The complaints procedure of the Act does not apply to:**

- o *Statutory Deductions* - a deduction from wages imposed on the employer by any statutory provision, court order, etc. (e.g. PAYE, PRSI or an Attachment of Earnings Order). This kind of deduction remains outside the scope of the complaints procedure providing the deduction is made in accordance with the determination of the appropriate authority.
- o *Deductions Paid over to a third party* - a deduction from wages which the employer pays over to a third person, either in accordance with the terms of the contract of employment or with the prior consent in writing of the employee (e.g. trade union subscriptions, VHI premia, contributions to a group savings scheme, etc.). this kind of deduction remains outside the scope of the complaints procedure providing the employer pays the correct amount over to the third party by the appropriate date.
- o *Deductions (or payments) to recoup overpayments* - a deduction from the wages of an employee (or any payment received from an employee by an employer) for the purpose of reimbursing the employer for any overpayment of wages or expenses. This kind of deduction remains outside the scope of the complaints procedure providing the amount of the deduction (or payment) does not exceed the amount of the overpayment.

- o *Asbhaintí (nó íocaíochtaí) a eascraíonn as gníomhaíocht thionsclaíoch* - asbhaint as pá fostaí (nó íocaíocht ar bith a fhaigheann an fostóir ó fhostaí) toisc gur ghlac an fostaí páirt i stailc nó i ngníomhaíocht thionsclaíoch eile.

- o *Imeachtaí reachtúla smachta* - asbhaint as pá fostaí (nó íocaíocht ar bith a fhaigheann fostóir ó fhostaí) de thoradh ar aon imeachtaí smeachta, má tionscnaíodh na himeachtaí sin faoi fhoráil reachtúil (m.s. Rialacháin an Gharda Síochána (Araíonacht), 1989).

- o *Asbhaintí (nó íocaíochtaí) a eascraíonn as Orduithe áirithe Cúirte* - asbhaint arna déanamh ag fostóir as pá fostaí le réamchhead uaidh i scríbhinn (nó íocaíocht éigin a fhaigheann fostóir ó fhostaí) ag comhlíonadh dó (go hiomlán nó i bpáirt) ordaithe cúirte nó binse faoina n-éilítear go n-íocfadh an fostaí suim éigin leis an bhfostóir. Is é atá i gceist leis an díolúine seo ná an cás eisceachtúil inar dhámh cúirt damáistí d'fhostóir i gcoinne fostaí i gcúinsí atá bainteach b'fhéidir leis an ngaol frostaíochta m.s. timpiste gluaisteáin a bhaineann leis an dá pháirtí.

## **8. BREITHEANNA AGUS CINNTE A CHUR I bhFEIDHM - alt 8**

Féadfaidh breith Choimisinéir um Chearta nó cinneadh de chuid an Bhinse Achomharc Fostaíochta dáta a shonrú faoina gcaithfear an bhreith nó an cinneadh a chur i bhfeidhm. Mura bhuil dáta ar bith sonraithe, caithfear an bhreith nó an cinneadh a chur i gcrích laistigh de sé (6) sheachtain. Mura ndéantar achomharc i gcoinne breithe nó cinnte agus mura gcuireann an páirtí lena mbaineann i bhfeidhm é faoin dáta atá dlíte, féadfaidh an páirtí eile an bhreith nó cinneadh a chur i bhfeidhm amhail is dá mba ordú de chuid na Cúirte Cuarda é.

## **9. MONATÓIREACHT AR CHOMHLÍONADH AN ACHTA - alt 9**

Déanann oifigigh údaraithe arna gceapadh ag an Aire Fiontar, Thádála agus Fostaíochta monatóireach ar chomhlíonadh an Achta. Tá cumhacht ag na hoifigigh seo dul isteach in áitreabh, cáipéisí a scrúdú, agus cóipeanna a dhéanamh díobh agus a éileamh go dtabharfaidh duine ar bith faisnéis chuí. Beidh duine ar bith a choisceann nó a chuireann bac

- *Deductions (or payments) arising from industrial action* - a deduction from the wages of an employee (or any payment received from an employee by an employer) on account of the employee's having taken part in a strike or other industrial action.

- *Statutory disciplinary proceedings* - a deduction from the wages of an employee (or any payment received from an employee by an employer) in consequence of any disciplinary proceedings if those proceedings are held by virtue of a statutory provision (e.g. the Garda Síochána (Discipline) Regulations, 1989).

- *Deductions (or payments) arising from certain Court Orders* - a deduction made by an employer from wages with the prior consent in writing of the employee (or any payment received from an employee by an employer) in satisfaction (whether wholly or in part) of an Order of a Court or Tribunal requiring the payment of any amount by the employee to the employer. This exception deals with the exceptional case where a Court has awarded damages to an employer against an employee in circumstances which may be incidental to the employment relationship e.g. a car accident involving the parties.

## **8. ENFORCING DECISIONS AND DETERMINATIONS - section 8**

A decision of a Rights Commissioner or a determination of the Employment Appeals Tribunal may specify a date before which the decision or determination must be carried out. If no date is specified, the decision or determination must be carried out within 6 weeks. If a decision or determination is not appealed and is not carried out by the due date by the party concerned, the other party may enforce the decision or determination in the same manner as an Order of the Circuit Court.

## **9. MONITORING COMPLIANCE WITH THE ACT - section 9**

Authorised officers appointed by the Minister for Enterprise, Trade and Employment monitor compliance with the Act. These officers have power to enter premises, inspect documents and take copies of them

ar oifigeach údaraithe ag comhíonadh dualgais na fostaíochta dó.dí cointach i gcoir agus dlífear, ar é/í a chiontú go hachomair, fíneáil nach mó ná € 1269.74 (£1,000) a ghearradh air/uirthi.

## **10. SOCRUITHE IDIRTHRÉIMHSEACHA - alt 3(2)**

### **Fostaithe a íocadh in airgead tirim roimh an Acht**

10.1 Leagann an tAcht síos socruithe idirthréimhseacha d'fhostaithe a íocadh in airgead tirim díreach roimh theacht i bhfeidhm don Acht. Tá fostaí dá leithéid i dteideal leanúint de phá a fháil in airgead tirim go dtí go ndéanann sé/sí comhaontú leis an bhfostóir i dtaca le pá a íoc ar cheann de na modhanna íoca pá is inghlactha go dleathach.\*

### **Comhaontuithe faoin Acht um Íoc Pá, 1979.**

10.2 Cuirtear socruithe idirthréimhseacha ar fáil freisin d'oibrithe láimhe a rinne comhaontuithe faoi alt 3 den Acht um Íoc Pá 1979 i leith pá a íoc ar shlí seachas in airgead tirim. Coinníonn na fostaithe sin an ceart chun dul ar ais chuig airgead tirim mar mhodh íoca pá faoi aon chomhaontú dá leithéid a bhí i bhfeidhm díreach roimh theacht i bhfeidhm don Acht. Bheadh an ceart sin ar an mbonn ar ghlac ceachtar páirí leis tráth an chomhaontaithe. Faoin Acht um Íoc Pá, 1979 d'fhéadfaí dul ar ais ag deireach comhaontaithe chuig pá in airgead tirim nó i gcás nach bhfuil dáta deiridh socraithe sa chomhaontú, tár éis fógra ceithre sheachtain ar cheachtar taobh.

### **Socruithe arna ndéanamh tar éis don Acht teacht i bhfeidhm**

10.3 Aon chomhaontú a dhéantar, tar éis teacht i bhfeidhm don Acht um Íoc Pá, 1991, i dtaca le pá a íoc ar cheann de na modhanna íoca pá is inghlactha go dleathach, bheadh sé lasmuigh de réimse na socruithe idirthréimhseacha.

\* Is féidir na comhaontuithe seo faoi phá seachas in airgead tirim a dhéanamh, tar éis teacht i bhfeidhm don Act, idir fostóir nó eagraíocht atá ionadaitheach d'fhostóirí (ar comhalta di an fostóir) agus fostaí nó eagraíocht atá ionadaitheach d'fhostaithe (ar comhalta di an fostaí).



and to require the giving by any person of relevant information. Any person who impedes or obstructs an authorised officer in the performance of his or her duties will be guilty of an offence and will be liable on summary conviction of a fine not exceeding € 1269.74 (£1,000).

## **10. TRANSITIONAL ARRANGEMENTS - section 3(2)**

### **Employees paid in cash prior to the Act**

10.1 The Act provides transitional arrangements for employees who were paid their wages in cash immediately before the coming into operation of the Act. Such an employee is entitled to continue to receive cash wages until such time as he or she comes to an agreement with the employer for the payment of wages by one of the legally acceptable modes of wage payment.\*

### **Agreements under Payment of Wages Act, 1979**

10.2 Transitional arrangements are also provided for manual workers who entered into agreements under section 3 of the Payment of Wages Act, 1979 for the payment of wages otherwise than in cash. These employees remain entitled to revert to cash wages under any such agreement in force immediately before the coming into operation of the Act. The right to revert would be on the basis accepted between the parties at the time of the agreement. The Payment of Wages Act, 1979 allowed for reversion to cash wages either at the end of an agreement or, where no end date is provided in the agreement, by four weeks notice on either party.

### **Agreements made after the Act comes into operation**

10.3 Any agreement made, after the coming into operation of the Payment of Wages Act, 1991, for the payment of wages by one of the legally acceptable modes of wage payment would, of course, be outside the scope of the transitional arrangements.

\* Such agreements regarding non-cash wages may be made, after the coming into force of the Act, between the employer or an organisation representative of employers (of which the employer is a member) and an employee or an organisation representative of employees (of which the employee is a member)

## **11. COMHAONTUITHE NACH bhFUIL DE RÉIR AN ACHTA - alt 11**

Foráil i gcomhaontú (cibé acu an conradh fostaíochta é nó a mhalairt) arb é is adihm dó feidhmiú forála ar bith den Acht a chosc nó a theorannú nó atá ar neamhréir leis an bhforáil sin, beidh sí ar neamhní.

## **12. NÓTA FAOI NA TRUCK ACTS - alt 3(1) agus Sceideal**

Déanann an tAcht seo na Truck Acts 1743 go 1896 agus an tAcht um Íoc Pá, 1979 a aisghairm.

Faoi na Truck Acts, béigean, ar shlite éagsúla, íocaíocht a dhéanamh le fostaithe in “airgead réidh” nó i “monadh reatha na ríochta” agus teorannaíodh na cúinsí ina bhféadfaí asbhaintí a dhéanamh as pá. Achtaíodh na hAchtanna sin ar dtús chun déileáil le míchleachtais i dtaca le pá a íoc le hoibrithe láimhe, mar shampla, pá a íoc le hábhar in ionad airgid. Le tamall anuas tháinig a bhforálacha chun bheith ina mbac ar mhodhanna nua-aimseartha íoca pá. Rinne an tAcht um Íoc Pá, 1979 soláthar do phá a íoc le hoibrithe láimhe ar shlí seachas in airgead tirim trí chomhaontú idir oibrithe dá leithéid agus a bhfostóirí.

## **11. AGREEMENTS NOT IN ACCORD WITH THE ACT - section 11**

A provision in an agreement (whether it is contract of employment or not) that purports to preclude or limit the application of, or is inconsistent with, any provision of the Act will be void.

## **12. NOTE ON THE TRUCK ACTS - section 3(1) and schedule**

The act repeals the Truck Acts, 1743 to 1896 and the Payment of Wages Act, 1979.

The Truck Acts variously required that manual workers should be paid in “ready money” or in “current coin of the realm” and limited the circumstances in which deductions might be made from wages. These Acts were originally enacted to address abuses in the payment of wages to manual workers, such as payment of wages in kind. In recent times, their provisions became a barrier to modern modes of wage payment. The Payment of Wages Act, 1979 allowed for the payment of wages to manual workers, otherwise than in cash, by agreement between such workers and their employers.













































