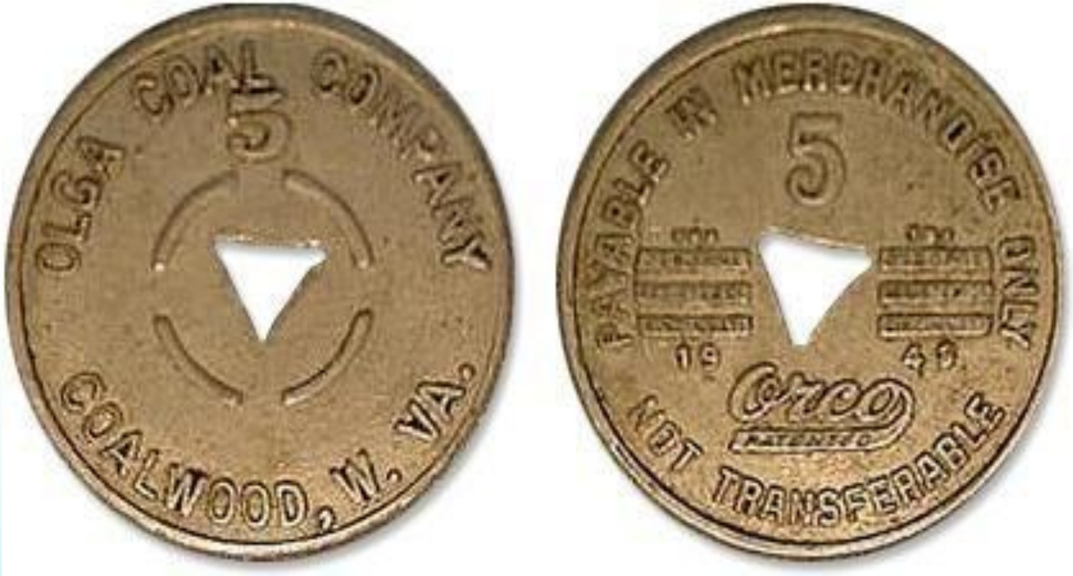
Payment of Wages and Minimum Wage

Roisin Boyle, Legal Rights Unit

CONTENTS

PAYMENT OF WAGES ACT 1991

The exploitative "truck system" was where employers paid workers in commodities or vouchers redeemable only at company-owned stores. The Truck Acts aimed to ensure that workers received the full value of their wages and was one of the earliest pieces of labour legislation. The Truck Acts developed to become The Payment of Wages Act 1991.


OLGA COAL COMPANY
5
COALWOOD, W. VA.
PAYABLE IN MERCHANDISE ONLY
5
Orco
NOT TRANSFERABLE

J.S. MC CORMICK
POST TRADER
GOOD
FOR 50 CTS.
IN GOODS
FT. LARAMIE, D.T.

MODE OF WAGES

Wages may be paid by and only by one or more of the following modes:

a cheque or bank draft

a postal draft

a bank transfer

cash

STATEMENT OF WAGES

A statement (payslip) is to be given to each employee with every payment of wages.

If paid by bank transfer, then it must be given as soon as possible afterwards.

Each statement of wages must show the gross amount payable and the detail of each deduction.

DEDUCTION OF WAGES – S.5(1)

An Employer cannot make a deduction from an employees’ wage unless:

Authorised by statute (PAYE / PRSI)

Permitted by the Contract of Employment prior to the deduction (Pension)

The Employee has given prior consent in writing (VHI, TU fees, lay – off)

ACTS AND OMISSION / GOOD AND SERVICES

- An Employer cannot make a deduction for an Act or Omission of an Employee or for supplying them Goods or Services which are necessary for their employment unless it is authorised by Contract, the amount is fair and reasonable, the employee has received the term of the contract in writing or has been given notice in writing.

- Act or Omission of Employee - Written details of the Act or Omission and the amount to be deducted must be given at least one week before deduction, the deduction cannot exceed the loss or damage, the deduction (or first deduction if there are a series of deductions) must be made no later than 6 months after the Act or Omission.

- Supply of Goods and Services – The deduction cannot exceed the cost of providing the Goods or Services, the deduction (or first deduction if there are a series of deductions) must be made no later than 6 months after the provision of the Good or Service.

PERMITTED DEDUCTIONS

The Act does not apply to:

- An overpayment of wages

- An overpayment of expenses

- A deduction that is part of a disciplinary proceeding provided for by statute

- A deduction due to strike or industrial action

- Where there is a court order against an employee

- deductions attributable to an error of computation.

DEFINITION OF WAGES

The following are regarded as wages:

any fee, bonus or commission,

any holiday, sick or maternity pay,

or any other emolument, referable to his employment, whether payable under his contract of employment or otherwise (basic pay, overtime, VHI benefits)

pay in lieu of notice

DEFINITION OF WAGES

The following are not regarded as wages:

expenses

pension, allowance or gratuity in connection with the death, or the retirement or resignation or loss of office,

any payment referable to the employee's redundancy

any payment to the employee otherwise than in his capacity as an employee,

any payment in kind or benefit

any payment by way of tips or gratuities

TIPS AND GRATUITIES

An Employer must distribute all tips and gratuities received by a electronic mode of payment

Within 10 days of distributing the tips and gratuities, the Employer must provide the Employee with a statement outlining the total amount received and the amount distributed to that Employee

Before establishing a policy or changing a policy in relation to this provision, the Employer must consult with the Employees affected

An employer shall not retain any any share of the tips and gratuities received unless they regularly perform a substantial degree of the same work and the share they retain is fair and reasonable

FAIR AND REASONABLE

The considerations for what is fair and reasonable is set out in the Act:

- the seniority or experience of the employee,

- the value of sales, income or revenue generated for the business by the employee,

- the proportion or number of hours worked by the employee during the pay period in which the tip or gratuity was made,

- whether the employee is on a full-time or part-time contract of employment,

- the role and influence of the employee in providing service to customers,

- whether the employee was consulted in relation to the manner of distribution, and

- whether there is an agreement, whether formal or informal, between the employer and the employee providing for the manner in which tips or gratuities are to be distributed.

DEDUCTIONS

An Employer must not deduct from an Employee's tips and gratuities unless it is in accordance with Section 5(1) or is to extent that is fair and reasonable to meet the costs of payment by electronic modes of payment

SERVICE CHARGE AND NOTICE

Where an employer imposes a mandatory service charge on a customer, the employer must treat all payments (however received) as a tip or gratuity.

Employers must display a notice in their premises stating whether all tips and gratuities are distributed to staff, whether service charges are distributed to staff and the manner in which both tips and service charges are distributed.

NATIONAL MINIMUM WAGE ACT 2000

To determine an employee's rate of pay, a calculation of the employee's hourly reckonable pay for their working hours in their pay reference period must be completed

Reckonable Pay is set out in Schedule 1 of the Act and states:

- ✓ Basic Salary
- ✓ Shift Premiums
- ✓ Piece and incentive rates, productivity related commission and bonuses
- ✓ The monetary value of Board and Lodgings
- ✓ S. 18 of OWTA 1997 payments

NATIONAL MINIMUM WAGE ACT 2000

Working Hours is defined in Section 8 of the Act and states:

- ✓ The hours worked by the employee (from their contract, collective agreement, banded hours etc) including overtime, training or travelling for work
- ✓ Not including time on stand by / call, annual leave, sick leave, protective leave, lay off, strike or industrial action

NATIONAL MINIMUM WAGE ACT 2000

Pay Reference Period is defined in Section 10 of the Act and states:

✓ Determined by the Employer and must not exceed one month

COMPLAINTS

Complaint must be lodged within 6 months to the Workplace Relations Commission

Can be appealed to the Labour Court within 42 days

The Payment of Wages Act 1991 can award compensation (if any) not exceeding twice the amount the employee received the week immediately proceeding the deduction.

For the Minimum Wage Act 2000, a pay statement must be requested from the Employer first under s.23 of the Act. The 6 months starts to run when this is received / refused.

The Minimum Wage Act 2000 allows for the WRC / LC to grant the payment in arrears and / or compensation for expenses incurred and to rectify the situation going forward.

www.siptucollege.ie