
Status: Point in time view as at 03/10/2022.

Changes to legislation: *The Employment Rights (Northern Ireland) Order 1996, Cross Heading: Ante-natal care is up to date with all changes known to be in force on or before 08 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

STATUTORY INSTRUMENTS

1996 No. 1919

The Employment Rights (Northern Ireland) Order 1996

PART VII

TIME OFF WORK

Ante-natal care

Right to time off for ante-natal care

83.—(1) An employee who—

- (a) is pregnant, and
- (b) has, on the advice of a registered medical practitioner, registered midwife or registered health visitor, made an appointment to attend at any place for the purpose of receiving ante-natal care,

is entitled to be permitted by her employer to take time off during the employee's working hours in order to enable her to keep the appointment.

(2) An employee is not entitled to take time off under this Article to keep an appointment unless, if her employer requests her to do so, she produces for his inspection—

- (a) a certificate from a registered medical practitioner, registered midwife or registered health visitor stating that the employee is pregnant, and
- (b) an appointment card or some other document showing that the appointment has been made.

(3) Paragraph (2) does not apply where the employee's appointment is the first appointment during her pregnancy for which she seeks permission to take time off in accordance with paragraph (1).

(4) For the purposes of this Article the working hours of an employee shall be taken to be any time when, in accordance with her contract of employment, the employee is required to be at work.

Right to remuneration for time off under Article 83

84.—(1) An employee who is permitted to Article 83 is entitled to be paid remuneration by period of absence at the appropriate hourly rate. take time off under her employer for the

(2) The appropriate hourly rate, in relation to an employee, is the amount of one week's pay divided by the number of normal working hours in a week for that employee when employed under the contract of employment in force on the day when the time off is taken.

(3) But where the number of normal working hours differs from week to week or over a longer period, the amount of one week's pay shall be divided instead by—

- (a) the average number of normal working hours calculated by dividing by twelve the total number of the employee's normal working hours during the period of twelve weeks ending with the last complete week before the day on which the time off is taken, or

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- (b) where the employee has not been employed for a sufficient period to enable the calculation to be made under sub-paragraph (a), a number which fairly represents the number of normal working hours in a week having regard to such of the considerations specified in paragraph (4) as are appropriate in the circumstances.
- (4) The considerations referred to in paragraph (3)(b) are—
 - (a) the average number of normal working hours in a week which the employee could expect in accordance with the terms of her contract, and
 - (b) the average number of normal working hours of other employees engaged in relevant comparable employment with the same employer.
- (5) A right to any amount under paragraph (1) does not affect any right of an employee in relation to remuneration under her contract of employment (“contractual remuneration”).
- (6) Any contractual remuneration paid to an employee in respect of a period of time off under Article 83 goes towards discharging any liability of the employer to pay remuneration under paragraph (1) in respect of that period; and, conversely, any payment of remuneration under paragraph (1) in respect of a period goes towards discharging any liability of the employer to pay contractual remuneration in respect of that period.

Complaints to industrial tribunals

- 85.**—(1) An employee may present a complaint to an industrial tribunal that her employer—
- (a) has unreasonably refused to permit her to take time off as required by Article 83, or
 - (b) has failed to pay the whole or any part of any amount to which the employee is entitled under Article 84.
- (2) An industrial tribunal shall not consider a complaint under this Article unless it is presented—
- (a) before the end of the period of three months beginning with the date of the appointment concerned, or
 - (b) within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented before the end of that period of three months.

[^{F1}(2A) Article 249B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (2)(a).]

(3) Where an industrial tribunal finds a complaint under this Article well-founded, the tribunal shall make a declaration to that effect.

(4) If the complaint is that the employer has unreasonably refused to permit the employee to take time off, the tribunal shall also order the employer to pay to the employee [^{F2}an amount that is twice the amount of] the remuneration to which she would have been entitled under Article 84 if the employer had not refused.

(5) If the complaint is that the employer has failed to pay the employee the whole or part of any amount to which she is entitled under Article 84, the tribunal shall also order the employer to pay to the employee the amount which it finds due to her.

F1 Art. 85(2A) inserted (27.1.2020) by Employment Act (Northern Ireland) 2016 (c. 15), s. 29(2), Sch. 2 para. 21; S.R. 2020/1, art. 2(n)

F2 Words in art. 85(4) substituted (15.3.2015) by Work and Families Act (Northern Ireland) 2015 (c. 1), ss. 16(2), 23(1); S.R. 2015/86, art. 3(1)(m) (with art. 6(2))

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