
STATUTORY INSTRUMENTS

1996 No. 1919

The Employment Rights (Northern Ireland) Order 1996

PART VIII

SUSPENSION FROM WORK

General

Calculation of remuneration

101.—(1) The amount of remuneration payable by an employer to an employee under Article 96 or 100 is a week's pay in respect of each week of the period of suspension; and if in any week remuneration is payable in respect of only part of that week the amount of a week's pay shall be reduced proportionately.

(2) A right to remuneration under Article 96 or 100 does not affect any right of an employee in relation to remuneration under the employee's contract of employment ("contractual remuneration").

(3) Any contractual remuneration paid by an employer to an employee in respect of any period goes towards discharging the employer's liability under Article 96 or 100 in respect of that period; and, conversely, any payment of remuneration in discharge of an employer's liability under Article 96 or 100 in respect of any period goes towards discharging any obligation of the employer to pay contractual remuneration in respect of that period.

Complaints to industrial tribunals

102.—(1) An employee may present a complaint to an industrial tribunal that his or her employer has failed to pay the whole or any part of remuneration to which the employee is entitled under Article 96 or 100.

(2) An industrial tribunal shall not consider a complaint under paragraph (1) relating to remuneration in respect of any day unless it is presented—

- (a) before the end of the period of three months beginning with that day, 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 within that period of three months.

(3) Where an industrial tribunal finds a complaint under paragraph (1) well-founded, the tribunal shall order the employer to pay the employee the amount of remuneration which it finds is due to him or her.

(4) An employee may present a complaint to an industrial tribunal that in contravention of Article 99 her employer has failed to offer to provide her with work.

(5) An industrial tribunal shall not consider a complaint under paragraph (4) unless it is presented—

- (a) before the end of the period of three months beginning with the first day of the suspension, 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 within that period of three months.
- (6) Where an industrial tribunal finds a complaint under paragraph (4) well-founded, the tribunal may make an award of compensation to be paid by the employer to the employee.
- (7) The amount of the compensation shall be such as the tribunal considers just and equitable in all the circumstances having regard
- (a) the infringement of the employee's right under Article 99 by the failure on the part of the employer to which the complaint relates, and
 - (b) any loss sustained by the employee which is attributable to that failure.