
STATUTORY RULES OF NORTHERN IRELAND

2008 No. 159

**The Sex Discrimination Order 1976 (Amendment)
Regulations (Northern Ireland) 2008**

Exception relating to terms and conditions during maternity leave

5.—(1) For Article 8A of the 1976 Order⁽¹⁾ (exception relating to terms and conditions during maternity leave) substitute—

“Exception relating to terms and conditions during maternity leave

8A.—(1) Subject to paragraph (2), Article 8(1)(b) and (2) does not make it unlawful to deprive a woman who is on maternity leave of any benefit from the terms and conditions of her employment relating to remuneration.

(2) The reference in paragraph (1) to benefit from the terms and conditions of a woman’s employment relating to remuneration does not include a reference to—

- (a) maternity-related remuneration (including maternity-related remuneration that is increase-related),
- (b) remuneration (including increase-related remuneration) in respect of times when the woman is not on maternity leave, or
- (c) remuneration by way of bonus in respect of times when a woman is on compulsory maternity leave.

(3) For the purposes of paragraph (2), remuneration is increase-related so far as it falls to be calculated by reference to increases in remuneration that the woman would have received had she not been on maternity leave.

(4) In this Article—

“maternity-related remuneration”, in relation to a woman, means remuneration to which she is entitled as a result of being pregnant or being on maternity leave;

“on compulsory maternity leave” means absent from work in consequence of the prohibition in Article 104(1) of the Employment Rights (Northern Ireland) Order 1996⁽²⁾;

“on maternity leave” means—

- (a) on compulsory maternity leave,
- (b) absent from work in exercise of the right conferred by Article 103(1) of the Employment Rights (Northern Ireland) Order 1996 (ordinary maternity leave), or
- (c) absent from work in exercise of the right conferred by Article 105(1) of that Order (additional maternity leave); and

“remuneration” means benefits—

- (a) that consist of the payment of money to an employee by way of wages or salary, and

(1) Article 8A was inserted by regulation 8 of S.R. 2005 No. 426

(2) S.I. 1996/1919 (N.I. 16)

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- (b) that are not benefits whose provision is regulated by the employee's contract of employment.”.