
STATUTORY RULES OF NORTHERN IRELAND

2020 No. 178

The Employment Rights (Northern Ireland)
Order 1996 (Coronavirus, Calculation of a
Week's Pay) Regulations (Northern Ireland) 2020

PART 2

Calculation of a week's pay

Calculation of a week's pay in relation to furloughed employees

3.—(1) These Regulations prescribe the manner in which the amount of a week's pay⁽¹⁾ is to be calculated in the case of an employee who is, or has been, furloughed ("E"), subject to paragraph (2), where—

- (a) E is entitled pursuant to Article 81 or 82 of the 1996 Order to be paid remuneration for a period of absence to look for employment or arrange training as a result of a notice of dismissal given on or after the date on which E became furloughed, for the calculation of that remuneration under Part 7 of the 1996 Order,
- (b) E is entitled to payment pursuant to Article 120 or 121 of the 1996 Order as a result of a notice to terminate E's contract of employment given on or after the date on which E became furloughed, for the calculation of that payment under Part 10 of the 1996 Order,
- (c) E is entitled pursuant to Article 125 of the 1996 Order to be paid a sum as a result of a failure by their employer relating to the obligation to provide a written statement giving particulars of the reasons for E's dismissal, and the notice to terminate E's contract of employment was given or (if the dismissal was without notice) the date of termination was on or after the date on which E became furloughed, for the calculation of that sum under Part 10 of the 1996 Order,
- (d) E is entitled pursuant to Article 151 of the 1996 Order to be paid an additional award of compensation as a result of a failure by their employer to comply with an order for reinstatement or re-engagement, and the notice to terminate E's contract of employment was given or (if the dismissal was without notice) the date of termination was on or after the date on which E became furloughed, for the calculation of that additional award under Part 11 of the 1996 Order,
- (e) E is entitled to an award of compensation for unfair dismissal calculated in accordance with Articles 152 to 160 of the 1996 Order, and the notice to terminate E's contract of employment was given or (if the dismissal was without notice) the date of termination was on or after the date on which E became furloughed, for the calculation of that award under Part 11 of the 1996 Order,
- (f) E is entitled to a redundancy payment under Part 12 of the 1996 Order, and the notice to terminate E's contract of employment was given or (if the dismissal was without notice)

(1) See Article 2(3) of the 1996 Order for the definition of a "week".

the date of termination was on or after the date on which E became furloughed, for the calculation of that redundancy payment under Part 12 of the 1996 Order, and

- (g) E may be eligible for a redundancy payment in accordance with Article 183 of the 1996 Order by reason of being laid off or kept on short-time on or after the date on which E became furloughed, for the assessment of whether E is to be taken to be kept on short-time in accordance with Article 182(2) of the 1996 Order.

(2) These Regulations only apply—

- (a) in a case where regulation 4 applies, where the calculation date is on or before 31st October 2020(2); or
- (b) in a case where regulation 5, 6 or 8 applies, where the relevant period, within the meaning given in regulation 5, 6 or 8 (as the case may be) includes a week when E was furloughed.

(3) For the purposes of paragraph (1), “the date of termination” means the date on which termination of E’s contract of employment takes effect.

(2) By virtue of paragraph 40(a) of the Schedule to the third CJRS Direction, the last date in respect of which a claim under the Coronavirus Job Retention Scheme can be made is 31st October 2020.