



# Employment Rights Act 1996

## 1996 CHAPTER 18

### PART VI

#### TIME OFF WORK

##### *Ante-natal care*

#### **55 Right to time off for ante-natal care.**

- (1) An employee who—
  - (a) is pregnant, and
  - (b) has, on the advice of a registered medical practitioner, registered midwife or [<sup>F1</sup>registered nurse], 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 section 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 [<sup>F1</sup>registered nurse] stating that the employee is pregnant, and
  - (b) an appointment card or some other document showing that the appointment has been made.
- (3) Subsection (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 subsection (1).
- (4) For the purposes of this section 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.

[<sup>F2</sup>(5) References in this section to a registered nurse are to such a nurse—

*Status: Point in time view as at 06/04/2010.*

*Changes to legislation: Employment Rights Act 1996, Cross Heading: Ante-natal care is up to date with all changes known to be in force on or before 10 June 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)*

- (a) who is also registered in the Specialist Community Public Health Nurses' Part of the register maintained under article 5 of the Nursing and Midwifery Order 2001, and
- (b) whose entry in that Part of the register is annotated to show that he holds a qualification in health visiting.]

#### Textual Amendments

- F1** Words in s. 55(1)(b)(2)(a) substituted by [The Nursing and Midwifery Order 2001 \(S.I. 2002/253\)](#), art. 54, **Sch. 5 para. 13** (with art. 3(18)) (the amendment coming into force in accordance with art. 1(2)(3) of the amending S.I.)
- F2** S. 55(5) added (1.8.2004) by [The Health Act 1999 \(Consequential Amendments\) \(Nursing and Midwifery\) Order 2004 \(S.I. 2004/1771\)](#), arts. 1(1), 3, **Sch. para. 3**

## 56 Right to remuneration for time off under section 55.

- (1) An employee who is permitted to take time off under section 55 is entitled to be paid remuneration by her employer for the period of absence at the appropriate hourly rate.
- (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
  - (b) where the employee has not been employed for a sufficient period to enable the calculation to be made under 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 subsection (4) as are appropriate in the circumstances.
- (4) The considerations referred to in subsection (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 subsection (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 section 55 goes towards discharging any liability of the employer to pay remuneration under subsection (1) in respect of that period; and, conversely, any payment of remuneration under subsection (1) in respect of a period goes towards discharging any liability of the employer to pay contractual remuneration in respect of that period.

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## 57 Complaints to [F3 employment tribunals].

- (1) An employee may present a complaint to an [F3 employment tribunal] that her employer—
  - (a) has unreasonably refused to permit her to take time off as required by section 55, or
  - (b) has failed to pay the whole or any part of any amount to which the employee is entitled under section 56.
- (2) An [F3 employment tribunal] shall not consider a complaint under this section 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.
- (3) Where an [F3 employment tribunal] finds a complaint under this section 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 an amount equal to the remuneration to which she would have been entitled under section 56 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 section 56, the tribunal shall also order the employer to pay to the employee the amount which it finds due to her.

### Textual Amendments

**F3** Words in s. 57(1)-(3) and sidenote to s. 57 substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a)(b) (with s. 16(2)); S.I. 1998/1658, art. 2(1), Sch. 1

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