



# Employment Rights Act 1996

## 1996 CHAPTER 18

### PART III

#### GUARANTEE PAYMENTS

#### **31 Limits on amount of and entitlement to guarantee payment.**

- (1) The amount of a guarantee payment payable to an employee in respect of any day shall not exceed [<sup>F1</sup>£22.20].
- (2) An employee is not entitled to guarantee payments in respect of more than the specified number of days in any period of three months.
- (3) The specified number of days for the purposes of subsection (2) is the number of days, not exceeding five, on which the employee normally works in a week under the contract of employment in force on the day in respect of which the guarantee payment is claimed.
- (4) But where that number of days varies from week to week or over a longer period, the specified number of days is instead—
  - (a) the average number of such days, not exceeding five, calculated by dividing by twelve the total number of such days during the period of twelve weeks ending with the last complete week before the day in respect of which the guarantee payment is claimed, and rounding up the resulting figure to the next whole number, 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 the employee's normal working days in a week, not exceeding five, having regard to such of the considerations specified in subsection (5) as are appropriate in the circumstances.
- (5) The considerations referred to in subsection (4)(b) are—
  - (a) the average number of normal working days in a week which the employee could expect in accordance with the terms of his contract, and

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*Status: Point in time view as at 01/02/2011. This version of this provision has been superseded.*

*Changes to legislation: Employment Rights Act 1996, Section 31 is up to date with all changes known to be in force on or before 13 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)*

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- (b) the average number of such days of other employees engaged in relevant comparable employment with the same employer.
- (6) If in any case an employee's contract has been varied, or a new contract has been entered into, in connection with a period of short-time working, subsections (3) and (4) have effect as if for the references to the day in respect of which the guarantee payment is claimed there were substituted references to the last day on which the original contract was in force.
- [<sup>F2</sup>(7) The Secretary of State may by order vary—
- (a) the length of the period specified in subsection (2);
  - (b) a limit specified in subsection (3) or (4).]

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**Textual Amendments**

**F1** Words in s. 31(1) substituted (1.2.2011) by [The Employment Rights \(Increase of Limits\) Order 2010 \(S.I. 2010/2926\)](#), art. 3, [Sch.](#) (with art. 4)

**F2** S. 31(7) substituted (25.10.1999) by [1999 c. 26, s. 35](#); [S.I. 1999/2830](#), art. 2(1), [Sch. 1 Pt. I](#)

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**Modifications etc. (not altering text)**

**C1** S. 31(1): power to amend conferred (17.12.1999) by [1999 c. 26, s. 34\(1\)\(a\)](#); [S.I. 1999/3374](#), [art. 2\(a\)](#) (with art. 3)

**Status:**

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