



Employment Rights Act 1996

1996 CHAPTER 18

PART VI

TIME OFF WORK

Occupational pension scheme trustees

59 Right to payment for time off under section 58.

- (1) An employer who permits an employee to take time off under section 58 shall pay him for the time taken off pursuant to the permission.
- (2) Where the employee's remuneration for the work he would ordinarily have been doing during that time does not vary with the amount of work done, he must be paid as if he had worked at that work for the whole of that time.
- (3) Where the employee's remuneration for the work he would ordinarily have been doing during that time varies with the amount of work done, he must be paid an amount calculated by reference to the average hourly earnings for that work.
- (4) The average hourly earnings mentioned in subsection (3) are—
 - (a) those of the employee concerned, or
 - (b) if no fair estimate can be made of those earnings, the average hourly earnings for work of that description of persons in comparable employment with the same employer or, if there are no such persons, a figure of average hourly earnings which is reasonable in the circumstances.
- (5) A right to be paid an amount under subsection (1) does not affect any right of an employee in relation to remuneration under his contract of employment ("contractual remuneration").
- (6) Any contractual remuneration paid to an employee in respect of a period of time off under section 58 goes towards discharging any liability of the employer under subsection (1) in respect of that period; and, conversely, any payment under

Status: Point in time view as at 06/10/1996.

Changes to legislation: Employment Rights Act 1996, Section 59 is up to date with all changes known to be in force on or before 18 July 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)

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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Commencement Information

II S. 59 wholly in force at 6.10.1996, see Sch. 2 para. 15(1) and [S.I. 1996/2514](#), **art. 2**

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