
STATUTORY INSTRUMENTS

1996 No. 1919

The Employment Rights (Northern Ireland) Order 1996

PART VII

TIME OFF WORK

[^{F1}Accompanying to ante-natal appointments

[^{F1}Complaint to industrial tribunal

85ZF.—(1) An employee may present a complaint to an industrial tribunal that his or her employer has unreasonably refused to let him or her take time off as required by Article 85ZE.

- (2) An industrial tribunal may not consider a complaint under this Article unless it is presented—
- (a) before the end of the period of three months beginning with the day of the appointment in question, 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.

[
^{F2}(2A) Article 249B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (2)(a).]

- (3) Where an industrial tribunal finds a complaint under paragraph (1) well-founded, it—
- (a) must make a declaration to that effect, and
 - (b) must order the employer to pay to the employee an amount determined in accordance with paragraph (4).
- (4) The amount payable to the employee is—

where—

- a A is the appropriate hourly rate for the employee, and
- b B is the number of working hours for which the employee would have been entitled under Article 85ZE to be absent if the time off had not been refused.

(5) 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 would have been taken.

(6) 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 is to 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 would have been taken, or

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- (b) where the employee has not been employed for a sufficient period to enable the calculation to be made under sub-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 paragraph (7) as are appropriate in the circumstances.
- (7) The considerations referred to in paragraph (6)(b) are—
 - (a) the average number of normal working hours in a week which the employee could expect in accordance with the terms of the employee's contract, and
 - (b) the average number of normal working hours of other employees engaged in relevant comparable employment with the same employer.]

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| <p>F1 Arts. 85ZE-85ZI and cross-headings inserted (15.3.2015) by Work and Families Act (Northern Ireland) 2015 (c. 1), ss. 15(2), 23(1); S.R. 2015/86, art. 3(1)(1)</p> <p>F2 Art. 85ZF(2A) inserted (27.1.2020) by Employment Act (Northern Ireland) 2016 (c. 15), s. 29(2), Sch. 2 para. 23; S.R. 2020/1, art. 2(n)</p> |
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Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

- Act applied with modifications by [S.R. 2023/156 reg. 15](#)

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Pt. 7A inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 1](#)
- Ch. 5 inserted by [2022 c. 27 \(N.I.\) s. 1\(1\)](#)
- art. 21(4B) inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 2](#)
- art. 23(1)(zza) inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 3](#)
- art. 70F inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 4](#)
- art. 70G inserted by [2020 c. 7 Sch. 7 para. 20](#)
- art. 71(1C) inserted by [2020 c. 7 Sch. 7 para. 21\(a\)](#)
- art. 72(8) inserted by [2020 c. 7 Sch. 7 para. 22\(b\)](#)
- art. 85ZS(3)(a)-(c) substituted for words by [2022 c. 18 \(N.I.\) Sch. 3 para. 47\(4\)](#)
- art. 95F(5A) inserted by [2016 c. 15 \(N.I.\) Sch. 2 para. 32](#)
- art. 135E inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 6](#)
- art. 135G inserted by [2020 c. 7 Sch. 7 para. 25](#)
- art. 137(6D) inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 7](#)
- art. 137(7N) inserted by [2020 c. 7 Sch. 7 para. 26\(b\)](#)
- art. 140(3)(fj) inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 8](#)
- art. 140(3)(fl) inserted by [2020 c. 7 Sch. 7 para. 27](#)
- art. 143(2)(ddd) inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 9](#)
- art. 144(2)(ddd) inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 10](#)