
STATUTORY INSTRUMENTS

1996 No. 1919

The Employment Rights (Northern Ireland) Order 1996

PART VII

TIME OFF WORK

[^{F1}Accompanying to ante-natal appointments: agency workers

[^{F1}Complaint to industrial tribunal: agency workers

85ZH.—(1) An agency worker may present a complaint to an industrial tribunal that the temporary work agency has unreasonably refused to let him or her take time off as required by Article 85ZG.

(2) An agency worker may present a complaint to an industrial tribunal that the hirer has unreasonably refused to let him or her take time off as required by Article 85ZG.

(3) An industrial tribunal may not consider a complaint under paragraph (1) or (2) 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}(3A) Article 249B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (3)(a).]

(4) Where an industrial tribunal finds a complaint under paragraph (1) or (2) well-founded, it—

- (a) must make a declaration to that effect, and
- (b) must order the payment to the agency worker of an amount determined in accordance with paragraph (6).

(5) Where the tribunal orders that payment under paragraph (4) be made by the temporary work agency and the hirer, the proportion of that amount payable by each respondent is to be such as may be found by the tribunal to be just and equitable having regard to the extent of each respondent's responsibility for the infringement to which the complaint relates.

(6) The amount payable to the agency worker is—

where—

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

Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Employment Rights (Northern Ireland) Order 1996. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(7) The appropriate hourly rate, in relation to an agency worker, is the amount of one week's pay divided by the number of normal working hours in a week for that agency worker in accordance with the terms under which the agency worker works temporarily for and under the supervision and direction of the hirer that are in force on the day when the time off would have been taken.

(8) But where the number of normal working hours during the assignment differs from week to week or over a longer period, the amount of one week's pay is to be divided instead by the average number of normal working hours calculated by dividing by twelve the total number of the agency worker'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.]

- | |
|---|
| <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. 85ZH(3A) inserted (27.1.2020) by Employment Act (Northern Ireland) 2016 (c. 15), s. 29(2), Sch. 2 para. 24; S.R. 2020/1, art. 2(n)</p> |
|---|

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Employment Rights (Northern Ireland) Order 1996. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

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](#)