
STATUTORY RULES OF NORTHERN IRELAND

2016 No. 49

The Working Time Regulations (Northern Ireland) 2016

PART 2

Rights and Obligations Concerning Working Time

Payment in respect of periods of leave

20.—(1) A worker is entitled to be paid in respect of any period of annual leave to which the worker is entitled under regulation 15 and regulation 16, at the rate of a week's pay in respect of each week of leave.

(2) Articles 17 to 20 of the 1996 Order shall apply for the purpose of determining the amount of a week's pay for the purposes of this regulation, subject to the modifications set out in paragraph (3) [^{F1}and the supplementary provisions in paragraphs (3A) to (3G)].

(3) The provisions referred to in paragraph (2) shall apply—

- (a) as if references to the employee were references to the worker;
- (b) as if references to the employee's contract of employment were references to the worker's contract;
- (c) as if the calculation date were the first day of the period of leave in question; ^{F2}...
- (d) as if the references to Articles 23 and 24 did not apply [^{F3}; and]

[^{F4}(e) as if, in the case of entitlement under regulation 13, Articles 5 and 19(3) did not apply.]

[^{F5}(3A) In the case of entitlement under regulation 15 the following types of payments are to be included when determining the amount of a week's pay for the purposes of this regulation—

- (a) payments, including commission payments, which are intrinsically linked to the performance of tasks which a worker is obliged to carry out under the terms of their contract;
- (b) payments for professional or personal status relating to length of service, seniority or professional qualifications;
- (c) other payments, such as overtime payments, which have been regularly paid to a worker in the 12 weeks preceding the calculation date.

(3B) To the extent that the types of payment mentioned in paragraph (3A) would not otherwise be accounted for in a calculation of a week's pay under Articles 17 to 20 of the 1996 Order (as those Articles apply for the purposes of this regulation), those types of payment are to be included by calculating the average weekly amount of those payments payable in the relevant period and adding it to the amount of a week's pay arrived at under those Articles.

(3C) In the case of a worker who on the calculation date has been employed by their employer for less than 12 complete weeks, the "relevant period" is the number of complete weeks for which the worker has been employed.

(3D) In the case of a worker who on the calculation date has been employed by their employer for 12 or more complete weeks, the “relevant period” is the period of 12 weeks ending—

- (a) where the calculation date is the last day of the week, with that week, and
- (b) otherwise, with the last complete week before the calculation date.

(3E) In calculating the average weekly amount of payments for the purposes of (3B), no account is to be taken of any weeks during the relevant period in which—

- (a) no remuneration was payable to the worker; or
- (b) a worker was, for any amount of time, on sick leave or leave provided for in Part IX of the 1996 Order.

(3F) If, in a case falling within paragraph (3D), any weeks are discounted under paragraph (3E), earlier weeks shall be taken into account so as to bring the number of weeks to 12 (or as close to 12 as possible).

(3G) For the purposes of paragraph (3F) no account is to be taken of remuneration in weeks preceding the period of 24 weeks ending—

- (a) where the calculation date is the last day of a week, with that week, and
- (b) otherwise, with the last complete week before the calculation date.]

(4) A right to payment under paragraph (1) does not affect any right of a worker to remuneration under the worker's contract (“contractual remuneration”) (and paragraph (1) does not confer a right under that contract).

(5) Any contractual remuneration paid to a worker in respect of a period of leave goes towards discharging any liability of the employer to make payments under this regulation in respect of that period; and, conversely, any payment of remuneration under this regulation 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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| F1 | Words in reg. 20(2) inserted (1.1.2024) by The Working Time (Amendment) Regulations (Northern Ireland) 2023 (S.R. 2023/223) , regs. 1(2), 2(6)(a) |
| F2 | Word in reg. 20(3)(c) omitted (1.1.2024) by virtue of The Working Time (Amendment) Regulations (Northern Ireland) 2023 (S.R. 2023/223) , regs. 1(2), 2(6)(b)(i) |
| F3 | Word in reg. 20(3)(d) substituted (1.1.2024) by The Working Time (Amendment) Regulations (Northern Ireland) 2023 (S.R. 2023/223) , regs. 1(2), 2(6)(b)(ii) |
| F4 | Reg. 20(3)(e) inserted (1.1.2024) by The Working Time (Amendment) Regulations (Northern Ireland) 2023 (S.R. 2023/223) , regs. 1(2), 2(6)(b)(iii) |
| F5 | Reg. 20(3A)-(3G) inserted (1.1.2024) by The Working Time (Amendment) Regulations (Northern Ireland) 2023 (S.R. 2023/223) , regs. 1(2), 2(6)(c) |

Changes to legislation:

There are currently no known outstanding effects for the The Working Time Regulations (Northern Ireland) 2016, Section 20.