



# Employment Rights Act 1996

## 1996 CHAPTER 18

### PART IX

#### TERMINATION OF EMPLOYMENT

##### *Minimum period of notice*

#### **89 Employments without normal working hours.**

- (1) If an employee does not have normal working hours under the contract of employment in force in the period of notice, the employer is liable to pay the employee for each week of the period of notice a sum not less than a week's pay.
- (2) The employer's liability under this section is conditional on the employee being ready and willing to do work of a reasonable nature and amount to earn a week's pay.
- (3) Subsection (2) does not apply—
  - (a) in respect of any period during which the employee is incapable of work because of sickness or injury,
  - (b) in respect of any period during which the employee is absent from work wholly or partly because of pregnancy or childbirth [<sup>F1</sup>or on [<sup>F2</sup>adoption leave, [<sup>F3</sup>shared parental leave,][<sup>F4</sup>carer's leave,][<sup>F5</sup>parental bereavement leave,] parental leave or [<sup>F6</sup>paternity leave]]], or
  - (c) in respect of any period during which the employee is absent from work in accordance with the terms of his employment relating to holidays.
- (4) Any payment made to an employee by his employer in respect of a period within subsection (3) (whether by way of sick pay, statutory sick pay, maternity pay, statutory maternity pay, [<sup>F7</sup>paternity pay, [<sup>F8</sup>statutory paternity pay], adoption pay, statutory adoption pay,][<sup>F9</sup>shared parental pay, statutory shared parental pay,][<sup>F10</sup>parental bereavement pay, statutory parental bereavement pay,] holiday pay or otherwise) shall be taken into account for the purposes of this section as if it were remuneration paid by the employer in respect of that period.

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**Changes to legislation:** Employment Rights Act 1996, Section 89 is up to date with all changes known to be in force on or before 25 April 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) View outstanding changes

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- (5) Where notice was given by the employee, the employer's liability under this section does not arise unless and until the employee leaves the service of the employer in pursuance of the notice.

#### Textual Amendments

- F1** Words in s. 89(3)(b) inserted (15.12.1999) by 1999 c. 26, s. 9, **Sch. 4 Pt. III para. 11**; S.I. 1999/2830, art. 2(2), **Sch. 1 Pt. II** (with **Sch. 3 paras. 10, 11**)
- F2** Words in s. 89(3)(b) substituted (8.12.2002) by Employment Act 2002 (c. 22), s. 53, **Sch. 7 para. 30(2)**; S.I. 2002/2866, **art. 2(2)**, **Sch. 1 Pt. 2**
- F3** Words in s. 89(3)(b) inserted (1.12.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 38(2)(a)**; S.I. 2014/1640, art. 5(2)(m)
- F4** Words in s. 89(3)(b) inserted (4.12.2023) by Carer's Leave Act 2023 (c. 18), s. 3(3), **Sch. para. 7**; S.I. 2023/1283, reg. 2
- F5** Words in s. 89(3)(b) inserted (18.1.2020) by Parental Bereavement (Leave and Pay) Act 2018 (c. 24), s. 2(2), **Sch. para. 26(2)**; S.I. 2020/45, reg. 2
- F6** Words in s. 89(3)(b) substituted (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 38(2)(b)**; S.I. 2014/1640, art. 7(s) (with art. 16)
- F7** Words in s. 89(4) inserted (8.12.2002) by Employment Act 2002 (c. 22), s. 53, **Sch. 7 para. 30(3)**; S.I. 2002/2866, **art. 2(2)**, **Sch. 1 Pt. 2**
- F8** Words in s. 89(4) substituted (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 38(3)(a)**; S.I. 2014/1640, art. 7(s) (with art. 16)
- F9** Words in s. 89(4) inserted (1.12.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 7 para. 38(3)(b)**; S.I. 2014/1640, art. 5(2)(m)
- F10** Words in s. 89(4) inserted (18.1.2020) by Parental Bereavement (Leave and Pay) Act 2018 (c. 24), s. 2(2), **Sch. para. 26(3)**; S.I. 2020/45, reg. 2

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**Changes and effects yet to be applied to :**

- s. 89(3)(b) words inserted by [2020 c. 7 Sch. 7 para. 13](#)
- s. 89(3)(b) words inserted by [2023 c. 20 Sch. para. 27\(2\)](#)
- s. 89(4) words inserted by [2023 c. 20 Sch. para. 27\(3\)](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

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

- Pt. 8 Ch. 5 inserted by [2023 c. 20 Sch. para. 2](#)
- Pt. 8A Ch. 1 heading inserted by [2023 c. 46 s. 1\(3\)](#)
- Pt. 8A Ch. 2 inserted by [2023 c. 46 s. 1\(4\)](#)
- Pt. 8A Ch. 3 inserted by [2023 c. 46 s. 2](#)
- Pt. 8A Ch. 4 inserted by [2023 c. 46 s. 3\(2\)](#)
- s. 43K(1)(ca) and word omitted by [2013 c. 24 s. 20\(5\)](#) (This amendment not applied to [legislation.gov.uk](#). The insertion of s. 43K(1)(ba) by S.I. 2006/1056, Sch. para. 7 is to come into force on the day on which 2005 asp 13, s. 20 comes into force and that provision has never been brought into force)
- s. 43K(2)(ba) omitted by [2013 c. 24 s. 20\(6\)](#) (This amendment not applied to [legislation.gov.uk](#). The insertion of s. 43K(1)(ba) by S.I. 2006/1056, Sch. para. 7 is to come into force on the day on which 2005 asp 13, s. 20 comes into force and that provision has never been brought into force)
- s. 47C(2)(cc) inserted by [2023 c. 20 Sch. para. 22](#)
- s. 47H inserted by [2020 c. 7 Sch. 7 para. 9](#)
- s. 47AA inserted by [2008 c. 25 s. 37](#)
- s. 47EA inserted by [2023 c. 46 Sch. para. 4](#)
- s. 47EB inserted by [2023 c. 46 Sch. para. 5](#)
- s. 48(1C) inserted by [2020 c. 7 Sch. 7 para. 10\(a\)](#)
- s. 48(1C) inserted by [2023 c. 46 Sch. para. 6\(2\)](#)
- s. 48(1D) inserted by [2023 c. 46 Sch. para. 6\(3\)](#)
- s. 49(8) inserted by [2020 c. 7 Sch. 7 para. 11\(b\)](#)
- s. 49(8) inserted by [2023 c. 46 Sch. para. 7\(4\)](#)
- s. 49C inserted by [2017 c. 16 s. 32\(4\)](#)
- s. 75I(3)(g) and word inserted by [2023 c. 20 Sch. para. 23\(b\)](#)
- s. 80C(2)(bc) inserted by [2023 c. 20 Sch. para. 24\(2\)](#)
- s. 80C(4)(bc) inserted by [2023 c. 20 Sch. para. 24\(3\)](#)
- s. 80EB(2)(f) and word inserted by [2023 c. 20 Sch. para. 25\(b\)](#)
- s. 99(3)(cc) inserted by [2023 c. 20 Sch. para. 28](#)
- s. 101B inserted by [2008 c. 25 s. 38](#)
- s. 104H inserted by [2020 c. 7 Sch. 7 para. 14](#)
- s. 104CA inserted by [2023 c. 46 Sch. para. 9](#)
- s. 105(4B) inserted by [2008 c. 25 s. 39\(3\)](#)
- s. 105(7BC) inserted by [2020 c. 7 Sch. 7 para. 15](#)
- s. 105(7BAA) inserted by [2023 c. 46 Sch. para. 10](#)
- s. 108(3)(gia) inserted by [2023 c. 46 Sch. para. 11](#)
- s. 108(3)(de) inserted by [2008 c. 25 s. 39\(4\)](#)
- s. 108(3)(gn) inserted by [2020 c. 7 Sch. 7 para. 16](#)
- s. 110(3A) inserted by [2002 c. 22 s. 44](#)
- s. 163(6) inserted by [2022 c. 35 Sch. 5 para. 27](#)
- s. 205A(2)(ba) inserted by [2023 c. 46 Sch. para. 16\(2\)](#)

- s. 205A(8A) inserted by [2023 c. 46 Sch. para. 16\(3\)](#)
- s. 225(7)(8) inserted by [2023 c. 46 Sch. para. 17](#)
- s. 227(1)(zb)(zc) inserted by [2023 c. 46 Sch. para. 18](#)