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STATUTORY INSTRUMENTS

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**1996 No. 1919**

**The Employment Rights (Northern Ireland) Order 1996**

PART I

INTRODUCTORY AND INTERPRETATION

CHAPTER IV

A WEEK'S PAY

*The calculation date*

**Rights during employment**

21.—(1) Where the calculation is for the purposes of Article 62, the calculation date is—

- (a) where the employee's contract has been varied, or a new contract entered into, in connection with a period of short-time working, the last day on which the original contract was in force, and
- (b) otherwise, the day in respect of which the guarantee payment is payable.

(2) Where the calculation is for the purposes of Article 81 or 82, the calculation date is the day on which the employer's notice was given.

(3) Where the calculation is for the purposes of Article 84, the calculation date is the day of the appointment.

[<sup>F1</sup>(3A) Where the calculation is for the purposes of Article 85ZF, the calculation date is the day of the appointment.]

[<sup>F2</sup>(3B) Where the calculation is for the purposes of Article 85ZK or 85ZM, the calculation date is the day of the appointment.]

(4) Where the calculation is for the purposes of Article 90, the calculation date is the day on which the time off was taken or on which it is alleged the time off should have been permitted.

[<sup>F3</sup>(4A) Where the calculation is for the purposes of Article 91B, the calculation date is the day on which the time off was taken or on which it is alleged the time off should have been permitted.]

(5) Where the calculation is for the purposes of Article 101—

- (a) in the case of an employee suspended on medical grounds, the calculation date is the day before that on which the suspension begins, and
- (b) in the case of an employee suspended on maternity grounds, the calculation date is—

[<sup>F4</sup>(i)] [<sup>F4</sup>where the day before that on which the suspension begins falls during a period of ordinary or additional maternity leave, the day before the beginning of that period,] and

(ii) otherwise, the day before that on which the suspension begins.

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[<sup>F5</sup>(6) Where the calculation is for the purposes of Article 112I, the calculation date is the day on which the application under Article 112F was made.]

- F1** Art. 21(3A) inserted (15.3.2015) by [Work and Families Act \(Northern Ireland\) 2015 \(c. 1\), ss. 15\(3\), 23\(1\)](#); S.R. 2015/86, art. 3(1)(l)
- F2** Art. 21(3B) inserted (5.4.2015) by [Work and Families Act \(Northern Ireland\) 2015 \(c. 1\), ss. 17\(3\), 23\(1\)](#); S.R. 2015/86, art. 4(1)(e)
- F3** 1998 NI 15
- F4** 1999 NI 9
- F5** 2002 NI 2

**Modifications etc. (not altering text)**

- C1** Arts. 16-24 applied (6.4.2006) by [Transfer of Undertakings \(Protection of Employment\) Regulations 2006 \(S.I. 2006/246\), regs. 2\(3\), 16\(4\), Sch. 1 para. 11](#) (with reg. 21(1)(5), Sch. 1 para. 3)
- C2** Arts. 16-24 applied (6.4.2006) by [Service Provision Change \(Protection of Employment\) Regulations \(Northern Ireland\) 2006 \(S.R. 2006/177\), reg. 16\(4\)](#)

**Rights on termination**

**22.**—(1) Where the calculation is for the purposes of Article 120 or 121, the calculation date is the day immediately preceding the first day of the period of notice required by Article 118(1) or (2).

- (2) Where the calculation is for the purposes of Article 125, 151 or 159, the calculation date is—
- (a) if the dismissal was with notice, the date on which the employer's notice was given, and
  - (b) otherwise, the effective date of termination.

(3) Where the calculation is for the purposes of Article [<sup>F6</sup> 146, 153, 154 or 155] the calculation date is—

*Sub#para. (a) rep. by 1999 NI 9*

- (b) if by virtue of paragraph (2) or (4) of Article 129 a date later than the effective date of termination as defined in paragraph (1) of that Article is to be treated for certain purposes as the effective date of termination, the effective date of termination as so defined, and
- (c) otherwise, the date specified in paragraph (6).

(4) Where the calculation is for the purposes of Article 182(2), the calculation date is the day immediately preceding the first of the four, or six, weeks referred to in Article 183(2).

(5) Where the calculation is for the purposes of Article 197, the calculation date is—

*Sub#para. (a) rep. by 1999 NI 9*

- (b) if by virtue of paragraph (5) of Article 180 a date is to be treated for certain purposes as the relevant date which is later than the relevant date as defined by the previous provisions of that Article, the relevant date as so defined, and
- (c) otherwise, the date specified in paragraph (6).

(6) The date referred to in paragraphs (3)(c) and (5)(c) is the date on which notice would have been given had—

- (a) the contract been terminable by notice and been terminated by the employer giving such notice as is required by Article 118 to terminate the contract, and
- (b) the notice expired on the effective date of termination, or the relevant date,

(whether or not those conditions were in fact fulfilled).

(7) Where the calculation is for the purposes of Article 218, the calculation date is the date on which the protective award was made or, in the case of an employee who was dismissed before

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the date on which the protective award was made, the date which by virtue of paragraph (5) is the calculation date for the purpose of computing the amount of a redundancy payment in relation to that dismissal (whether or not the employee concerned is entitled to any such payment).

**F6** 2003 NI 15

**Modifications etc. (not altering text)**

- C3** Arts. 16-24 applied (6.4.2006) by [Transfer of Undertakings \(Protection of Employment\) Regulations 2006 \(S.I. 2006/246\)](#), regs. 2(3), 16(4), **Sch. 1 para. 11** (with reg. 21(1)(5), Sch. 1 para. 3)
- C4** Arts. 16-24 applied (6.4.2006) by [Service Provision Change \(Protection of Employment\) Regulations \(Northern Ireland\) 2006 \(S.R. 2006/177\)](#), **reg. 16(4)**

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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](#)