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STATUTORY INSTRUMENTS

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**1996 No. 1919**

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

**PART V**

**GUARANTEE PAYMENTS**

**Calculation of guarantee payment**

**62.**—(1) Subject to Article 63, the amount of a guarantee payment payable to an employee in respect of any day is the sum produced by multiplying the number of normal working hours on the day by the guaranteed hourly rate; and, accordingly, no guarantee payment is payable to an employee in whose case there are no normal working hours on the day in question.

(2) The guaranteed 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 in respect of which the guarantee payment is payable.

(3) 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 shall 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 in respect of which the guarantee payment is payable, or
  - (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 (4) as are appropriate in the circumstances.
- (4) The considerations referred to in paragraph (3)(b) are—
- (a) the average number of normal working hours in a week which the employee could expect in accordance with the terms of his contract, and
  - (b) the average number of normal working hours of other employees engaged in relevant comparable employment with the same employer.

(5) If in any case an employee's contract has been varied, or a new contract has been entered into, in connection with a period of short-time working, paragraphs (2) and (3) have effect as if for the references to the day in respect of which the guarantee payment is payable there were substituted references to the last day on which the original contract was in force.