



# Employment Act 1980

## 1980 CHAPTER 42

### *Maternity*

#### **13 Time off for ante-natal care**

After section 31 of the 1978 Act there shall be inserted—

**“31A Time off for ante-natal care.**

- (1) An employee who is pregnant and who has, on the advice of a registered medical practitioner, registered midwife or registered health visitor, made an appointment to attend at any place for the purpose of receiving ante-natal care shall, subject to the following provisions of this section, have the right not to be unreasonably refused time off during her working hours to enable her to keep the appointment.
- (2) Subject to subsection (3), an employer shall not be required by virtue of this section to permit an employee to take time off to keep an appointment unless, if he requests her to do so, she produces for his inspection—
  - (a) a certificate from a registered medical practitioner, registered midwife or registered health visitor stating that the employee is pregnant, and
  - (b) an appointment card or some other document showing that the appointment has been made.
- (3) Subsection (2) shall not apply where the employee's appointment is the first appointment during her pregnancy for which she seeks permission to take time off in accordance with subsection (1).
- (4) An employee who is permitted to take time off during her working hours in accordance with subsection (1) shall be entitled to be paid remuneration by her employer for the period of absence at the appropriate hourly rate.
- (5) The appropriate hourly rate in relation to an employee shall be the amount of one week's pay divided by—

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*Status: This is the original version (as it was originally enacted).*

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- (a) the number of normal working hours in a week for that employee when employed under the contract of employment in force on the day when the time off is taken; or
  - (b) where the number of such normal working hours differs from week to week or over a longer period, the average number of such 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 on which the time off is taken; or
  - (c) in a case falling within paragraph (b) but where the employee has not been employed for a sufficient period to enable the calculation to be made under that paragraph, a number which fairly represents the number of normal working hours in a week having regard to such of the following considerations as are appropriate in the circumstances, that is to say.—
    - (i) the average number of normal working hours in a week which the employee could expect in accordance with the terms of her contract;
    - (ii) the average number of such hours of other employees engaged in relevant comparable employment with the same employer.
- (6) An employee may present a complaint to an industrial tribunal that her employer has unreasonably refused her time off as required by this section or that he has failed to pay her the whole or part of any amount to which she is entitled under subsection (4).
- (7) An industrial tribunal shall not entertain a complaint under subsection (6) unless it is presented within the period of three months beginning with the day of the appointment concerned, or 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 within the period of three months.
- (8) Where on a complaint under subsection (6) the tribunal finds the complaint well-founded it shall make a declaration to that effect; and—
- (a) if the complaint is that the employer has unreasonably refused the employee time off, the tribunal shall order the employer to pay to the employee an amount equal to the remuneration to which she would have been entitled under subsection (4) if the time off had not been refused ; and
  - (b) if the complaint is that the employer has failed to pay the employee the whole or part of any amount to which she is entitled under subsection (4), the tribunal shall order the employer to pay to the employee the amount which it finds due to her.
- (9) Subject to subsection (10), a right to any amount under subsection (4) shall not affect any right of an employee in relation to remuneration under her contract of employment (in this section referred to as " contractual remuneration ").
- (10) Any contractual remuneration paid to an employee in respect of a period of time off under this section shall go towards discharging any liability of the employer to pay remuneration under subsection (4) in respect of that period, and conversely any payment of remuneration under subsection (4) in respect of a period shall go towards discharging any liability of the employer to pay contractual remuneration in respect of that period.

- (11) Until the coming into operation of section 10 of the Nurses, Midwives and Health Visitors Act 1979, this section shall have effect as if for any reference to a registered midwife or registered health visitor there were substituted a reference to a certified midwife.”