



# Employment Rights Act 1996

## 1996 CHAPTER 18

### PART III

#### GUARANTEE PAYMENTS

#### **30 Calculation of guarantee payment.**

- (1) Subject to section 31, 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 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 subsection (4) as are appropriate in the circumstances.
- (4) The considerations referred to in subsection (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

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*Changes to legislation: Employment Rights Act 1996, Section 30 is up to date with all changes known to be in force on or before 13 September 2018. 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)*

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- (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, subsections (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.

**Changes to legislation:**

Employment Rights Act 1996, Section 30 is up to date with all changes known to be in force on or before 13 September 2018. 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.

**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):

- s. 8(2)(e) and word inserted by  
[S.I. 2018/147](#)  
[art. 2\(b\)](#)
- 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. 47AA inserted by  
[2008 c. 25](#)  
[s. 37](#)
- s. 49C inserted by  
[2017 c. 16](#)  
[s. 32\(4\)](#)
- s. 50(2)(i)-(k) inserted by  
[S.I. 2018/665](#)  
[art. 2\(b\)\(ii\)](#)
- s. 101B inserted by  
[2008 c. 25](#)  
[s. 38](#)
- s. 105(4B) inserted by  
[2008 c. 25](#)  
[s. 39\(3\)](#)
- s. 108(3)(de) inserted by  
[2008 c. 25](#)  
[s. 39\(4\)](#)
- s. 110(3A) inserted by  
[2002 c. 22](#)  
[s. 44](#)