Employment Rights Act 1996

1996 CHAPTER 18

PART VI

TIME OFF WORK

Public duties

50 Right to time off for public duties.

(1) An employer shall permit an employee of his who is a justice of the peace to take time off during the employee's working hours for the purpose of performing any of the duties of his office.

(2) An employer shall permit an employee of his who is a member of—

(a) a local authority,

(b) a statutory tribunal,

(c) a police authority,

[[F1](ca) the Service Authority for the National Criminal Intelligence Service or the Service Authority for the National Crime Squad,**]**

(d) a board of prison visitors or a prison visiting committee,

(e) a relevant health body,

(f) a relevant education body, [F2]. . .

(g) the Environment Agency or the Scottish Environment Protection Agency, **[**[F3]or**]**

[[F3]**[**[F4](h) Scottish Water or a Water Customer Consultation Panel,**]]**

to take time off during the employee's working hours for the purposes specified in subsection (3).

(3) The purposes referred to in subsection (2) are—

(a) attendance at a meeting of the body or any of its committees or sub-committees, and

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(b) the doing of any other thing approved by the body, or anything of a class so approved, for the purpose of the discharge of the functions of the body or of any of its committees or sub-committees **[**[F5]and

(c) in the case of a local authority which are operating executive arrangements—

(i) attendance at a meeting of the executive of that local authority or committee of that executive; and

(ii) the doing of any other thing, by an individual member of that executive, for the purposes of the discharge of any function which is to any extent the responsibility of that executive.**]**

(4) The amount of time off which an employee is to be permitted to take under this section, and the occasions on which and any conditions subject to which time off may be so taken, are those that are reasonable in all the circumstances having regard, in particular, to—

(a) how much time off is required for the performance of the duties of the office or as a member of the body in question, and how much time off is required for the performance of the particular duty,

(b) how much time off the employee has already been permitted under this section or sections 168 and 170 of the [M1]Trade Union and Labour Relations (Consolidation) Act 1992 (time off for trade union duties and activities), and

(c) the circumstances of the employer's business and the effect of the employee's absence on the running of that business.

(5) In subsection (2)(a) "a local authority" means—

(a) a local authority within the meaning of the [M2]Local Government Act 1972,

(b) a council constituted under section 2 of the [M3]Local Government etc. (Scotland) Act 1994,

(c) the Common Council of the City of London,

(d) a National Park authority, or

(e) the Broads Authority.

(6) The reference in subsection (2) to a member of a police authority is to a person appointed as such a member under Schedule 2 to the [M4]Police Act 1996.

(7) In subsection (2)(d)—

(a) "a board of prison visitors" means a board of visitors appointed under section 6(2) of the [M5]Prison Act 1952, and

(b) "a prison visiting committee" means a visiting committee appointed under section 19(3) of the [M6]Prisons (Scotland) Act 1989 or constituted by virtue of rules made under section 39 (as read with section 8(1)) of that Act.

(8) In subsection (2)(e) "a relevant health body" means—

(a) a National Health Service trust established under Part I of the [M7]National Health Service and Community Care Act 1990 or the [M8]National Health Service (Scotland) Act 1978,

[[F6](ab) an NHS foundation trust,**]**

(b) a **[**[F7]Strategic Health Authority or**]** Health Authority established under section 8 of the [M9]National Health Service Act 1977 **[**[F8], a Special Health Authority established under section 11 of that Act or a Primary Care Trust established under section 16A of that Act**]**, or

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(c) a Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978.

(9) In subsection (2)(f) "a relevant education body" means—

(a) a managing or governing body of an educational establishment maintained by a local education authority,

(b) a governing body of a [F9]. . . further education corporation or higher education corporation,

(c) a school council appointed under section 125(1) of the [M10]Local Government (Scotland) Act 1973,

(d) a school board within the meaning of section 1(1) of the [M11]School Boards (Scotland) Act 1988,

(e) a board of management of a self-governing school within the meaning of section 135(1) of the [M12]Education (Scotland) Act 1980,

(f) a board of management of a college of further education within the meaning of section 36(1) of the [M13]Further and Higher Education (Scotland) Act 1992,

(g) a governing body of a central institution within the meaning of section 135(1) of the Education (Scotland) Act 1980, [F10]. . .

(h) a governing body of a designated institution within the meaning of Part II of the Further and Higher Education (Scotland) Act 1992.

[[F11](i) the General Teaching Council for England, or

(j) the General Teaching Council for Wales.**]**

[[F12](9A) In subsection (3)(c) of this section "executive" and "executive arrangements" have the same meaning as in Part II of the Local Government Act 2000.**]**

(10) The Secretary of State may by order—

(a) modify the provisions of subsections (1) and (2) and (5) to (9) by adding any office or body, removing any office or body or altering the description of any office or body, or

(b) modify the provisions of subsection (3).

(11) For the purposes of this section the working hours of an employee shall be taken to be any time when, in accordance with his contract of employment, the employee is required to be at work.

Textual Amendments

F1 S. 50(2)(ca) inserted (23.7.1997) by 1997 c. 50, s. 134(1), **Sch. 9 para. 88**; S.I. 1997/1377, **art. 4(2)(o)(r)**

F2 Word at end of s. 50(2)(f) omitted (14.8.2000) by virtue of S.I. 2000/1737, **art. 2(a)**

F3 S. 50(2)(h) and the word "or" immediately preceding it added (14.8.2000) by S.I. 2000/1737, **art. 2(b)(c)**

F4 S. 50(2)(h) substituted (14.7.2004) by The Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004 (S.I. 2004/1822), art. 2, **Sch. para. 18**

F5 S. 50(3)(c) and preceding word inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, art. 30(a) and S.I. 2002/808, **art. 29(a)**

F6 S. 50(8)(ab) inserted (1.4.2004 for E.W.) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 34, 199(1)(4), **Sch. 4 para. 100**; S.I. 2004/759, **art. 2** (as amended by S.I. 2006/836 and S.I. 2007/1102)

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F7 Words in s. 50(8)(b) inserted (1.10.2002) by The National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc. Provisions) Regulations 2002 (S.I. 2002/2469), reg. 4, **Sch. 1 Pt. 1 para. 22(2)**

F8 Words in s. 50(8)(b) substituted (8.2.2000) by S.I. 2000/90, art. 3, **Sch. 1 para. 30(2)** (with s. 2(5)

F9 Words in s. 50(9)(b) repealed (1.9.1999) by 1998 c. 31, s. 140(3), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

F10 Word in s. 50(9) after para. (g) omitted (5.10.2000) by virtue of S.I. 2000/2463, **art. 2(2)**

F11 S. 50(9)(i)(j) inserted (5.10.2000) by S.I. 2000/2463, 2(3)

F12 S. 50(9A) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, art. 30(b) and S.I. 2002/808, **art. 29(b)**

Modifications etc. (not altering text)

C1 S. 50(3) applied (1.4.1998) by S.I. 1998/633, **art. J12(2)**

C2 S. 50(4) excluded (1.4.1998) by S.I. 1998/633, **art. J12(1)**

Marginal Citations

M1 1992 c. 52.
M2 1972 c. 70.
M3 1994 c. 39.
M4 1996 c. 16.
M5 1952 c. 52.
M6 1989 c. 45.
M7 1990 c. 19.
M8 1978 c. 29.
M9 1977 c. 49.
M10 1973 c. 65.
M11 1988 c. 47.
M12 1980 c. 44.
M13 1992 c. 37.

51 Complaints to [F13employment tribunals].

(1) An employee may present a complaint to an **[**F13employment tribunal**]** that his employer has failed to permit him to take time off as required by section 50.

(2) An **[**F13employment tribunal**]** shall not consider a complaint under this section that an employer has failed to permit an employee to take time off unless it is presented—

(a) before the end of the period of three months beginning with the date on which the failure occurred, or

(b) 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 before the end of that period of three months.

(3) Where an **[**F13employment tribunal**]** finds a complaint under this section well-founded, the tribunal—

(a) shall make a declaration to that effect, and

(b) may make an award of compensation to be paid by the employer to the employee.

(4) The amount of the compensation shall be such as the tribunal considers just and equitable in all the circumstances having regard to—

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(a) the employer's default in failing to permit time off to be taken by the employee, and

(b) any loss sustained by the employee which is attributable to the matters to which the complaint relates.

Textual Amendments

F13 Words in s. 51(1)-(3) and sidenote to s. 51 substituted (1.8.1998) by 1998 c. 8, **s. 1(2)(a)(b)** (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**

Looking for work and making arrangements for training

52 Right to time off to look for work or arrange training.

(1) An employee who is given notice of dismissal by reason of redundancy is entitled to be permitted by his employer to take reasonable time off during the employee's working hours before the end of his notice in order to—

(a) look for new employment, or

(b) make arrangements for training for future employment.

(2) An employee is not entitled to take time off under this section unless, on whichever is the later of—

(a) the date on which the notice is due to expire, and

(b) the date on which it would expire were it the notice required to be given by section 86(1),

he will have been (or would have been) continuously employed for a period of two years or more.

(3) For the purposes of this section the working hours of an employee shall be taken to be any time when, in accordance with his contract of employment, the employee is required to be at work.

53 Right to remuneration for time off under section 52.

(1) An employee who is permitted to take time off under section 52 is entitled to be paid remuneration by his employer for the period of absence at the appropriate hourly rate.

(2) The appropriate 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 when the notice of dismissal was given.

(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 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 on which the notice was given.

(4) If an employer unreasonably refuses to permit an employee to take time off from work as required by section 52, the employee is entitled to be paid an amount equal to the remuneration to which he would have been entitled under subsection (1) if he had been permitted to take the time off.

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(5) The amount of an employer's liability to pay remuneration under subsection (1) shall not exceed, in respect of the notice period of any employee, forty per cent. of a week's pay of that employee.

(6) A right to any amount under subsection (1) or (4) does not affect any right of an employee in relation to remuneration under his contract of employment ("contractual remuneration").

(7) Any contractual remuneration paid to an employee in respect of a period of time off under section 52 goes towards discharging any liability of the employer to pay remuneration under subsection (1) in respect of that period; and, conversely, any payment of remuneration under subsection (1) in respect of a period goes towards discharging any liability of the employer to pay contractual remuneration in respect of that period.

54 Complaints to [F14employment tribunals].

(1) An employee may present a complaint to an **[**F14employment tribunal**]** that his employer—

(a) has unreasonably refused to permit him to take time off as required by section 52, or

(b) has failed to pay the whole or any part of any amount to which the employee is entitled under section 53(1) or (4).

(2) An **[**F14employment tribunal**]** shall not consider a complaint under this section unless it is presented—

(a) before the end of the period of three months beginning with the date on which it is alleged that the time off should have been permitted, or

(b) 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 before the end of that period of three months.

(3) Where an **[**F14employment tribunal**]** finds a complaint under this section well-founded, the tribunal shall—

(a) make a declaration to that effect, and

(b) order the employer to pay to the employee the amount which it finds due to him.

(4) The amount which may be ordered by a tribunal to be paid by an employer under subsection (3) (or, where the employer is liable to pay remuneration under section 53, the aggregate of that amount and the amount of that liability) shall not exceed, in respect of the notice period of any employee, forty per cent. of a week's pay of that employee.

Textual Amendments

F14 Words in s. 54(1)-(3) and sidenote to s. 54 substituted (1.8.1998) by 1998 c. 8, **s. 1(2)(a)(b)** (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**

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Ante-natal care

55 Right to time off for ante-natal care.

(1) An employee who—

(a) is pregnant, and

(b) has, on the advice of a registered medical practitioner, registered midwife or **[**[F15]registered nurse**]** , made an appointment to attend at any place for the purpose of receiving ante-natal care,

is entitled to be permitted by her employer to take time off during the employee's working hours in order to enable her to keep the appointment.

(2) An employee is not entitled to take time off under this section to keep an appointment unless, if her employer requests her to do so, she produces for his inspection—

(a) a certificate from a registered medical practitioner, registered midwife or **[**[F15]registered nurse**]** 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) does 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) For the purposes of this section the working hours of an employee shall be taken to be any time when, in accordance with her contract of employment, the employee is required to be at work.

Textual Amendments

F15 Words in s. 55(1)(b)(2)(a) substituted by The Nursing and Midwifery Order 2001 (S.I. 2002/253), art. 54, **Sch. 5 para. 13** (with art. 3(18)) (the amendment coming into force in accordance with art. 1(2)(3) of the amending S.I.)

56 Right to remuneration for time off under section 55.

(1) An employee who is permitted to take time off under section 55 is entitled to be paid remuneration by her employer for the period of absence at the appropriate hourly rate.

(2) The appropriate 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 when the time off is taken.

(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 on which the time off is taken, 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

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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 her contract, and

(b) the average number of normal working hours of other employees engaged in relevant comparable employment with the same employer.

(5) A right to any amount under subsection (1) does not affect any right of an employee in relation to remuneration under her contract of employment ("contractual remuneration").

(6) Any contractual remuneration paid to an employee in respect of a period of time off under section 55 goes towards discharging any liability of the employer to pay remuneration under subsection (1) in respect of that period; and, conversely, any payment of remuneration under subsection (1) in respect of a period goes towards discharging any liability of the employer to pay contractual remuneration in respect of that period.

57 Complaints to [F16employment tribunals].

(1) An employee may present a complaint to an **[**F16employment tribunal**]** that her employer—

(a) has unreasonably refused to permit her to take time off as required by section 55, or

(b) has failed to pay the whole or any part of any amount to which the employee is entitled under section 56.

(2) An **[**F16employment tribunal**]** shall not consider a complaint under this section unless it is presented—

(a) before the end of the period of three months beginning with the date of the appointment concerned, or

(b) 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 before the end of that period of three months.

(3) Where an **[**F16employment tribunal**]** finds a complaint under this section well-founded, the tribunal shall make a declaration to that effect.

(4) If the complaint is that the employer has unreasonably refused to permit the employee to take time off, the tribunal shall also order the employer to pay to the employee an amount equal to the remuneration to which she would have been entitled under section 56 if the employer had not refused.

(5) 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 section 56, the tribunal shall also order the employer to pay to the employee the amount which it finds due to her.

Textual Amendments

F16 Words in s. 57(1)-(3) and sidenote to s. 57 substituted (1.8.1998) by 1998 c. 8, **s. 1(2)(a)(b)** (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**

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VALID FROM 01/10/2011

[F17 Ante-natal care: agency workers

Textual Amendments

F17 Ss. 57ZA-57ZD and heading inserted (1.10.2011) by The Agency Workers Regulations 2010 (S.I. 2010/93), Reg. 25, **Sch. 2 para. 93**

57ZA Right to time off for ante-natal care (agency workers)

(1) An agency worker who—

(a) is pregnant, and

(b) has, on the advice of a registered medical practitioner, registered midwife or registered nurse, made an appointment to attend at any place for the purpose of receiving ante-natal care,

is entitled to be permitted, by the temporary work agency and the hirer, to take time off during the agency worker's working hours in order to enable her to keep the appointment. (2) An agency worker is not entitled to be permitted by either of those persons to take time off under this section to keep an appointment unless, if that person requests her to do so, she produces for that person's inspection—

(a) a certificate from a registered medical practitioner, registered midwife or registered nurse stating that the agency worker is pregnant, and

(b) an appointment card or some other document showing that the appointment has been made.

(3) Subsection (2) does not apply where the agency worker's appointment is the first appointment during her pregnancy for which she seeks permission to take time off in accordance with subsection (1). (4) For the purposes of this section the working hours of an agency worker shall be taken to be any time when, in accordance with the terms under which the agency worker works temporarily for and under the supervision and direction of the hirer, the agency worker is required to be at work. (5) In this section references to a registered nurse have the same meaning as in section 55.

57ZB Right to remuneration for time off under section 57ZA

( ) An agency worker who is permitted to take time off under section 57ZA is entitled to be paid remuneration by the temporary work agency for the period of absence at the appropriate hourly rate.

( ) The appropriate hourly rate, in relation to an agency worker, is the amount of one week's pay divided by the number of normal working hours in a week for that agency worker in accordance with the terms under which the agency worker works temporarily for and under the supervision and direction of the hirer that are in force on the day when the time off is taken.

( ) But where the number of normal working hours during the assignment differs from week to week or over a longer period, the amount of one week's pay shall be divided instead by the average number of normal working hours calculated by dividing by twelve the total number of the agency worker's normal working hours during the

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period of twelve weeks ending with the last complete week before the day on which the time off is taken.

( ) A right to any amount under subsection (1) does not affect any right of an agency worker in relation to remuneration under her contract with the temporary work agency ("contractual remuneration").

(5) Any contractual remuneration paid to an agency worker in respect of a period of time off under section 57ZA goes towards discharging any liability of the temporary work agency to pay remuneration under subsection (1) in respect of that period; and, conversely, any payment of remuneration under subsection (1) in respect of a period goes towards discharging any liability of the temporary work agency to pay contractual remuneration in respect of that period.

57ZC Complaint to employment tribunal: agency workers

( ) An agency worker may present a complaint to an employment tribunal that the temporary work agency—

(a) has unreasonably refused to permit her to take time off as required by section 57ZA, or

(b) has failed to pay the whole or any part of any amount to which she is entitled under section 57ZB.

( ) An agency worker may present a complaint to an employment tribunal that the hirer has unreasonably refused to permit her to take time off as required by section 57ZA.

( ) An employment tribunal shall not consider a complaint under subsection (1) or (2) unless it is presented—

(a) before the end of the period of three months beginning with the date of the appointment concerned, or

(b) 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 before the end of that period of three months.

( ) Where an employment tribunal finds a complaint under this section well-founded, the tribunal shall make a declaration to that effect.

( ) If the complaint is that the temporary work agency or hirer has unreasonably refused to permit the agency worker to take time off, the tribunal shall also order payment to the agency worker of an amount equal to the remuneration to which she would have been entitled under section 57ZB if she had not been refused the time off.

( ) Where the tribunal orders payment under subsection (5), the amount payable by each party shall be such as may be found by the tribunal to be just and equitable having regard to the extent of each respondent's responsibility for the infringement to which the complaint relates.

(7) If the complaint is that the temporary work agency has failed to pay the agency worker the whole or part of any amount to which she is entitled under section 57ZB, the tribunal shall also order the temporary work agency to pay to the agency worker the amount which it finds due to her.

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57ZD Agency workers: supplementary

( ) Without prejudice to any other duties of the hirer or temporary work agency under any enactment or rule of law sections 57ZA to 57ZC do not apply where the agency worker—

(a) has not completed the qualifying period, or

(b) is no longer entitled to the rights conferred by regulation 5 of the Agency Workers Regulations 2010 pursuant to regulation 8(a) or (b) of those Regulations.

( ) Nothing in those sections imposes a duty on the hirer or temporary work agency beyond the original intended duration, or likely duration of the assignment, whichever is the longer.

( ) Those sections do not apply where sections 55 to 57 apply.

( ) In this section and sections 57ZA to 57ZC the following have the same meaning as in the Agency Workers Regulations 2010—

"agency worker";
"assignment";
"hirer";
"qualifying period";
"temporary work agency".]

[F18 Dependants]

Textual Amendments

F18 Ss. 57A, 57B and heading inserted (15.12.1999) by 1999 c. 26, s. 8, **Sch. 4 Pt. II**; S.I. 1999/2830, art. 2(2), **Sch. 1 Pt. II**

F19 57A Time off for dependants.

(1) An employee is entitled to be permitted by his employer to take a reasonable amount of time off during the employee's working hours in order to take action which is necessary—

(a) to provide assistance on an occasion when a dependant falls ill, gives birth or is injured or assaulted,

(b) to make arrangements for the provision of care for a dependant who is ill or injured,

(c) in consequence of the death of a dependant,

(d) because of the unexpected disruption or termination of arrangements for the care of a dependant, or

(e) to deal with an incident which involves a child of the employee and which occurs unexpectedly in a period during which an educational establishment which the child attends is responsible for him.

(2) Subsection (1) does not apply unless the employee—

(a) tells his employer the reason for his absence as soon as reasonably practicable, and

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(b) except where paragraph (a) cannot be complied with until after the employee has returned to work, tells his employer for how long he expects to be absent.

(3) Subject to subsections (4) and (5), for the purposes of this section "dependant" means, in relation to an employee—

(a) a spouse,

(b) a child,

(c) a parent,

(d) a person who lives in the same household as the employee, otherwise than by reason of being his employee, tenant, lodger or boarder.

(4) For the purposes of subsection (1)(a) or (b) "dependant" includes, in addition to the persons mentioned in subsection (3), any person who reasonably relies on the employee—

(a) for assistance on an occasion when the person falls ill or is injured or assaulted, or

(b) to make arrangements for the provision of care in the event of illness or injury.

(5) For the purposes of subsection (1)(d) "dependant" includes, in addition to the persons mentioned in subsection (3), any person who reasonably relies on the employee to make arrangements for the provision of care.

(6) A reference in this section to illness or injury includes a reference to mental illness or injury.

Textual Amendments

F19 Ss. 57A, 57B and heading inserted (15.12.1999) by 1999 c. 26, s. 8, **Sch. 4 Pt. II**; S.I. 1999/2830, art. 2(2), **Sch. 1 Pt. II**

[F20]57B Complaint to employment tribunal.

(1) An employee may present a complaint to an employment tribunal that his employer has unreasonably refused to permit him to take time off as required by section 57A.

(2) An employment tribunal shall not consider a complaint under this section unless it is presented—

(a) before the end of the period of three months beginning with the date when the refusal occurred, or

(b) 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 before the end of that period of three months.

(3) Where an employment tribunal finds a complaint under subsection (1) well-founded, it—

(a) shall make a declaration to that effect, and

(b) may make an award of compensation to be paid by the employer to the employee.

(4) The amount of compensation shall be such as the tribunal considers just and equitable in all the circumstances having regard to—

Status: *Point in time view as at 14/07/2004. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Employment Rights Act 1996, Part VI is up to date with all changes known to be in force on or before 17 June 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)*

(a) the employer's default in refusing to permit time off to be taken by the employee, and

(b) any loss sustained by the employee which is attributable to the matters complained of.

Textual Amendments

F20 Ss. 57A, 57B and heading inserted (15.12.1999) by 1999 c. 26, s. 8, **Sch. 4 Pt. II**; S.I. 1999/2830, art. 2(2), **Sch. 1 Pt. II**

Occupational pension scheme trustees

58 Right to time off for pension scheme trustees.

(1) The employer in relation to a relevant occupational pension scheme shall permit an employee of his who is a trustee of the scheme to take time off during the employee's working hours for the purpose of—

(a) performing any of his duties as such a trustee, or

(b) undergoing training relevant to the performance of those duties.

(2) The amount of time off which an employee is to be permitted to take under this section and the purposes for which, the occasions on which and any conditions subject to which time off may be so taken are those that are reasonable in all the circumstances having regard, in particular, to—

(a) how much time off is required for the performance of the duties of a trustee of the scheme and the undergoing of relevant training, and how much time off is required for performing the particular duty or for undergoing the particular training, and

(b) the circumstances of the employer's business and the effect of the employee's absence on the running of that business.

[[F21](2A) This section applies to an employee who is a director of a company which is a trustee of a relevant occupational pension scheme as it applies to an employee who is a trustee of such a scheme (references to such a trustee being read for this purpose as references to such a director).**]**

(3) In this section—

(a) "relevant occupational pension scheme" means an occupational pension scheme (as defined in section 1 of the [M14]Pension Schemes Act 1993) established under a trust, and

(b) references to the employer, in relation to such a scheme, are to an employer of persons in the description or category of employment to which the scheme relates **[**[F22], and

[F22](c) references to training are to training on the employer's premises or elsewhere.**]**

(4) For the purposes of this section the working hours of an employee shall be taken to be any time when, in accordance with his contract of employment, the employee is required to be at work.

Status: *Point in time view as at 14/07/2004. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *Employment Rights Act 1996, Part VI is up to date with all changes known to be in force on or before 17 June 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)*

Textual Amendments

F21 S. 58(2A) inserted (11.11.1999 for specified purposes and otherwise 25.4.2000) by 1999 c. 30, ss. 18, 89(1)(5)(a), **Sch. 2 para. 19(3)**; S.I. 2000/1047, art. 2(2), **Sch. Pt. II**

F22 S. 58(3)(c) and preceding word "and" inserted (1.9.1999) by 1998 c. 30, s. 44(1), **Sch. 3 para. 12** (with s. 42(8)); S.I. 1999/987, **art. 2**

Modifications etc. (not altering text)

C3 S. 58 applied (11.11.1999 for specified purposes and otherwise 8.10.2001) by 1999 c. 30, **s. 6(2)**, (with s. 8(6)); S.I. 2000/1047, art. 2(2), **Sch. Pt. V**

Commencement Information

I1 S. 58 wholly in force at 6.10.1996, see Sch. 2 para. 15(1) and S.I. 1996/2514, **art. 2**

Marginal Citations

M14 1993 c. 48.

59 Right to payment for time off under section 58.

(1) An employer who permits an employee to take time off under section 58 shall pay him for the time taken off pursuant to the permission.

(2) Where the employee's remuneration for the work he would ordinarily have been doing during that time does not vary with the amount of work done, he must be paid as if he had worked at that work for the whole of that time.

(3) Where the employee's remuneration for the work he would ordinarily have been doing during that time varies with the amount of work done, he must be paid an amount calculated by reference to the average hourly earnings for that work.

(4) The average hourly earnings mentioned in subsection (3) are—

(a) those of the employee concerned, or

(b) if no fair estimate can be made of those earnings, the average hourly earnings for work of that description of persons in comparable employment with the same employer or, if there are no such persons, a figure of average hourly earnings which is reasonable in the circumstances.

(5) A right to be paid an amount under subsection (1) does not affect any right of an employee in relation to remuneration under his contract of employment ("contractual remuneration").

(6) Any contractual remuneration paid to an employee in respect of a period of time off under section 58 goes towards discharging any liability of the employer under subsection (1) in respect of that period; and, conversely, any payment under subsection (1) in respect of a period goes towards discharging any liability of the employer to pay contractual remuneration in respect of that period.

Commencement Information

I2 S. 59 wholly in force at 6.10.1996, see Sch. 2 para. 15(1) and S.I. 1996/2514, **art. 2**

Status: *Point in time view as at 14/07/2004. This version of this part contains provisions that are not valid for this point in time.*
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60 Complaints to [F23employment tribunals].

(1) An employee may present a complaint to an **[**F23employment tribunal**]** that his employer—

(a) has failed to permit him to take time off as required by section 58, or

(b) has failed to pay him in accordance with section 59.

(2) An **[**F23employment tribunal**]** shall not consider a complaint under this section unless it is presented—

(a) before the end of the period of three months beginning with the date when the failure occurred, or

(b) 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 before the end of that period of three months.

(3) Where an **[**F23employment tribunal**]** finds a complaint under subsection (1)(a) well-founded, the tribunal—

(a) shall make a declaration to that effect, and

(b) may make an award of compensation to be paid by the employer to the employee.

(4) The amount of the compensation shall be such as the tribunal considers just and equitable in all the circumstances having regard to—

(a) the employer's default in failing to permit time off to be taken by the employee, and

(b) any loss sustained by the employee which is attributable to the matters complained of.

(5) Where on a complaint under subsection (1)(b) an **[**F23employment tribunal**]** finds that an employer has failed to pay an employee in accordance with section 59, it shall order the employer to pay the amount which it finds to be due.

Textual Amendments

F23 Words in s. 60(1)-(3)(5) and sidenote to s. 60 substituted (1.8.1998) by 1998 c. 8, **s. 1(2)(a)(b)** (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**

Commencement Information

I3 S. 60 wholly in force at 6.10.1996, see Sch. 2 para. 15(1) and S.I. 1996/2514, **art. 2**

Employee representatives

61 Right to time off for employee representatives.

(1) An employee who is—

(a) an employee representative for the M15purposes of Chapter II of Part IV of the M16Trade Union and Labour Relations (Consolidation) Act 1992 (redundancies) or Regulations 10 and 11 of the Transfer of Undertakings (Protection of Employment) Regulations 1981, or

(b) a candidate in an election in which any person elected will, on being elected, be such an employee representative,

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is entitled to be permitted by his employer to take reasonable time off during the employee's working hours in order to perform his functions as such an employee representative or candidate **[**[F24]or in order to undergo training to perform such functions**]**.

(2) For the purposes of this section the working hours of an employee shall be taken to be any time when, in accordance with his contract of employment, the employee is required to be at work.

Textual Amendments

F24 Words in s. 61(1) inserted (28.7.1999) by S.I. 1999/1925, **reg. 15**

Marginal Citations

M15 S.I. 1981/1794.

M16 1992 c. 52.

62 Right to remuneration for time off under section 61.

(1) An employee who is permitted to take time off under section 61 is entitled to be paid remuneration by his employer for the time taken off at the appropriate hourly rate.

(2) The appropriate 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 when the time off is taken.

(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 on which the time off is taken, 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

(b) the average number of normal working hours of other employees engaged in relevant comparable employment with the same employer.

(5) A right to any amount under subsection (1) does not affect any right of an employee in relation to remuneration under his contract of employment ("contractual remuneration").

(6) Any contractual remuneration paid to an employee in respect of a period of time off under section 61 goes towards discharging any liability of the employer to pay remuneration under subsection (1) in respect of that period; and, conversely, any payment of remuneration under subsection (1) in respect of a period goes towards

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discharging any liability of the employer to pay contractual remuneration in respect of that period.

63 Complaints to [F25employment tribunals].

(1) An employee may present a complaint to an **[**F25employment tribunal**]** that his employer—

(a) has unreasonably refused to permit him to take time off as required by section 61, or

(b) has failed to pay the whole or any part of any amount to which the employee is entitled under section 62.

(2) An **[**F25employment tribunal**]** shall not consider a complaint under this section unless it is presented—

(a) before the end of the period of three months beginning with the day on which the time off was taken or on which it is alleged the time off should have been permitted, or

(b) 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 before the end of that period of three months.

(3) Where an **[**F25employment tribunal**]** finds a complaint under this section well-founded, the tribunal shall make a declaration to that effect.

(4) If the complaint is that the employer has unreasonably refused to permit the employee to take time off, the tribunal shall also order the employer to pay to the employee an amount equal to the remuneration to which he would have been entitled under section 62 if the employer had not refused.

(5) If the complaint is that the employer has failed to pay the employee the whole or part of any amount to which he is entitled under section 62, the tribunal shall also order the employer to pay to the employee the amount which it finds due to him.

Textual Amendments

F25 Words in s. 63(1)-(3) and sidenote to s. 63 substituted (1.8.1998) by 1998 c. 8, **s. 1(2)(a)(b)** (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**

[F26 63A Right to time off for young person for study or training.

(1) An employee who—

(a) is aged 16 or 17,

(b) is not receiving full-time secondary or further education, and

(c) has not attained such standard of achievement as is prescribed by regulations made by the Secretary of State,

is entitled to be permitted by his employer to take time off during the employee's working hours in order to undertake study or training leading to a relevant qualification.

(2) In this section—

(a) "secondary education"—

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(i) in relation to England and Wales, has the same meaning as in the [M17]Education Act 1996, and

(ii) in relation to Scotland, has the same meaning as in section 135(2)(b) of the [M18]Education (Scotland) Act 1980;

(b) "further education"—

(i) in relation to England and Wales, **[**[F27]has the same meaning as in the Education Act 1996,**]** and

(ii) in relation to Scotland, has the same meaning as in section 1(3) of the [M19]Further and Higher Education (Scotland) Act 1992; and

(c) "relevant qualification" means an external qualification the attainment of which—

(i) would contribute to the attainment of the standard prescribed for the purposes of subsection (1)(c), and

(ii) would be likely to enhance the employee's employment prospects (whether with his employer or otherwise);

and for the purposes of paragraph (c) "external qualification" means an academic or vocational qualification awarded or authenticated by such person or body as may be specified in or under regulations made by the Secretary of State.

(3) An employee who—

(a) satisfies the requirements of paragraphs (a) to (c) of subsection (1), and

(b) is for the time being supplied by his employer to another person ("the principal") to perform work in accordance with a contract made between the employer and the principal,

is entitled to be permitted by the principal to take time off during the employee's working hours in order to undertake study or training leading to a relevant qualification.

(4) Where an employee—

(a) is aged 18,

(b) is undertaking study or training leading to a relevant qualification, and

(c) began such study or training before attaining that age,

subsections (1) and (3) shall apply to the employee, in relation to that study or training, as if "or 18" were inserted at the end of subsection (1)(a).

(5) The amount of time off which an employee is to be permitted to take under this section, and the occasions on which and any conditions subject to which time off may be so taken, are those that are reasonable in all the circumstances having regard, in particular, to—

(a) the requirements of the employee's study or training, and

(b) the circumstances of the business of the employer or the principal and the effect of the employee's time off on the running of that business.

(6) Regulations made for the purposes of subsections (1)(c) and (2) may make different provision for different cases, and in particular may make different provision in relation to England, Wales and Scotland respectively.

(7) References in this section to study or training are references to study or training on the premises of the employer or (as the case may be) principal or elsewhere.

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(8) For the purposes of this section the working hours of an employee shall be taken to be any time when, in accordance with his contract of employment, the employee is required to be at work.**]**

Textual Amendments

F26 S. 63A inserted (1.9.1999) by 1998 c. 30, **s. 32** (with s. 42(8)); S.I. 1999/987, **art. 2**

F27 Words in s. 63A substituted (1.4.2001) by 2000 c. 21, s. 149, **Sch. 9 para. 50**, S.I. 2001/654, art. 2(2), Sch. Pt. II (with art. 3)

Modifications etc. (not altering text)

C4 S. 63A(1)(c)(2): transfer of certain functions (1.7.1999) by S.I. 1999/1750, arts. 1, 2, **Sch. 1** (with art. 7); S.I. 1998/3178, **art. 3**

C5 S. 63A(2)(c) extended (1.9.2001) by S.I. 2001/2801, **reg. 5**

Marginal Citations

M17 1996 c. 56.

M18 1980 c. 44.

M19 1992 c. 37.

[F28 63B Right to remuneration for time off under section 63A.

(1) An employee who is permitted to take time off under section 63A is entitled to be paid remuneration by his employer for the time taken off at the appropriate hourly rate.

(2) The appropriate 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 when the time off is taken.

(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 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

(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

(b) the average number of normal working hours of other employees engaged in relevant comparable employment with the same employer.

(5) A right to any amount under subsection (1) does not affect any right of an employee in relation to remuneration under his contract of employment ("contractual remuneration").

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(6) Any contractual remuneration paid to an employee in respect of a period of time off under section 63A goes towards discharging any liability of the employer to pay remuneration under subsection (1) in respect of that period; and, conversely, any payment of remuneration under subsection (1) in respect of a period goes towards discharging any liability of the employer to pay contractual remuneration in respect of that period.**]**

Textual Amendments

F28 Ss. 63B, 63C inserted (1.9.1999) by 1998 c. 30, **s. 33** (with s. 42(8)); S.I. 1999/987, **art. 2**

[F29]63C Complaints to employment tribunals.

(1) An employee may present a complaint to an employment tribunal that—

(a) his employer, or the principal referred to in subsection (3) of section 63A, has unreasonably refused to permit him to take time off as required by that section, or

(b) his employer has failed to pay the whole or any part of any amount to which the employee is entitled under section 63B.

(2) An employment tribunal shall not consider a complaint under this section unless it is presented—

(a) before the end of the period of three months beginning with the day on which the time off was taken or on which it is alleged the time off should have been permitted, or

(b) 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 before the end of that period of three months.

(3) Where an employment tribunal finds a complaint under this section well-founded, the tribunal shall make a declaration to that effect.

(4) If the complaint is that the employer or the principal has unreasonably refused to permit the employee to take time off, the tribunal shall also order the employer or the principal, as the case may be, to pay to the employee an amount equal to the remuneration to which he would have been entitled under section 63B if the employer or the principal had not refused.

(5) If the complaint is that the employer has failed to pay the employee the whole or part of any amount to which he is entitled under section 63B, the tribunal shall also order the employer to pay to the employee the amount which it finds due to him.

Textual Amendments

F29 Ss. 63B, 63C inserted (1.9.1999) by 1998 c. 30, **s. 33** (with s. 42(8)); S.I. 1999/987, **art. 2**

Status:
Point in time view as at 14/07/2004. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation:
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