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Department for  
**Employment  
and Learning**  
[www.delni.gov.uk](http://www.delni.gov.uk)

# ER24 Time Off for Dependants



## Introduction

This booklet is a guide about time off for dependants. The right to time off is contained in Article 85A of the Employment Rights (Northern Ireland) Order 1996, as amended by the Employment Relations (Northern Ireland) Order 1999. Article 10 of that Order, 'Time off for dependants', came into effect on 15 December 1999.

The right to time off is available to all those who have a contract of employment with an employer, whether they work full time or part time. A contract of employment need not be in writing. Further information on contracts of employment can be found in the Employment Rights booklet '**Contracts of employment: changes, breach of contract and deductions from wages**' ER21 – see [Appendix 1](#).

The right does not apply to members of the police force, armed forces or masters or crew members engaged in share fishing paid solely by a share of the catch.

Please note that this booklet gives **general guidance only** and should not be regarded as a complete or authoritative statement of the law. Authoritative interpretations of the law can only be given by the courts. Readers should be alert to the possibility of developments in case law that may affect the rights described.

Further information can be obtained from the Labour Relations Agency (LRA) - for the addresses of its two offices see [Appendix 2](#).

The contents of this booklet apply equally to men and women. For simplicity, however, the masculine pronoun is used throughout.

Any reference throughout this booklet to Jobs and Benefits offices includes JobCentres.

This booklet, [others in the series](#) and [related publications](#) are free to download from the Departmental website [www.delni.gov.uk](http://www.delni.gov.uk) under Employment Rights – publications. Alternatively they may be obtained upon request from your local [Jobs and Benefits offices](#). For information on [Jobs and Benefits offices](#): **FREEPHONE** 0800 353530.

Upon request, consideration may be given to making this booklet available in alternative formats and in other languages for people who are not proficient in English.

The Employment Rights series of booklets is updated on a regular basis. As part of this updating process the Department would welcome any comment/s from members of the public regarding the content of these booklets.

All comments should be addressed to:

Department for Employment and Learning  
Employment Rights Branch  
Room 203  
Adelaide House  
39-49 Adelaide Street  
Belfast  
BT2 8FD

Alternatively, comments may be sent via e-mail to [erbooklets@delni.gov.uk](mailto:erbooklets@delni.gov.uk)

This booklet was last updated: **October 2007.**

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## SECTION 1

### What is time off for dependants?

This is a right allowing employees to take a reasonable amount of time off work to deal with certain unexpected or sudden emergencies and to make any necessary longer term arrangements. The circumstances under which time off can be taken under this right are listed in [Section 3](#) of this booklet. The emergency must involve a dependant of the employee. A definition of a dependant can be found in [Section 4](#). An employee who uses this right is protected against dismissal or victimisation.

***Frequently Asked Question: Is the time off paid?***

*The right does not include an entitlement to pay, so whether or not the employee will be paid is left to the employer's discretion or to the contract of employment between them.*

## SECTION 2

### When can an employee start using this right?

Employees do not have to complete a qualifying period in order to be able to take time off in an emergency. They are entitled to this right from day one of starting their job.

## SECTION 3

### Under what circumstances can an employee take time off?

The right enables employees to take action which is necessary to deal with an unexpected or sudden problem concerning a dependant and make any necessary longer term arrangements.

### **If a dependant falls ill, or has been injured or assaulted**

The illness or injury need not necessarily be serious or life-threatening, and may be mental or physical. The illness or injury may be a result of a deterioration of an existing condition; for example, a dependant may be suffering from a nervous breakdown; he may not require full-time care, but there may be occasions when his condition deteriorates, and his partner or parent, son or daughter, needs to take time off work in consequence. The right to time off is also available where a dependant has been assaulted but is uninjured: for example, where a dependant is a victim of a mugging incident, but has not been physically hurt, the employee can take time off work if necessary to comfort or help the victim.

### **When a dependant is having a baby**

Where necessary an employee can take time off to assist a dependant when she is having a baby. This does not include taking time off after the birth to care for the child; from 15 December 1999, an employee may be entitled to take parental leave for this purpose. The Employment Rights booklet '[Parental Leave: a guide for employers and employees](#)' (ER25) provides further information on this right.

### **To make longer term care arrangements for a dependant who is ill or injured**

Where a dependant needs to be cared for because of an illness or injury, the employee can take time off work to make longer term care arrangements. This might mean making arrangements to employ a temporary carer or taking a sick child to stay with relatives.

### **To deal with a death of a dependant**

When a dependant dies, an employee can take time off to make funeral arrangements, as well as to attend a funeral. If the funeral is overseas, then the employer and employee will need to agree a length of absence which is reasonable in these circumstances.

### **To deal with an unexpected disruption or breakdown of care arrangements for a dependant**

Time off can be taken where the normal carer of the dependant is unexpectedly absent; for example, a childminder or nurse may fail to turn up as arranged, or the nursery or nursing home may close unexpectedly.

### **To deal with an unexpected incident involving the employee's child during school hours**

An employee can take time off to deal with a serious incident involving his child during school hours. For example, if the child has been involved in a fight, is distressed, has been injured on a school trip or is being suspended from school.

***Frequently Asked Question: Can both parents take time off work if their child falls ill?***

*There may be times when both parents want to take time off work under this right and it may be necessary for them to do so. Employers and employees will need to adopt a common-sense approach depending on the circumstances of the situation. Both parents may need to take time off if their child has had a serious accident, but it is unlikely to be necessary for both parents to be absent from work if the childminder fails to turn up.*

***Frequently Asked Question: Can an employee take time off if a boiler bursts?***

*No. Time off for emergencies which are not covered by this right is a contractual matter between an employer and employee.*

## **SECTION 4**

### **Who counts as a dependant?**

A dependant is the husband, wife, child or parent of the employee. It also includes someone who lives in the same household as the employee. For example, this could be a partner or an elderly aunt or grandparent who lives in the household. It does not include tenants or boarders living in the family home, or someone who lives in the household as an employee, such as a live-in housekeeper.

In cases of illness or injury, or where care arrangements break down, a dependant may also be someone who reasonably relies on the employee for assistance. This may be where the employee is the primary carer or is the only person who can help in an emergency; for example, an aunt who lives nearby who the employee looks after outside work falls ill unexpectedly, or an elderly neighbour living alone who falls and breaks a leg, where the employee is closest on hand at the time of the fall.

## **SECTION 5**

### **How much time off can an employee take?**

The employee is entitled to take a reasonable amount of time off in the circumstances set out in [Section 3](#). The legislation does not specify the amount of time off which is reasonable, since this will vary according to the circumstances of the emergency. For most cases, one or two days should be sufficient to deal with the problem. For example, if a child falls ill with chickenpox, the leave should be enough to help the employee cope with the crisis – to deal with the immediate care of the child, visiting the doctor if necessary, and to make longer term care arrangements. The employee is not entitled to take two weeks leave to look after a sick child. In the event of a dispute, the employer and employee should seek to resolve their differences through the normal grievance procedures. Otherwise, it will be up to an industrial tribunal to determine what is reasonable.

The right is intended to cover genuine emergencies. No limit on the number of times an employee can be absent from work under this right has been set.

***Frequently Asked Question: What happens if the employee needs longer time off, or knows in advance that the problem is going to arise?***

*The new right is generally for unforeseen matters. If employees know in advance that they are going to need time off, they should ask for leave in the usual way. This may involve someone taking annual leave or some other form of leave if the employer provides it. Or, if the reason they need leave relates to their child, from 15 December 1999 they may be entitled to take parental leave.*

***Frequently Asked Question: Does an employer need to keep records of time off taken under this right?***

*Employers are not required to keep records of time off taken under this right, although many will want to do so for their own purposes.*

## **SECTION 6**

### **Telling the employer**

Employees must tell their employer, as soon as practicable, the reason for their absence and how long they expect to be away from work.

There may be exceptional circumstances where an employee returns to work before it was possible to contact the employer, but he should still tell the employer the reason for the absence on returning.

It is not necessary to give notice in writing.

## **SECTION 7**

### **Abuse of the new right**

Employers who think that an employee is abusing the right to time off should deal with the situation according to their normal disciplinary procedures.

## **SECTION 8**

### **Protection from dismissal and detriment**

Employees are protected from being penalised or dismissed because they have taken, or have sought to take, time off under this right. For example, someone who is moved to lower grade work because they have exercised this right would be able to make a complaint that they have suffered a detriment.

It is unfair to be dismissed or selected for redundancy for taking, or seeking to take, time off under this right.

***Frequently Asked Question: What is the meaning of detriment?***

*Detriment can cover a wide range of discriminatory actions, such as denial of promotion, facilities or training opportunities which the employer would otherwise have offered or made available.*

## **SECTION 9**

### **Grounds for complaint and resolving disputes**

The grounds for making a complaint to an industrial tribunal are that the employee has unreasonably been refused time off; suffers a detriment for taking, or seeking to take, time off; is dismissed for taking, or seeking to take, time off.

An employee who believes that he is entitled to make a complaint to an industrial tribunal should first seek to resolve the dispute by mutual agreement with the employer - perhaps through the business's own grievance or appeals procedure, where one exists. However, it should be noted that the time limit for making a complaint to an industrial tribunal will still apply and will not normally be extended to allow for the fact that attempts have been made to settle the dispute in advance.

The employee and employer may also seek advice from the Labour Relations Agency (LRA), the office addresses of which are given in [Appendix 2](#) of this booklet.

## **SECTION 10**

### **Making a complaint to an industrial tribunal**

The complaint should normally be made within three months of the refusal to allow time off, or the act of detriment or dismissal. An extension to the time limit can be granted only in exceptional circumstances, where the industrial tribunal is satisfied that it was not reasonably practicable for the complaint to have been made any earlier.

The Employment Rights booklet '[Unfairly Dismissed?](#)' ([ER13](#)) sets out more fully the procedures for making a complaint to an industrial tribunal.

An employee who wishes to make a complaint to an industrial tribunal should obtain a claim form IT1 (NI) and an explanatory leaflet from the Office of Industrial Tribunals and the Fair Employment Tribunal – see [appendix 2](#).

When the Office of the Industrial Tribunals and the Fair Employment Tribunal receives a completed application form, it will send a copy to the LRA. The LRA will try to get the two sides to reach a settlement of the complaint.

If conciliation is not possible or fails, an industrial tribunal will hear the case, and both parties should attend the hearing. They may claim travelling expenses and other expenses within certain limits. Industrial tribunal hearings are conducted informally and in a way which makes it easy for the parties to present their own case if they wish to do so. However, if either party wants to be represented – whether by a lawyer or by someone else such as a trade union, an employer's association, a relative or a friend - this is permitted.

## **SECTION 11**

### **Remedies**

Where an employee complains that he has been unreasonably refused time off or subjected to a detriment for taking or seeking to take time off, and the tribunal finds the complaint well-founded, it will make a declaration to that effect and may order the payment of compensation. It is for the tribunal to decide the appropriate award, taking account of the loss suffered by the applicant.

Where a tribunal finds that a complaint of unfair dismissal is justified, it will order reinstatement or re-engagement, or the payment of compensation. The Employment Rights booklet '[Limits on payments and awards](#)' (ER19) gives general information about the sums payable. For further details of remedies in cases of unfair dismissal, see the Employment Rights Booklets '[Unfairly Dismissed?](#)' (ER13) and '[Dismissal: fair and unfair - a guide for employers](#)' (ER18).

## Appendix 1: Booklets in This Series

ER 1	Individual Rights and Responsibilities of Employees
ER 2	Written statement of employment particulars
ER 3	Redundancy Entitlement - Statutory Rights. (Incorporating former booklets ER3/9/20)
ER 4	Redundancy consultation and notification
ER 5	Your rights if your employer is insolvent
ER 6	Unjustifiable discipline by a trade union
ER 7	Time off for public duties
ER 8	Continuous employment and a week's pay
ER 10	Suspension from work on medical or maternity grounds
ER 12	Pay statements: what they must itemise
ER 13	Unfairly dismissed?
ER 14	Guarantee payments
ER 15	Rights to notice and reasons for dismissal
ER 16	Maternity rights: a guide for employers and employees
ER 17	Help with meeting redundancy costs for employers in financial difficulty
ER 18	Dismissal: fair and unfair - a guide for employers
ER 19	Limits on payments and awards
ER 21	Contracts of employment: changes, breach of contract and deductions from wages
ER 22	Criminal records and employment
ER 23	Payment of Union Subscriptions through "check off"
ER 24	Time off for dependants
ER 25	Parental leave: a guide for employers and employees
ER 26	Time off for study or training
ER 27	Industrial action and the law: a guide for employees
ER 28	Trade union executive elections
ER 29	Industrial action and the law: a guide for employers
ER 30	Industrial action and the law: a guide for individuals whose supply of goods or services is affected by unlawful industrial action
ER 31	Union membership: rights of members and non-members
ER 33	Trade union political funds
ER 34	Rights to paternity leave and pay
ER 35	Adoptive parents: a guide for employers and employees
ER 36	Flexible working: a guide for employers and employees

## Appendix 2: Useful addresses

### **Certification Officer for Northern Ireland**

10 -12 Gordon Street  
Belfast  
BT1 2LG

Tel: 028 9023 7773  
Fax: 028 9023 2271  
Textphone: 028 9023 8411  
Website: [www.nicertoffice.org.uk/](http://www.nicertoffice.org.uk/)  
E-mail: <mailto:info@nicertoffice.com>

### **Department for Employment and Learning**

[Redundancy Payments Service](#)  
Room 203 Adelaide House  
39-49 Adelaide Street  
Belfast  
BT2 8FD

Tel: 028 9025 7956  
Fax: 028 9025 7555  
Freephone: 080 0585 811  
Website: [www.redundancyni.gov.uk](http://www.redundancyni.gov.uk)  
E-mail: [rpsquery@delni.gov.uk](mailto:rpsquery@delni.gov.uk)

### **The Health & Safety Executive for Northern Ireland**

83 Ladas Drive  
Belfast  
BT6 9FR

Tel: 028 9024 3249  
Fax: 028 9023 5383  
Textphone: 028 9054 6896  
Freephone Helpline: 080 0032 0121  
Website: [www.hseni.gov.uk](http://www.hseni.gov.uk)  
E-mail: [hzeni@detini.gov.uk](mailto:hzeni@detini.gov.uk)

### **Department for Employment and Learning**

Employment Rights Branch  
Room 203 Adelaide House  
39-49 Adelaide Street  
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Website: [www.delni.gov.uk/index/work.htm](http://www.delni.gov.uk/index/work.htm)  
E-mail: [erbooklets@delni.gov.uk](mailto:erbooklets@delni.gov.uk)

### **The Equality Commission for Northern Ireland**

Equality House  
7-9 Shaftesbury Square  
Belfast  
BT2 7DP

Tel: 028 9050 0600  
Fax: 028 9033 1544  
Textphone: 028 9050 0589  
Website: [www.equalityni.org](http://www.equalityni.org)  
E-mail: [information@equalityni.org](mailto:information@equalityni.org)

### **The Industrial Court**

Room 203 Adelaide House  
39-49 Adelaide Street  
Belfast  
BT2 8FD

Tel: 028 9025 7599  
Fax: 028 9025 7555  
Website: [www.industrialcourt.gov.uk](http://www.industrialcourt.gov.uk)  
E-mail: [enquiries@industrialcourt.gov.uk](mailto:enquiries@industrialcourt.gov.uk)

**Labour Relations Agency****Head Office**

2-8 Gordon Street  
Belfast  
BT1 2LG

Tel: 028 9032 1442

Fax: 028 9033 0827

Textphone: 028 9023 8411

Website: [www.lra.org.uk](http://www.lra.org.uk)

E-mail: [info@lra.org.uk](mailto:info@lra.org.uk)

**NI Business Info**

(website giving information on a wide range of issues for employers)

Website: [www.nibusinessinfo.co.uk](http://www.nibusinessinfo.co.uk)

**Labour Relations Agency****Regional Office**

1-3 Guildhall Street  
Londonderry  
BT48 6BJ

Tel: 028 7126 9639

Fax: 028 7126 7729

Textphone: 028 9023 8411

Website: [www.lra.org.uk](http://www.lra.org.uk)

E-mail: [info@lra.org.uk](mailto:info@lra.org.uk)

**Office of the Industrial Tribunals  
and the Fair Employment Tribunal**

Killymeal House  
2 Cromac Quay  
Ormeau Road  
Belfast  
BT7 2JD

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Fax: 028 9023 0184

Website: [www.employmenttribunalsni.org](http://www.employmenttribunalsni.org)

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Our aim is to promote learning and skills, to prepare people for work and to support the economy.

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