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Department for
**Employment
and Learning**
www.delni.gov.uk

ER7 Time off for public duties



May 2011

Introduction

This booklet outlines the provisions relating to time off for public duties which are contained in Articles 78 and 79 of the Employment Rights (Northern Ireland) Order 1996 and explains how a complaint is dealt with. 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 under Employment Rights – publications. Alternatively they may be obtained upon request from your local Jobs and Benefits office. For information on Jobs and Benefits offices: **FREEPHONE** 0800 353530.

For employees seeking advice there is the employee section of the NIDirect website: www.nidirect.gov.uk/index/employment which provides a single comprehensive source of information for employees about their rights and responsibilities.

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 Relations Policy and Legislation 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

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Outline of provisions

The provisions outlined in this booklet require employers to permit employees who hold certain public positions reasonable time off to perform the duties associated with them.

Those covered by the provisions

The provisions apply to employees who are:

- justices of the peace;
- members of a district council;
- members of district policing partnerships;
- members of any statutory tribunal;
- members of a Health and Social Services Board established under the Health and Personal Social Services (Northern Ireland) Order 1972;
- members of a Health and Social Services Trust established under the Health and Personal Social Services (Northern Ireland) Order 1991;
- members of an Education and Library Board established under the Education and Libraries (Northern Ireland) Order 1986;
- members of any of the following (within the meaning of the Education and Libraries (Northern Ireland) Order 1986), namely:
 - (i) the board of Governors of a grant-aided school;
 - (ii) members of the governing body of an institution of further education (within the meaning of the Further Education (Northern Ireland) Order 1997); or
 - (iii) the managers of a college of education;
- members of the Council for Catholic Maintained Schools established under the Education and Libraries (Northern Ireland) Order 1989;
- members of the Northern Ireland Council for the Curriculum, Examinations and Assessment established under the Education and Libraries (Northern Ireland) Order 1993;
- members of the General Teaching Council for Northern Ireland established under the Education (Northern Ireland) Order 1998;
- members of a board of visitors appointed under the Prison Act (Northern Ireland) 1953; or

- members of a visiting committee appointed under the Treatment of Offenders Act (Northern Ireland) 1978.

Those not covered by the provisions

The provisions do not cover:

- anyone who is not an employee, for example an independent contractor, or freelance agent;
- masters and crew members engaged in share fishing who are paid wholly by a share in the profits or gross earnings of a fishing vessel;
- employees who ordinarily work outside Northern Ireland under their contracts of employment;
- merchant seamen;
- members of the police service and armed forces; and/or
- Crown servants where the public duties are connected with certain political or other activities restricted under their terms of employment.

What duties are covered

The duties for which an employer is required to permit reasonable time off are any of the duties of a justice of the peace, or as regards membership of any one of the bodies listed under: 'Those covered by the provisions':

- attendance at meetings of the body or any of its committees or sub-committees; or
- performance of duties approved by the body, for the purpose of discharging its functions or those of any of its committees or sub-committees.

What is reasonable time off

The amount of time which an employee should be permitted to take off to perform these public duties is defined as that which is reasonable, in all the circumstances, having regard in particular to the following:

- how much time off is required overall to perform the duties and how much time off is required to perform the particular duty in question;
- how much time off the employee has already been permitted for this purpose or for trade union duties and/or activities; and
- the circumstances of the employer's business and the effect of the employee's absence upon it.

Payment for time off

While there is nothing to prevent an employer from making payment to an employee for time off for public duties, there is no obligation for payment to be made.

Making a complaint to an Industrial Tribunal

An employee who considers that his employer has failed to allow him to take time off that he is entitled to may seek a remedy by complaining to an Industrial Tribunal. To apply to an Industrial Tribunal contact the Office of the Industrial Tribunals and the Fair Employment Tribunal (OITFET) for a claim form ET1 and an explanatory leaflet.

Resolving Disputes in the Workplace

Where there is a dispute about a workplace issue involving rights and responsibilities those involved should try to sort out the matter between themselves. Whether the employee is complaining (raising a grievance) about something the employer has done or the employer has concerns about the employee's work or behaviour (a disciplinary matter) it is generally a good idea to talk the matter over informally and try to get it resolved as soon as possible.

If this approach fails it is normal to involve line management and a trade union representative (where there is one) to explore potential solutions. If the dispute goes beyond this point without being resolved, employers and employees should engage in a formal process to ensure that the workplace dispute is properly discussed. Even at this stage it can be useful to seek outside assistance or advice from the Labour Relations Agency (LRA). The LRA may be able to help resolve the dispute.

If the dispute continues and the employee or the employer fails to follow the process this could influence the outcome of a subsequent claim to an Industrial Tribunal or a Fair Employment Tribunal. However, where a dispute is likely to result in a claim being made to an Industrial Tribunal, parties to a dispute should note that the LRA offers a free and impartial Pre-claim Conciliation Service that is independent of the Tribunal process.

Advice about employment rights and what to do in the event of a dispute can be obtained from the LRA by contacting their helpline: **028 9032 1442**.

How is a complaint made to an Industrial Tribunal

Individuals who wish to make a complaint to an Industrial Tribunal may obtain a copy of an explanatory booklet ITL1 (NI), and an application form IT 1, both of which are available free of charge from the Office of the Industrial Tribunals and the Fair Employment Tribunal (OITFET). Completed application forms should be returned to OITFET - see Appendix 2.

What is the time limit for making a complaint to an Industrial Tribunal

A complaint must be made to an Industrial Tribunal within three months of the date when the alleged failure to allow time off occurred.

Conciliation

The Industrial Tribunal will send a copy of the completed form to a conciliation officer of the Labour Relations Agency (LRA), who will attempt to settle the complaint by conciliation without the need for a tribunal hearing. The services of a conciliation officer will also be available where an individual believes that his employment rights have been infringed, in the absence of a formal complaint.

Either the employee or employer can request such involvement through the offices of the LRA - see Appendix 2.

Information given to conciliation officers in the course of their duties will be treated as confidential. It may not be divulged to the Industrial Tribunal without the consent of the person who gave it.

Industrial Tribunal hearing

Where conciliation does not take place or fails, the Industrial Tribunal will hear the complaint. Both parties should attend and may claim travelling and other expenses, including loss of earnings. Industrial Tribunal proceedings are conducted informally and in such a way as to make it easy for individuals to conduct their own cases if they wish. The parties may be represented by anyone they wish, including a representative of a trade union or employers' association.

Where an Industrial Tribunal finds the complaint justified, it will make a declaration to that effect. It may also order the employer to pay compensation to the employee. The amount will be that which the Industrial Tribunal considers just and equitable in all the circumstances, having regard to the employer's failure to permit time off and to any resulting loss to the employee.

What if an employee is dismissed for seeking to enforce his rights

Dismissal of an employee for seeking to enforce the rights described in this booklet, either by making a reference to an Industrial Tribunal or by alleging that the employer has infringed those rights, is unlawful. An employee dismissed in these circumstances is entitled to make a complaint of unfair dismissal to an Industrial Tribunal. This applies whether or not the employee did in fact qualify for the rights in question and whether or not they had been infringed, provided that he acted in good faith.

Again, the complaint must normally be made within three months of the date on which the employment ended, irrespective of whether an internal appeals procedure is being used.

Appendix 1: Booklets in this series

Booklets in this series are available online from www.delni.gov.uk/erbooklets or can be obtained by contacting the Department.

ER 1	Individual rights and responsibilities of employees
ER 2	Written statement of employment particulars
ER 3	Redundancy entitlement statutory rights
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

Additional employment rights publications, covering a range of other issues, can be found online at www.delni.gov.uk/erpublications or can be obtained from the Department.

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.com
E-mail: 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
Freephone: 080 0585 811
Fax: 028 9025 7555
Website: www.redundancyni.gov.uk
E-mail: rpsquery@delni.gov.uk

The Health and 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

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Employment Relations Policy and Legislation Branch
Room 203
Adelaide House
39-49 Adelaide Street
Belfast
BT2 8FD

Tel: 028 9025 7580
Website: www.delni.gov.uk/er
E-mail: 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
E-mail: information@equalityni.org

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
E-mail: 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

E-mail: info@lra.org.uk

NIBusiness Info

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

Website: 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

E-mail: info@lra.org.uk

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

Killymeal House
2 Cromac Quay
Ormeau Road
Belfast
BT7 2JD

Tel: 028 9032 7666

Fax: 028 90250100

Website: www.employmenttribunalsni.org

people:skills:jobs:



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www.delni.gov.uk



INVESTOR IN PEOPLE

THE DEPARTMENT:

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

This document is available in other formats upon request.

Further information:

Telephone: 028 9025 7580

E-mail: employment.rights@delni.gov.uk

Website: www.delni.gov.uk