Time off for trade union duties/activities

- Articles 92-95 of the Employment Rights (NI) Order 1996 as amended
- Code of Practice – Time off for trade union duties and activities issued by LRA. www.lra.org.uk/time_off_for_trade_union_duties_and_activities_.pdf

Paid time off

- Article 92(1) right to paid time off for trade union duties for specified purposes set out in sub paras (a) to (e).
- Article 92(2) – undergoing training relevant to duties in 92(1) and approved by union
- 92(A) right to paid time off for union learning representatives
- Applies to trade union officials of an independent trade union recognised by the employer.
- Not duties in relation to industrial relations generally

(a) Negotiations with the employer about matters falling with Article 96(1) (collective bargaining) in relation to which the Union is recognised.

(b) Any other functions which are related to matters falling within Article 96(1) which employer agreed union can perform.

(c) Receipt of information from the employer and consultation under Article 216 (Procedure for Handling Redundancies), or under TUPE.

(d) Negotiations with a view to entering into an agreement under Regulation 9 of TUPE 2006 that applies to employees of the employer; or

(e) Performance on behalf of employees of the employer or functions related to, or connected with the making of an agreement under that Regulation.

“Matters” falling with Article 96(1) of the IR (NI) Order 1996 are as follows:-

(a) terms and conditions of employment, or the physical conditions in which workers are required to work
(b) engagement or non-engagement, or termination or suspension of employment or the duties of employment, of one or more workers.
(c) allocation of work or the duties of employment as between workers or groups of workers.
(d) Matters of discipline.
(e) Trade union membership or non-membership
(f) Facilities for officials of trade unions
(g) Machinery for negotiation or consultation on other procedures.

Time Off for Trade Union Activities

- Article 94 – member of an independent trade union recognised by the employer.
- Time off during working hours for the purpose of taking part in any activities of the union, and any activities in relation to which the employee is acting as representative of the union.
- Code of Practice – examples – attending workplace meetings to discuss and vote on the outcome of negotiations, meeting full-time officials to discuss issues relevant to the workplace – voting in elections.

Reasonableness

- Amount of time off is *"reasonable in all the circumstances having regard to the provisions of a code of practice"* see Article 92(3).
- Code of Practice states *"trade union should be aware of the wide variety of difficulties and operational requirements to be taken into account ….. for example,*
- *The size of the organisation and the number of workers;*
- *The production process;*
- *The need to maintain a service to the public;*
- *The need for safety and security at all times"*

Complaints to Industrial Tribunal

- Failed to permit employee to take time off; or
- Failed to pay the employee in accordance with Article 93.
- 3 month time limit for lodging.
- Tribunal can make a declaration and award compensation in accordance to what is just and equitable having regard to the employer’s default in failing to permit time off to be taken and any loss sustained by the employee.