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STATUTORY INSTRUMENTS

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**1987 No. 936**

**The Industrial Relations (Northern Ireland) Order 1987**

*Unfair dismissal*

**New special award**

7.—(1) In Article 32(2)(b) of the No. 1 Order (additional compensation to be awarded where order under Article 31 not complied with unless it was not practicable for the employer to comply) for the word “unless” there shall be substituted the words “except in a case in which the dismissal is to be regarded as unfair by virtue of Article 22A or 22C(a) or in which”.

(2) For Article 33 (which provides that compensation for unfair dismissal shall consist of a basic award and a compensatory award) there shall be substituted—

**“Compensation for unfair dismissal**

**33.** Where a tribunal makes an award of compensation for unfair dismissal under Article 32(2)(a) or (5) the award shall consist of—

- (a) a basic award (calculated in accordance with Articles 34 and 35); and
- (b) a compensatory award (calculated in accordance with Article 36); and
- (c) where the dismissal is to be regarded as unfair by virtue of Article 22A or 22C(a), a special award (calculated in accordance with Article 37A); but paragraph (c) shall not apply unless the complainant requested the tribunal to make an order under Article 31, and shall not in any event apply in a case within Article 34(2).”

(3) After Article 37 of the No. 1 Order there shall be inserted—

**“Calculation of special award**

**37A.—**(1) Subject to the following provisions of this Article, the amount of the special award shall be—

- (a) one week’s pay multiplied by 104; or
- (b) £11,000; whichever is the greater, but shall not exceed £22,000.

(2) If the award of compensation is made under Article 32(2)(a) then, unless the employer satisfies the tribunal that it was not practicable to comply with the preceding order under Article 31, the amount of the special award shall be increased to—

- (a) one week’s pay multiplied by 156; or
- (b) £16,500; whichever is the greater, but subject to the following provisions of this Article.

(3) In a case where the amount of the basic award is reduced under Article 34(6), the amount of the special award shall be reduced by the same fraction.

(4) Where the tribunal considers that any conduct of the complainant before the dismissal (or, where the dismissal was with notice, before the notice was given) was such that it would

be just and equitable to reduce or further reduce the amount of the special award to any extent, the tribunal shall reduce or further reduce that amount accordingly.

(5) Where the tribunal finds that the complainant has unreasonably—

- (a) prevented an order under Article 31 from being complied with; or
- (b) refused an offer by the employer (made otherwise than in compliance with such an order) which if accepted would have the effect of reinstating the complainant in his employment in all respects as if he had not been dismissed; the tribunal shall reduce or further reduce the amount of the special award to such extent as it considers just and equitable having regard to that finding.

(6) Where the employer has engaged a permanent replacement for the complainant, the tribunal shall not take that fact into account in determining, for the purposes of paragraph (2), whether it was practicable to comply with an order under Article 31 unless the employer shows that it was not practicable for him to arrange for the complainant's work to be done without engaging a permanent replacement.

(7) The Department may by order increase any of the sums of £11,000, £22,000 and £16,500 specified in paragraphs (1) and (2), or any of those sums as from time to time increased under this paragraph.”.