

2009 No. 317

EMPLOYMENT

**The Work and Families (Increase of Maximum Amount) Order
(Northern Ireland) 2009**

Made - - - - - *7th September 2009*

Coming into operation - - - - - *1st October 2009*

Approved by resolution of the Assembly on 1st February 2010

The Department for Employment and Learning makes the following Order in exercise of the powers conferred by Article 16 of the Work and Families (Northern Ireland) Order 2006(a).

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Work and Families (Increase of Maximum Amount) Order (Northern Ireland) 2009 and shall come into force on 1st October 2009.

(2) In this Order—

- (a) “the 1995 Order” means the Trade Union and Labour Relations (Northern Ireland) Order 1995(b);
- (b) “the 1996 Order” means the Employment Rights (Northern Ireland) Order 1996(c).

Increase in the maximum amount of a week’s pay

2.—(1) For each of the sums specified(d) in section 23(1) of the 1996 Order(e) (maximum amount of a week’s pay for the purposes of the 1996 Order relating to awards of compensation and redundancy payments) and section 231(1)(a) and (b) of the 1996 Order(f) (employee’s rights on insolvency of employer; maximum amount payable) substitute £380.

(2) The substitution made by Article 2(1) does not have effect in relation to a case where the appropriate date falls before 1 October 2009.

(3) In this Article “the appropriate date” means—

- (a) in the case of an application made under Article 34(1)(g) of the 1995 Order (compensation for unjustifiable discipline by a trade union), the date of the determination infringing the applicant’s right;

(a) S.I. 2006/1947 (N.I. 16).
(b) S.I. 1995/1980 (N.I. 12). Relevant amendments to this Order are noted in the footnotes below.
(c) S.I. 1996/1919 (N.I. 16). Relevant amendments to this Order are noted in the footnotes below.
(d) The sums specified were substituted from 15th February 2009 by S.R. 2009 No. 45.
(e) Section 23(1) was amended by the Employment (Northern Ireland) Order 2002 (NI 2), Article 17(1) and Schedule 2, paragraph 4(4); S.I. 2003/2902 (NI 15); SR 2003 No.241 Article 3 and Schedule 1; SR 2005 No.12 Article 3 and Schedule 1.
(f) Section 231(a) and (b) was amended by SR 2003 No.241 and SR 2005 No.12.
(g) Article 34(1) was amended by Articles 23(1) and 158(1) of the 1996 Order.

- (b) in the case of an application made under Article 40(2) of the 1995 Order (compensation for expulsion from a trade union), the date of the expulsion from the union;
- (c) in the case of a complaint presented under Article 44C(1) of the 1995 Order^(a) (failure by an employer to consult with a trade union on training matters), the date of the alleged failure;
- (d) in the case of an award under paragraph 159(1) of Schedule 1A to the 1995 Order^(b), where a worker has suffered a detriment that is the termination of the worker's contract, the date of the termination;
- (e) in the case of an award of compensation under Article 72(1)(b) of the 1996 Order by virtue of section 24(2) of the National Minimum Wage Act 1998^(c), where a worker has suffered a detriment that is the termination of the worker's contract, the date of the termination;
- (f) in the case of an award under Article 112I(1)(b) of the 1996 Order^(d) (award of compensation relating to an application for contract variation), the date of the failure in relation to the application or of the decision to reject the application;
- (g) in the case of an award under Article 146(4) or (5) of the 1996 Order^(e) (award in relation to unfair dismissal) the effective date of termination as defined by Article 129^(f) of that Order;
- (h) in the case of an award under Article 151(3) of the 1996 Order^(g), where an employer has failed to reinstate or re-engage the complainant in accordance with an order under Article 147 of that Order, the date by which the order for reinstatement (specified under Article 148(2)(c) of that Order) or, as the case may be, re-engagement (specified under Article 149(2)(f) of that Order) should have been complied with;
- (i) in the case of entitlement to a redundancy payment by virtue of Article 170(1)(a) of the 1996 Order (dismissal by reason of redundancy), the relevant date as defined by Article 180 of that Order^(h);
- (j) in the case of entitlement to a redundancy payment by virtue of Article 170(1)(b) of the 1996 Order (lay-off or short-term), the relevant date as defined by Article 188 of that Order;
- (k) in the case of entitlement to a payment under Article 227 of the 1996 Order (payments by the Department), the appropriate date as defined by Article 230 of that Order;
- (l) in the case of a complaint presented under Article 13(1) of the Employment Relations (Northern Ireland) Order 1999⁽ⁱ⁾ (failure or threatened failure to allow the worker to be accompanied at the disciplinary or grievance hearing, to allow the companion to address the hearing or confer with the worker, or to postpone the hearing), the date of the failure or threat;
- (m) in the case of a complaint presented under regulation 15 of the Flexible Working (Procedural Requirements) Regulations (Northern Ireland) 2003^(j) (failure or threatened

(a) Article 44C was inserted by Article 7 of the Employment Relations (Northern Ireland) Order 1999 (NI 9).
 (b) Schedule 1A was inserted by Articles 3(1) and (3) and Schedule 1 to the Employment Relations (Northern Ireland) Order 1999 (NI 9).
 (c) 1998 c. 39.
 (d) Article 112I was inserted by Article 15(2) of the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I. 2)).
 (e) Article 146(4) was amended by the Employment (Northern Ireland) Order 2003 (S.I. 2003/2902 (N.I. 15)), Article 35 and Schedule 5, paragraph 2(6). Article 146(5) was inserted by Article 23(3) of the Employment (Northern Ireland) Order 2003 and amended by the Employment Equality (Age) Regulations (Northern Ireland) 2006 (S.R. 2006 No. 261), Schedule 7, paragraph 3(7).
 (f) Article 129 was amended by the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2002 (S.R. 2002 No. 298), Schedule 2, paragraph 2(8).
 (g) Article 151(3) was amended by Article 32(2) of the Employment Relations (Northern Ireland) Order 1999 (NI 9).
 (h) Article 180 was amended by the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2002, Schedule 2, paragraph 2(14) and SR 2002 No.298.
 (i) Article 13(1) was amended by Article 18(2) of the Employment Relations (Northern Ireland) Order 2004 (NI 19).
 (j) S.R. 2003 No. 173.

- failure to allow an employee to be accompanied at a meeting or to postpone the meeting), the date of the failure or threat;
- (n) in the case of an award made under Article 27(2) of the Employment (Northern Ireland) Order 2003^(a) (duty to give a written statement of initial employment particulars or of particulars of change), the date the proceedings to which that Article applies were begun;
 - (o) in the case of an increase in an award in pursuance of Article 27(3) of the Employment (Northern Ireland) Order 2003, the date the proceedings to which that Article applies were begun;
 - (p) in the case of a complaint presented under paragraph 11(1) of Schedule 5 to the Employment Equality (Age) Regulations (Northern Ireland) 2006^(b) (failure of employer to comply with duty to notify employee of date on which he intends employee to retire or of right to make request not to retire on the intended date), the date of the failure; and
 - (q) in the case of a complaint presented under paragraph 12(1) of Schedule 5 to the Employment Equality (Age) Regulations (Northern Ireland) 2006 (failure or threatened failure to allow an employee to be accompanied at a meeting, to allow the companion to address the meeting or confer with the employee, or to postpone the meeting), the date of the failure or threat.

Excluding the operation of indexation of the maximum amount

3. Any duty to make an order under Article 33 of the Employment Relations (Northern Ireland) Order 1999^(c) (indexation of certain amounts, etc) so far as relating to sums specified in the following provisions—

- (a) section 231(1)(a) and (b) of the 1996 Order; and
- (b) section 23(1) of the 1996 Order,

shall be excluded on the occasion of the retail prices index for September 2009 being found to be higher or lower than the index for September 2008.

Sealed with the Official Seal of the Department for Employment and Learning on 7th September 2009.



Sir Reg Empey
Minister for Employment and Learning

(a) S.I. 2003/2902 (N.I. 15).
(b) S.R. 2006 No. 261.
(c) The most recent Order made under section 33 is S.R. 2009 No. 45.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order increases from £350 to £380 from 1st October 2009 the maximum weekly amount used for the purposes of calculating certain awards made by industrial tribunals (including awards for unfair dismissal or redundancy) and certain payments made by the Department out of the Northern Ireland National Insurance Fund, where an employer is insolvent. By virtue of Article 16(2) of the Work and Families (Northern Ireland) Order 2006, amounts may be increased under that Article on one occasion only. The increases apply where the event giving rise to the entitlement to compensation or other payments occurred on or after 1st October 2009.

Article 3 excludes, on this single occasion, the operation of Article 33 of the Employment Relations (Northern Ireland) Order 1999, in relation to the sums covered by this Order. Therefore the sums will not increase (or decrease) in line with the retail prices index for September 2009, in February 2010.

An impact assessment in respect of this Order is available and a copy can be obtained from the Department for Employment and Learning.

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