

2004 No. 2989

TERMS AND CONDITIONS OF EMPLOYMENT

The Employment Rights (Increase of Limits) Order 2004

Made - - - - - *10th November 2004*

Laid before Parliament *16th November 2004*

Coming into force - - - *1st February 2005*

The Secretary of State, in exercise of the powers conferred on her by section 34 of the Employment Relations Act 1999(a), hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Employment Rights (Increase of Limits) Order 2004 and shall come into force on 1st February 2005.

(2) In this Order —

- (a) “the 1992 Act” means the Trade Union and Labour Relations (Consolidation) Act 1992(b);
- (b) “the 1996 Act” means the Employment Rights Act 1996(c); and
- (c) “the 1999 Act” means the Employment Relations Act 1999.

Revocation

2. Subject to article 4, the Employment Rights (Increase of Limits) Order 2003(d) is revoked.

Increase of limits

3. Subject to article 4, each of the limits referred to in the first and second columns of the Table in the Schedule to this Order is increased by the substitution, in place of the old amount specified in the third column, of the new amount specified in the fourth column.

Transitional provisions

4.—(1) The increases provided for in article 3 have effect in any case where the appropriate date falls on or after 1st February 2005.

(2) In a case where the appropriate date falls before 1st February 2005, the limits having effect in relation to the case immediately before 1st February 2005 continue to apply.

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

(a) 1999 c.26.
(b) 1992 c.52.
(c) 1996 c.18.
(d) S.I. 2003/3038.

- (a) in the case of an application made under section 67 of the 1992 Act (compensation for unjustifiable discipline by a trade union), the date of the determination infringing the applicant's right;
- (b) in the case of a complaint made under section 70C of the 1992 Act(a) (failure by an employer to consult with a trade union on training matters), the date of the alleged failure;
- (c) in the case of a complaint presented under section 137(2) of the 1992 Act (refusal of employment on grounds related to union membership) or section 138(2) of that Act (refusal of service of employment agency on grounds related to union membership), the date of the conduct to which the complaint relates, as determined under section 139 of that Act;
- (d) in the case of an application made under section 176(2) of the 1992 Act(b) (compensation for exclusion or expulsion from a trade union), the date of the exclusion or expulsion from the union;
- (e) in the case of a guarantee payment to which an employee is entitled under section 28(1) of the 1996 Act, the day in respect of which the payment is due;
- (f) in the case of a complaint presented under section 111 of the 1996 Act (complaints of unfair dismissal), for the purpose of calculating the basic award or compensatory award under section 118(1) of that Act, the effective date of termination as defined by section 97 of that Act;
- (g) in the case of an award under section 117(1) or (3) of the 1996 Act(c), where an employer has failed to comply fully with the terms of an order for reinstatement or re-engagement or has failed to reinstate or re-engage the complainant in accordance with such an order, the date by which the order of reinstatement (specified under section 114(2)(c) of that Act) or, as the case may be, re-engagement (specified under section 115(2)(f) of that Act) should have been complied with;
- (h) in the case of entitlement to a redundancy payment by virtue of section 135(1)(a) of the 1996 Act (dismissal by reason of redundancy), the relevant date as defined by section 145 of that Act(d);
- (i) in the case of entitlement to a redundancy payment by virtue of section 135(1)(b) of the 1996 Act (lay-off or short-time), the relevant date as defined by section 153 of that Act;
- (j) in the case of entitlement to a payment under section 182 of the 1996 Act (payments by the Secretary of State), the appropriate date as defined by section 185 of that Act; and
- (k) in the case of a complaint presented under section 11(2) of the 1999 Act where an employer has failed or threatened to fail to allow an employee to be accompanied at a disciplinary or grievance hearing, the date of the failure or threat.

Gerry Sutcliffe,
 Parliamentary Under Secretary of State for Employment Relations,
 Postal Services and Consumers,
 Department of Trade and Industry

10th November 2004

(a) Section 70C was inserted by the Employment Relations Act 1999, section 5.
 (b) Section 176 was substituted by section 14 of the Trade Union Reform and Employment Rights Act 1993 (c.19).
 (c) Section 117(3) was amended by the Employment Relations Act 1999, section 33(2).
 (d) Section 145(7) was repealed by the Employment Relations Act 1999, sections 9 and 44; Schedule 4, Part III, paragraphs 5 and 26; and Schedule 9.2.

SCHEDULE

Article 3

TABLE OF INCREASE OF LIMITS

	<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
	<i>Relevant statutory provision</i>	<i>Subject of provision</i>	<i>Old Limits</i>	<i>New Limits</i>
1	Section 156(1) of the 1992 Act	Minimum amount of basic award of compensation where dismissal is unfair by virtue of section 152(1) or 153 of the 1992 Act.	£3,600	£3,800
2	Section 176(6) of the 1992 Act	Minimum amount of compensation awarded by the Employment Appeal Tribunal where individual excluded or expelled from union in contravention of section 174 of the 1992 Act.	£5,900	£6,100
3	Section 31(1) of the 1996 Act	Limit on amount of guarantee payment payable to an employee in respect of any day.	£17.80	£18.40
4	Section 120(1) of the 1996 Act	Minimum amount of basic award of compensation where dismissal is unfair by virtue of section 100(1)(a) or (b), 101A(d), 102(1) or 103 of the 1996 Act.	£3,600	£3,800
5	Section 124(1) of the 1996 Act	Limit on amount of compensatory award for unfair dismissal.	£55,000	£56,800
6	Paragraphs (a) and (b) of section 186(1) of the 1996 Act	Limits on amount in respect of any one week payable to an employee in respect of debt to which Part XII of the 1996 Act applies and which is referable to a period of time.	£270	£280
7	Section 227(1) of the 1996 Act	Maximum amount of “a week’s pay” for the purpose of calculating basic or additional award of compensation for unfair dismissal or redundancy payment.	£270	£280

EXPLANATORY NOTE

(This note is not part of the Order)

This Order increases, from 1st February 2005, the limits applying to certain awards of employment tribunals, and other amounts payable under employment legislation, as specified in the Schedule to the Order.

Under section 34 of the Employment Relations Act 1999, if the retail prices index for September of a year is higher (or lower) than the index for the previous September, the Secretary of State is required to change the limits, by Order, by the amounts of the increase (or decrease). The increases made by this Order reflect the increase in the index from September 2003 to September 2004.

The increases apply where the event giving rise to the entitlement to compensation or other payments occurred on or after 1st February 2005. Limits previously in force under the Employment Rights (Increase of Limits) Order 2003 (S.I. 2003/3038) are preserved by article 4 of the Order in relation to cases where the relevant event was before that date.

A Regulatory Impact Assessment has not been produced in relation to this Order since it will have no impact on the costs of business.

£3.00

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