

2005 No. 3352

TERMS AND CONDITIONS OF EMPLOYMENT

The Employment Rights (Increase of Limits) Order 2005

<i>Made</i> - - - -	<i>4th December 2005</i>
<i>Laid before Parliament</i>	<i>7th December 2005</i>
<i>Coming into force</i> - -	<i>1st February 2006</i>

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

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Employment Rights (Increase of Limits) Order 2005 and shall come into force on 1st February 2006.

(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 2004(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 2006.

(2) In a case where the appropriate date falls before 1st February 2006, the limits having effect in relation to the case immediately before 1st February 2006 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. 2004/2989.

- (a) in the case of an application made under section 67(1) 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 presented 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 a complaint presented under section 145A of the 1992 Act(b) (inducements relating to trade union membership or activities) or under section 145B of the 1992 Act(c) (inducements relating to collective bargaining), the date of the offer made by the employer that is the subject of the worker's complaint;
- (e) in the case of an application made under section 176(2) of the 1992 Act(d) (compensation for exclusion or expulsion from a trade union), the date of the exclusion or expulsion from the union;
- (f) in the case of a complaint presented under paragraph 156 of Schedule A1 to the 1992 Act(e) (compensation for a detriment that is the termination of a worker's contract not constituting a contract of employment), the date of the termination;
- (g) 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;
- (h) 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;
- (i) in the case of an award under section 117(1) or (3) of the 1996 Act(f), 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 for 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;
- (j) 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(g);
- (k) 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;
- (l) 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;
- (m) in the case of a complaint presented under section 24 of the National Minimum Wage Act 1998(h) (compensation for a detriment that is the termination of a worker's contract or arrangements not constituting a contract of employment), the date of the termination;
- (n) in the case of a complaint presented under section 11(1) of the 1999 Act(i) (failure or threatened failure to allow worker to be accompanied at disciplinary or grievance hearing,

(a) Section 70C was inserted by the Employment Relations Act 1999, section 5.

(b) Section 145A was inserted by the Employment Relations Act 2004 (c.24), section 29.

(c) Section 145B was inserted by the Employment Relations Act 2004, section 29.

(d) Section 176 was substituted by section 14 of the Trade Union Reform and Employment Rights Act 1993 (c.19).

(e) Schedule A1 was inserted by the Employment Relations Act 1999, sections 1(1) and 1(3) and Schedule 1.

(f) Section 117(3) was amended by the Employment Relations Act 1999, section 33(2).

(g) 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.

(h) 1998 c.39.

(i) Section 11(1) was amended by the Employment Relations Act 2004, section 37(2).

to allow companion to address hearing or confer with worker, or to postpone hearing), the date of the failure or threat;

- (o) in the case of an award made under section 38 of the Employment Act 2002^(a) (duty to give a written statement of initial employment particulars or of particulars of change), the date the proceedings to which section 38 of that Act applies were begun; and
- (p) in the case of a complaint under Regulation 15 of the Flexible Working (Procedural Requirements) Regulations 2002^(b) (failure or threatened failure to allow employee to be accompanied at meeting or to postpone meeting), the date of the failure or threat.

Gerry Sutcliffe

Parliamentary Under Secretary of State for
Employment Relations and Consumer Affairs
Department of Trade and Industry

4th December 2005

(a) 2002 c.22.
(b) S.I. 2002/3207.

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 145E(3) of the 1992 Act(a)	Amount of award for unlawful inducement relating to trade union membership or activities, or for unlawful inducement relating to collective bargaining.	£2,500	£2,600
2	Section 156(1) of the 1992 Act(b)	Minimum amount of basic award of compensation where dismissal is unfair by virtue of section 152(1) or 153 of the 1992 Act.	£3,800	£4,000
3	Section 176(6A) of the 1992 Act(c)	Minimum amount of compensation where individual excluded or expelled from union in contravention of section 174 of the 1992 Act and not admitted or re-admitted by date of tribunal application.	£6,100	£6,300
4	Section 31(1) of the 1996 Act	Limit on amount of guarantee payment payable to an employee in respect of any day.	£18.40	£18.90
5	Section 120(1) of the 1996 Act(d)	Minimum amount of basic award of compensation where dismissal is unfair by virtue of section 100(1)(a) and (b), 101A(d), 102(1) or 103 of the 1996 Act.	£3,800	£4,000
6	Section 124(1) of the 1996 Act	Limit on amount of compensatory award for unfair dismissal.	£56,800	£58,400
7	Paragraphs (a) and (b) of section 186(1) of the 1996 Act	Limit on amount in respect of any one week payable to an employee in respect of a debt to which Part XII of the 1996 Act applies and which is referable to a period of time.	£280	£290
8	Section 227(1) of the 1996 Act(e)	Maximum amount of “a week’s pay” for the purpose of calculating a redundancy payment or for various awards including the basic or additional award of compensation for unfair dismissal.	£280	£290

(a) Section 145E(3) was inserted by the Employment Relations Act 2004, section 29.

(b) Section 156(1) was amended by the Employment Rights Act 1996, section 240 and Schedule 1, paragraphs 56(1) and 56(9).

(c) Section 176(6A) was inserted by the Employment Relations Act 2004, section 33(6).

(d) Section 120(1) was amended by the Working Time Regulations 1998 (S.I. 1998/1833), regulation 32(5).

(e) Section 227(1) was amended by the Employment Act 2002, section 53 and Schedule 7 paragraphs 24, 47(1), 47(2) and 47(3).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order increases, from 1st February 2006, 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 2004 to September 2005.

The increases apply where the event giving rise to the entitlement to compensation or other payments occurred on or after 1st February 2006. Limits previously in force under the Employment Rights (Increase of Limits) Order 2004 (S.I. 2004/2989) 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.

2005 No. 3352

TERMS AND CONDITIONS OF EMPLOYMENT

The Employment Rights (Increase of Limits) Order 2005

£3.00

© Crown copyright 2005

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of Her Majesty's
Stationery Office and Queen's Printer of Acts of Parliament.

E1741 12/2005 151741T 19585