

**2008 No. 3055**

**TERMS AND CONDITIONS OF EMPLOYMENT**

**The Employment Rights (Increase of Limits) Order 2008**

*Made* - - - - *24th November 2008*

*Laid before Parliament* *26th November 2008*

*Coming into force* - - *1st February 2009*

The Secretary of State, in exercise of the powers conferred 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 2008 and shall come into force on 1st February 2009.

(2) In this Order—

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

**Revocation**

2. The Employment Rights (Increase of Limits) Order 2007(d) is revoked.

**Increase of limits**

3. In the provisions set out in column 1 of the Schedule to this Order (generally described in column 2), for the sums specified in column 3 substitute the sums specified in column 4.

**Transitional provisions**

4.—(1) The revocation in article 2 and the substitutions made by article 3 do not have effect in relation to a case where the appropriate date falls before 1st February 2009.

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

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(a) 1999 c.26; section 34(1) was amended by the Employment Relations Act 2004 (c.24), section 57(1) and Schedule 1, paragraphs 42(1), (2) and (3) and section 34(3) was amended by the Employment Relations Act 2004, Schedule 1, paragraphs 42(1) and (4) and section 34(5) was amended by the Statistics and Registration Service Act 2007 (c.18), section 60(1) and Schedule 3, paragraphs 11(a) and (b).  
(b) 1992 c.52.  
(c) 1996 c.18.  
(d) S.I. 2007/3570.

- (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(1) of the 1992 Act(a) (failure by an employer to consult with a trade union on training matters), the date of the 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 award under section 145E(2)(b) of the 1992 Act(b) (award to worker in respect of offer made by employer in contravention of section 145A or 145B of that Act(c)), the date of the offer;
- (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 an award under paragraph 159(1) of Schedule A1 to the 1992 Act(e), where a worker has suffered a detriment that is the termination of the worker's contract, 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 an award of compensation under section 49(1)(b) of the 1996 Act by virtue of section 24(2) of the National Minimum Wage Act 1998(f), where a worker has suffered a detriment that is the termination of the worker's contract, the date of the termination;
- (i) in the case of an award under section 80I of the 1996 Act(g) (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;
- (j) in the case of an award under section 112(4) or (5) of the 1996 Act(h) (award in relation to unfair dismissal), the effective date of termination as defined by section 97 of that Act;
- (k) in the case of an award under section 117(1) or (3) of the 1996 Act(i), 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;
- (l) 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(j);
- (m) 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;

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(a) Section 70C was inserted by the Employment Relations Act 1999, section 5.  
 (b) Section 145E was inserted by the Employment Relations Act 2004, section 29.  
 (c) Section 145A and 145B were 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, section 1(1) and (3) and Schedule 1.  
 (f) 1998 c.39.  
 (g) Section 80I was inserted by the Employment Act 2002 (c.22), section 47(1) and (2).  
 (h) Section 112(4) was amended by the Employment Act 2002, section 53 and Schedule 7, paragraphs 24 and 36 and Section 112(5) was inserted by the Employment Act 2002, section 34(1) and (3).  
 (i) Section 117(3) was amended by the Employment Relations Act 1999, section 33(2).  
 (j) 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).

- (n) 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;
- (o) in the case of a complaint presented under section 11(1) of the Employment Relations Act 1999<sup>(a)</sup> (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;
- (p) in the case of an award made under section 38(2) of the Employment Act 2002<sup>(b)</sup> (duty to give a written statement of initial employment particulars or of particulars of change), the date the proceedings to which that section applies were begun;
- (q) in the case of an increase in an award in pursuance of section 38(3) of the Employment Act 2002, the date the proceedings to which that section applies were begun;
- (r) in the case of a complaint presented under regulation 15 of the Flexible Working (Procedural Requirements) Regulations 2002<sup>(c)</sup> (failure or threatened failure to allow an employee to be accompanied at a meeting or to postpone the meeting), the date of the failure or threat;
- (s) in the case of a complaint presented under paragraph 11(1) of Schedule 6 to the Employment Equality (Age) Regulations 2006<sup>(d)</sup> (failure of employer to comply with duty to notify employee of date on which employer intends employee to retire or of right to make request not to retire on the intended date), the date of the failure; and
- (t) in the case of a complaint presented under paragraph 12(1) of Schedule 6 to the Employment Equality (Age) Regulations 2006<sup>(e)</sup> (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.

*Pat McFadden*

Minister of State for Employment Relations and Postal Affairs  
Department for Business, Enterprise & Regulatory Reform

24th November 2008

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(a) Section 11(1) was amended by the Employment Relations Act 2004, section 37(2).  
 (b) 2002 c.22.  
 (c) S.I. 2002/3207.  
 (d) S.I. 2006/1031.  
 (e) S.I. 2006/1031.

## SCHEDULE

Article 3

<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.	£2,900	£3,100
2	Section 156(1) of the 1992 (b)	Minimum amount of basic award of compensation where dismissal is unfair by virtue of section 152(1) or 153 of the 1992 Act.	£4,400	£4,700
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.	£6,900	£7,300
4	Section 31(1) of the 1996 Act	Limit on amount of guarantee payment payable to an employee in respect of any day.	£20.40	£21.50
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.	£4,400	£4,700
6	Section 124(1) of the 1996 Act	Limit on amount of compensatory award for unfair dismissal.	£63,000	£66,200
7	Paragraphs (a) and (b) of section 186(1) of the	Limit on amount in respect of any one week payable to an	£330	£350

(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, paragraph 56(1) and (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).

	1996 Act	employee in respect of a debt to which Part XII of the 1996 Act applies and which is referable to a period of time.		
8	Section 227(1) of the 1996 Act(a)	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.	£330	£350

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

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order increases, from 1st February 2009, 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 2007 to September 2008.

The increases apply where the event giving rise to the entitlement to compensation or other payments occurred on or after 1st February 2009. Limits previously in force under the Employment Rights (Increase of Limits) Order 2007 (S.I. 2007/3570) are preserved by article 4 of the Order in relation to cases where the relevant event was before that date.

A full impact assessment has not been produced for this Order as no impact on the private or voluntary sectors is foreseen.

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STATUTORY INSTRUMENTS

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