

Draft Order laid before Parliament under section 159(3) of the Trade Union and Labour Relations (Consolidation) Act 1992 and sections 208(3) and 236(3) of the Employment Rights Act 1996, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

1998 No.

TERMS AND CONDITIONS OF EMPLOYMENT

The Employment Rights (Increase of Limits) Order 1998

Made - - - - - *1998*
Coming into force - - *1st April 1998*

Whereas in accordance with section 208(1) of the Employment Rights Act 1996⁽¹⁾ (“the 1996 Act”) the Secretary of State has reviewed the limits specified in sections 31 and 186(1) of that Act, and the limits imposed by subsection (1) of section 227 of that Act for the purposes specified in paragraphs (a) to (c) of that subsection:

And whereas the Secretary of State having regard to the considerations mentioned in section 208(2) of the 1996 Act has determined that those limits should be varied as hereinafter provided:

And whereas a draft of the following Order was laid before Parliament in accordance with section 159(3) of the Trade Union and Labour Relations (Consolidation) Act 1992⁽²⁾ (“the 1992 Act”) and sections 208(3) and 236(3) of the 1996 Act and approved by resolution of each House of Parliament:

Now, therefore, the Secretary of State, in exercise of the powers conferred on her by section 159(1) and (2) of the 1992 Act and sections 31(7), 120(2), 124(2), 125(7), 186(2), 208(4), 227(2) and 236(5) of the 1996 Act and of all other powers enabling her in that behalf, hereby makes the following Order:—

Citation and commencement

1. This Order may be cited as the Employment Rights (Increase of Limits) Order 1998 and shall come into force on 1st April 1998.

Revocation

2. Subject to article 4 below, the Employment Protection (Increase of Limits) Order 1995⁽³⁾ is revoked.

(1) 1996 c. 18.
(2) 1992 c. 52.
(3) S.I.1995/1953.

Increase of limits

3. Subject to article 4 below, 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 April 1998.

(2) In a case where the appropriate date falls before 1st April 1998, the limits having effect in relation to the case immediately before 1st April 1998 continue to apply.

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

- (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 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 by section 139 of that Act;
- (c) in the case of an application made under section 176(2) of the 1992 Act⁽⁴⁾ (compensation for exclusion or expulsion from a trade union), the date of the exclusion or expulsion from the union;
- (d) 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;
- (e) 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, compensatory award or special award under section 118 of that Act and any special award under section 157 of the 1992 Act, the effective date of termination as defined by section 97 of the 1996 Act;
- (f) in the case of an award under section 117(1) or (3) of the 1996 Act, 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 the 1996 Act) or, as the case may be, re-engagement (specified under section 115(2)(f) of that Act) should have been complied with;
- (g) 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;
- (h) 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; and
- (i) 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.

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

1998

Secretary of State for Trade and Industry

SCHEDULE

Article 3

Table of Increase of Limits

<i>Relevant statutory provision</i>	<i>Subject of provision</i>	<i>Old Limit</i>	<i>New Limit</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.	£2,770	£2,900
2. Section 158(1) of the 1992 Act	Minimum amount of special award of compensation where dismissal is unfair by virtue of section 152(1) or 153 of the 1992 Act.	£13,775	£14,500
3. Section 158(1) of the 1992 Act	Maximum amount of special award of compensation where dismissal is unfair by virtue of section 152(1) or 153 of the 1992 Act.	£27,500	£29,000
4. Section 158(2) of the 1992 Act	Minimum amount of special award of compensation where employer fails to comply with order for reinstatement or re-engagement.	£20,600	£21,800
5. Section 31(1) of the 1996 Act	Limit on amount of guarantee payment payable to an employee in respect of any day.	£14.50	£15.35
6. 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), 102(1) or 103 of the 1996 Act.	£2,770	£2,900
7. Section 124(1) of the 1996 Act	Limit on amount of compensation	£11,300	£12,000

<i>Relevant statutory provision</i>	<i>Subject of provision</i>	<i>Old Limit</i>	<i>New Limit</i>
	awarded under section 117(1) and (2) of the 1996 Act or of compensatory award calculated in accordance with section 123 of that Act.		
8. Section 125(1) of the 1996 Act	Minimum amount of special award of compensation where dismissal is unfair by virtue of section 100(1)(a) or (b), 102(1) or 103 of the 1996 Act.	£13,775	£14,500
9. Section 125(1) of the 1996 Act	Maximum amount of special award of compensation where dismissal is unfair by virtue of section 100(1)(a) of (b), 102(1) or 103 of the 1996 Act.	£27,500	£29,000
10. Section 125(2) of the 1996 Act	Minimum amount of special award of compensation where employer fails to comply with order for reinstatement or re-engagement.	£20,600	£21,800
11. Section 186(1) of the 1996 Act	Limit 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.	£210	£220
12. 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.	£210	£220

EXPLANATORY NOTE

(This note is not part of the Order)

This Order increases limits applying to redundancy payments, to the compensation which can be awarded by industrial tribunals in cases of unfair dismissal, to the guarantee payments employers are required to make in cases of lay-off, and to certain payments the Secretary of State is required to make out of the National Insurance Fund to employees of an employer who has become insolvent.

The maximum amount of “a week’s pay”, used in calculating redundancy payments and basic and additional awards of compensation for unfair dismissal and to limit payments to employees of an insolvent employer is increased to £220.

The maximum amount of the compensatory award payable in unfair dismissal cases and the maximum amount of compensation payable where an order for reinstatement or re-engagement is not fully complied with are both increased to £12,000.

The minimum amount of the basic award where a dismissal is attributable to an employee’s trade union membership or activities, his activities or proposed activities as an employee representative or pension scheme trustee, or his actions in connection with perceived risks to health and safety at work, is increased to £2,900. The minimum amount of the special award in such cases is increased to £14,500, or, where an order for reinstatement or re-engagement is not complied with, £21,800. The maximum amount of the special award in such cases is increased to £29,000.

The maximum guarantee payment payable to an employee in respect of any day on which he is laid-off is increased to £15.35.

The increases apply where the event giving rise to an employee’s entitlement to compensation or other payments occurred on or after 1st April 1998. Limits previously in force (under the Employment Protection (Increases of Limits) Order 1995, [SI 1995/1953](#)) are preserved by article 4 of the Order in relation to cases where the relevant event was before that date.

A compliance cost assessment of the effect that this Order would have on the cost of business is available from Employment Relations 5b, Department of Trade and Industry, 1 Victoria Street, London SW1H 0ET.