

2004 No. 64

EMPLOYMENT

**Employment Rights (Increase of Limits) Order
(Northern Ireland) 2004**

Made - - - - - *25th February 2004*

Coming into operation *21st March 2004*

The Department for Employment and Learning^(a) in exercise of the powers conferred by Articles 33(1) to (4) and 39(3) of the Employment Relations (Northern Ireland) Order 1999^(b) and now vested in it^(c) and of every other power enabling it in that behalf, hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Employment Rights (Increase of Limits) Order (Northern Ireland) 2004 and shall come into operation on 21st March 2004.

(2) In this Order –

- (a) “the 1995 Order” means the Trade Union and Labour Relations (Northern Ireland) Order 1995^(d);
- (b) “the 1996 Order” means the Employment Rights (Northern Ireland) Order 1996^(e); and
- (c) “the 1999 Order” means the Employment Relations (Northern Ireland) Order 1999.

Revocation

2. Subject to Article 4, the Employment Rights (Increase of Limits) Order (Northern Ireland) 2003^(f) 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 21st March 2004.

(a) Formerly known as the Department of Higher and Further Education, Training and Employment; *see* the Department for Employment and Learning Act (Northern Ireland) 2001 c. 15
(b) S.I. 1999/2790 (N.I. 9)
(c) The Departments (Transfer and Assignment of Functions) Order (Northern Ireland) 1999 (S.R. 1999 No. 481) transferred functions under the Employment Relations (Northern Ireland) Order 1999 to the Department of Higher and Further Education, Training and Employment, now renamed the Department for Employment and Learning
(d) S.I. 1995/1980 (N.I. 12)
(e) S.I. 1996/1919 (N.I. 16)
(f) S.R. 2003 No. 241

(2) In a case where the appropriate date falls before 21st March 2004, the limits having effect in relation to the case immediately before 21st March 2004 continue to apply as if this Order had not been made.

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

- (a) in the case of an application made under Article 34(a) of the 1995 Order (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 Article 44C of the 1995 Order (b) (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 Article 28(1)(a) of the 1996 Order (refusal of employment on grounds related to union membership) or Article 28(1)(b) of that Order (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 Article 28 of that Order;
- (d) 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;
- (e) in the case of a guarantee payment to which an employee is entitled under Article 60 of the 1996 Order, the day in respect of which the payment is due;
- (f) in the case of a complaint presented under Article 145 of the 1996 Order (complaints of unfair dismissal), for the purpose of calculating under Article 152 of that Order the basic award or compensatory award, the effective date of termination as defined by Article 129 of that Order;
- (g) in the case of an award under Article 151(1) or (3) of the 1996 Order, 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 Article 148(2)(c) of the 1996 Order) or, as the case may be, re-engagement (specified under Article 149(2)(f) of that Order) should have been complied with;
- (h) 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;
- (i) in the case of entitlement to a redundancy payment by virtue of Article 170(1)(b) of the 1996 Order (lay-off or short-time), the relevant date as defined by Article 188 of that Order;
- (j) 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; and
- (k) in the case of a complaint presented in accordance with Article 13(2) of the 1999 Order 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.

Sealed with the Official Seal of the Department for Employment and Learning on 25th February 2004.

(L.S.)

R. B. Gamble

A senior officer of the Department for Employment and Learning

(a) As amended by Articles 23(1) and 158(1) of the Employment Rights (Northern Ireland) Order 1996
(b) Article 44C was inserted by the Employment Relations (Northern Ireland) Order 1999, Article 7

SCHEDULE

Article 3

TABLE OF INCREASE OF LIMITS

	Column 1 <i>Relevant statutory provision</i>	Column 2 <i>Subject of provision</i>	Column 3 <i>Old Limit</i>	Column 4 <i>New Limit</i>
1.	Article 40(6) of the 1995 Order	Minimum amount of compensation awarded by the industrial tribunal where individual expelled from union in contravention of Article 38 of the 1995 Order and where, when the application is made, the applicant has not been re-admitted to the union.	£5,700	£5,900
2.	Article 23(1) of the 1996 Order	Maximum amount of 'a week's pay' for the purpose of calculating basic or additional award of compensation for unfair dismissal or redundancy payment.	£260	£270
3.	Article 63(1) of the 1996 Order	Limit on amount of guarantee payment payable to an employee in respect of any day.	£17.30	£17.80
4.	Article 154(1) of the 1996 Order	Minimum amount of basic award of compensation where dismissal is unfair by virtue of Article 132(1)(a) and (b), 132A(d)(a), 133(1), 134 or 136(1) of the 1996 Order.	£3,500	£3,600
5.	Article 158(1) of the 1996 Order	Limit on amount of compensatory award for unfair dismissal.	£53,500	£55,000
6.	Article 231(1) of the 1996 Order	Limits on amount in respect of any one week payable to an employee in respect of debt to which Part XIV of the 1996 Order applies and which is referable to a period of time.	£260	£270

(a) Article 132A(d) was inserted by the Working Time Regulations (S.R. 1998 No. 386) Regulation 32(6)

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order increases, from 21st March 2004, the limits applying to certain awards of industrial tribunals, and other amounts payable under employment legislation, as specified in the Schedule to the Order.

Under Article 33(1) to (4) of the Employment Relations (Northern Ireland) Order 1999, if the retail prices index for September of a year is higher (or lower) than the index for the previous September, the Department 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 2002 to September 2003.

The increases apply where the event giving rise to the entitlement to compensation or other payments occurred on or after 21st March 2004. Limits previously in operation under the Employment Rights (Increase of Limits) Order (Northern Ireland) 2003 (S.R. 2002 No. 241) are preserved by Article 4 of the Order in relation to cases where the relevant event was before that date.

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