

**2010 No. 61**

**EMPLOYMENT**

**The Employment Rights (Revision of Limits) Order (Northern Ireland) 2010**

*Made* - - - - - *3rd March 2010*

*Coming into operation* - *7th March 2010*

The Department for Employment and Learning<sup>(a)</sup> makes the following Order in exercise of the powers conferred by Articles 33(2) and (3) and 39(3) of the Employment Relations (Northern Ireland) Order 1999<sup>(b)</sup> and now vested in it<sup>(c)</sup>:

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Employment Rights (Revision of Limits) Order (Northern Ireland) 2010 and shall come into operation on 7th March 2010.

(2) In this Order —

- (a) “the 1995 Order” means the Trade Union and Labour Relations (Northern Ireland) Order 1995<sup>(d)</sup>;
- (b) “the 1996 Order” means the Employment Rights (Northern Ireland) Order 1996<sup>(e)</sup>.

**Revision of limits**

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

**Transitional provisions**

3.—(1) The substitutions made by Article 2 do not have effect in relation to a case where the appropriate date falls before 7th March 2010.

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

- (a) in the case of an application made under Article 34(1)<sup>(f)</sup> of the 1995 Order (compensation for unjustifiable discipline by a trade union), the date of the determination infringing the applicant’s right;

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(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); Article 33 was partially disapplied by the Work and Families (Increase of Maximum Amount) Order (Northern Ireland) 2009 (S.R. 2009 No. 317)

(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) Article 34(1) was amended by Articles 23(1) and 158(1) of the 1996 Order

- (b) 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;
- (c) in the case of an award under paragraph 159(1) of Schedule 1A to the 1995 Order(a), (compensation for a worker who has been subjected to a detriment in contravention of paragraph 156 of that Schedule), where a worker has suffered a detriment that is the termination of the worker's contract, the date of the termination;
- (d) 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(2) to (4) of that Order;
- (e) in the case of a guarantee payment to which an employee is entitled under Article 60(1) of the 1996 Order (right to guarantee payment in respect of workless day), the day in respect of which the payment is due;
- (f) in the case of an award of compensation under Article 72(1)(b) of the 1996 Order by virtue of section 24(2) of the National Minimum Wage Act 1998(b) (compensation for a worker who has been subjected to a detriment in contravention of section 23 of the National Minimum Wage Act 1998(c)), 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 an award under Article 146(4) or (5) of the 1996 Order(d) (award in relation to unfair dismissal) the effective date of termination as defined by Article 129(e) of that Order;
- (h) in the case of an award under Article 151(1) or (3) of the 1996 Order(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 Article 148(2)(c) of that Order) or, as the case may be, re-engagement (specified under Article 149(2)(f) of that Order) should have been complied with.

Sealed with the Official Seal of the Department for Employment and Learning on 3rd March 2010.



*Sir Reg Empey*  
Minister for Employment and Learning

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(a) Schedule 1A was inserted by Article 3(1) and (3) and Schedule 1 to the Employment Relations (Northern Ireland) Order 1999

(b) 1998 c. 39

(c) Section 23 was amended by the Employment Relations Act 1999 (c. 26), section 18(4) and the Employment Relations (Northern Ireland) Order 1999 (S.I. 1999/2790 (N.I. 9)), Articles 1(2), 20(5) and Schedule 9, paragraph (3)

(d) Article 146(4) was amended by the Employment (Northern Ireland) Order 2003 (S.I. 2003/2902 (N.I.15)), Article 35 and Schedule 5, paragraph 2(6). Article 146(5) was inserted by Article 23(3) of the Employment (Northern Ireland) Order 2003 and amended by the Employment Equality (Age) Regulations (Northern Ireland) 2006 (S.R. 2006 No. 261), Schedule 7, paragraph 3(7)

(e) Article 129 was amended by the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2002 (S.R. 2002 No. 298), Schedule 2, paragraph 2(8)

(f) Article 151(3) was amended by Article 32(2) of the Employment Relations (Northern Ireland) Order 1999

## SCHEDULE

Article 2

<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	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.	£7,300	£7,200
2	Article 63(1) of the 1996 Order	Limit on amount of guarantee payment payable to an employee in respect of any day.	£21.50	£21.20
3	Article 158(1) of the 1996 Order	Limit on amount of compensatory award for unfair dismissal.	£66,200	£65,300

## EXPLANATORY NOTE

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

This Order revises, from 7th March 2010, the limits applying to certain awards of industrial tribunals, and other amounts payable under employment legislation, as specified in the Schedule to the Order. The revisions made by this Order apply where the event giving rise to the entitlement to compensation or other payment occurred on or after 7th March 2010.

Under Article 33 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 revisions made by this Order reflect the change in the index from September 2008 to September 2009.

In making the calculation required by Article 33, the figures are required to be rounded up in certain ways. This has resulted in three of the limits remaining the same and therefore they have not been included in this Order. The unchanged limits are those in Articles 77E(3) and 154(1) of the Employment Rights (Northern Ireland) Order 1996. These limits were last revised in the Employment Rights (Increase of Limits) Order (Northern Ireland) 2009 (S.R. 2009 No. 45) and the current limits are set out in the Table at the end of this Explanatory Note.

The Order does not revise the remaining two of the specified limits, namely those in Articles 23(1) and 231(1) of the Employment Rights (Northern Ireland) Order 1996. These sums were increased from £350 to £380 from 1st October 2009 by the Work and Families (Increase of Maximum Amount) Order (Northern Ireland) 2009 (S.R. 2009 No. 317). Article 3 of that Order excluded the operation of Article 33 of the Employment Relations (Northern Ireland) Order 1999 in relation to the sums increased in that Order on the occasion of an increase or decrease in the retail prices index for September 2009. Therefore those sums are not, on this occasion, revised in line with the retail prices index, but the limits are included in the Table below for information.

A full impact assessment has not been produced for this Order as it has no impact on the costs of business.

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### *Limits not revised by this Order*

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<i>Relevant statutory provision</i>	<i>Subject of Provision</i>	<i>Current limits</i>
Article 23(1) of the 1996 Order	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.	£380
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.	£4,700
Article 231(1) of the 1996 Order	Limit 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.	£380
Article 77E(3) of the 1996 Order(b)	Amount of award for unlawful inducement relating to trade union membership or activities, or for unlawful inducement relating to collective bargaining.	£3,100

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

(b) Article 77E(3) was inserted by Article 14 of the Employment Relations (Northern Ireland) Order 2004

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