

WORK AND FAMILIES ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 14: Increasing the maximum amount of a week's pay for certain purposes

64. The amount payable by way of redundancy payment and the basic award for unfair dismissal are calculated with reference to the employee's weekly pay (see sections 119 and 162 of the Employment Rights Act 1996). For the purposes of the calculation a week's pay is, by virtue of section 227 of the 1996 Act, subject to a statutory maximum which is currently £280. The same statutory maximum applies in relation to certain other compensation payments (which are listed in section 227(1)). A weekly limit also applies to the calculation of certain payments which are payable on the insolvency of an employer (including arrears of pay and holiday pay) (see section 186(1)(a) and (b) of the 1996 Act). Section 34 of the Employment Relations Act 1999 provides a mandatory mechanism for altering the statutory maximum to track changes in the retail prices index.
65. *Section 14* gives the Secretary of State an order-making power to increase the weekly limit which applies in relation to these payments. This increase need not be related to changes in the retail prices index. The order-making power may be exercised on one occasion only.
66. *Subsection (1)* sets out the sums to which the section applies.
67. *Subsection (2)* provides that the Secretary of State may make an order, on one occasion only, to increase the sums.
68. *Subsection (3)* allows the order to make transitional provision generally. It also allows the order to exclude on one occasion the operation of section 34 of the Employment Relations Act 1999 in relation to the sums. An example of the circumstances in which this power may be used would be to avoid two increases in the sums in a period of 12 months, one increase as a result of section 34 and the other as a result of the making of an order under the new power conferred by this section.
69. *Subsection (4)* ensures that, apart from this, section 34 of the 1999 Act will continue to apply in relation to the sums (so that they will in future continue to be altered in line with changes in the retail prices index).
70. *Subsection (5)* provides that an order made under subsection (2) will be subject to the affirmative procedure.