
STATUTORY INSTRUMENTS

2005 No. 3352

The Employment Rights (Increase of Limits) Order 2005

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 February 2006.

(2) In a case where the appropriate date falls before 1st February 2006, the limits having effect in relation to the case immediately before 1st February 2006 continue to apply.

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

- (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 of the 1992 Act⁽¹⁾ (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 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 a complaint presented under section 145A of the 1992 Act⁽²⁾ (inducements relating to trade union membership or activities) or under section 145B of the 1992 Act⁽³⁾ (inducements relating to collective bargaining), the date of the offer made by the employer that is the subject of the worker’s complaint;
- (e) 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;
- (f) in the case of a complaint presented under paragraph 156 of Schedule A1 to the 1992 Act⁽⁵⁾ (compensation for a detriment that is the termination of a worker’s contract not constituting a contract of employment), 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 a complaint presented under section 111 of the 1996 Act (complaints of unfair dismissal), for the purpose of calculating the basic award or compensatory award under section 118(1) of that Act, the effective date of termination as defined by section 97 of that Act;

(1) Section 70C was inserted by the Employment Relations Act 1999, section 5.

(2) Section 145A was inserted by the Employment Relations Act 2004 (c. 24), section 29.

(3) Section 145B was inserted by the Employment Relations Act 2004, section 29.

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

(5) Schedule A1 was inserted by the Employment Relations Act 1999, sections 1(1) and 1(3) and Schedule 1.

- (i) in the case of an award under section 117(1) or (3) of the 1996 Act⁽⁶⁾, 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;
- (j) 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⁽⁷⁾;
- (k) 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;
- (l) 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;
- (m) in the case of a complaint presented under section 24 of the National Minimum Wage Act 1998⁽⁸⁾ (compensation for a detriment that is the termination of a worker's contract or arrangements not constituting a contract of employment), the date of the termination;
- (n) in the case of a complaint presented under section 11(1) of the 1999 Act⁽⁹⁾ (failure or threatened failure to allow worker to be accompanied at disciplinary or grievance hearing, to allow companion to address hearing or confer with worker, or to postpone hearing), the date of the failure or threat;
- (o) in the case of an award made under section 38 of the Employment Act 2002⁽¹⁰⁾ (duty to give a written statement of initial employment particulars or of particulars of change), the date the proceedings to which section 38 of that Act applies were begun; and
- (p) in the case of a complaint under Regulation 15 of the Flexible Working (Procedural Requirements) Regulations 2002⁽¹¹⁾ (failure or threatened failure to allow employee to be accompanied at meeting or to postpone meeting), the date of the failure or threat.

⁽⁶⁾ Section 117(3) was amended by the Employment Relations Act 1999, section 33(2).

⁽⁷⁾ 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.

⁽⁸⁾ 1998 c. 39.

⁽⁹⁾ Section 11(1) was amended by the Employment Relations Act 2004, section 37(2).

⁽¹⁰⁾ 2002 c. 22.

⁽¹¹⁾ S.I.2002/3207.