

2021 No. 208

TERMS AND CONDITIONS OF EMPLOYMENT

The Employment Rights (Increase of Limits) Order 2021

<i>Made</i> - - - -	<i>26th February 2021</i>
<i>Laid before Parliament</i>	<i>2nd March 2021</i>
<i>Coming into force</i> - -	<i>6th April 2021</i>

The Secretary of State, in exercise of the powers conferred by section 34 of the Employment Relations Act 1999(a), makes the following Order:

Citation, commencement, extent and interpretation

- 1.—(1) This Order may be cited as the Employment Rights (Increase of Limits) Order 2021.
- (2) This Order shall come into force on 6th April 2021.
- (3) This Order extends to England and Wales and Scotland.
- (4) In this Order—
 - “the 1992 Act” means the Trade Union and Labour Relations (Consolidation) Act 1992(b);
 - and
 - “the 1996 Act” means the Employment Rights Act 1996(c).

Revocation

2. The Employment Rights (Increase of Limits) Order 2020(d) is revoked.

Increase of limits

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

Transitional provisions

- 4.—(1) The revocation in article 2 and the substitution made in article 3 do not have effect in relation to a case where the appropriate date falls before 6th April 2021.
- (2) In this article “the appropriate date” means—

(a) 1999 c.26; section 34(1) was amended by the Employment Relations Act 2004 (c.24), Schedule 1, paragraph 42(1), (2) and (3). Section 34(2) was amended by the Enterprise and Regulatory Reform Act 2013 (c.24), section 22(1) and (2). Section 34(3) was amended by the Enterprise and Regulatory Reform Act 2013, section 22(1) and (3). Section 34(4A) and (4B) were inserted by the Enterprise and Regulatory Reform Act 2013, section 15(10). Section 34(5) was amended by the Statistics and Registration Service Act 2007 (c.18), Schedule 3, paragraph 11(a) and (b).

(b) 1992 c.52.

(c) 1996 c.18.

(d) S.I. 2020/205.

- (a) in the case of an application made under section 67(1) of the 1992 Act(a) (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(1) of the 1992 Act(b) (failure by an employer to consult with a trade union on training matters), the date of the 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(c);
- (d) in the case of an award under section 145E(2)(b) of the 1992 Act (award to worker in respect of offer made by employer in contravention of section 145A or 145B of that Act(d)), the date of the offer;
- (e) in the case of an application for an award of compensation under section 176(2) of the 1992 Act(e) (compensation for exclusion or expulsion from a trade union), the date of the exclusion or expulsion from the union;
- (f) in the case of an award under paragraph 159(1) of Schedule A1 to the 1992 Act(f), 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 a guarantee payment to which an employee is entitled under section 28(1) of the 1996 Act (right to guarantee payment in respect of workless day), the day in respect of which the payment is due;
- (h) in the case of an award of compensation under section 49(1)(b) of the 1996 Act(g) by virtue of section 24(2) of the National Minimum Wage Act 1998(h), where a worker has suffered a detriment that is the termination of the worker's contract, the date of the termination;
- (i) in the case of an award of compensation under section 63J(1)(b) of the 1996 Act(i) (employer's failure, refusal or part refusal following request in relation to study or training), the date of the failure or the date on which the employer notified the employee of a decision to refuse the application (or part of it) on appeal (as the case may be);
- (j) in the case of an award of compensation under section 80I(1)(b) of the 1996 Act(j) (complaint to an employment tribunal relating to an application for contract variation), the date of the failure in relation to the application, the decision to reject the application or the notification by the employer under section 80G(1D) of the 1996 Act(k);
- (k) in the case of an award under section 112(4) of the 1996 Act (award in relation to unfair dismissal), the effective date of termination as defined by section 97 of that Act(l);

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- (a) Section 67(1) was amended by the Employment Relations Act 2004, section 34(1) and (2).
 - (b) Section 70C was inserted by the Employment Relations Act 1999, section 5.
 - (c) Sections 137(2), 138(2) and 139(1) were amended by the Employment Rights (Dispute Resolution) Act 1998 (c.8), section 1(2)(a). Section 139(4) was inserted by the Enterprise and Regulatory Reform Act 2013, Schedule 2, paragraphs 1 and 6.
 - (d) Sections 145A, 145B and 145E were inserted by the Employment Relations Act 2004, section 29.
 - (e) Section 176 was substituted by the Trade Union Reform and Employment Rights Act 1993 (c.19), section 14. Section 176(2) was amended by the Employment Relations Act 2004, section 34(7) and (8), Schedule 2.
 - (f) Schedule A1 was inserted by the Employment Relations Act 1999, Schedule 1.
 - (g) Section 49(1) was amended by the Employment Rights (Dispute Resolution) Act 1998, section 1(2)(a), and Children and Families Act 2014 (c.6), section 129(3)(a).
 - (h) 1998 c.39; section 24(2) was amended by the Enterprise and Regulatory Reform Act 2013, Schedule 2, paragraphs 36 and 39.
 - (i) Section 63J was inserted by the Apprenticeships, Skills, Children and Learning Act 2009 (c.22), section 40(1) and (2).
 - (j) Section 80I was inserted by the Employment Act 2002 (c.22), section 47(1) and (2).
 - (k) Section 80G was inserted by the Employment Act 2002, section 47(1) and (2). Subsection (1D) of section 80G was inserted by the Children and Families Act 2014, section 132(1) and (4).
 - (l) Section 112(4) was amended by the Employment Act 2002, Schedule 7, paragraphs 24 and 36, and the Employment Relations Act 1999, Schedule 9, paragraph 11. Section 97(1) was amended by the Fixed-Term Employees (Prevention of Less Favourable Treatment) Regulations 2002, S.I. 2002/2034, regulation 11 and Schedule 2, paragraphs 3(1) and 8. Section 97(6) was repealed by the Employment Relations Act 1999, Schedule 9, paragraph 2.

- (l) in the case of an award under section 117(1) or (3) of the 1996 Act(a), 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 re-engagement (specified under section 115(2)(f) of that Act), should have been complied with;
- (m) 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(b);
- (n) in the case of entitlement to a redundancy payment by virtue of section 135(1)(b) of the 1996 Act (eligibility for a redundancy payment by reason of being laid off or kept on short-time), the relevant date as defined by section 153 of that Act;
- (o) 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;
- (p) in the case of a complaint presented under section 11(1) of the Employment Relations Act 1999(c) (failure or threatened failure to allow the worker to be accompanied at the disciplinary or grievance hearing, to allow the companion to address the hearing or confer with the worker, or to postpone the hearing), the date of the failure or threat;
- (q) in the case of an award made under section 38(2) of the Employment Act 2002(d) (failure to give statement of employment particulars etc), the date the proceedings to which that section applies were begun;
- (r) in the case of an increase in an award in pursuance of section 38(3) of the Employment Act 2002(e) (failure to give statement of employment particulars etc), the date the proceedings to which that section applies were begun; and
- (s) in the case of a complaint presented under regulation 15 of the Flexible Working (Procedural Requirements) Regulations 2002(f) (failure or threatened failure to allow an employee to be accompanied at a meeting, to allow the companion to address the meeting or confer with the employee, or to postpone the meeting), the date of the failure or threat.

Paul Scully

Minister for Small Business, Consumers and Labour Markets
Department for Business, Energy and Industrial Strategy

26th February 2021

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- (a) Section 117(1) was amended by the Employment Rights (Dispute Resolution) Act 1998, section 1(2)(a). Section 117(3) was amended by the Employment Relations Act 1999, section 33(2) and Schedule 9, paragraph 11, and the Employment Act 2002, Schedule 7, paragraphs 24 and 37.
 - (b) Section 145(2) was amended by the Fixed-Term Employees (Prevention of Less Favourable Treatment) Regulations 2002, S.I. 2002/2034, regulation 11 and Schedule 2, paragraphs 3(1) and 14. Section 145(7) was repealed by the Employment Relations Act 1999, Schedule 9, paragraph 2.
 - (c) Section 11(1) was amended by the Employment Relations Act 2004, section 37(2).
 - (d) 2002 c.22. Section 38(2) was amended by the Enterprise Act 2016, Schedule 5, paragraph 12(a), and the Employment Rights (Miscellaneous Amendments) Regulations 2019, S.I. 2019/731, regulation 17(1) and (3).
 - (e) Section 38(3) was amended by the Enterprise Act 2016, Schedule 5, paragraph 12(b), and the Employment Rights (Miscellaneous Amendments) Regulations 2019, S.I. 2019/731, regulation 17(1) and (4).
 - (f) S.I. 2002/3207; these Regulations lapsed following the repeal of section 80G(2) and (3) of the Employment Rights Act 1996 by the Children and Families Act 2014, section 132(5)(b). The Children and Families Act 2014 (Commencement No. 3, Transitional Provisions and Savings) Order 2014, S.I. 2014/1640, article 10 provides for transitional provisions in connection with regulation 15 of the Flexible Working (Procedural Requirements) Regulations 2002.

SCHEDULE

Article 3

<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 limit</i>	<i>New limit</i>
1 Section 145E(3) of the 1992 Act	Amount of award for unlawful inducement relating to trade union membership or activities or for unlawful inducement relating to collective bargaining.	£4,294	£4,341
2 Section 156(1) of the 1992 Act(a)	Minimum amount of basic award of compensation where dismissal is unfair by virtue of section 152(1) or 153 of the 1992 Act.	£6,562	£6,634
3 Section 176(6A) of the 1992 Act(b)	Minimum amount of compensation where individual excluded or expelled from union in contravention of section 174 of the 1992 Act and not admitted or re-admitted by date of tribunal application.	£10,022	£10,132
4 Section 31(1) of the 1996 Act	Limit on amount of guarantee payment payable to an employee in respect of any day.	£30	£30
5 Section 120(1) of the 1996 Act(c)	Minimum amount of basic award of compensation where dismissal is unfair by virtue of section 100(1)(a) and (b), 101A(d), 102(1) or 103 of the 1996 Act.	£6,562	£6,634
6 Section 124(1ZA)(a) of the 1996 Act(d)	Limit on amount of compensatory award for unfair dismissal.	£88,519	£89,493
7 Section 186(1)(a) and (b) of the 1996 Act	Limit on amount in respect of any one week payable to an employee in respect of a debt to which Part 12 of the 1996 Act applies and which is referable to a period of time.	£538	£544
8 Section 227(1) of the 1996 Act(e)	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.	£538	£544

(a) Section 156(1) was amended by the Employment Rights Act 1996, Schedule 1, paragraph 56(1) and (9)(a).

(b) Section 176(6A) was inserted by the Employment Relations Act 2004, section 33(1) and (6).

(c) Section 120(1) was amended by the Working Time Regulations 1998. S.I. 1998/1833, regulation 32(5).

(d) Section 124(1ZA) was inserted by the Unfair Dismissal (Variation of the Limit of Compensatory Award) Order 2013, S.I. 2013/1949, article 2(1) and (3).

(e) Section 227(1) was amended by the Employment Act 2002, Schedule 7, paragraphs 24 and 47, and the Apprenticeships, Skills, Children and Learning Act 2009, Schedule 1, paragraphs 1 and 9.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order increases, from 6th April 2021, the limits applying to certain awards of employment tribunals, and other sums payable under employment legislation, as specified in the Schedule to this Order.

Under section 34(2) of the Employment Relations Act 1999 (“the 1999 Act”), if the retail prices index for September of a year is higher or lower than the index for the previous September, the Secretary of State is required to change the specified sums, by Order, by the percentage of the increase or decrease (rounded up or down as specified in section 34(3) of the 1999 Act). The increases made by this Order reflect the increases in the retail prices index of 1.1% from September 2019 to September 2020.

The increases apply where the event giving rise to the entitlement to compensation or other payment occurred on or after 6th April 2021. The sums previously in force under the Employment Rights (Increase of Limits) Order 2020 (SI 2020/205) are preserved by article 4 of this Order in relation to cases where the relevant event was before 6th April 2021.

A full impact assessment has not been produced for this Order because section 34 of the 1999 Act provides for indexation according to a pre-determined formula linked to the retail prices index.

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