STATUTORY INSTRUMENTS

2009 No. 3274

TERMS AND CONDITIONS OF EMPLOYMENT

The Employment Rights (Revision of Limits) Order 2009

Made - - - -	*10th December 2009*
Laid before Parliament	*14th December 2009*
Coming into force - -	*1st February 2010*

The Secretary of State, in exercise of the powers conferred by section 34 of the Employment Relations Act 1999(**1**), makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Employment Rights (Revision of Limits) Order 2009 and shall come into force on 1st February 2010.

(2) In this Order—

(a) "the 1992 Act" means the Trade Union and Labour Relations (Consolidation) Act 1992(**2**); and

(b) "the 1996 Act" means the Employment Rights Act 1996(**3**).

Revision of limits

2. 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

3.—(1) The substitutions made by article 2 do not have effect in relation to a case where the appropriate date falls before 1st February 2010.

(2) In this article "the appropriate date" means—

(**1**) 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(3) was amended by the Employment Relations Act 2004, Schedule 1, paragraph 42(1) and (4), section 34(5) was amended by the Statistics and Registration Service Act 2007 (c.18), Schedule 3, paragraph 11(a) and (b) and section 34 was partially disapplied by the Work and Families (Increase of Maximum Amount) Order 2009 (S.I. 2009/1903), article 3.

(**2**) 1992 c.52. Relevant amendments to this Act are noted in the footnotes below.

(**3**) 1996 c.18. Relevant amendments to this Act are noted in the footnotes below.

(a) in the case of an application made under section 67(1) of the 1992 Act(**4**) (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 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(**5**);

(c) in the case of an application made under section 176(2) of the 1992 Act(**6**) (compensation for exclusion or expulsion from a trade union), the date of the exclusion or expulsion from the union;

(d) in the case of an award under paragraph 159(1) of Schedule A1 to the 1992 Act(**7**) (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;

(e) 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;

(f) in the case of an award of compensation under section 49(1)(b) of the 1996 Act(**8**) by virtue of section 24(2) of the National Minimum Wage Act 1998(**9**) (compensation for a worker who has been subjected to a detriment in contravention of section 23 of the National Minimum Wage Act 1998(**10**)), 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 section 112(4) of the 1996 Act(**11**) (award in relation to unfair dismissal), the effective date of termination as defined by section 97 of that Act(**12**);

(h) in the case of an award under section 117(1) or (3) of the 1996 Act(**13**) 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.

(**4**) Section 67(1) was amended by the Employment Relations Act 2004, section 34(1) and (2).

(**5**) Sections 137(2), 138(2) and 139(1) were amended by the Employment Rights (Dispute Resolution) Act 1998 (c.8), section 1(2)(a).

(**6**) Section 176 was substituted by section 14 of the Trade Union Reform and Employment Rights Act 1993 (c.19). Section 176(2) was amended by the Employment Relations Act 2004, section 34(7) and (8) and Schedule 2.

(**7**) Schedule A1 was inserted by the Employment Relations Act 1999, section 1(1) and (3) and Schedule 1

(**8**) Section 49(1) was amended by the Employment Rights (Dispute Resolution) Act 1998, section 1(2)(a).

(**9**) 1998 c.39.

(**10**) Section 23 was amended by the Employment Relations Act 1999, section 18(4). There is an amendment to section 23 which is not relevant to this Order.

(**11**) Section 112(4) was amended by the Employment Act 2002 (c.22), Schedule 7, paragraphs 24 and 36. There are amendments to section 112(4) which are not relevant to this Order.

(**12**) Section 97 was amended by the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002 (S.I. 2002/2034), Schedule 2, Part 1, paragraph 3(1) and (8), subject to the exceptions provided for in regulations 18-20, and section 97(6) was repealed by the Employment Relations Act 1999, Schedule 4, Part III, paragraphs 5 and 14 and Schedule 9, Table 2.

(**13**) Section 117(1) was amended by the Employment Rights (Dispute Resolution) Act 1998, section 1(2)(a) and section 117(3) was amended by the Employment Relations Act 1999, section 33(2) and by the Employment Act 2002, Schedule 7, paragraphs 24 and 37. There are amendments to section 117(3) which are not relevant to this Order.

Lord Young of Norwood Green
Minister of State for Employment Relations and Postal Affairs
Department for Business, Innovation & Skills

10th December 2009

SCHEDULE

Article 2

Column 1	*Column 2*	*Column 3*	*Column 4*
Relevant statutory provision	*Subject of provision*	*Old limits*	*New limits*
1 Section 176(6A) of the 1992 Act(**14**)	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.	£7,300	£7,200
2 Section 31(1) of the 1996 Act	Limit on amount of guarantee payment payable to an employee in respect of any day.	£21.50	£21.20
3 Section 124(1) of the 1996 Act	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 1st February 2010, the limits applying to certain awards of employment tribunals, and another amount 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 1st February 2010.

Under section 34 of the Employment Relations Act 1999, 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 limits, by Order, by the amounts of the increase or decrease. The revised amounts made by this Order reflect the decrease of 1.4% in the index from September 2008 to September 2009.

In making the calculation required by section 34, 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 sections 145E(3) and 156(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 and that in section 120(1) of the Employment Rights Act 1996. These limits were last revised in the Employment Rights (Increase of Limits) Order 2008 (S.I. 2008/3055) and the current limits are set out in the Table at the end of this Explanatory Note.

(**14**) Section 176(6A) was inserted by the Employment Relations Act 2004, section 33(6).

The Order does not revise the remaining two of the specified limits, namely that in section 186(1)(a) and (b) of the Employment Rights Act 1996 and that in section 227(1) of that Act. These sums were increased from £350 to £380 from 1st October 2009 by the Work and Families (Increase of Maximum Amount) Order 2009 (S.I. 2009/1903). Article 3 of that Order excluded the operation of section 34 of the Employment Relations Act 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.

Limits not revised by this Order		
Relevant statutory provision	*Subject of provision*	*Current limits*
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.	£3,100
Section 156(1) of the 1992 Act	Minimum amount of basic award of compensation where dismissal is unfair by virtue of section 152(1) or 153 of the 1992 Act.	£4,700
Section 120(1) of the 1996 Act	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	£4,700
Paragraphs (a) and (b) of section 186(1) 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 XII of the 1996 Act applies and which is referable to a period of time.	£380
Section 227(1) of the 1996 Act	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