
STATUTORY INSTRUMENTS

2008 No. 3055

The Employment Rights (Increase of Limits) Order 2008

Transitional provisions

4.—(1) The revocation in article 2 and the substitutions made by article 3 do not have effect in relation to a case where the appropriate date falls before 1st February 2009.

(2) 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(1) of the 1992 Act⁽¹⁾ (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;
- (d) in the case of an award under section 145E(2)(b) of the 1992 Act⁽²⁾ (award to worker in respect of offer made by employer in contravention of section 145A or 145B of that Act⁽³⁾), the date of the offer;
- (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 an award under paragraph 159(1) of Schedule A1 to the 1992 Act⁽⁵⁾, 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, 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 by virtue of section 24(2) of the National Minimum Wage Act 1998⁽⁶⁾, 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 under section 80I of the 1996 Act⁽⁷⁾ (award of compensation relating to an application for contract variation), the date of the failure in relation to the application or of the decision to reject the application;

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

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

(3) Section 145A and 145B were 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, section 1(1) and (3) and Schedule 1.

(6) 1998 c.39.

(7) Section 80I was inserted by the Employment Act 2002 (c.22), section 47(1) and (2).

- (j) in the case of an award under section 112(4) or (5) of the 1996 Act⁽⁸⁾ (award in relation to unfair dismissal), the effective date of termination as defined by section 97 of that Act;
- (k) in the case of an award under section 117(1) or (3) of the 1996 Act⁽⁹⁾, 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;
- (l) 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⁽¹⁰⁾;
- (m) 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;
- (n) 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;
- (o) in the case of a complaint presented under section 11(1) of the Employment Relations Act 1999⁽¹¹⁾ (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;
- (p) in the case of an award made under section 38(2) of the Employment Act 2002⁽¹²⁾ (duty to give a written statement of initial employment particulars or of particulars of change), the date the proceedings to which that section applies were begun;
- (q) in the case of an increase in an award in pursuance of section 38(3) of the Employment Act 2002, the date the proceedings to which that section applies were begun;
- (r) in the case of a complaint presented under regulation 15 of the Flexible Working (Procedural Requirements) Regulations 2002⁽¹³⁾ (failure or threatened failure to allow an employee to be accompanied at a meeting or to postpone the meeting), the date of the failure or threat;
- (s) in the case of a complaint presented under paragraph 11(1) of Schedule 6 to the Employment Equality (Age) Regulations 2006⁽¹⁴⁾ (failure of employer to comply with duty to notify employee of date on which employer intends employee to retire or of right to make request not to retire on the intended date), the date of the failure; and
- (t) in the case of a complaint presented under paragraph 12(1) of Schedule 6 to the Employment Equality (Age) Regulations 2006⁽¹⁵⁾ (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.

⁽⁸⁾ Section 112(4) was amended by the Employment Act 2002, section 53 and Schedule 7, paragraphs 24 and 36 and Section 112(5) was inserted by the Employment Act 2002, section 34(1) and (3).

⁽⁹⁾ Section 117(3) was amended by the Employment Relations Act 1999, section 33(2).

⁽¹⁰⁾ 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).

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

⁽¹²⁾ 2002 c.22.

⁽¹³⁾ S.I. 2002/3207.

⁽¹⁴⁾ S.I. 2006/1031.

⁽¹⁵⁾ S.I. 2006/1031.