

**EXPLANATORY MEMORANDUM TO THE
THE EMPLOYMENT RIGHTS (INCREASE OF LIMITS) ORDER
2008**

2008 No. 3055

1. This explanatory memorandum has been prepared by the Department for Business, Enterprise & Regulatory Reform and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

2.1 From 1st February 2009, this Order increases, in line with the increase in the retail prices index between September 2007 and September 2008 (+5.0%), the limits (maximum or minimum), applying to certain awards of employment tribunals, and other amounts payable under employment legislation, as specified in the Schedule to the Order.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 The relevant Order-making power is section 34(2) of the Employment Relations Act 1999 (ERA 1999) and the list of sums to be increased (or decreased) in line with the change in the retail prices index comprises section 34(1) ERA 1999.

3.2 In applying the relevant percentage increase (or, as it may be, decrease), the Secretary of State is required to round up the new sums variously to the nearest 10 pence, £10 or £100 with the result that variations in the percentage increases therefore occur.

4. **Legislative Background**

4.1 Section 208 of the Employment Rights Act 1996 required the Secretary of State, in each calendar year, to undertake a review of various limits and to decide whether limits should be varied.

4.2 Section 34 ERA 1999 replaced section 208 with a simpler duty. It provided that, 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 relevant payments and awards were uprated pursuant to this legislation for the first time in February 2000, and have been each year since.

5. Territorial Extent and Application

5.1 This Order applies to Great Britain.

6. European Convention on Human Rights

The Minister of State for Employment Relations and Postal Affairs has made the following statement regarding Human Rights:

In my view the provisions of the Employment Rights (Increase of Limits) Order 2008 are compatible with the Convention rights.

7. Policy background

7.1 The purpose of the changes introduced by section 34 ERA 1999 was to replace a time-consuming annual review process with a system of annual automatic indexation, linking payments to the rate of inflation and giving greater certainty to businesses and workers. This annual exercise attracts little interest and is of no special legal or political importance.

8. Impact

8.1 An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 There is no impact on the public sector.

9. Contact

Angus Young, at the Department for Business, Enterprise & Regulatory Reform Tel: 020 7215 5372 or e-mail: Angus.Young@berr.gsi.gov.uk can answer any queries regarding the instrument.