STATUTORY RULES OF NORTHERN IRELAND

2009 No. 45

EMPLOYMENT

The Employment Rights (Increase of Limits) Order (Northern Ireland) 2009

Made - - - -	*11th February 2009*
Coming into operation	*15th February 2009*

The Department for Employment and Learning(**1**) makes the following Order in exercise of the powers conferred by Articles 33(2) and (3) and 39(3) of the Employment Relations (Northern Ireland) Order 1999(**2**) and now vested in it(**3**):

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Employment Rights (Increase of Limits) Order (Northern Ireland) 2009 and shall come into operation on 15th February 2009.

(2) In this Order —

(a) "the 1995 Order" means the Trade Union and Labour Relations (Northern Ireland) Order 1995(**4**);

(b) "the 1996 Order" means the Employment Rights (Northern Ireland) Order 1996(**5**).

Revocation

2. The Employment Rights (Increase of Limits) Order (Northern Ireland) 2008(**6**) is revoked.

Increase of limits

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

(**1**) Formerly known as the Department of Higher and Further Education, Training and Employment; *see* the Department for Employment and Learning Act (Northern Ireland) 2001 c. 15
(**2**) S.I. 1999/2790 (N.I. 9)
(**3**) The Departments (Transfer and Assignment of Functions) Order (Northern Ireland) 1999 (S.R. 1999 No. 481) transferred functions under the Employment Relations (Northern Ireland) Order 1999 to the Department of Higher and Further Education, Training and Employment, now renamed the Department for Employment and Learning
(**4**) S.I. 1995/1980 (N.I. 12)
(**5**) S.I. 1996/1919 (N.I. 16)
(**6**) S.R. 2008 No. 47

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 15th February 2009.

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

(a) in the case of an application made under Article 34(1)(**7**) of the 1995 Order (compensation for unjustifiable discipline by a trade union), the date of the determination infringing the applicant's right;

(b) in the case of an application made under Article 40(2) of the 1995 Order (compensation for expulsion from a trade union), the date of the expulsion from the union;

(c) in the case of a complaint presented under Article 44C(1) of the 1995 Order(**8**) (failure by an employer to consult with a trade union on training matters), the date of the alleged failure;

(d) in the case of an award under paragraph 159(1) of Schedule 1A to the 1995 Order(**9**), 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 complaint presented under Article 28(1)(a) of the 1996 Order (refusal of employment on grounds related to union membership) or Article 28(1)(b) of that Order (refusal of service of employment agency on grounds related to union membership), the date of the conduct to which the complaint relates, as determined by Article 28(2) to (4) of that Order;

(f) in the case of a guarantee payment to which an employee is entitled under Article 60(1) of the 1996 Order, the day in respect of which the payment is due;

(g) in the case of an award of compensation under Article 72(1)(b) of the 1996 Order by virtue of section 24(2) 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;

(h) in the case of an award under section 77E(2)(b) of the 1996 Order(**11**) (award to worker in respect of offer made by employer in contravention of section 77A or 77B of that Order(**12**)), the date of the offer;

(i) in the case of an award under Article 112I of the 1996 Order(**13**) (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;

(j) in the case of an award under Article 146(4) or (5) of the 1996 Order(**14**) (award in relation to unfair dismissal) the effective date of termination as defined by Article 129(**15**) of that Order;

(k) in the case of an award under Article 151(1) or (3) of the 1996 Order(**16**), where an employer has failed to comply fully with the terms of an order for reinstatement or re-

(**7**) Article 34(1) was amended by Articles 23(1) and 158(1) of the 1996 Order
(**8**) Article 44C was inserted by Article 7 of the Employment Relations (Northern Ireland) Order 1999
(**9**) Schedule 1A was inserted by Articles 3(1) and (3) and Schedule 1 to the Employment Relations (Northern Ireland) Order 1999
(**10**) 1998 c. 39
(**11**) Article 77E was inserted by Article 14 of the Employment Relations (Northern Ireland) Order 2004 (S.I. 2004/3078 (N.I. 19))
(**12**) Articles 77A and 77B were inserted by Article 14 of the Employment Relations (Northern Ireland) Order 2004
(**13**) Article 112I was inserted by Article 15(2) of the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I. 2))
(**14**) Article 146(4) was amended by the Employment (Northern Ireland) Order 2003 (S.I. 2003/2902 (N.I.15)), Article 35 and Schedule 5, paragraph 2(6). Article 146(5) was inserted by Article 23(3) of the Employment (Northern Ireland) Order 2003 and amended by the Employment Equality (Age) Regulations (Northern Ireland) 2006 (S.R. 2006 No. 261), Schedule 7, paragraph 3(7)
(**15**) Article 129 was amended by the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2002 (S.R. 2002 No. 298), Schedule 2, paragraph 2(8)
(**16**) Article 151(3) was amended by Article 32(2) of the Employment Relations (Northern Ireland) Order 1999

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 Article 148(2)(c) of that Order) or, as the case may be, re-engagement (specified under Article 149(2)(f) of that Order) should have been complied with;

(l) in the case of entitlement to a redundancy payment by virtue of Article 170(1)(a) of the 1996 Order (dismissal by reason of redundancy), the relevant date as defined by Article 180 of that Order(**17**);

(m) in the case of entitlement to a redundancy payment by virtue of Article 170(1)(b) of the 1996 Order (lay-off or short-time), the relevant date as defined by Article 188 of that Order;

(n) in the case of entitlement to a payment under Article 227 of the 1996 Order (payments by the Department), the appropriate date as defined by Article 230 of that Order;

(o) in the case of a complaint presented under Article 13(1) of the Employment Relations (Northern Ireland) Order 1999(**18**) (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 a complaint presented under regulation 15 of the Flexible Working (Procedural Requirements) Regulations (Northern Ireland) 2003(**19**) (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;

(q) in the case of an award made under Article 27(2) of the Employment (Northern Ireland) Order 2003(**20**) (duty to give a written statement of initial employment particulars or of particulars of change), the date the proceedings to which that Article applies were begun;

(r) in the case of an increase in an award in pursuance of Article 27(3) of the Employment (Northern Ireland) Order 2003, the date the proceedings to which that Article applies were begun;

(s) in the case of a complaint presented under paragraph 11(1) of Schedule 5 to the Employment Equality (Age) Regulations (Northern Ireland) 2006(**21**) (failure of employer to comply with duty to notify employee of date on which he 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 5 to the Employment Equality (Age) Regulations (Northern Ireland) 2006 (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.

(**17**) Article 180 was amended by the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2002, Schedule 2, paragraph 2(14)
(**18**) Article 13(1) was amended by Article 18(2) of the Employment Relations (Northern Ireland) Order 2004
(**19**) S.R. 2003 No. 173
(**20**) S.I. 2003/2902 (N.I. 15)
(**21**) S.R. 2006 No. 261