

Increase in statutory compensation limits

It is that time of the year again when compensation limits applying to employment disputes are set to rise. Employers may feel hard-pushed to keep up with the ever-changing landscape of employment law but by keeping up-to-date will avoid any unpleasant surprises.

The changes took effect from 1 February 2012 and are implemented by the Employment Rights (Increase of Limits) Order 2011. The Order increases various monetary limits provided for in the Employment Rights Act 1996 and the Trade Union and Labour Relations (Consolidation) Act 1992.

The figure that will be of relevance to most employers is the amount of a week's pay in relation to statutory redundancy payments and the basic award for unfair dismissal, which increases from £400 to £430. This also applies to any statutory redundancy pay payable from the Redundancy Payments Office in the event that an employer has become insolvent. The maximum amount of a guarantee payment, payable for the first week of any three-month period of lay-off or short-time working, has increased from £22.20 to £23.50 per day.

The Order also increases compensation where an employer has put pressure on an employee to prevent the employee from engaging in collective bargaining and trade union membership or activities, which rises from £3,300 to £3,500. Where an individual is excluded or expelled from a trade union, the compensation that the individual may seek from the union has increased from £7,600 to £8,100.

Minimum award

The minimum award for dismissal or selection for redundancy for a reason related to trade union membership or activities rises from £5,000 to £5,300. This sum also applies where an employee is dismissed for certain protected reasons including where an employee nominated as a representative in a collective redundancy consultation is dismissed for performing their duties in that role.

In light of fears that another recession is looming, accentuated by the drop in economic activity in the last quarter of 2011, employers will need to prepare for any additional costs to reduce the risk of expensive Tribunal claims. Employers effecting or proposing to commence a redundancy consultation will need to be aware that the maximum amount payable in relation to statutory redundancy pay has increased from £12,000 to £12,900. Redundancy payments may well need to be recalculated in light of the change. The increase in the maximum compensatory award for unfair dismissal means that in the event of an unfair dismissal claim employers' potential liability in worst case scenarios rises from £68,400 to £72,300.

Employers should note that the changes are not retrospective and as such will only take effect where the prohibited conduct or the dismissal took place on or after 1 February 2012. In the case of guarantee payments, the increased sum applies where the day in respect of which the payment is due falls on or after this date.

Annual review

Whilst it may seem as though yet again costs are on the rise in reality this does not represent a significant change in the status quo. These limits are revised annually depending on the Retail Price Index (RPI). Where there is an increase or decrease in the RPI the Secretary of State is obliged to amend the compensation limits accordingly, rounding up to the nearest 10p, £10 or £100, depending on what is specified in the legislation for that particular item. This year the changes represent an increase in the RPI of 5.6%.

Interestingly this annual review was suspended in 2010 in relation to redundancy payments as a result of the Government exercising a one-off power contained in the Work and Families Act 2006. This enabled statutory redundancy pay to be increased in October 2009 'to provide rapid help to those being made redundant in these difficult economic times'. So as not to place an undue burden on employers the annual review was then suspended in February 2010. Redundancy pay was not reviewed again until February 2011.

The Government has launched a number of campaigns with the objective of supporting and promoting business such as the 'Red Tape Challenge' and 'Business in You', aimed at creating a more flexible regulatory framework and inspiring people to start or grow their business respectively. We are yet to see the effects of such campaigns. Suffice to say that employers who are informed of their rights and obligations and who make the most of any initiatives available to them will be in a better position to weather a storm.

Further information

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