

COMPENSATION LIMITS

UPDATED: 01 February 2009

The law:

Employment Rights (Increase of Limits) Order 2008; SI 2008/3055.

Statutory compensation limits for the period on and after **01 February 2009** are:

award	ERA 1996	limit	current maximum
<u>unfair dismissal:</u>			
Basic award	s.227(1)(a)	30 x £350 max week's pay	£10,500
Compensatory award	s.124(1)	no limit on a week's pay	£66,200
Additional award (for failure to comply with a reinstatement/re-engagement order). £350 limit on a week's pay.	s.227(1)(b)	52 x £350 max week's pay	£18,200 (all additional awards are for 26-52 weeks' pay).
Redundancy pay	s.227(1)(c)	30 x £350 max week's pay	£10,500
Guarantee pay limit on a day's pay during short-time or temporary lay-off).	s.31(1)	£21.50 per day	£107.50 (in respect of 5 days in any period of 3 months).
Insolvency rights (limit on a week's pay for recoverable debts is £350).	s.186(1)	£350 max week's pay	(a) arrears of pay £2,800; (b) statutory notice pay £4,200; (c) holiday pay £2,100; (d) basic award £10,500.
Discrimination (sex, race, disability, age, etc)		no limit	no limit
Dismissal for health and safety reasons:			
Basic award		£350 max week's pay	£10,500 (minimum £4,700)
Compensatory award		no limit	no limit.
Dismissal for making a protected disclosure:			
Basic award		£350 max week's pay	£10,500
Compensatory award		no limit	no limit.
Contract claim to an employment tribunal			£25,000.
Minimum Basic Award:		£350 max week's pay	£4,700.

The **minimum Basic Award** applies in some cases of unfair dismissal. As from 01 February 2009 this minimum increased from £4,400 to £4,700. The minimum Basic Award applies where the principal reason for a dismissal is for one of the following reasons:

- * **trade union** membership or activities: s.152(1) and 153, TULR(C) Act 1992;
- * carrying out duties as a **health and safety** representative: s.100(1)(a)-(b), ERA 1996;
- * carrying out duties as a **trustee** of an occupational pension scheme: s.102(1), ERA 1996;
- * performing functions or activities as an **employee representative**: s.101A(d) and s.103, ERA 1996.

These statutory compensation limits apply when the **relevant date** of a breach of the various employment rights occurs on or after **01 February 2009**. The relevant dates are:

- * for unfair dismissal (basic and compensatory awards) - the effective date of termination;
- * for unfair dismissal (additional award) - date by which the reinstatement or re-engagement order should have been complied with;
- * for redundancy pay - in most cases the effective date of termination (but see s.145 and s.153 ERA 1996);
- * for guarantee pay - the day for which it is claimed;
- * for insolvency rights - (a) for arrears of pay and holiday pay, the date of the employer's insolvency; (b) for statutory notice pay, the later of the date of the employer's insolvency or the effective date of termination; (c) for a basic award, the latest of the date of insolvency or effective date of termination or date on which the award was made.

Note: where an employee's contract is terminated by notice, the effective date of termination (EDT) is the date on which that notice expires: s.97(1)(a), ERA 1996.

Note: an employee must bring an unfair dismissal claim within 3 months of the effective date of termination (EDT): s.111, ERA 1996.

(statutory maximum limit on a week's pay: £350 - when the relevant date is on/after 01/02/09)

Recap in an alternative format:

UNFAIR DISMISSAL REMEDIES: financial compensation: s.117-125, ERA 1996 -

there are **three remedies** that an employment tribunal can award to a successful complainant. These are:

- (i) reinstatement;
- (ii) re-engagement; or
- (iii) **financial compensation.**

The latter remedy consists of three parts (current **maximum** on or after 01 February 2009):

- (1) **basic award: £10,500;** s.227(1)(a) ERA 1996 (the limit on a week's pay is £350);
- (2) **compensatory award: £66,200;** s.124(1) ERA 1996;
- (3) **additional award: £9,100-£18,200;** s.227(1)(b) ERA 1996; (for failure to comply with a reinstatement/re-engagement order) - all additional awards are for 26-52 weeks' pay;

other awards are -

- (4) **redundancy pay: £10,500;** s.227(1)(c) ERA 1996; (the limit on a week's pay is £350);
- (5) **guarantee pay: £21.50** - limit on a day's pay during short-time or temporary lay-off;
£107.50 - in respect of five days in any period of three months; s.31(1) ERA 1996;
- (6) **insolvency rights: £350** - limit on a week's pay for recoverable debts; s.186(1) ERA 1996;
 - (a) arrears of pay: £2,800; (i.e. up to 8 weeks)
 - (b) statutory notice pay: £4,200; (i.e. up to 12 weeks)
 - (c) holiday pay: £2,100; (i.e. up to 6 weeks)
 - (d) basic award: £10,500; (i.e. up to 20 yrs @ 1½wks)

Basic facts:

- * an award of **financial compensation** is just one of **three remedies** for **unfair dismissal**; the other two remedies are - **reinstatement** or **re-employment**;
 - * an **order** for these two other remedies will only be made **if it is practical to do so**;
 - * **part-compliance** by the employer with such an order **may**, in addition to the **basic award**, include a **compensatory award** to cover the employee's loss;
 - * **non-compliance** with such an order **may**, in addition to the **basic award**, include a **compensatory award** to cover the employee's loss and also **may** include the **additional award**;
 - * the **basic award** may be **reduced** if the employee has **unreasonably** refused or prevented reinstatement (effectively a failure to mitigate);
 - * the **basic award** may be **reduced** if, before being dismissed, the **employee's conduct** was such that it would be **just and equitable** to do so;
 - * loss of **future earnings** above £30,000 is taxable and should be **paid gross** as part of the compensatory award: **Williams v Ferrosan Ltd (2004) IRLR 607**.
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Statutory maternity pay: from 07 April 2008 - £117.18 per week (2007/8 rate: £112.75)

Statutory maternity allowance: from 07 April 2008 - £117.18 per week
(2007/08 rate: £112.75)

Statutory adoption pay: from 07 April 2008 - £117.18 per week (2007/8 rate: £112.75)

Statutory paternity pay: from 07 April 2008 - £117.18 per week (2007/8 rate: £112.75)

Statutory sick pay: from 07 April 2008 – £75.40 per week (2007/8 rate: £72.55)

National Insurance Contributions information:

Lower earnings limit, primary Class 1: £90 per week from April 2008
(2007/8 rate: £87 per week)

Upper earnings limit, primary Class 1: £670 per week from April 2008
(2007/8 rate: £670 per week)

Primary threshold: £105 per week from April 2008
(2007/8 rate: £100 per week)

Secondary threshold: £105 per week from April 2008
(2007/8 rate: £100 per week)

National Minimum Wage rates:

from 01 October 2008 –

16 and 17 year olds: £3.53 per hour (£3.40 per hour from 01 October 2007)

18 to 21 year olds: £4.77 per hour (£4.60 per hour from 01 October 2007)

22 years and over: £5.73 per hour (£5.52 per hour from 01 October 2007)

Jobseekers' Allowance: from 07 April 2008 (Contribution-based & Income-based) –

under 18 years of age: £47.95 (2007/8 rate: £35.65)

18 to 24 years of age: £47.95 (2007/08 rate: £46.85)

25 years of age and over: £60.50 (2007/08 rate: £59.15)

Incapacity Benefit: from 07 April 2008 –

short-term Incapacity Benefit (under pension age) lower rate: £63.75

(2007/08 rate: £61.35)

“ “ “ “ “ “ “ **higher rate: £75.40**

(2007/08 rate: £72.55)

long-term Incapacity Benefit: £84.50 (2007/08 rate: £81.35)

UK State retirement pension: from 07 April 2008 –

single person £90.70

(2007/08 rate £87.30)

age addition payable to State pensioners who are 80 years old or over: £00.25 pence

(2007/08 rate: £00.25 pence.)

Note: the state retirement pension of the United Kingdom is the lowest in Europe being 17% of average wages. In contrast, the Republic of Greece pays its pensioners the equivalent of 95.7% of the average wage in Greece: source – Aon/OECD. Twelve other European countries all pay their pensioners a higher rate of state retirement pension than does the United Kingdom. The rate of state pension paid by the UK government is below that of Estonia and the Republic of Ireland. The 25 pence a week supplement for pensioners who are 80 or over has not been updated in almost 40 years. The poverty line in the UK in 2008 for a single person was set at £151 a week – this is the minimum amount needed for a basic lifestyle. State retirement pensions were introduced in the UK on 01 January 1909, following the examples set by Denmark and Germany which both introduced state pensions in 1891 and New Zealand who introduced them in 1898.

Further information: for current **compensation rates**, statutory **qualifying periods of employment** and statutory **time limits** for making claims to an employment tribunal, click the index of the leading United Kingdom employment law internet resource: www.emplaw.co.uk

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www.employment-law-expert.co.uk