

Employment claims: the new rates and limits from 6 April 2023

20 March 2023

The Employment Rights (Increase of Limits) Order 2023 was published this week.

We will see a double digit increase of slightly more than 12% applicable to the caps and rates of various common employment law claims where the effective date of termination is on or after 6 April. This in line with inflation measured by the Retail Price Index.

In unfair dismissal claims, the basic award is calculated by reference to a formula based on age and length of service multiplied by the statutory "week's pay" which is subject to a cap. The weekly cap will increase from £571 to £643. The most that can be awarded is 30 weeks' pay with a maximum of £17,130 compared to £16,320 last year.

The compensatory award is calculated by reference to the loss of earnings, benefits and other financial losses. The award is capped to the lesser of 52 weeks' pay or a fixed amount which is due to increase from £93,878 to £105,707.

The unfair dismissal minimum basic award applicable to dismissal for reasons of trade union activities or membership as well as acting as a health and safety representative or employee or workforce representative will increase from £6,959 to £7,836.

For redundancy claims, the statutory cap on a week's pay for the purposes of calculating the statutory redundancy pay is also increased from £571 to £643 with the same limit as is applicable for unfair dismissal basic awards of £17,130 for 30 weeks' pay.

The limit on the amount of a guarantee payment payable to an employee in respect of any pay day increases from £31 to £35.

The increase will also impact the calculation of various common employment law claims all based on the week's pay:

- the breach of the right to be accompanied: up to two weeks' pay now capped £1,286
- the failure to give written particulars of employment: up to 4 weeks' pay now capped at £2,572
- the breach of flexible working regulations: up to 8 weeks' pay now capped at £5,144
- the failure to reinstate or reengage from 26 to 52 weeks' pay now capped £16,718 to £33,436

There will be no impact on the failure to inform and consult (13 weeks' pay) in relation to a TUPE transfer or collective redundancy procedure (90 days' pay) which are not subject to the week's pay limit. In addition, caps do not apply to discrimination cases. Likewise, individuals who can show that they were automatically unfairly dismissed (for example, for a reason related to whistleblowing or health and safety) are not subject to the limit on the compensatory award.

These increases do not come as a surprise but simply reflect the new economic climate where inflation plays a key role.

Key contact

Mark Hickson

Head of Business Development



onlineteaminbox@brownejacobson.com

+44 (0)370 270 6000

Related expertise

Employment