

**EXPLANATORY MEMORANDUM TO
THE EMPLOYMENT RIGHTS (INCREASE OF LIMITS) ORDER 2026**

2026 No. 310

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department for Business and Trade and is laid before Parliament by Command of His Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

- 2.1 Kate Dearden MP at the Department for Business and Trade can confirm that this Explanatory Memorandum meets the required standard.
- 2.2 James Stevens, Deputy Director for Employment Rights and Enforcement, at the Department for Business and Trade can confirm that this Explanatory Memorandum meets the required standard.

3. Contact

- 3.1 Richard Boyd at the Department for Business and Trade, telephone: 07867 143512 or email: richard.boyd@businessandtrade.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

- 4.1 From 6 April 2026 this Order increases 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. This is in line with the increase in the retail prices index ('RPI') between September 2024 and September 2025 (+4.5%) and in accordance with the formula set out in section 34 of the Employment Relations Act 1999 ('ERA 1999').

Where does the legislation extend to, and apply?

- 4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is Great Britain.
- 4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is Great Britain.

5. Policy Context

What is being done and why?

- 5.1 The purpose of the changes introduced by section 34 ERA 1999 was to replace the previous 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.

5.2 This change is in line with the increase in the retail prices index ('RPI') between September 2024 and September 2025 (+4.5%) and in accordance with the formula set out in section 34 of the Employment Relations Act 1999 ('ERA 1999').

5.3 It will increase the outlined Employment Tribunal awards by +4.5%.

What was the previous policy, how is this different?

5.4 The previous rate of inflation to be applied to the Employment Tribunal awards identified in the legislation was +2.7%.

6. Legislative and Legal Context

How has the law changed?

6.1 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 those limits should be varied.

6.2 Section 34 of the 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 amount of the increase (or decrease). The relevant limits were revised pursuant to this legislation for the first time in February 2000 and have been amended each year since.

6.3 Section 34 of the ERA 1999 was amended by the Enterprise and Regulatory Reform Act 2013. This changed the method of calculation used to increase or decrease the relevant limits (as noted in paragraph 5.1) and specified that the changes to the limits be made on 6 April each year.

Why was this approach taken to change the law?

6.4 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 No formal consultation exercise was necessary for this Order since the limits are required to be reviewed annually by legislation.

8. Applicable Guidance

8.1 Any reference to the statutory limits will be updated. This includes electronic and other media such as GOV.UK.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because it is not required because the ERA 1999 provides for indexation according to a pre-determined formula (i.e., the RPI).

Impact on businesses, charities and voluntary bodies

- 9.2 The impact on business, charities or voluntary bodies is to increase the maximum or minimum amounts they may be ordered to pay by Employment Tribunals if they are found to have breached certain employment legislation, and to increase amounts they must pay under other employment legislation in certain circumstances. The increases will only apply where the event giving rise to the entitlement to compensation or other payments occurred on or after 6 April 2026. In cases where the relevant event took place before 6 April 2025, limits previously in force under the Employment Rights (Increase of Limits) Order 2025 (S.I. 2025/348) are preserved.
- 9.3 The legislation applies to activities that are undertaken by small businesses. No specific action is proposed to minimise regulatory burdens on small businesses.
- 9.4 The impact on the public sector organisations is to increase the maximum or minimum amounts they may be ordered to pay by employment tribunals if they are found to have breached certain employment legislation, and to increase amounts they must pay under other employment legislation in certain circumstances. The increases will only apply where the event giving rise to the entitlement to compensation or other payments occurred on or after 6 April 2026. In cases where the relevant event took place before 6 April 2026, limits previously in force under the Employment Rights (Increase of Limits) Order 2025 (S.I. 2025/348) are preserved.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

- 10.1 The approach to monitoring of this legislation is that the limits are revised every year as required by section 34 ERA 1999.

The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 Kate Dearden has made the following statement: “a review would be disproportionate taking into account the economic impact of the regulatory provision on the qualifying activity. The original purpose of the legislative approach was to replace a review process with a system of annual automatic indexation, linking payments to the rate of inflation and giving greater certainty to businesses and workers.”.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

- 11.1 The relevant order-making power is section 34(2) of the ERA 1999 and the list of sums to be increased (or decreased) because of the change in the RPI is set out in section 34(1) of the ERA 1999.
- 11.2 In applying the relevant percentage increase (or, as it may be, decrease), the Secretary of State is required to round up the new sums to the nearest whole pound, taking 50p as nearest to the next whole pound above, in accordance with the provisions set out in section 34(3) of the ERA 1999.
- 11.3 This Order alters all the sums specified in section 34(1) of the ERA 1999 to the amounts referred to in the Schedule.

12. European Convention on Human Rights

- 12.1 As the instrument is not subject to parliamentary procedure (other than for the requirement to be laid in Parliament after making), no statement is required.

13. The Relevant European Union Acts

- 13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).