Draft Regulations laid before Parliament under sections 154(4) and 156(6)(a) of the Employment Rights Act 2025 (c. 36), for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2026 No. 000

TERMS AND CONDITIONS OF EMPLOYMENT

The Employment Rights Act 2025 (Unfair Dismissal) (Removal of Limit on Compensation) (Consequential Amendments) Regulations 2026

Made - - - -	***
Coming into force - -	*1st January 2027*

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 154 and 156 of, and paragraph 5 of Schedule 3 to, the Employment Rights Act 2025(**a**).

In accordance with sections 154(4) and 156(6)(a) of the Employment Rights Act 2025, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

PART 1
Preliminary

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Employment Rights Act 2025 (Unfair Dismissal) (Removal of Limit on Compensation) (Consequential Amendments) Regulations 2026 and come into force on 1st January 2027.

(2) Any amendment made by these Regulations has the same extent as the provision amended.

Definitions

2. In these Regulations—

"the 1992 Act" means the Trade Union and Labour Relations (Consolidation) Act 1992(**b**);

"the 2004 Order" means the ACAS Arbitration Scheme (Great Britain) Order 2004(**c**).

(**a**) 2025 c. 36.
(**b**) 1992 c. 52.
(**c**) S.I. 2004/753, to which there are amendments not relevant to these Regulations.

PART 2

Consequential amendments to primary legislation

Trade Union and Labour Relations (Consolidation) Act 1992

3.—(1) The 1992 Act is amended as follows.

(2) In section 67(**a**), for paragraph (b) of subsection (8) substitute—

"(b) the lower of—

(i) £123,543, and

(ii) 52 multiplied by a week's pay (to be calculated according to Chapter 2 of Part 14 of that Act) of the person concerned.".

(3) In section 140(**b**), omit subsection (4).

(4) In section 176(**c**), for paragraph (b) of subsection (6) substitute—

"(b) the lower of—

(i) £123,543, and

(ii) 52 multiplied by a week's pay (to be calculated according to Chapter 2 of Part 14 of that Act) of the person concerned.".

(5) In paragraph 160(2) of Schedule A1(**d**), for sub-paragraph (b) substitute—

"(b) the compensation that would be payable in accordance with section 123 (compensatory award) of that Act, in such a case.".

National Minimum Wage Act 1998

4.—(1) Section 24 of the National Minimum Wage Act 1998(**e**) (enforcement of right not to be subjected to detriment) is amended as follows.

(2) In subsection (3), after "the limit specified in", insert "subsection (3A) or".

(3) After subsection (3) insert—

"(3A) For any compensation awarded under section 49 of the Employment Rights Act 1996, the limit mentioned in subsection (3) above is the total of—

(a) the sum which would be the basic award for unfair dismissal, calculated in accordance with section 119 of that Act, if the worker had been an employee and the contract terminated had been a contract of employment; and

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(**a**) Section 67 was amended by Schedule 8, paragraph 51 of the Trade Union Reform and Employment Rights Act 1993 (c. 19); Schedule 1, paragraph 56 of the Employment Rights Act 1996 (c. 18); section 1 of the Employment Rights (Dispute Resolution) Act 1998 (c. 8) and section 34 of the Employment Relations Act 2004 (c. 24).

(**b**) Section 140 was amended by Schedule 1, paragraph 56 of the Employment Rights Act 1996 and section 1 of the Employment Rights (Dispute Resolution) Act 1998.

(**c**) Section 176 was substituted by section 14 of the Trade Union Reform and Employment Rights Act 1993 and amended by Schedule 1, paragraph 56 of the Employment Rights Act 1996; section 1 of the Employment Rights (Dispute Resolution Act) 1998; section 36 of the Employment Relations Act 1999 (c. 26); sections 33 and 34 of the Employment Relations Act 2004; section 19(3) of the Employment Act 2008 (c. 24) and by S.I. 2026/310.

(**d**) Schedule A1 was inserted by section 1 and Schedule 1 of the Employment Relations Act 1999. There have been amendments to Schedule A1, none of which are relevant.

(**e**) 1998 c. 39. Section 24 was amended by Schedule 2, paragraph 39 of the Enterprise and Regulatory Reform Act 2013 (c. 24). It is applied, with modifications, by section 3A of the Agricultural Wages Act 1948 (11 & 12 Geo 6 c. 47), section 3A of the Agricultural Wages (Scotland) Act 1949 (12, 13 & 14 Geo 6 c. 30), section 5 of the Agricultural Sector (Wales) Act 2014 (anaw 6) and by S.I. 1977/2151 (N.I. 22).

(b) the compensation that would be payable in accordance with section 123 (compensatory award) of that Act, in such a case.".

(4) In subsection (4)—

(a) at the beginning, insert "For any compensation awarded under Article 72 of the Employment Rights (Northern Ireland) Order 1996,";

(b) in paragraph (a)—

(i) omit "section 119 of the Employment Rights Act 1996 or";

(ii) for "the Employment Rights (Northern Ireland) Order 1996 (as the case may be)" substitute "that Order";

(c) in paragraph (b) omit—

(i) "section 124(1) of that Act or";

(ii) "(as the case may be)" in both places that it occurs;

(iii) "section 123 of that Act or".

Employment Relations Act 1999

5. In section 34 of the Employment Relations Act 1999(**a**), in subsection(1)—

(a) after paragraph (e) insert—

"(eza) section 67(8)(b) of the Trade Union and Labour Relations (Consolidation) Act 1992 (unjustifiable discipline: further remedies for infringement of right);";

(b) in paragraph (ea), for "the Trade Union Labour Relations (Consolidation) Act 1992" substitute "that Act";

(c) in paragraph (g), for "section 176(6A)" substitute "section 176(6)(b) and (6A)".

Pensions Act 2008

6. In section 56 of the Pensions Act 2008(**b**) (protection from detriment: enforcement of the right), in subsection (4), for paragraph (b) substitute—

"(b) the compensation that would be payable in accordance with section 123 (compensatory award) of that Act, in such a case.".

PART 3

Consequential amendments to secondary legislation

The ACAS Arbitration Scheme (Great Britain) Order 2004

7.—(1) The 2004 Order is amended as follows.

(2) In article 6—

(a) omit paragraphs (3) and (4);

(b) for paragraph (5), substitute—

"(5) After subsection (8) insert—

(**a**) 1999 c. 26. Section 34 was amended by Schedule 1, paragraph 42 of the Employment Relations Act 2004; Schedule 3, paragraph 11 of the Statistics and Registration Service Act 2007 (c. 18); sections 15 and 22 of the Enterprise and Regulatory Reform Act 2013; section 12 of the Employment (Allocation of Tips) Act 2023 (c. 13); and modified by S.I. 1999/3374 and 2009/1903.

(**b**) 2008 c. 30. Section 56 was amended by Schedule 2, paragraph 41 of the Enterprise and Regulatory Reform Act 2013.

"(9) In this section, the "Scheme" means the arbitration scheme set out in the Schedule to the ACAS Arbitration Scheme (Great Britain) Order 2004.".".

(3) In the Schedule(**a**), omit paragraphs 166 and 167.

The Exclusivity Terms in Zero Hours Contracts (Redress) Regulations 2015

8. In regulation 4(6) of the Exclusivity Terms in Zero Hours Contracts (Redress) Regulations 2015(**b**), for sub-paragraph (b) substitute—

"(b) the compensation that would be payable in accordance with section 123 (compensatory award) of that Act, in such a case.".

The Exclusivity Terms for Zero Hours Workers (Unenforceability and Redress) Regulations 2022

9. In regulation 9(6) of the Exclusivity Terms for Zero Hours Workers (Unenforceability and Redress) Regulations 2022(**c**), for sub-paragraph (b) substitute—

"(b) the compensation that would be payable in accordance with section 123 (compensatory award) of that Act, in such a case.".

PART 4

Transitional provisions

Transitional provisions

10.—(1) The amendments made by regulations 3, 4, 6, 7, 8 and 9 do not have effect in relation to a case where the appropriate date falls before 1st January 2027.

(2) In paragraph (1), "the appropriate date"—

(a) in the case of an award of compensation made under any of the provisions in paragraph (3) where a worker has suffered a detriment that is the termination of the worker's contract, means the date of termination;

(b) in the case of an application made under section 67(1) of the 1992 Act (compensation for unjustifiable discipline by a trade union), means the date of the determination infringing the applicant's right;

(c) in the case of a complaint presented under section 137(2) (refusal of employment on grounds related to union membership) or section 138(2) of the 1992 Act (refusal of service of employment agency on grounds related to union membership), means the date of the conduct to which the complaint relates, as determined under section 139 of that Act(**d**);

(d) in the case of an application for an award of compensation under section 176(2) of the 1992 Act (compensation for exclusion or expulsion from a trade union), means the date of the exclusion or expulsion from the union;

(e) in the case of—

(**a**) There are amendments to the Schedule, none of which are relevant.
(**b**) S.I. 2015/2021.
(**c**) S.I. 2022/1145.
(**d**) Sections 137, 138 and 139 were all amended by section 1 of the Employment Rights (Dispute Resolution) Act 1998. Section 138 was amended by Schedule 3, paragraph 1 of the Enterprise and Regulatory Reform Act 2013, and section 139 was amended by Schedule 2, paragraph 6 of that Act.

(i) the enforcement by an employment tribunal, by virtue of article 6 of the 2004 Order, of a re-employment order made in an arbitration conducted under that Order, or

(ii) an award of a compensatory amount made under paragraphs 137 or 138 of the Schedule to that Order,

has the same meaning as in article 8(3) of that Order.

(3) The provisions referred to in paragraph (2)(a) are—

(a) paragraph 159(1) of Schedule A1 to the 1992 Act;

(b) section 49(1)(b) of the Employment Rights 1996 Act(**a**) by virtue of—

(i) section 24(2) of the National Minimum Wage Act 1998, or

(ii) section 56(2) of the Pensions Act 2008;

(c) regulation 4(1)(b) of the Exclusivity Terms in Zero Hours Contracts (Redress) Regulations 2015;

(d) regulation 9(1)(b) of the Exclusivity Terms for Zero Hours Workers (Unenforceability and Redress) Regulations 2022.

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Title
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(**a**) 1996 c. 18. Section 49 was amended by section 4 of the Public Interest Disclosure Act 1998 (c. 23); section 1 of the Employment Rights (Dispute Resolution) Act 1998; Schedule 1, paragraph 1 of the Tax Credits Act 2002 (c. 21); section 18 of the Enterprise and Regulatory Reform Act 2013; section 129 of the Children and Families Act 2014 (c. 6); and by S.I. 1998/1833 and 2021/618. It is applied by S.I. 2006/349 and 2009/2401 and applied, with modifications, by section 24 of the National Minimum Wage Act 1998; section 56 of the Pensions Act 2008 and by S.I. 1999/3323 and 2004/3426.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to legislation in consequence of section 25(3) of the Employment Rights Act 2025, which removes the statutory limit on the compensatory award which may be awarded in a claim for unfair dismissal under section 98 of the Employment Rights Act 1996 ("the 1996 Act").

Part 1 contains definitions of legislation referred to in the regulations. Parts 2 and 3 make amendments to primary and secondary legislation, respectively. Part 4 contains transitional provisions.

Regulations 3(5), 4, 6, 8 and 9 make amendments to existing provisions which have the effect that, where a worker suffers a detriment in the form of termination of the worker's contract, the compensation which may be awarded may not exceed that which would be awarded if the worker had been an employee and had succeeded in making a claim for unfair dismissal. Each of these amendments removes a reference to section 124 of the 1996 Act (which previously contained the statutory limit on compensation) and replaces it with a reference to section 123 of that Act (which sets out how an award of compensation is to be calculated).

Regulation 3(2) and (4) makes amendments to sections 67 and 176 of the Trade Union Labour Relations (Consolidation) Act 1992 ("the 1992 Act"), which provide for remedies in cases where a trade union member has been excluded, expelled or unjustifiably disciplined by a trade union. Those provisions limit the compensation which could be awarded in such a case, in part by referring to the limit on compensation for unfair dismissal in section 124 of the 1996 Act. Those cross references have been replaced by substituting for them the amount of £123,543, which is currently the limit specified in section 124.

Regulation 3(3) removes subsection (4) of section 140 of the 1992 Act, which limits (by reference to the limit in section 124) the compensation award which may be made in a claim for refusal of employment, or refusal of service by an employment agency, on grounds of trade union membership.

Regulation 5 amends section 34 of the Employment Relations Act 1999, which places a duty on the Secretary of State to increase various sums in line with inflation, including the limit specified in section 124 of the 1996 Act. Section 34 is amended so that this duty extends to the sums which are specified as a result of regulation 4(2) and (4).

Regulation 7 makes consequential amendments to the ACAS Arbitration Scheme (Great Britain) Order 2004 which remove references to section 124 of the 1996 Act.

Regulation 10 contains transitional provisions concerning the amendments above.

The impact assessments completed for the Employment Rights Bill, introduced to Parliament on 10th October 2024, contain an assessment of the effect that the reforms to employment law and industrial relations law introduced by the Bill will have on the costs of business, the voluntary sector and the public sector. They are available at: https://bills.parliament.uk/bills/3737/publications. They are supplemented by economic analysis and enactment summary impact assessments published on 7th January 2026 which take account of changes during Bill passage. They are available at: https://www.gov.uk/guidance/employment-rights-bill-impact-assessments. Printed

copies of all of the documents mentioned in this paragraph can be obtained from the Department for Business and Trade, Old Admiralty Building, Admiralty Place, London, SWIA 2DY.

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