EXPLANATORY MEMORANDUM TO

THE EMPLOYMENT TRIBUNALS (INCREASE OF MAXIMUM DEPOSIT) ORDER

2012

2012 No. 149

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order amends the Employment Tribunals Act 1996 by deleting the figure "£500" in section 9(2)(a) and replacing it with "£1,000". This amendment will permit regulations to be made to increase the limit on deposit orders specified in the Employment Tribunals Rules of Procedure.

3. Matters of special interest to the [Joint Committee on Statutory Instruments *or* the Select Committee on Statutory Instruments]

3.1 None.

4. Legislative Context

4.1 In 'Resolving Workplace Disputes: Government Response to Consultation' the Government confirmed that it would make regulations to amend the Employment Tribunals Rules of Procedure to increase the limit for deposit orders from £500 to £1,000. Before those regulations can be made, it is necessary to amend the Employment Tribunals Act 1996, which limits the maximum sum that may be specified in the Employment Tribunal Rules.

4.2 Once this Order is in force, the Government will make regulations to amend the Employment Tribunals Rules of Procedure as described above.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

The Minister for Employment Relations, Consumer and Postal Affairs has made the following statement regarding Human Rights:

In my view the provisions of the Employment Tribunals (Increase of Maximum Deposit) Order 2012 are compatible with the Convention rights.

7. Policy background

- What is being done and why

7.1 This Order will enable the Government to make regulations to increase the maximum deposit that a tribunal can order a party to pay if it wishes to continue to participate in proceedings.

7.2 As the Government explained in 'Resolving workplace disputes: A consultation' it considers that increasing the maximum level of a deposit order from £500 to £1,000 would increase the disincentive effect of the deposit regime and so help to make it a more robust feature of the Employment Tribunals' case management powers

8. Consultation outcome

8.1 The Government published 'Resolving workplace disputes: A consultation' on 27 January 2011 and the consultation closed on 20 April 2011. The Government response was issued on 23 November 2011.

8.2 Over 400 responses to the consultation were received; about 25% from individuals, about 33% from businesses and their representative organisations, and the remainder from trade unions, Government agencies, charities, legal representatives and others. There was broad support for the proposal to raise the limit on deposits from £500 to £1,000.

9. Guidance

9.1 The Department is not providing any guidance or publicity in relation to this Order as it does not impose any new obligations; the Order amends the power of the Secretary of State to make regulations.

10. Impact

10.1 The impact on business, charities or voluntary bodies is nil.

10.2 The impact on the public sector is nil.

10.3 An Impact Assessment has not been prepared for this instrument as no impact on the private, voluntary or public sectors is foreseen.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 n/a

13. Contact

Gail Davis at the Department for Business, Innovation and Skills, Tel: 020 7215 3859 or email: gail.davis@bis.gsi.gov.uk, can answer any queries regarding the instrument.