

### Order published setting out new compensation limits

The [Employment Rights \(Increase of Limits\) Order 2014](#) has been published, increasing the limits on specified employment tribunal awards and other amounts payable under employment law from 6 April 2014. The key changes are as follows:

- The statutory limit on the amount of a week's pay where it applies, e.g. basic award for unfair dismissal, statutory redundancy payments, etc., will increase from £450 to £464.
- The maximum compensatory award for unfair dismissal increases from £74,200 to £76,574, but subject to the alternative cap of one year's salary, if this is less, which came into force on 29 July 2013.
- Guarantee pay increases from £24.20 a day to £25.

The Schedule to the Order sets out the new rates. The increases apply where the event giving rise to the entitlement to compensation, or other payments, occurred on or after 6 April 2014. Limits previously in force under the Employment Rights (Increase of Limits) Order 2012 are preserved by Article 4 of the Order in relation to cases where the appropriate date was before 6th April 2014. This means, for example, that in an unfair dismissal case the new rates apply to dismissals where the effective date of termination (EDT) falls on or after 6 April 2014, but where the EDT falls before 6 April, the old limits will still apply, regardless of the date on which compensation is awarded.

### Court of Appeal rules Equality Act does cover post-employment victimisation

In our alert earlier this year, highlighting cases to look out for in 2014, we confirmed that the Court of Appeal would be hearing the appeals in *Jessemey v Rowstock Ltd* and another and *Onu v Akwiwu* and another, as to whether the Equality Act 2010 does cover post-employment victimisation. The EAT in *Jessemey* said it didn't, but the EAT in *Onu* said it did.

In the [Jessemey](#) (J) case, J brought proceedings for unfair dismissal and age discrimination and went to an employment agency for help in getting another position. However, a director from his former firm gave him a bad reference because he had made a complaint of discrimination and J launched another claim alleging victimisation contrary to the Equality Act 2010. The ET and the EAT found that post-employment victimisation was not prohibited by the Equality Act 2010, but the Court of Appeal ruled that this was an incorrect interpretation of equality law and was not compatible with EU legislation.

The Court of Appeal observed that at the time that the 2010 Act was drafted the existing state of the law was that post-termination victimisation was unlawful and there was no indication that the Government in promoting the 2010 Act intended to change the law by withdrawing the protection previously enjoyed by former employees. It followed that the apparent failure of the statute to prohibit post-termination victimisation is a drafting error. The claim will now return to the Employment Tribunal for the assessment of compensation.

### Senior President of Tribunals publishes Annual Report for 2014

The Senior President of Tribunals has published his [Annual Report for 2014](#), which includes commentary about the EAT and the employment tribunals in England and Wales. In the EAT, the report comments that the long-term effect of the introduction of fees is difficult to predict at the moment, but since April 2013, the number of appeals has reduced by 33%. In addition, there is a view that appeals are likely to become increasingly complex and litigants appearing in person will be more numerous. In employment tribunals, the general view is that it has been a difficult year due to the implementation of the new tribunal rules and fees regime, but that the new rules are providing greater flexibility, simpler language, and more judicial discretion. Other key points are: (i) full hearings have become more lengthy and complex than in previous years; (ii) judicial mediation has proved popular, with a success rate of more than 70%; and (iii) the role of non-legal members may need to be reviewed in light of the fact that there are fewer cases on which non-legal members are required to sit. The ET President for England and Wales indicates a "difficult and evolving future for employment tribunals".

### **Extension of right to request flexible working set for 30 June 2014**

The BIS Press Office has [announced via Twitter](#) that the extension of the right to request flexible working to all employees with 26 weeks' service, contained in the Children and Families Bill, will now come into force on 30 June 2014. The posting also confirms that the provisions for shared parental leave will apply from April 2015. Subscribers to our News Update will receive a legal development alert in May setting out the key flexible working changes.

### **Low Pay Commission recommends new minimum wage rates**

The Low Pay Commission has published the [Executive Summary of the Low Pay Commission 2014 Report](#). The LPC highlight that they have had to balance the risk of recommending more than business and the economy can afford, bearing in mind the pressures on low-paying sectors and small firms, against the risk of doing too little to start to restore the real value of the earnings of the lowest paid. But the LPC believes that the economic recovery should allow an increase in the real value of the minimum wage and are recommending that the adult rate should increase by 3% on 1 October, from £6.31 to £6.50 an hour.

#### **Content Note**

*The aim is to provide summary information and comment on the subject areas covered. In particular, where employment tribunal and appellate court cases are reported, the information does not set out all of the facts, the legal arguments presented by the parties and the judgments made in every aspect of the case. Click on the links provided to access full details. If no link is provided [contact us](#) for further information. Employment law is subject to constant change either by statute or by interpretation by the courts. While every care has been taken in compiling this information, SM&B cannot be held responsible for any errors or omissions. Specialist legal advice must be taken on any legal issues that may arise before embarking upon any formal course of action.*