

Consultation on Employment Tribunal Qualifying Periods and Maximum Awards

Overview

Our Island Plan sets out a vision of a secure, vibrant and sustainable Island, with a commitment for the Department for Enterprise to deliver reforms to employment legislation, ensuring the Island is aligned with international standards and remains a competitive and attractive place to work.

Though in 2017 the Equality Act made a number of significant changes to employment law in the Island in relation to discrimination, over a number of years the Isle of Man has been falling behind international standards in relation to employment rights. The Department intends to make a number of changes to employment law in the current administration.

In 2022, the Department consulted on a number of topics that came to make up the Employment (Amendment) Bill 2023 that completed its progress through the Legislative Branches earlier this year. Those measures, which focused mainly on family leave rights and whistleblowing, will be implemented in the spring of 2025.

Why your views matter

The Department now seeks to make further improvements to employment legislation on the Isle of Man. **This consultation seeks views on qualifying periods for complaints of unfair dismissal and the maximum awards available for these complaints.**

This consultation is issued in tandem with a series of other consultations that can be found on the Consultation Hub in relation to employment rights.

Throughout this consultation, the UK's legislation may be referenced. It should be noted that now the UK is under a Labour Government, that this may change in the future.

Following this consultation, the Department will review the responses and use this information to inform the development of the Employment (Amendment) Bill that will be brought forward in 2025.

A summary of responses will be published on this page within 12 weeks of the consultation closing.

If you would like to find out more about the Island's current statutory employment rights, please visit the [Guides to Employment Rights page on gov.im \(opens on a new tab\)](https://www.gov.im/categories/working-in-the-isle-of-man/employment-rights/guides-to-employment-rights/) <<https://www.gov.im/categories/working-in-the-isle-of-man/employment-rights/guides-to-employment-rights/>> .

Reasonable adjustments and alternative formats

The Department is committed to equal opportunities and our aim is to make our documents easy to use and accessible to all.

We will take steps to accommodate any reasonable adjustments and provide such assistance as you may reasonably require to enable you to access or reply to this consultation.

If you would like to receive this document as a paper copy, in another format or need assistance with accessing or replying to this consultation, please email jasmine.cowin@gov.im or telephone +44 1624 686559.

Responding to this consultation

You can respond to this consultation online by clicking on the 'Online Survey' link below.

About you

Please note that most questions on this consultation are **optional**, with the exception of the consent question below 'May we publish your response'. There are multiple text boxes provided throughout the consultation, but you are not required to complete them unless you want to explain your view.

What is your name?

Name

What is your email address?

Email

Are you responding on behalf of an organisation?

Please select only one item

Yes

No

Organisation

In what capacity are you responding as:

For clarity, an **employee** is someone who works under a contract of employment and perform their services personally for the employer.

Workers are people who are engaged on a contract for services. The term 'worker' can be used to cover a wide range of working relationships e.g. casual workers, freelance workers, employment agency staff and some independent contractors.

Please select only one item

- Employer
- Employee
- Worker
- Self-employed
- Other (please specify)

Other:

If you employ other people, how many employees & workers do you have?

Please select only one item

- 0
- 1 to 10
- 11 to 25
- 26 to 50
- 51 to 100
- 100+

May we publish your response?

Please read our [Privacy Policy](#) for more details and your rights.

More information

- Publish in full – your first name and surname, organisation name, along with full answers **will** be published on the hub (your email will **not** be published)
- Publish anonymously – only your responses **will** be published on the hub (your name, organisation and email will **not** be published)
- Do not publish – **nothing will** be published publically on the hub (your response will only be part of a larger summary response document)

(Required)

Please select only one item

- Yes, you can publish my response in full
- Yes, you may publish my response anonymously
- No, please do not publish my response

Qualifying period for complaints of unfair dismissal

Under the Employment Act 2006 employees have a right not to be unfairly dismissed, in some cases subject to certain requirements.

In addition, the Employment and Equality Tribunal has a number of powers to award payments and compensation to employees who have been subject to a breach of employment law. In particular, the Employment Act provides for compensation where the Tribunal determines that an employee has been unfairly dismissed. The Act sets maximum levels of that compensation. However in the Isle of Man those maximum levels were last set in 2016, whereas in the UK the compensation maximum has increased on an annual basis.

Currently in the Isle of Man, in some cases an employee must have been continuously employed by his or her employer for 'at least one year' before he or she can make a complaint of unfair dismissal to the Employment and Equality Tribunal.

However even those who have been employed for under one year can claim the right if they allege that their dismissal was automatically unfair for a number of different reasons such as around pregnancy, maternity, paternity and adoption leave, certain kinds of action on health and safety, asserting a right to annual leave or making a protected disclosure.

In addition it is possible, without 1 year's continuous employment to make a complaint of unfair dismissal on the grounds of a protected characteristics under the Equality Act 2017 if the reason for the dismissal would constitute unlawful discrimination under that Act.

The reasoning behind the qualifying period is that employers should have a period at the beginning of the employment relationship in which, if an employee does not 'work out' he or she can easily be dismissed by the employer without fear that a complaint of unfair dismissal will be made.

It should be noted that in the UK, the qualifying period for making a complaint for unfair dismissal is currently two years of continuous employment. However the new Labour Government has indicated that it plans to make a complaint of unfair dismissal a right available to all workers on 'day one' of employment, though it will 'ensure employers can operate probationary periods to assess new hires'.

Do you think that the qualifying period for the right not to be unfairly dismissed should be a day one employment right?

Please select only one item

- Yes
- No
- Neither

Please explain your view:

Compensation for unfair dismissal

The Employment Act 2006 provides for a number of awards that the Employment and Equality Tribunal may make to an employee for a successful complaint that an employer has breached the Act.

In particular there is a right for an employee not to be unfairly dismissed. The Act also specifies situations in which an employee will be regarded as unfairly dismissed.

Where unfair dismissal occurs the Tribunal may make an award of compensation to the employee. This is made up of:

- a basic award of one week's pay for each completed year of continuous employment up to the effective date of termination
- a compensatory award based on the employee's loss, including any expenses reasonably incurred in consequence of the dismissal and any other benefits including pensions that might reasonably have been expected but for the dismissal; the award must not exceed a fixed maximum (currently £56,000) except in health and safety and whistleblowing cases and
- a compensation for injury to feelings award, if the Tribunal thinks it just and equitable, up to a fixed maximum of £5,000

The amount of the basic award is calculated on the basis of the number of years employment completed by the employee, up to 26 years, multiplied by the amount of a week's pay for the employee, up to the maximum amount specified in the Act.

Schedule 6 of the Act provides that the maximum amount of a week's pay may not exceed £540.

It should be noted that the maximum amount of a week's pay specified in Schedule 6 is used to calculate a number of other awards in connection with:

- written statements
- deductions from wages
- time off to look for work
- the right to request flexible working
- the right to be accompanied
- debts to be paid by Treasury on insolvency of employer
- redundancy payments

The compensatory award 'shall be such amount as the Tribunal considers just and equitable in all the circumstances having regard to the loss sustained by the complainant in consequence of the dismissal in so far as that loss is attributable to action taken by the employer.'

However section 144 limits the compensatory award to a maximum of £56,000. Any extra compensatory award for injury to feelings is limited to £5,000.

It should be noted the overall £56,000 maximum applies to cases relating to employment under the Equality Act 2017, though the injury to feelings amount is not limited to £5,000 in such cases.

The £56,000 limit does not, however, apply in the case of a successful award relating to unfair dismissal relating to health and safety or protected disclosures.

The maximum compensatory levels have not been increased since 2016.

In 2016, when the amounts for the compensatory award and the maximum amount of a week's pay were increased, the maximum amount of the compensatory award was based on the median weekly earnings rate.

If those limits were calculated on the same basis using the median weekly earnings rate in the 2023 Earnings Survey, the maximum amount of a week's pay would be £732 and the maximum amount of compensatory award for unfair dismissal would be £76,128.

In the UK the amounts are increased on an annual basis to take account of increases to the retail prices index. In April 2024 the maximum amounts in the UK were increased to the following amounts:

Maximum amount of compensatory award for unfair dismissal: £115,115

Maximum amount of a week's pay: £700

Do you have any views as to whether the maximum amount of compensation for unfair dismissal should be increased, and, if so, to what level?

Do you have any views as to whether 'the maximum amount of a week's pay' used to calculate the basic award of compensation and redundancy payment should be increased, and if so, to what level?

Do you think that £732 is a fair level for the maximum amount of a week's pay specified for the purpose of the basic award for unfair dismissal and for the other purposes listed above?

Please select only one item

- Yes
- No
- Neither

Please explain your view:

Do you think that £76,128 is a fair level for the maximum compensatory award?

Please select only one item

- Yes
- No
- Neither

Please explain your view:

Do you think that the maximum amounts referred to above should be increased in line with the retail price index as in the UK?

Please select only one item

- Yes
- No
- Neither

Please explain your view:

Additional comments

Do you have any other comments?