



TRIBUNALS  
JUDICIARY



Employment Tribunals  
(Scotland)

## Presidential Guidance

### EMPLOYMENT TRIBUNALS: PRINCIPLES FOR COMPENSATING PENSION LOSS

#### Third addendum

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This Third Addendum updates, but does not replace, the Presidential Guidance dated 10 August 2017 which introduced the fourth edition of the guidance for Employment Tribunals and parties on calculating compensation for pension loss (the document titled “Employment Tribunals: Principles for Compensating Pension Loss” – referred to as “the Principles”). It does, however, replace both the First Addendum of 7 November 2019 (which introduced the first revision to the fourth edition) and the Second Addendum of 4 December 2019 (which introduced the second revision to the fourth edition).

The working group has now produced the third revision of that fourth edition of the Principles. The revised document is available at these locations:

<https://www.judiciary.uk/publications/employment-rules-and-legislation-practice-directions/> (for England and Wales)

<https://www.judiciary.uk/publications/directions-for-employment-tribunals-scotland/> (for Scotland)

Tribunals and users should now refer to the third revision rather than to earlier versions of the fourth edition.

The main changes in this revision of the Principles are as follows:

- The relevant passages of the text, the tables in Appendix 2 and the worked examples in Appendix 3 are now based on the Eighth Edition of the Ogden Tables published in 2020.
- References to rates of tax and of state pension have also been updated to current figures in the text and in Appendix 3.

- The approach to grossing up in Appendix 3 reflects the possible impact of the High Income Child Benefit Tax Charge if the Tribunal award means this applies to the claimant.
- The text acknowledges the potential impact of furlough arrangements under the Coronavirus Job Retention Scheme.
- The text takes account of the Government announcement of 4 February 2021 that for public sector workers in defined benefit schemes before 31 March 2012 the compulsory transition to career average revalued earnings schemes will be delayed until April 2022.

In addition, recognising the complexity and length of the Principles, the working group has produced an accompanying Basic Guide which aims to provide a simple overview of the recommended approach to pension loss.

These revisions to the Principles in part reflect contributions from beyond the working group, and those who have contributed are acknowledged in Appendix 5.

As ever, the working group welcomes further comments and contributions via the email address which appears in paragraph 1.13 of the Principles.

**The Presidents expect that Employment Tribunals will have regard to the current version of the Principles when calculating compensation for pension loss.**



Judge Barry Clarke  
President, Employment Tribunals  
(England and Wales)



Judge Shona Simon  
President, Employment Tribunals  
(Scotland)

12 March 2021