

Draft Order laid before Parliament under section 51(3) of the Employment Act 2002, for approval by resolution of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

2006 No.

**EMPLOYMENT TRIBUNALS
TERMS AND CONDITIONS OF EMPLOYMENT**

The Employment Act 2002 (Amendment
of Schedules 3, 4 and 5) Order 2006

Made - - - - - ***
Coming into force - - - - - 6th April 2007

Whereas a draft of this Order was laid before Parliament in accordance with section 51(3) of the Employment Act 2002(1) and approved by a resolution of each House of Parliament:

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by sections 31(7), 32(8), 38(8) and 51(1)(a) and (b) of that Act, makes the following Order:

Citation and Commencement

1. This Order may be cited as the Employment Act 2002 (Amendment of Schedules 3, 4 and 5) Order 2006 and shall come into force on 6th April 2007.

Amendment of Schedules 3, 4 and 5

2. In each of Schedules 3, 4 and 5(2) to the Employment Act 2002 (tribunal jurisdictions to which sections 31, 32 and 38 apply), after the entry relating to regulation 28 of the Employment Equality (Religion or Belief) Regulations 2003 there is inserted —

“Regulation 45 of the European Public Limited-Liability Company Regulations 2004 ([S.I. 2004/2326](#)) (detriment in employment)

Regulation 33 of the Information and Consultation of Employees Regulations 2004 ([S.I. 2004/3426](#)) (detriment in employment)

(1) [2002 c. 22](#).

(2) Schedules 3, 4 and 5 to the 2002 Act have each been amended by the Employment Relations Act 2004 ([c.24](#)), section 57(1), Schedule 1, paragraph 43, by [S.I. 2003/1673](#), regulation 31(3), by [S.I. 2003/1661](#), regulation 39, Schedule 5, paragraph 4, by [S.I. 2003/1660](#), regulation 39(2), Schedule 5, paragraph 4, by [S.I. 2006/1031](#), regulation 49(1), Schedule 8, Part 1, paragraph 36(1) and by [S.I. 2006/2059](#), regulation 34(4), and have each been partially repealed by the Tax Credits Act 2002 ([c.21](#)), section 60, Schedule 6.

Paragraph 8 of the Schedule to the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006 (S.I. 2006/349) (detriment in employment)”.

Transitional Provisions

3. This Order shall apply —
- (a) in relation to dismissal and disciplinary action, where the employer first contemplates dismissing or taking disciplinary action against the employee after this Order comes into force; and
 - (b) in relation to grievances, where the action about which the employee complains occurs or continues after this Order comes into force,

but shall not apply in relation to a grievance where the action continues after this Order comes into force if the employee has raised a grievance about the action with the employer or has presented a complaint to the employment tribunal about the grievance before it came into force.

Parliamentary Under Secretary of State
Employment Relations and Postal Services,
Minister for London
Department of Trade and Industry

2007

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends Schedules 3, 4 and 5 to the Employment Act 2002 (“the Act”). The Order comes into force on 6th April 2007.

Part 3 of the Act provides for statutory dispute resolution procedures which are set out in Schedule 2 to the Act. There are procedures for both dismissal and disciplinary proceedings and grievance issues. These procedures apply to the jurisdictions which are listed in Schedules 3 and 4 to the Act. Additionally, section 31 of the Act requires an employment tribunal to vary a compensatory award in certain circumstances in the case of the jurisdictions listed in Schedule 3. Section 32 of the Act precludes the presentation in certain circumstances of a case arising under a jurisdiction listed in Schedule 4. Section 38 requires an employment tribunal to award compensation in certain cases arising under the jurisdictions listed in Schedule 5.

This Order adds to the jurisdictions listed in Schedules 3, 4 and 5 to the Act those provisions which are referred to in article 3 of the Order.

The Order contains transitional provisions so that the dismissal and disciplinary procedures only apply where the employer first contemplated taking action after the Order comes into force and the grievance procedure only applies where the grievance occurs after the Order comes into force unless the grievance is a continuing matter and the employee has raised it with his employer or has presented a complaint to the employment tribunal before that date.

A full Regulatory Impact Assessment on the effect that these Regulations will have on the costs of business has been prepared and placed in the Library of each House of Parliament. Copies may be obtained from the Employment Relations Department, Department of Trade and Industry, 1 Victoria Street, London, SW1H 0EN.