

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under sections 49B and 236 of the Employment Rights Act 1996. They give protection to individuals (“applicants”) who apply to an NHS employer for a contract of employment, a contract to do work personally or appointment to an office or post.

Regulation 1 deals with citation, commencement and extent.

Regulation 2 prescribes the NHS public bodies referred to in section 49B(7)(a) to (p) of the Employment Rights Act 1996 as NHS employers for the purposes of the definition of “NHS employer” in section 49B(6) of that Act.

Regulation 3 prohibits an NHS employer from discriminating against an applicant because it appears to the NHS employer that the applicant has made a protected disclosure.

Regulation 4 provides an applicant with a right of complaint to an employment tribunal against an NHS employer if the NHS employer contravenes the prohibition of discrimination in regulation 3.

Regulation 5 deals with the time limit for bringing such a complaint.

Regulation 6 deals with the remedies which an employment tribunal may award where a complaint is made under regulation 4.

Regulation 7 provides for how awards of compensation are to be calculated in proceedings under regulation 4.

Regulation 8 provides that an action may also be brought for breach of statutory duty in respect of a contravention of the prohibition of discrimination in regulation 3.

Regulation 9 provides for circumstances in which discrimination by a worker or agent of an NHS employer is to be treated as discrimination by the NHS employer.

Regulation 10 makes consequential amendments to other legislation.

A full regulatory impact assessment has not been prepared as this instrument will have no impact on the costs of business and the voluntary sector.