

EXPLANATORY NOTE

(This note is not part of the Order)

Department of Trade and Industry

These Regulations come into force on 1st October 2004 and they amend the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004 (S.I.2004/1861) (“the main Regulations”). Their main purpose is to add a new Schedule 6 to the main Regulations which contains the Rules of Procedure for equal value claims. They also make amendments to the main Regulations which are consequential to the addition of Schedule 6.

Regulation 2(9) (which amends regulation 20 of the main Regulations) makes transitional provision in relation to equal value claims which were commenced prior to 1st October 2004. It applies the provisions of Schedule 6 to the main Regulations to such proceedings to a limited extent.

Regulation 2(10) corrects some minor errors in the main Regulations.

Schedule 6 to the main Regulations gives the tribunal new case management powers in relation to equal value claims. It also aims to simplify the Rules of Procedure for equal value claims and to speed up such claims.

Rule 4 of Schedule 6 provides that where an equal value claim is disputed the tribunal must hold a stage 1 equal value hearing in accordance both with rule 4 of Schedule 6 and with the rules applicable to pre-hearing reviews in Schedule 1 to the main Regulations. Rule 4 of Schedule 6 sets out the matters to be dealt with at such a hearing. Rule 5 of Schedule 6 sets out the standard orders which may be made at such a hearing. These standard orders may be added to, varied or omitted by the tribunal.

Rule 7 of Schedule 6 provides that in cases where an independent expert has been required by the tribunal to prepare a report, the tribunal must hold a stage 2 equal value hearing. The rule lists the matters to be dealt with at such a hearing. Rule 8 of Schedule 6 sets out the standard orders which may be made, added to, varied or omitted by the tribunal at such a hearing.

Rule 9 of Schedule 6 makes provision for the admitting in evidence at a Hearing of a report prepared by the independent expert. It also provides that the tribunal may refuse to admit at the Hearing evidence which has not been disclosed to the other parties before the Hearing.

Rule 10 of Schedule 6 sets out the duties and powers of independent experts.

Rule 11 of Schedule 6 provides that other expert evidence may not be admitted in evidence without the permission of the tribunal. It also makes further provision in relation to other expert evidence.

Rule 12 of Schedule 6 establishes a procedure for putting written questions to experts and for the answers to those questions to be treated as part of the expert’s report.

Rule 14 of Schedule 6 provides that the procedures contained in rule 10 of Schedule 2 to the main Regulations is to apply to independent expert reports and answers to written questions in equal value claims which are also national security proceedings.

The Annex to Schedule 6 sets out an indicative timetable for equal value claims to which the tribunal is to have regard when dealing with certain case management matters.

A full regulatory impact assessment of the effect that these Regulations will have on the costs of business has been placed in the libraries of both Houses of Parliament, and can be obtained from the Women and Equality Unit, Department of Trade and Industry, 35 Great Smith Street, London SW1P 3BQ.