EXPLANATORY MEMORANDUM TO

THE EMPLOYMENT TRIBUNALS (CONSTITUTION AND RULES OF PROCEDURE) (AMENDMENT) REGULATIONS 2005

2005 No.435

1. This explanatory memorandum has been prepared by the Department of Trade and Industry and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

2.1 These regulations amend the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004 (S.I. 2004/1861, amended by S.I.2004/2351) ("the main Regulations"). Their purpose is to change the date on or after which all claims and responses to employment tribunals must, other than in specified proceedings, be presented on a form prescribed in accordance with Regulation 14 of the main Regulations from 6 April 2005 to 1 October 2005.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None

4. Legislative Background

4.1 Section 25 of the Employment Act 2002 introduced an amendment to section 7 of the Employment Tribunals Act 1996 which, inter alia, enables employment tribunal procedure regulations to authorise the Secretary of State to prescribe, or prescribe requirements in relation to, any form which is required by such regulations to be used for the purpose of instituting, or entering an appearance to, proceedings before employment tribunals.

4.2 Regulation 14 of the main Regulations delegates to the Secretary of State the power to prescribe forms which are to be used by claimants and respondents in proceedings before an employment tribunal.

4.3 Rules 1.(3) and 4.(2) of Schedule 1 to the main Regulations provide that, as from 6 April 2005, a claim or a response, respectively, must be presented using a prescribed form in all proceedings, subject to regulation 14(3).

5. Extent

5.1 This Order applies to Great Britain.

6. European Convention on Human Rights

Not applicable.

7. Policy background

7.1 New employment tribunal forms were designed to help ensure that claims and responses include all the information required for them to be accepted. If a different format is used it is more likely that the claim or response will have to be rejected for lack of information. The relevant forms were drawn up by the Employment Tribunals Service (ETS), approved by the Secretary of State in July 2004 and introduced to users on a non-mandatory basis on 1 October 2004.

7.2 Subsequently, however, ETS has encountered administrative difficulties in finalising electronic versions of the forms, and versions in alternative formats suitable for use by disabled parties. It was therefore considered advisable to postpone the introduction of mandatory forms to allow further development, since no criticism is anticipated from the user community for doing so, whereas limiting users to the forms in their current stage of development would be likely to incur adverse comment.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 There is no impact on the public sector.

9. Contact

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