

**EXPLANATORY MEMORANDUM TO THE
EMPLOYMENT EQUALITY (SEXUAL ORIENTATION) REGULATIONS
2003 (AMENDMENT) REGULATIONS 2004**

2004 No. 2519

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

2. Description

2.1 The instrument amends the Employment Equality (Sexual Orientation) Regulations 2003 (“the Principal Regulations”). The effect of the amendments is to extend the category of person able validly to advise worker complainants in relation to compromise agreements under the Principal Regulations to a Fellow of the Institute of Legal Executives (ILEX) employed by a solicitors’ practice. A compromise agreement is a legally binding agreement not to institute or continue employment tribunal proceedings under, *inter alia*, the Principal Regulations.

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

3.1 None.

4. Legislative Background

4.1 The instrument is being made for the domestic policy reasons described at paragraph 7 of this memorandum.

4.2 The instrument is one of a group of instruments having the like effect in relation to specified legislation conferring rights exercisable by instituting proceedings before an employment tribunal. The other instruments are the Working Time (Amendment) Regulations 2004, the Employment Equality (Religion or Belief) (Amendment) (No.2) Regulations 2004 and the Transnational Information and Consultation of Employees (Amendment) Regulations 2004.

5. Extent

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

Not applicable.

7. Policy background

7.1 We anticipate an increase in demand for compromise agreements following, for example, the implementation of fixed periods of conciliation and the introduction of

dispute resolution procedures. If compromise agreements are not readily available, parties may attempt to settle outside the proper legal framework, which could lead to further challenge and disputes. The Department's general objective is, therefore, to enable a controlled expansion of the list of relevant independent advisers whilst maintaining quality and impartiality, which are vital components of the existing system.

7.2 From 6 April 2004, The Compromise Agreements (Description of Person) Order 2004 enabled Fellows to act as a relevant independent adviser in relation to the Sex Discrimination Act 1975, the Race Relations Act 1976, the Trade Union and Labour Relations (Consolidation) Act 1992, the Disability Discrimination Act 1995, the Employment Rights Act 1996, the National Minimum Wage Act 1998, the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 and the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002.

7.3 This instrument, in common with the others in the group mentioned in paragraph 4.2 above, adds to the employment tribunal jurisdictions, described in the last paragraph, in respect of which ILEX Fellows may act as relevant independent advisers and, therefore, give the advice needed in order for the parties to a possible tribunal complaint to enter into a compromise agreement. By further extending the scope for ILEX Fellows to act as such advisers in this way we expect to maintain existing quality controls whilst ensuring that the demand for compromise agreements can be met.

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 The instrument has no impact on the public sector.

9. Contact

Valerie Allcock at the Department of Trade and Industry Tel: 020 7215 5787 or e-mail: Valerie.Allcock@dti.gsi.gov.uk can answer any queries regarding the instrument.

DEPARTMENT OF TRADE AND INDUSTRY