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STATUTORY INSTRUMENTS

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**2004 No. 1717 (C. 66)**

**TERMS AND CONDITIONS OF EMPLOYMENT**

The Employment Act 2002 (Commencement  
No. 6 and Transitional Provision) Order 2004

Made - - - - 3rd July 2004

The Secretary of State, in exercise of the powers conferred upon her by sections 55(2) and (3) of the Employment Act 2002<sup>(1)</sup> hereby makes the following Order:

**Citation and interpretation**

1.—(1) This Order may be cited as the Employment Act 2002 (Commencement No. 6 and Transitional Provision) Order 2004.

(2) In this Order, “the Act” means the Employment Act 2002.

**Commencement**

2.—(1) The following provisions of the Act shall come into force on 9th July 2004:

sections 22 to 27; and

section 28(1) and (3).

(2) The following provisions of the Act shall, subject to article 3, come into force on 1st October 2004:

section 29(1);

section 31(1) to (5);

section 32(1) to (6);

sections 34 to 40;

Schedules 2 to 5.

**Transitional provision**

3. Sections 31 and 32 of and Schedule 2 to the Act shall not apply in relation to a grievance where the employee has presented a complaint to the employment tribunal about that grievance prior to the 1st October 2004.

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(1) 2002 c. 22.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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3rd July 2004

*Gerry Sutcliffe,*  
Parliamentary Under-Secretary of State for  
Employment Relations, Competition and  
Consumers,  
Department of Trade and Industry

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings into force the provisions of the Employment Act 2002 (2002 c. 22) (“the Act”) set out in Article 2. Those provisions listed in article 2(1) come into force on 9th July 2004 and those listed in article 2(2) come into force on 1st October 2004.

The provisions in section 22 and sections 24 to 28 of the Act amend the Employment Tribunals Act 1996 (1996 c. 17) in relation to the powers to make employment tribunal procedure regulations. Those amendments relate to costs and expenses, payments in respect of preparation time, conciliation, prescription of forms, determinations without a hearing, practice directions and pre-hearing reviews.

Section 23 of the Act amends the powers to make procedure rules for the Employment Appeal Tribunal in section 34 of the Employment Tribunals Act 1996 in relation to costs and expenses.

The provisions in sections 29, 31 and 32 of and Schedules 2 to 4 to the Act relate to the statutory dispute resolution procedures introduced by the Act.

Section 34 amends Part 10 of the Employment Rights Act 1996 (1996 c. 18) (“the 1996 Act”) so that an employee is treated as unfairly dismissed if the dismissal and disciplinary statutory procedure applies but is not completed for a reason attributable to the employer.

Sections 35 and 36 of the Act amend section 3 of the 1996 Act (which deals with notes about disciplinary rules and procedures).

Section 37 of the Act inserts new sections, 7A and 7B, into the 1996 Act. These new sections deal with the use of alternative documents to give the employee a statement of his employment particulars.

Section 38 of and Schedule 5 to the Act deal with an employee’s claim that his employer has failed to give him a statement of particulars of employment.

Section 39 of the Act makes provision for the adjustment of awards of compensation under sections 31 and 38 by inserting a new section, 124A, into the 1996 Act.

Section 40 of the Act provides interpretation of Part 3 of the Act.

This Order also contains a transitional provision which has the effect that even where the employee’s grievance is about an action which continues after the 1st October 2004, sections 31 and 32 of and Schedule 2 to the Act do not have effect where the employee has already made a complaint to an employment tribunal about that action.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

*(This note is not part of the Order)*

The following provisions of the Act have been brought into force by commencement order made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 53 (partially) and Schedule 7, Paragraph 50	31.07.02	2002/1989
Section 50 and Schedule 6, section 53 (partially) and	09.09.02	2002/2256

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Schedule 7, paragraphs 8 (partially), 16 and 17, section 54 and Schedule 8 (partially)		
Sections 17, 18 and 20, section 48(1)(b) and (2), section 53 (partially) and Schedule 7, paragraphs 8 (partially), 12, 24 (partially), 28, 52 and 53	24.11.02	<a href="#">2002/2866</a>
Chapter 1 of Part 1 of the Act, Schedule 1 to the Act, section 53 (partially) and Schedule 7, paragraphs 1, 2 (partially), 37, 8 (partially), 11, 13, 24 (partially), 25, 26, 29 to 31, 33, 35, 48 and 49 (partially)	08.12.02	<a href="#">2002/2866</a>
Sections 19, 21, 41, 42 and 47, section 48(1)(a) and (c), section 53 (partially) and Schedule 7, paragraphs 2 (partially), 4 to 6, 8 (partially), 14, 18 (partially), 22, 23(2)(b) and (c), 23(1) (partially), 24 (partially), 27, 41 to 45, 47(1) and (2), 49 (partially) and 54	06.04.03	<a href="#">2002/2866</a>
Sections 29(2) and (3), 30(3), 31(6) and (7), 32(7) to (10), 33(1) and (2) and 43, section 53 (partially) and Schedule 7, paragraphs 18 (partially), 19 to 22, 23 (partially), 24 (partially) and 34.	27.04.03	<a href="#">2003/1190</a>
Section 49 and 53 (partially) and Schedule 7, paragraphs 8 (partially), 9, 10, 15, 51 and 55.	05.07.03	<a href="#">2003/1666</a>