
EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations, which come into force on 1st April 1994 and apply to industrial tribunal proceedings in Scotland, amend certain rules of procedure contained in the Industrial Tribunals (Constitution and Rules of Procedure) (Scotland) Regulations 1993 (S. I.1993/2688) (the “principal regulations”). The principal regulations are the main regulations establishing industrial tribunals and setting out the procedures they are to follow.

Regulations 2 and 5 correct minor drafting errors in rules 6(1) and 10(10)(a) in Schedule 1 to the principal regulations.

Regulation 3 amends rule 4(1)(b) in Schedule 1 to the principal regulations so that tribunals have the same power to grant recovery or inspection of documents against a person who is not a party to the proceedings as a sheriff.

Rule 7(9) in Schedule 1 to the principal regulations prevents a member of a tribunal which has conducted a pre-hearing review from being a member of the tribunal which hears the originating application. Regulation 4 ensures that where the President of the Industrial Tribunals (Scotland) has conducted a pre-hearing review alone because a Minister of the Crown has issued a direction under primary legislation that the proceedings be heard and determined by the President alone on the grounds of national security, the President may hear and determine the originating application alone notwithstanding rule 7(9).

Regulation 6 amends rule 9(2E) in Schedule 2 to the principal regulations which applies only in proceedings involving an equal value claim. The main effect of the changes is that where a tribunal has considered the “material factor” defence before deciding whether to require an expert’s report, it will be precluded from considering that defence again after the expert has submitted his report other than in exceptional circumstances.

The Regulations contain transitional provisions.