

These notes refer to the Enterprise and Regulatory Reform Act 2013 (c.24) which received Royal Assent on 25 April 2013

ENTERPRISE AND REGULATORY REFORM ACT 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 6: Miscellaneous and General

Equal Pay Audit

Section 98: Power to provide for equal pay audits

616. This section amends the Equality Act 2010 to enable a Minister of the Crown to make regulations to require employment tribunals to order employers to carry out equal pay audits where they have been found to have breached equal pay law or to have discriminated because of sex in non-contractual pay such as discretionary bonuses.
617. Regulations made under this power will be subject to the affirmative resolution procedure, requiring approval in both Houses of Parliament and may only be made following consultation with the Minister responsible for employment tribunals. The section spells out the circumstances to be set out in regulations in which a pay audit cannot be ordered by an employment tribunal and that the regulations may set out the content of pay audits. Regulations made under this section may provide that an employment tribunal may order an employer to pay a penalty not exceeding £5000 for failure to comply with an equal pay audit order and that such a penalty may be repeated. The first regulations made under this power must include an exemption for certain types of new or small businesses.