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## EXPLANATORY NOTE

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

These Regulations come into force on 6th April 2009 and amend the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004 (SI 2004/1861) (as amended by SI 2004/2351, SI 2005/435, SI 2005/1865 and SI 2008/2683) (“the main Regulations”).

These Regulations make procedural changes to tribunal practice, including in relation to default judgments, electronic communications, withdrawal of proceedings, and Stage 1 equal value hearings. They also make consequential amendments to the main Regulations arising out of the Employment Act 2008, which repeals the statutory dispute resolution procedures (contained in sections 29 to 33 of and Schedules 2 to 4 to the Employment Act 2002), and makes changes to conciliation by ACAS under sections 18 and 19 of the Employment Tribunals Act 1996.

These Regulations also make minor clarifications to and correct drafting errors in the main Regulations.

Regulation 3 amends regulation 4 of the main Regulations to provide that when the Lord President or Lord Chief Justice appoints someone to discharge the functions of President where that person is unable to act or during any vacancy, the Senior President of Tribunals must be consulted beforehand. Regulation 3 also provides that reference to “Secretary of State” is replaced by “Lord Chancellor” in regulation 8 and 9 of the main Regulations.

Regulation 4(7) amends rule 8 of Schedule 1 to the main Regulations to remove an Employment Judge’s discretion not to issue a default judgment in certain circumstances. Regulation 4(13) amends rule 15, to provide that where electronic communications are used in public hearings and oral evidence is given, the public must be able to see and hear all parties to the communication and where the hearing is to be held in private and oral evidence is given, the tribunal or Employment Judge must be able to see and hear all parties to the communication.

Regulation 4(17) amends rule 25, and adds a new rule 25A, to provide for the automatic dismissal of proceedings where the parties to a settlement have confirmed in writing their understanding that the proceedings covered by the settlement will be dismissed and the claimant has withdrawn the claim in accordance with rule 25(2) of Schedule 1 to the main Regulations.

Regulation 4(20) provides that a preliminary consideration of an application under rule 33 to review a default judgment can take place without a hearing, and that the parties may consent in writing to the review of the application taking place without a hearing.

Regulation 7 amends rule 4 of Schedule 6 to the main Regulations to enable an Employment Judge sitting alone to hear Stage 1 equal value claims.

Regulations 8 to 12 provide for transitional arrangements in relation to these regulations. Regulation 8 provides that the transitional arrangements for the amendments arising out of the repeal of sections 29 to 33 of and Schedules 2 to 4 to the Employment Act 2002 (the statutory dispute resolution procedures) mirror those of the repeal of those sections as provided for in the Employment Act 2008 (Commencement No.1 Transitional Provisions and Savings) Order 2008 (SI 2008/3232 (C.146)). Regulations 9 to 12 provide for transitional arrangements in relation to the changes to the issue of default judgments, the automatic dismissal of proceedings following withdrawal of a claim (or part of a claim) where an ACAS settlement has been reached, the power of an Employment Judge to review a default judgment on his own initiative, and the changes to stage 1 equal value hearings respectively.

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

A Regulatory Impact Assessment in respect of these Regulations is available and a copy can be obtained from the Department of Business, Enterprise and Regulatory Reform, Employment Relations Directorate, 1 Victoria Street, London SW1H 0ET or on [www.berr.gov.uk](http://www.berr.gov.uk). Copies have also been placed in the libraries of both Houses of Parliament.