

EXPLANATORY MEMORANDUM TO
THE EMPLOYMENT TRIBUNALS (CONSTITUTION AND RULES OF PROCEDURE)
(AMENDMENT) (NO. 3) REGULATIONS 2014

2014 No. 787

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The Employment Tribunals (Constitution and Rules of Procedure) (Amendment) (No. 3) Regulations 2014 (“the Regulations”) amend the Employment Tribunals (Constitution and Rules of Procedure) (Amendment) Regulations 2014 (S.I. 2014/271) (“the First Amendment Regulations”).

2.2 The Regulations correct two drafting errors in the First Amendment Regulations.

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

3.1 The Regulations are being made following a letter from the Joint Committee on Statutory Instruments dated 12th March 2014 to the Department for Business, Innovation and Skills, drawing the Department’s attention to drafting errors in the First Amendment Regulations.

3.2 The Regulations will enter into force less than 21 days after the date on which they are laid, and so do not observe the ‘21 day rule’. The Department considers this appropriate in the circumstances because it is important that the Regulations come into force before the First Amendment Regulations, so that there is certainty and clarity as to the effect of the amendments made by the First Amendment Regulations to regulations 6 and 8 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 (S.I. 2013/1237). As the First Amendment Regulations are due to come into force on 6th April 2014, it is not possible to observe the ‘21 day rule’ in respect of the Regulations if they are to come into force before the First Amending Regulations. The Department has considered it important to act as swiftly as possible after receiving the correspondence from the Joint Committee on Statutory Instruments on 12th March 2014 and the Regulations have been laid on 21st March, 15 days before coming into force.

4. Legislative Context

4.1 The First Amendment Regulations made a number of amendments to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013; some of those amendments related to the introduction of early conciliation and financial penalties and others were needed to reflect legislative changes made by the Ministry of Justice.

4.2 The Regulations correct drafting errors in the First Amendment Regulations.

5. Territorial Extent and Application

This instrument applies to England, Wales and Scotland.

6. European Convention on Human Rights

As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

These Regulations correct drafting errors in the First Amendment Regulations which were unclear as to which statutory instrument was amended by regulations 2 and 3 of the First Amendment Regulations.

8. Consultation outcome

No consultation has been undertaken on the Regulations.

9. Guidance

Extensive guidance on Employment Tribunals is produced by Her Majesty's Courts and Tribunal Service.

10. Impact

10.1 The impact on business, charities or voluntary bodies is nil in cost.

10.2 The impact on the public sector is nil in cost.

10.3 An Impact Assessment has not been prepared for this instrument. One was published for the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013, and is available on the OPSI website

11. Regulating small business

The Regulations have no affect on small business.

12. Monitoring & review

No monitoring or review of the Regulations is necessary.

13. Contact

Nick Morgan at the Department for Business Innovation and Skills, (tel: 020 7215 8543 or email: nick.morgan1@bis.gsi.gov.uk) can answer any queries regarding the instrument.