

2014 No. 1398

TERMS AND CONDITIONS OF EMPLOYMENT

The Flexible Working Regulations 2014

Made - - - - *2nd June 2014*

Laid before Parliament *4th June 2014*

Coming into force - - *30th June 2014*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 80F(1)(b), (5), (8)(a), 80G(2), (3), 80(H)(3)(b), 80I(3) and section 236(5) of the Employment Rights Act 1996(a).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Flexible Working Regulations 2014 and come into force on 30th June 2014.

(2) In these Regulations—

“the 1996 Act” means the Employment Rights Act 1996;

“flexible working application” means an application made under section 80F of the 1996 Act (statutory right to request contract variation).

Application, revocation and saving

2.—(1) These Regulations apply to a flexible working application made on or after 30th June 2014.

(2) The Flexible Working (Eligibility, Complaints and Remedies) Regulations 2002(b) are revoked but continue to apply to a flexible working application made before 30th June 2014.

Entitlement to make an application

3. An employee who has been continuously employed(c) for a period of at least 26 weeks is entitled to make a flexible working application.

Form of application

4. A flexible working application must—

(a) be in writing;

(a) 1996 c. 18. Sections 80F to 80I were inserted by section 47 of the Employment Act 2002 (c. 22). Section 80F was amended by section 131 of the Children and Families Act 2014 (c. 6). Section 80G was amended by section 132 and section 80H was amended by section 133 of that Act.

(b) S.I. 2002/3236 as amended by S.I. 2006/3314, S.I. 2007/1184, S.I. 2007/2286, S.I. 2009/595, S.I. 2011/1740, S.I. 2013/591 and S.I. 2013/388.

(c) Continuous employment is computed in accordance with Chapter 1 of Part 14 of the Employment Rights Act 1996.

- (b) state whether the employee has previously made any such application to the employer and, if so, when; and
- (c) be dated.

Date when application is taken as made

5.—(1) A flexible working application is taken as made on the day it is received.

(2) Any such application is received, unless the contrary is proved—

- (a) Where paragraph (3) applies and the application is sent by electronic transmission, on the day of transmission;
- (b) if sent by post, on the day on which it would have been delivered in the ordinary course of post; and
- (c) if it is delivered personally, on the day of delivery.

(3) This paragraph applies where the employer has agreed that the application can be sent by electronic transmission and has specified an electronic address to which the application can be sent and the electronic form to be used by the employee.

Compensation

6. For the purposes of section 80I of the 1996 Act (remedies) the maximum amount of compensation is 8 weeks' pay^(a) of the employee who presented the complaint under section 80H of the 1996 Act (complaints to employment tribunals).

Jenny Willott

Parliamentary Under Secretary of State for Employment Relations and Consumer Affairs
2nd June 2014

Department for Business, Innovation and Skills

(a) A week's pay is calculated in accordance with Chapter 2 of Part 14 of the Employment Rights Act 1996.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for—

- the condition as to the duration of employment which an employee must satisfy in order to make a flexible working application under section 80F of the Employment Rights Act 1996 (c.18) (“1996 Act”);
- the form of any such application and when it is taken to be made; and
- the maximum compensation that an employment tribunal can award in relation to a complaint that an employer has failed to deal correctly with such an application.

Regulation 2 provides that these Regulations apply to any flexible working application made on or after 30th June 2014. The Flexible Working (Eligibility, Complaints and Remedies) Regulations 2002 (S.I. 2002/3236) are revoked but continue to apply to any such application made before 30th June 2014.

Regulation 3 requires an employee to have 26 weeks of continuous employment in order to make a flexible working application. The provisions of Chapter 1 of Part 14 of the 1996 Act determine the computation of continuous employment.

Regulation 4 provides that the application must be in writing, must be dated and must state if any previous flexible working applications have been made and, if so, when.

Regulation 5 provides that a flexible working application is made on the day it is received. The regulation sets out how the day of receipt is determined.

Regulation 6 provides that 8 weeks’ pay of the employee is the maximum compensation that an employment tribunal can award if it finds a complaint made by the employee under section 80H of the 1996 Act is well-founded. A week’s pay is calculated in accordance with Chapter 2 of Part 14 of the 1996 Act. A week’s pay is subject to a maximum limit as set out in section 227 of that Act.

An impact assessment has not been prepared for these Regulations. These Regulations are part of a package of legislative measures and the relevant impact assessment is the Modern Workplaces: government response on flexible parental leave impact assessment which was published in November 2012. A copy of that impact assessment can be obtained from the Department for Business, Innovation and Skills, Labour Market Directorate, 1 Victoria Street, London SW1H 0ET. Copies have also been placed in the libraries of both Houses of Parliament.

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