

2023 No. 1194 (C. 81)

CRIMINAL PROCEDURE, ENGLAND AND WALES
EMPLOYMENT TRIBUNALS

The Judicial Review and Courts Act 2022 (Commencement No. 4) Regulations 2023

Made - - - -

6th November 2023

The Lord Chancellor, in exercise of the powers conferred by section 51(4), (5) and (6) of the Judicial Review and Courts Act 2022(a), makes the following Regulations:

Citation, interpretation and extent

1.—(1) These Regulations may be cited as the Judicial Review and Courts Act 2022 (Commencement No. 4) Regulations 2023.

(2) In these Regulations, “the Act” means the Judicial Review and Courts Act 2022.

(3) Subject to paragraph (4), these Regulations extend to England and Wales, and Scotland.

(4) Regulations 2(a) and (e) extend to England and Wales only.

Commencement

2. The following provisions of the Act come into force on the day after the day on which these Regulations are made—

- (a) section 3 (automatic online conviction and penalty for certain summary offences);
- (b) section 35 (composition of tribunals);
- (c) section 36 (saving for existing procedural provisions);
- (d) section 38 (responsibility for remunerating tribunal members);
- (e) paragraphs 1 to 4 of Schedule 2 (amendments in connection with section 3);
- (f) paragraphs 2 (introduction), 3 (employment tribunals – practice directions), 18 (Employment Appeal Tribunal – practice directions), 25 (general) and 29 (Tribunals, Courts and Enforcement Act 2007) of Schedule 5 (employment tribunal procedure rules: further provision).

Transitional and saving provision

3. Until such time as provision has been made for the composition of employment tribunals and the Employment Appeal Tribunal pursuant to regulations made under sections 4 and 28 of the

(a) 2022 c. 35.

Employment Tribunals Act 1996(a), the employment tribunals and the Employment Appeal Tribunal continue to be constituted as though section 35 of the Act had not come into force.

6th November 2023

Bellamy
Parliamentary Under Secretary of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulation 2 of these Regulations bring into force the following provisions of the Judicial Review and Courts Act 2022 (c. 35) (the 2022 Act): sections 3, 35, 36, 38, paragraphs 1 to 4 of Schedule 2 and paragraphs 2, 3, 18, 25 and 29 of Schedule 5.

Section 3 of the 2022 Act inserts new sections 16G to 16M into the Magistrates' Courts Act 1980 (c. 43) to allow automatic online procedures to be used for dealing with specified summary only offences in England and Wales. The new system for dealing with offences in this way will be known as "automatic online conviction and penalty for certain summary offences" and new sections 16G to 16M set out the parameters of the system and the powers of the Lord Chancellor to identify suitable offences and set financial penalty levels by making regulations. Paragraphs 1 to 4 of Schedule 2 to the 2022 Act set out consequential amendments to legislation as a result of those new measures.

Section 35 of the 2022 Act substitutes sections 4 and 28 of the Employment Tribunals Act 1996 (the 1996 Act) to make the power to determine the number of members of employment tribunals and of the Employment Appeal Tribunal (the EAT) a power exercisable by the Lord Chancellor by regulations, to make that power delegable to the Senior President of Tribunals, and to make the election of those actual members a power exercisable by the Senior President of Tribunals.

Section 36 of the 2022 Act is a saving provision that preserves the operation of the current procedure rules for the employment tribunals and the EAT notwithstanding any amendment or repeal made by section 34 or 35 of that Act.

Section 38 of the 2022 Act amends the 1996 Act to the effect that the Lord Chancellor, instead of the Secretary of State, is responsible for remuneration of the Presidents of the Employment Tribunals; for fees and allowances for members of and assessors for the employment tribunals; for the remuneration of and allowances for appointed and temporarily appointed members and temporary additional judges of the EAT; and for pensions of appointed members of the EAT.

Schedule 5 to the 2022 Act amends the 1996 Act and the Tribunals, Courts and Enforcement Act 2007 (c. 15) (the 2007 Act). In Schedule 5: paragraph 2 is introductory provision; paragraphs 3 and 18 make minor amendments to the language of the 1996 Act relating to practice directions in the employment tribunals and the EAT; paragraph 25 amends the parliamentary procedures provisions in the 1996 Act; and paragraph 29 amends the 2007 Act so as to require an additional Lord Chancellor appointee and Lord Chief Justice appointee to be appointed to the Tribunal Procedure Committee established under Part 2 of Schedule 5 to that Act.

Regulation 3 of these Regulations makes transitional and saving provision to the effect that until such time as provision has been made for the composition of employment tribunals and the Employment Appeal Tribunal pursuant to regulations made under sections 4 and 28 of the 1996 Act as substituted by section 35 of the 2022 Act, the employment tribunals and the Employment Appeal Tribunal continue to be constituted as though section 35 of the 2022 Act had not come into force.

(a) 1996 c. 17. Sections 4 and 28 are substituted by section 35 of the 2022 Act, which this instrument brings into force.

An impact assessment has not been produced for this instrument as no significant impact on the private, voluntary or public sectors is foreseen.

NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

(This note is not part of the Regulations)

The following provisions of the Judicial Review and Courts Act 2022 have been brought into force in England and Wales by Commencement Regulations made before the date of these Regulations:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 1	14 July 2022	2022/816
Section 2	14 July 2022	
Section 13	14 July 2022	
Section 18 (partially)	14 July 2022	
Schedule 2 paragraphs 16-21	14 July 2022	
Section 5	4 January 2023	2022/1358
Sections 19 to 30, 32, 33 and Schedule 3	28 June 2023	2023/631

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