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## EXPLANATORY NOTE

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

These Regulations relate to the new statutory right to request a contract variation to change the terms and conditions of an employee's contract of employment to allow for flexible working. This new right is provided for in the Employment Act 2002 and the relevant provisions are incorporated by that Act into the Employment Rights Act 1996 ("the 1996 Act").

The Regulations elaborate on the new section 80G of the 1996 Act, by setting out the manner in which an employer should deal with an application for a contract variation under made by an employee under new section 80F.

Regulations 3-5 set out the employer's obligations in respect of a request for a contract variation and provide that the employer must either hold a meeting to discuss the application or agree to the contract variation in writing within 28 days from the date on which the application is made. The employer must notify the employee in writing of his decision within 14 days after the date of the meeting.

Regulations 6-11 set out the employee's right to appeal against his employer's decision. The employee must appeal in writing, setting out the grounds of appeal, within 14 days after the date on which the notice of the decision is given. The employer must hold a meeting to hear the appeal within 14 days after the date on which the notice of appeal is given. The employer must notify the employee in writing within 14 days after the appeal hearing of his decision.

Regulation 12 provides for various periods in the Regulations to be extended by agreement.

Regulation 13 provides that where the individual who would normally consider the application is on sick leave or annual leave the period commences on the day the individual returns or 28 days after the application is made, whichever is the sooner.

Regulations 14-16 provide that an employee has the right to be accompanied by a companion at the meeting to discuss the application or the appeal. The companion must be a fellow worker employed by the same employer. The employee may bring a complaint to the employment tribunal that his employer has failed or threatened to fail to allow a companion to accompany him to the meetings. Both the companion and the employee are protected against detriment or dismissal attributable to the fact that he took or sought to have a companion present or to act as a companion.

Regulation 17 sets out when an employer should treat an application as withdrawn.

A Regulatory Impact Assessment of the costs and benefits of these regulations to business has been placed in the libraries of both Houses of Parliament. Copies are available to the public from the Employment Relations Directorate, Department of Trade and Industry, 1 Victoria Street, London SW1H 0ET. The Assessment is also accessible at the Directorate's website [www.dti.gov.uk/er](http://www.dti.gov.uk/er).