1993 No. 478

SEX DISCRIMINATION

The Sex Discrimination and Equal Pay (Remedies) Regulations (Northern Ireland) 1993

Made . . . . . *9th December 1993*

Coming into operation . . *17th December 1993*

The Department of Economic Development, being a Department designated for the purposes of section 2(2) of the European Communities Act 1972(**a**) in relation to measures relating to equal pay for men and women and to equal treatment for men and women in matters of employment, self-employment and vocational training(**b**), in exercise of the powers conferred by that section, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Sex Discrimination and Equal Pay (Remedies) Regulations (Northern Ireland) 1993 and shall come into operation on 17th December 1993.

(2) In these Regulations—

"an award under the sex discrimination legislation" means:

(*a*) an award under the Equal Pay Act (Northern Ireland) 1970(**c**) of arrears of remuneration or damages, or

(*b*) an order under Article 65(1)(*b*) of the 1976 Order for payment of compensation;

but does not include an award of costs or expenses under rule 11 in the Schedule to the Industrial Tribunals (Rules of Procedure) Regulations (Northern Ireland) 1981(**d**), even if made in the same proceedings as an award under the sex discrimination legislation;

"interest" means the interest included under regulation 3(1)(*a*) on any sum awarded under the sex discrimination legislation;

"the 1976 Order" means the Sex Discrimination (Northern Ireland) Order 1976(**e**);

"the 1990 Order" means the Industrial Tribunals (Interest) Order (Northern Ireland) 1990(**f**);

(a) 1972 c. 68
(b) The European Communities (Designation) (No. 3) Order 1993 (S.I. 1993/2661)
(c) 1970 c. 32 (N.I.)
(d) S.R. 1981 No. 188
(e) S.I. 1976/1042 (N.I. 15)
(f) S.R. 1990 No. 87

"tribunal" means an industrial tribunal established in pursuance of the Industrial Tribunals Regulations (Northern Ireland) 1965(**a**) or any other tribunal which, under section 6 of the Fair Employment (Northern Ireland) Act 1989(**b**), has the jurisdiction, and exercises the powers, of such a tribunal.

(3) The Interpretation Act (Northern Ireland) 1954(**c**) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

Abolition of limits on awards under the 1976 Order

2. The provisions set out in the Schedule are repealed.

Interest in awards under the sex discrimination legislation

3.—(1) Where, at any time after these Regulations come into operation, a tribunal makes an award under the sex discrimination legislation—

(*a*) it may, subject to and in accordance with these Regulations, include interest on any sums so awarded; and

(*b*) it shall consider whether to do so, without the need for any application by a party in the proceedings.

(2) Nothing in paragraph (1) shall prevent the tribunal from making an award or decision, with regard to interest, in terms which have been agreed between the parties.

Rate of interest

4.—(1) Interest shall—

(*a*) subject to paragraph (2), be applied at the same rate as is in force, during the period for which it is to be calculated, in relation to decrees in the county court;

(*b*) be calculated as simple interest which accrues from day to day.

(2) Where the rate of interest applied under paragraph (1)(*a*) has varied during a period for which the interest is to be calculated, the tribunal may, if it so desires in the interests of simplicity, apply such median or average of those rates as seems to it appropriate.

Calculation of interest

5. In this regulation and regulations 6 and 7, in relation to any award under the sex discrimination legislation—

"day of calculation" means the day on which the amount of interest included on the sums so awarded is calculated by the tribunal;

"the mid-point date" means the date half-way through the period beginning on the date of the contravention or act of discrimination to which the award relates and ending on the day of calculation (both dates inclusive).

(**a**) S.R. & O. (N.I.) 1965 No. 112 as amended by S.R. & O. (N.I.) 1966 No. 261 and S.R. & O. (N.I.) 1967 No. 109
(**b**) 1989 c. 32
(**c**) 1954 c. 33 (N.I.)

6. Interest shall not be included on any sum awarded under the sex discrimination legislation in relation to a loss or matter occurring after the day of calculation, or in respect of any time before the contravention or act of discrimination to which the award relates.

7.—(1) Subject to paragraphs (2) and (3)—

(*a*) in the case of any sum awarded under the sex discrimination legislation for injury to feelings, any interest included shall be for the period beginning on the date of the contravention or act of discrimination to which the award relates and ending on the day of calculation (both dates inclusive);

(*b*) in the case of all other sums of damages or compensation in the award (other than any sum referred to in regulation 6), and all arrears of remuneration awarded under the sex discrimination legislation, any interest included shall be for the period beginning on the mid-point date and ending on the day of calculation (both dates inclusive).

(2) Where any payment has been made before the day of calculation to the complainant by or on behalf of the respondent in respect of any loss or matter to which an award under the sex discrimination legislation relates, interest in respect of a corresponding part of the award shall be calculated as if the references in paragraph (1), and in the definition of "mid-point date" in regulation 5, to the day of calculation were to the date on which the payment was made.

(3) Where a tribunal is of the opinion that in relation to an award under the sex discrimination legislation—

(*a*) there are exceptional circumstances, whether relating to the case as a whole or to a particular sum in the award, and

(*b*) those circumstances have the effect that serious injustice would be caused if interest were to be awarded in respect of the period or periods in paragraphs (1) or (2),

it may—

(i) calculate interest, or as the case may be, interest on the particular sum, for such different period, or

(ii) calculate interest for such different periods in respect of various sums in the award,

as it considers appropriate in the circumstances, having regard to the provisions of these Regulations.

Decision in writing

8.—(1) A tribunal's written statement of reasons for its decision to make an award under the sex discrimination legislation shall contain a statement of the total amount of any interest included thereon and, unless this amount has been agreed between the parties, either a table showing how it has been calculated or a description of the manner in which it has been calculated.

(2) A tribunal's written statement of reasons shall include reasons for any decision not to award interest.