

1984 No. 16

SEX DISCRIMINATION**Equal Pay (Amendment) Regulations (Northern Ireland) 1984***Made* 20th January 1984*Coming into operation* 15th March 1984

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 to prevent discrimination between men and women as regards terms and conditions of employment (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 Equal Pay (Amendment) Regulations (Northern Ireland) 1984.

(2) These Regulations shall come into operation on 15th March 1984.

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

New form of equality clause

2.—(1) In subsection (2) of section 1 of the Equal Pay Act (Northern Ireland) 1970(d) (equality clauses to be implied into contracts of employment), after paragraph (b) there shall be inserted the following paragraph:—

“(c) where a woman is employed on work which, not being work in relation to which paragraph (a) or (b) applies, is, in terms of the demands made on her (for instance under such headings as effort, skill and decision), of equal value to that of a man in the same employment—

- (i) if (apart from the equality clause) any term of the woman’s contract is or becomes less favourable to the woman than a term of a similar kind in the contract under which that man is employed, that term of the woman’s contract shall be treated as so modified as not to be less favourable, and
- (ii) if (apart from the equality clause) at any time the woman’s contract does not include a term corresponding to a term benefiting that man included in the contract under which he is employed, the woman’s contract shall be treated as including such a term.”

(2) For subsection (3) of the said section 1 (defence of genuine material difference) there shall be substituted the following subsection:—

“(3) An equality clause shall not operate in relation to a variation between the woman’s contract and the man’s contract if the employer proves that the variation is genuinely due to a material factor which is not the difference of sex and that factor—

- (a) in the case of an equality clause falling within subsection (2)(a) or (b), must be a material difference between the woman’s case and the man’s; and

(a) 1972 c. 68

(b) The European Communities (Designation) (No. 3) Order 1982 S.I. 1982/1675

(c) 1954 c. 33 (N.I.)

(d) 1970 c. 32 (N.I.); section 1 was amended by the Sex Discrimination (Northern Ireland) Order 1976 (S.I. 1976/1042 (N.I. 15)) Article 11, Schedule 1 paragraph 1

- (b) in the case of an equality clause falling within subsection (2)(c), may be such a material difference.”.

Procedure before industrial tribunal

3.—(1) After section 2 of the said Act of 1970 (disputes as to, and enforcement of, requirement of equal treatment), there shall be inserted the following section:—

“Procedure before tribunal in certain cases.

2A.—(1) Where on a complaint or reference made to an industrial tribunal under section 2, a dispute arises as to whether any work is of equal value as mentioned in section 1(2)(c) the tribunal shall not determine that question unless—

- (a) it is satisfied that there are no reasonable grounds for determining that the work is of equal value as so mentioned; or
- (b) it has required a member of the panel of independent experts to prepare a report with respect to that question and has received that report.

(2) Without prejudice to the generality of paragraph (a) of subsection (1), there shall be taken, for the purposes of that paragraph, to be no reasonable grounds for determining that the work of a woman is of equal value as mentioned in section 1(2)(c) if—

- (a) that work and the work of the man in question have been given different values on a study such as is mentioned in section 1(6), and
- (b) there are no reasonable grounds for determining that the evaluation contained in the study was (within the meaning of subsection (3)) made on a system which discriminates on grounds of sex.

(3) An evaluation contained in a study such as is mentioned in section 1(6) is made on a system which discriminates on grounds of sex where a difference, or coincidence, between values set by that system on different demands under the same or different headings is not justifiable irrespective of the sex of the person on whom those demands are made.

(4) In paragraph (b) of subsection (1) the reference to a member of the panel of independent experts is a reference to a person who is for the time being designated by the Labour Relations Agency for the purposes of that paragraph as such a member, being neither a member of that Agency nor one of its officers or servants.”.

(2) Accordingly, in subsection (14) of section 1 of the said Act of 1970 (application in relation to men as well as to women), for the words “section 2” there shall be substituted the words “sections 2 and 2A”.

(3) In Article 59(2) of the Industrial Relations (Northern Ireland) Order 1976(a) (regulations with respect to proceedings before industrial tribunals), after sub-paragraph (f) there shall be inserted the following sub-paragraph:—

“(fa) for authorising an industrial tribunal to require persons to furnish information and produce documents to a person required for the purposes of section 2A(1)(b) of the Equal Pay Act (Northern Ireland) 1970 to prepare a report;”;

1970 c. 32 (N.I.)

and, accordingly, in Article 59(11) of that Order (offences for failure to comply with requirements imposed by the regulations), after the words “paragraph (2)(d)” there shall be inserted the words “or (fa)”.

(4) In section 13(3) of the Industrial Training Act (Northern Ireland) 1964(a) (remuneration etc. for members of industrial tribunals and for assessors and other persons), after the word "tribunals", in the second place where it occurs, there shall be inserted the words "and to any persons required for the purposes of section 2A(1)(b) of the Equal Pay Act (Northern Ireland) 1970 to prepare reports".

Sealed with the Official Seal of the Department of Economic Development for Northern Ireland on 20th January 1984.

(L.S.)

Trevor Pearson

Assistant Secretary

(a) 1964 c. 18 (N.I.) as amended by section 52(5) of the Contracts of Employment and Redundancy Payments Act (N.I.) 1965 c. 19

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations further implement Council Directive No. 75/117/EEC (O.J. No. L. 45, 19.2.75, p. 19). They come into operation on 15th March 1984.

Regulation 2 amends section 1 of the Equal Pay Act (Northern Ireland) 1970 to enable a woman to take advantage of an equality clause where she is employed on work of equal value to that of a man in the same employment. The Regulation also enables the employer to rely, by way of defence, in proceedings in respect of such a clause, on matters that go beyond personal differences between the woman in question and the man with whose work her work is compared.

Regulation 3 makes provision for the procedure before industrial tribunals in cases in which the question arises whether any work is of equal value. The Regulation includes amendments of Article 59(11) of the Industrial Relations (Northern Ireland) Order 1976 and section 13(3) of the Industrial Training Act (Northern Ireland) 1964 to enable there to be additional amendments of regulations under those enactments with respect to proceedings before industrial tribunals and to enable payments to be made to independent experts required to prepare reports for the purposes of such proceedings.