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STATUTORY RULES OF NORTHERN IRELAND

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**1996 No. 581**

**INDUSTRIAL TRIBUNALS**

**Industrial Tribunals (Interest on Awards in Sex and Disability Discrimination Cases) Regulations (Northern Ireland) 1996**

*Made* - - - - *11th December 1996*  
*Coming into operation* *26th January 1997*

The Department of Economic Development, being a Department designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> 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, in exercise of the powers conferred on it by the said section 2(2), and in exercise of the powers conferred on it by sections 8(6) and (7)<sup>(3)</sup> and 67 of the Disability Discrimination Act 1995<sup>(4)</sup> and of every other power enabling it in that behalf, hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Industrial Tribunals (Interest on Awards in Sex and Disability Discrimination Cases) Regulations (Northern Ireland) 1996 and shall come into operation on 26th January 1997.

(2) In these Regulations—

“the 1970 Act” means the Equal Pay (Northern Ireland) Act 1970<sup>(5)</sup>;

“the 1976 Order” means the Sex Discrimination Order (Northern Ireland) 1976<sup>(6)</sup>;

“the 1995 Act” means the Disability Discrimination Act 1995;

“the 1993 Regulations” shall be construed in accordance with regulation 2;

“an award under the relevant legislation” means—

(a) an award under the 1970 Act of arrears of remuneration or damages, or

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(1) The European Communities (Designation) (No. 3) Order 1993 (S.I. 1993/2661)

(2) 1972 c. 68

(3) As amended by S.I. 1996/1921 (N.I. 18) paragraph 12 of Schedule 1

(4) 1995 c. 50; sections 8(6) and (7) and 67 were modified in their application to Northern Ireland by Schedule 8; *see also* section 68(1) (as modified by the same Schedule) for a definition of “regulations”

(5) 1970 c. 32 (N.I.)

(6) S.I. 1976/1042 (N.I. 15)

(b) an order under Article 65(1)(b) of the 1976 Order or section 8(2)(b) of the 1995 Act for payment of compensation,

but does not include an award of costs under rule 12 in Schedule 1 to the Industrial Tribunals (Constitution and Rules of Procedure) Regulations (Northern Ireland) 1996(7), even if the award of costs or expenses is made in the same proceedings as an award under the relevant legislation; and

“tribunal” means an industrial tribunal established in pursuance of regulations made under, or having effect as if made under Article 3 of the Industrial Tribunals (Northern Ireland) Order 1996(8).

(3) In these Regulations, any reference to a tribunal includes, in relation to any order under Article 65(1)(b) of the 1976 Order for payment of compensation, any tribunal which under section 6 of the Fair Employment (Northern Ireland) Act 1989 has the jurisdiction, and exercises the powers, of the tribunal.

(4) The Interpretation Act (Northern Ireland) 1954(9) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

### **Revocation**

2. Subject to regulation 10, the Sex Discrimination and Equal Pay (Remedies) Regulations (Northern Ireland) 1993(10) (“the 1993 Regulations”) are revoked.

### **Interest on awards**

3.—(1) Where, at any time after these Regulations come into operation a tribunal makes an award under the relevant 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 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.—(1) In this regulation and regulations 6 and 7 in relation to any award under the relevant legislation—

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(7) S.R. 1996 No. 173

(8) S.I. 1996 No. 1921 (N.I. 18)

(9) 1954 c. 33 (N.I.)

(10) S.R. 1993 No. 478

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

“mid-point date” means the date half-way through the period mentioned in paragraph (2) or, where the number of days in that period is even, the first day of the second half of that period.

(2) The period referred to in paragraph (1) is the period beginning on the date of the contravention or, as the case may be, of the act of discrimination to which the award in question relates and ending on the day of calculation (both dates inclusive).

6. Interest shall not be included on any sum awarded under the relevant legislation in relation to a loss or matter occurring after the day of calculation or in respect of any time before the contravention or, as the case may be, the 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 relevant legislation for injury to feelings, any interest included shall be for the period beginning on the date of the contravention or, as the case may be, the 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 (other than any sum referred to in regulation 6), and all arrears of remuneration awarded under the relevant legislation, interest 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 relevant legislation relates, interest in respect of the 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 any award under the relevant legislation there are circumstances, whether relating to the case as a whole or to a particular sum in an award, which have the effect that serious injustice would be caused if interest were to be awarded in respect of the period or periods in paragraph (1) or (2), it may—

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

(b) 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 relevant legislation shall contain a statement of the total amount of any interest included therein 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 made under regulation 3.

### **Interest for period after award**

**9.** In relation to an award under the relevant legislation (whether or not including interest under regulation 3) for which the relevant decision day under the Industrial Tribunals (Interest) Order (Northern Ireland) 1990(11) falls at any time after the commencement of these Regulations—

- (a) that Order shall apply as if, in article 3 thereof, references to the calculation day were references to the day immediately following the relevant decision day and accordingly, subject to sub-paragraph (b), interest shall accrue under that Order from that day onwards (including that day); but
- (b) notwithstanding sub-paragraph (a), interest shall not be payable by virtue of that Order if payment of the full amount of the award (including interest thereon) is made within 14 days after the relevant decision day.

### **Transitional provisions**

**10.** The 1993 Regulations shall continue to apply in relation to any award under the Sex Discrimination legislation (within the meaning of those Regulations) made before the coming into operation of these Regulations as if these Regulations had not been made.

Sealed with the Official Seal of the Department of Economic Development on 11th December 1996.

L.S.

*W. D. A. Haire*  
Assistant Secretary

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## EXPLANATORY NOTE

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

These Regulations, which come into operation on 26th January 1997, make special provisions in relation to interest on awards and compensation orders made by industrial tribunals under the Equal Pay Act (Northern Ireland) 1970 (“the 1970 Act”), the Sex Discrimination (Northern Ireland) Order 1976 (“the 1976 Order”), and the Disability Discrimination Act 1995 (“the 1995 Act”).

The opportunity has been taken to revoke the Sex Discrimination and Equal Pay (Remedies) Regulations (Northern Ireland) 1993 (S.R. 1993 No. 478) and repeat their substance with only minor and drafting changes. Accordingly, the substantive effect of these Regulations is to apply, in relation to orders of compensation made under the 1995 Act, substantially the same special provisions as to interest which already apply in relation to awards and compensation orders made under the legislation on sex discrimination.

As regards their application in relation to awards and orders of compensation made under the 1970 Act and the 1976 Order, these Regulations are made under section 2(2) of the European Communities Act 1972 and ensure that the remedies available under legislation in Northern Ireland relating to sex discrimination and to equal pay for men and women comply with the requirements of Council Directives 1975/117/EEC(12) and 1976/207/EEC(13) as interpreted by the European Court of Justice in Case No. C271/91 — *Marshall v Southampton and South West Hampshire Area Health Authority* (No. 2).

Regulation 3 enables an industrial tribunal which makes an award or order of compensation under the 1970 Act, 1976 Order or 1995 Act to include a sum by way of interest on the amount awarded. Regulation 4 provides that such interest is to be calculated as simple interest which accrues from day to day and specifies the rate of interest to be used. Regulations 5-7 contain rules for the calculation of interest. There is also provision for the industrial tribunal to depart from these rules where it is of the opinion that serious injustice would be done if the rules were to be applied. Regulation 8 provides that written details must be given of the calculation of interest and that reasons must be given if no interest is awarded.

Regulation 9 alters the effect of the Industrial Tribunals (Interest) (Northern Ireland) Order 1990 (“the 1990 Order”) as it applies to an award or order of compensation made under the 1970 Act, the 1976 Order or the 1995 Act (including any interest awarded under Regulation 3). In relation to such an award, interest will begin to accrue from the day after the day in which the tribunal’s decision is sent to the parties (and not from a date 42 days later); however no interest will be payable under the 1990 Order if the full amount of the award is paid to the complainant within 14 days after the decision is sent out.

Regulation 10 contains transitional provisions.

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(12) O.J. No. L45. 19.2.75. p. 19

(13) O.J. No. L39. 14.2.76. p. 40