

2005 No. 145

SEX DISCRIMINATION

**Equal Pay Act 1970 (Amendment) Regulations (Northern Ireland)
2005**

Made

21st March 2005

Coming into operation

3rd April 2005

The Office of the First Minister and deputy First Minister, being a Department designated for the purposes of section 2(2) of the European Communities Act 1972¹ in relation to discrimination², in exercise of the powers conferred by that section, and of every other power enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement, interpretation and application

1. - (1) These Regulations may be cited as the Equal Pay Act 1970 (Amendment) Regulations (Northern Ireland) 2005 and shall come into operation on 3rd April 2005.

(2) The Interpretation Act (Northern Ireland) 1954³ shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

(3) These Regulations apply to proceedings instituted on or after 3rd April 2005.

(4) Paragraphs (2), (3) and (6) of regulation 2 also apply to proceedings instituted before 3rd April 2005 if before that date an industrial tribunal in proceedings before it has not required a member of the panel of independent experts (within the meaning of subsection (4) of section 2A of the Equal Pay Act (Northern Ireland) 1970⁴) to prepare a report under subsection (1)(b) of that section.

Amendments to section 2A of the Equal Pay Act (Northern Ireland) 1970

2. - (1) Section 2A of the Equal Pay Act (Northern Ireland) 1970 is amended as follows.

(2) In subsection (1) -

¹ 1978 c. 68

² See the European Communities (Designation) (No. 3) Order 2002 (S.I. 2002/1819)

³ 1954 c. 33 (N.I.)

⁴ 1970 c. 32. Section 2A was inserted into the Act by the Equal Pay (Amendment) Regulations (Northern Ireland) 1984 (S.R. 1984 No. 16), regulation 3(1). It has been amended by the Equal Pay (Amendment) Regulations (Northern Ireland) 1996 (S.R. 1996 No. 465), regulation 2.

(a) in paragraph (b), omit the words from the beginning to "so mentioned,"; and

(b) omit the words from "and, if it requires" to the end.

(3) After subsection (1) insert -

" (1A) Subsections (1B) and (1C) apply in a case where the tribunal has required a member of the panel of independent experts to prepare a report under paragraph (b) of subsection (1).

(1B) The tribunal may -

(a) withdraw the requirement, and

(b) request the member of the panel of independent experts to provide it with any documentation specified by it or make any other request to him connected with the withdrawal of the requirement.

(1C) If the requirement has not been withdrawn under paragraph (a) of subsection (1B), the tribunal shall not make any determination under paragraph (a) of subsection (1) unless it has received the report."

(4) For subsection (2) substitute -

" (2) Subsection (2A) applies in a case where -

(a) a tribunal is required to determine whether any work is of equal value as mentioned in section 1(2)(c), and

(b) the work of the woman and that of the man in question have been given different values on a study such as is mentioned in section 1(6) above."

(5) After subsection (2) insert -

" (2A) The tribunal shall determine that the work of the woman and that of the man are not of equal value unless the tribunal has reasonable grounds for suspecting that the evaluation contained in the study -

(a) was (within the meaning of subsection (3)) made on a system which discriminates on grounds of sex, or

(b) is otherwise unsuitable to be relied upon."

(6) In subsection (4) for the words "In paragraph (b) of subsection (1) the" substitute "In this section a".

Sealed with the Official Seal of the Office of the First Minister and deputy First Minister on 21st March 2005.

(L.S.)

Laurene McAlpine

A senior officer of the Office of the First Minister and deputy First Minister

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which amend the Equal Pay Act (Northern Ireland) 1970, come into operation on 3rd April 2005.

Section 2A of the Act requires the industrial tribunal to follow a particular procedure when determining proceedings where there is a question as to whether the claimant and the comparator are doing work of equal value. Section 2A partly implements Council Directive 75/117/EEC (OJ No. L45, 19.2.75, p.19), which provides among other matters for claims to equal pay for work of equal value.

Regulation 2 alters the procedure for such claims. It allows the industrial tribunal to choose to determine the question of equal value itself or to appoint an independent expert to prepare a report on that question. In a case where there has already been a job evaluation study which has given different values to the work of the claimant and the comparator, the employment tribunal must determine that the work is not of equal value unless it has reasonable grounds for suspecting that the study discriminated on the grounds of sex, or there are other reasons why it is not suitable to be relied upon.

A Regulatory Impact Assessment in relation to revised Rules of Procedure for industrial tribunals, including new rules concerning equal value claims, was completed by the Department for Employment and Learning. A copy of the Regulatory Impact Assessment has been placed in the Library of the Northern Ireland Assembly. It is also available on the Department for Employment and Learning's website at www.delni.gov.uk
