
STATUTORY INSTRUMENTS

1996 No. 438

SEX DISCRIMINATION

**The Sex Discrimination and Equal Pay
(Miscellaneous Amendments) Regulations 1996**

<i>Made</i>	- - - -	<i>22nd February 1996</i>
<i>Laid before Parliament</i>		<i>4th March 1996</i>
<i>Coming into force</i>		
<i>Regulations 1 and 2</i>		<i>25th March 1996</i>
<i>Regulation 3</i>		<i>31st July 1996</i>

The Secretary of State, being a Minister designated for the purposes of section 2(2) of the European Communities Act 1972⁽¹⁾ 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⁽²⁾, in exercise of the powers conferred by that section, hereby makes the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Sex Discrimination and Equal Pay (Miscellaneous Amendments) Regulations 1996.

(2) This Regulation and Regulation 2 shall come into force on 25th March 1996.

(3) Regulation 3 shall come into force on 31st July 1996.

Amendment of the Sex Discrimination Act 1975

2.—(1) The Sex Discrimination Act 1975⁽³⁾ is amended as follows.

(2) After section 65(1) there is inserted—

“(1A) In applying section 66 for the purposes of subsection (1)(b), no account shall be taken of subsection (3) of that section.

(1B) As respects an unlawful act of discrimination falling within section 1(1)(b) or section 3(1)(b), if the respondent proves that the requirement or condition in question was

(1) 1972 c. 68.

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

(3) 1975 c. 65.

not applied with the intention of treating the complainant unfavourably on the ground of his sex or marital status as the case may be, an order may be made under subsection (1)(b) only if the industrial tribunal—

- (a) makes such order under subsection (1)(a) and such recommendation under subsection (1)(c) (if any) as it would have made if it had no power to make an order under subsection (1)(b); and
- (b) (where it makes an order under subsection (1)(a) or a recommendation under subsection (1)(c) or both) considers that it is just and equitable to make an order under subsection (1)(b) as well.”

(3) In section 65(3)(b), for the words “could have been made but was not” there is substituted “was not made”.

(4) In section 66(3) the words from “(or, where” to “section 3(1)(b))” and the words “or marital status as the case may be” are omitted.

Amendment of the Equal Pay Act 1970

3.—(1) Section 2A of the Equal Pay Act 1970(4) is amended as follows.

(2) In subsection (1), for the words from “shall not determine” to the end there is substituted—
“may either—

- (a) proceed to determine that question; or
- (b) unless it is satisfied that there are no reasonable grounds for determining that the work is of equal value as so mentioned, require a member of the panel of independent experts to prepare a report with respect to that question;

and, if it requires the preparation of a report under paragraph (b) of this subsection, it shall not determine that question unless it has received the report.”

(3) In subsection (2) the words “paragraph (a) of” are omitted, and for the words “that paragraph” there is substituted “that subsection”.

Department for Education and Employment
22nd February 1996

Cheryl Gillan
Parliamentary Under Secretary of State,

(4) 1970 c. 41; section 2A was inserted by regulation 3(1) of the Equal Pay (Amendment) Regulations 1983 (S.I.1983/1794).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make changes to the powers of industrial tribunals in certain cases under the Sex Discrimination Act 1975 and the Equal Pay Act 1970. Regulations 1 and 2 come into force on 25th March 1996; regulation 3 comes into force on 31st July 1996.

Regulation 2 extends the remedies available for sex discrimination, pursuant to Council Directive [1976/207/EEC](#)(5). It enables an industrial tribunal to award compensation to a person who has suffered indirect discrimination under Part II of the 1975 Act, even where the respondent did not intend to treat the claimant unfavourably on the ground of his sex or marital status, where it would not be just and equitable to grant other remedies alone.

Regulation 3 improves the provisions implementing Council Directive [1975/117/EEC](#)(6), which provides among other matters for claims to equal pay for work of equal value. The regulation alters the procedure for such claims, so that an industrial tribunal considering such a claim will no longer be obliged to refer the question of equal value to an independent expert, and will have no power to do so where it is satisfied that there are no reasonable grounds for determining that the work in question is of equal value.

(5) OJ No. L 39, 14.2.76, p.40.

(6) OJ No. L 45, 19.2.75, p.19.