
STATUTORY INSTRUMENTS

1994 No. 1748

RACE RELATIONS

The Race Relations (Interest on Awards) Regulations 1994

<i>Made</i>	- - - -	<i>4th July 1994</i>
<i>Laid before Parliament</i>		<i>8th July 1994</i>
<i>Coming into force</i>	- -	<i>1st August 1994</i>

The Secretary of State, in exercise of the powers conferred on him by section 56(5) and (6) of the Race Relations Act 1976⁽¹⁾ and of all other powers enabling him in that behalf, and with regard to regulation 7 after consultation with the Council on Tribunals, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Race Relations (Interest on Awards) Regulations 1994, and shall come into force on 1st August 1994.

(2) In these Regulations—

“the Act” means the Race Relations Act 1976; and

“an award under the Act” means an order under section 56(1)(b) of the 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 1993⁽²⁾ or of expenses under rule 12 in Schedule 1 to the Industrial Tribunals (Constitution and Rules of Procedure) (Scotland) Regulations 1993⁽³⁾, even if the award of costs or expenses is made in the same proceedings as such an order.

Interest in awards under the Race Relations Act 1976

2.—(1) Where, at any time after the commencement of these Regulations, an industrial tribunal makes an award under the Act—

(a) it may, subject to the following provisions of these Regulations, include interest on the sums awarded; and

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

(1) 1976 c. 74; subsections (5) and (6) were inserted by section 2(1) of the Race Relations (Remedies) Act 1994 (c. 10).

(2) S.I. 1993/2687.

(3) S.I. 1993/2688.

(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

3.—(1) Interest shall be calculated as simple interest which accrues from day to day.

(2) Subject to paragraph (3), the rate of interest to be applied shall be, in England and Wales, the rate from time to time prescribed for the Special Investment Account under rule 27(1) of the Court Funds Rules 1987⁽⁴⁾ and, in Scotland, the rate fixed, for the time being, by the Act of Sederunt (Interest in Sheriff Court Decrees or Extracts) 1975⁽⁵⁾.

(3) Where the rate of interest in paragraph (2) 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

4. In this regulation and regulations 5 and 6—

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

“mid-point date” means the date half-way through the period beginning on the date of the act of discrimination complained of and ending on the day of calculation.

5. No interest shall be included in respect of any sum awarded for a loss or matter which will occur after the day of calculation, or in respect of any time before the act of discrimination complained of.

6.—(1) Subject to the following paragraphs of this regulation—

(a) in the case of any sum for injury to feelings, interest shall be for the period beginning on the date of the act of discrimination complained of and ending on the day of calculation;

(b) in the case of all other sums of compensation (other than any sum referred to in regulation 5), interest shall be for the period beginning on the mid-point date and ending on the day of calculation.

(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 the subject matter of the award, interest in respect of that part of the award covered by the payment shall be calculated as if the references in paragraph (1), and in the definition of “mid-point date” in regulation 4, to the day of calculation were to the date on which the payment was made.

(3) Where the tribunal is of the opinion that—

(a) there are exceptional circumstances, whether relating to the case as a whole or to a particular sum in an 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.

(4) S.I. 1987/821.

(5) S.I. 1975/948.

Decision in writing

7.—(1) The tribunals written statement of reasons for its decision shall contain a statement of the total amount of any interest awarded under regulation 2 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) The tribunals written statement of reasons shall include reasons for any decision not to award interest under regulation 2.

Appeal

8. For the purposes of section 136 of the Employment Protection (Consolidation) Act 1978⁽⁶⁾(appeal to the Employment Appeal Tribunal), any question of law relating to an award or decision of an industrial tribunal under regulation 2 arises in proceedings under the Act.

Interest for period after award

9. In relation to an award under the Act (whether or not including interest under regulation 2) for which the relevant decision day under the Industrial Tribunals (Interest) Order 1990(a falls at any time after the commencement of these Regulations—

- (a) that Order shall apply as if, in article 3, references to the calculation day were references to the day immediately following the relevant decision day and accordingly, subject to paragraph (b), interest shall accrue under the Order from that day onwards (including that day); but
- (b) notwithstanding paragraph (a), no interest shall be payable by virtue of that Order if payment of the full amount of the award (including interest under regulation 2) is made within 14 days after the relevant decision day.

Signed by order of the Secretary of State.

Department of Employment
4th July 1994

Henley
Parliamentary Under Secretary of State,

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations relate to cases where an industrial tribunal makes an order under section 56(1)(b) of the Race Relations Act 1976 for payment of compensation. They come into force on 1st August 1994.

Regulation 2 enables an industrial tribunal which makes such an award to include a sum by way of interest on the amount awarded. Regulation 3 provides that such interest is to be calculated as simple interest which accrues from day to day, and specifies the rates of interest to be used for England and Wales and for Scotland. Regulations 4 to 6 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 there are exceptional circumstances which have the effect that serious injustice would be done if it were to apply these rules. Regulation 7 provides that written details must be given of the calculation of interest and that reasons must be given if no interest is awarded. Regulation 8 ensures that an appeal will lie to the Employment Appeal Tribunal on any question of law relating to a decision to award or not to award interest.

Regulation 9 alters the effect of the Industrial Tribunals (Interest) Order 1990 as it applies to an award under the Race Relations Act 1976 (including any interest awarded under regulation 2). In relation to such an award, interest will begin to accrue from the day after the day on which the tribunal's decision is sent to the parties (and not from a date 42 days later), but no interest will be payable under the Order if the full amount of the award is paid to the complainant within 14 days after the decision is sent out.