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STATUTORY INSTRUMENTS

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**1996 No. 2803**

**INDUSTRIAL TRIBUNALS**

**The Industrial Tribunals (Interest on Awards  
in Discrimination Cases) Regulations 1996**

<i>Made</i>	- - - -	<i>5th November 1996</i>
<i>Laid before Parliament</i>		<i>8th November 1996</i>
<i>Coming into force</i>	- -	<i>2nd December 1996</i>

The Secretary of State—

- (1) being a Minister designated for the purposes of section 2(2) of the European Communities Act 1972<sup>(1)</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<sup>(2)</sup>, in exercise of the powers conferred on him by that section,
- (2) in exercise of the powers conferred on him by section 56(5) and (6) of the Race Relations Act 1976<sup>(3)</sup> and of all other powers enabling him in that behalf, and
- (3) in exercise of the powers conferred on him by section 8(6) and (7) of the Disability Discrimination Act 1995<sup>(4)</sup> 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, interpretation and revocation**

1.—(1) These Regulations may be cited as the Industrial Tribunals (Interest on Awards in Discrimination Cases) Regulations 1996 and shall come into force on 2nd December 1996.

(2) In these Regulations—

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

“the 1975 Act” means the Sex Discrimination Act 1975<sup>(6)</sup>;

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

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(1) 1972 c. 68.

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

(3) 1976 c. 74; subsections (5) and (6) were inserted by section 2(1) of the Race Relations (Remedies) Act 1994 (c. 10).

(4) 1995 c. 50; the statutory reference in section 8(7) was amended by the Industrial Tribunals Act 1996 (c. 17), section 43 and Schedule 1, paragraph 12.

(5) 1970 c. 41

(6) 1975 c. 65.

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

“an award under the relevant legislation” means—

- (a) an award under the 1970 Act of arrears of remuneration or damages, or
- (b) an order under section 65(1)(b) of the 1975 Act, section 56(1)(b) of the 1976 Act 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 1993(7), or of expenses under rule 12 in Schedule 1 to the Industrial Tribunals (Constitution and Rules of Procedure) (Scotland) Regulations 1993(8), even if the award of costs or expenses is made in the same proceedings as an award under the 1970 Act or such an order.

(3) The Sex Discrimination and Equal Pay (Remedies) Regulations 1993(9) and the Race Relations (Interest on Awards) Regulations 1994(10) are revoked.

### **Interest on awards**

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

- (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.

(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(11) and, in Scotland, the rate fixed, for the time being, by the Act of Sederunt (Interest in Sheriff Court Decrees or Extracts) 1975(12).

(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.—(1) 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.

(2) In regulation 6, “mid-point date” means the day which falls half-way through the period mentioned in paragraph (3) or, where the number of days in that period is even, the first day of the second half of the period.

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(7) S.I. 1993/2687.

(8) S.I. 1993/2688.

(9) S.I. 1993/2798.

(10) S.I. 1994/1748.

(11) S.I. 1987/821.

(12) S.I. 1975/948.

(3) The period referred to in paragraph (2) is the period beginning on the date, in the case of an award under the 1970 Act, of the contravention and, in other cases, 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 contravention or 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 contravention or act of discrimination complained of and ending on the day of calculation;
- (b) in the case of all other sums of damages or compensation (other than any sum referred to in regulation 5) and all arrears of remuneration, 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 considers that in the circumstances, whether relating to the case as a whole or to a particular sum in an award, 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—

- (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**

7.—(1) The tribunal’s 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 tribunal’s written statement of reasons shall include reasons for any decision not to award interest under regulation 2.

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

8.—(1) The Industrial Tribunals (Interest) Order 1990(13) shall apply in relation to an award under the relevant legislation (whether or not including interest under regulation 2) as if references in that Order to the calculation day were references to the day immediately following the relevant decision day (as defined in Article 2(3) of the Order) and accordingly interest shall accrue under the Order from that day onwards (including that day).

(2) Notwithstanding paragraph (1), no interest shall be payable by virtue of that Order if payment of the full amount of the award (including any interest under regulation 2) is made within 14 days after the relevant decision day.

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(13) S.I. 1990/479.

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

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5th November 1996

*John M Taylor*  
Minister for Corporate and Consumer Affairs  
Department of Trade and Industry

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## EXPLANATORY NOTE

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

These Regulations, which come into force on 2nd December 1996, make special provisions in relation to interest on awards and compensation orders made by industrial tribunals under the Equal Pay Act 1970 (“the 1970 Act”), the Sex Discrimination Act 1975 (“the 1975 Act”), the Race Relations Act 1976 (“the 1976 Act”) and the Disability Discrimination Act 1995 (“the 1995 Act”).

The opportunity has been taken to revoke the Sex Discrimination and Equal Pay (Remedies) Regulations 1993 (S.I.1993/2798) and the Race Relations (Interest on Awards) Regulations 1994 (S.I. 1994/1748) 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 and race discrimination.

By revoking and repeating the substance of the 1993 and 1994 Regulations mentioned, these Regulations also ensure that the special provisions applying to interest on awards and orders of compensation in discrimination cases are contained in a single set of regulations rather than three sets.

As regards their application in relation to awards and orders of compensation made under the 1970 and 1975 Acts, these Regulations are made under section 2(2) of the European Communities Act 1972 and ensure that the remedies available under legislation in Great Britain relating to sex discrimination and to equal pay for men and women comply with the requirements of Council Directives 1975/117/EEC(14) and 1976/207/EEC(15) 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 2 enables an industrial tribunal which makes an award or order of compensation under the 1970, 1975, 1976 or 1995 Act 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 serious injustice would be done if the rules were to be applied. 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 alters the effect of the Industrial Tribunals (Interest) Order 1990 as it applies to an award or order of compensation made under the 1970, 1975, 1976 or 1995 Act (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); 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.

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(14) OJ No. L45. 19.2.75. p.19.

(15) OJ No. L39. 14.2.76. p.40.