

2005 No. 1923

PENSIONS

**The Occupational Pension Schemes (Equal Treatment) (Amendment)
Regulations 2005**

<i>Made</i> - - - -	<i>14th July 2005</i>
<i>Laid before Parliament</i>	<i>20th July 2005</i>
<i>Coming into force</i> - -	<i>10th August 2005</i>

ARRANGEMENT OF REGULATIONS

**PART 1
GENERAL**

1. Citation, commencement and interpretation

**PART 2
EQUAL TREATMENT: AMENDMENTS**

2. Application of Part 2
3. Modification of Equal Pay Act provision applying to equal treatment rule
4. Equal Pay Act provisions applying to equal treatment rule and equality clause
5. Modifications: operation of equal treatment rule
6. Modifications: operation of equality clause on pension-related terms of employment

**PART 3
EQUAL TREATMENT RULE: ARMED FORCES SCHEMES**

7. Application of Part 3
8. Operation of equal treatment rule on armed forces schemes
9. Definition of “qualifying date”: proceedings relating to armed forces schemes
10. Claims relating to contraventions of terms as to admission or treatment
11. Claims by pensioner members relating to contraventions of terms as to treatment

PART 4
EQUALITY CLAUSE: SERVICE IN ARMED FORCES

12. Application of Part 4
13. Operation of equality clause on pension-related terms of service
14. Claims relating to contraventions of terms as to admission or treatment
15. Claims by pensioner members relating to contraventions of terms as to treatment

The Secretary of State, being a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to discrimination, in the exercise of the powers conferred by that section and by sections 63(5), 66(4), 124(1) and 174(2) and (3) of the Pensions Act 1995(c), and all other powers enabling him in that behalf having consulted with such persons as he considers appropriate(d), hereby makes the following Regulations:

PART 1
GENERAL

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Equal Treatment) (Amendment) Regulations 2005.

(2) These Regulations shall come into force on 10th August 2005.

(3) In these Regulations—

“armed forces” means the naval, military or air forces of the Crown;

“armed forces scheme” means any occupational pension scheme—

(a) made under section 3 of the Naval and Marine Pay and Pensions Act 1865(e) (payment of naval and marine pay and pensions according to Order in Council),

(b) set out in the Army Pensions Warrant 1977(f),

(c) made under section 2 of the Air Force (Constitution) Act 1917(g) (government, discipline and pay of Air Force),

(d) made under sections 4 and 8 of the Reserve Forces Act 1996(h) (orders and regulations concerning the reserve forces), or

(e) made under section 1 of the Armed Forces (Pensions and Compensation) Act 2004(i) (pension and compensation schemes: armed and reserve forces);

“commencement date” means the date specified in paragraph (2);

“Equal Pay Act” means the Equal Pay Act 1970(j);

“equality clause” shall be construed in accordance with section 1(2) of the Equal Pay Act;

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

(b) 1972 c.68.

(c) 1995 c.26. Section 124(1) is cited because of the meaning given to “prescribed” and “regulations”.

(d) See section 120(1) of the Pensions Act 1995.

(e) 1865 c.73. Section 3 was amended by the Armed Forces (Pensions and Compensation) Act 2004 (c.32).

(f) Available from the Office of Public Sector Information (formerly known as Her Majesty’s Stationery Office).

(g) 1917 c.51.

(h) 1996 c.14.

(i) 2004 c.32.

(j) 1970 c.41. Section 2 was amended by Part I of Schedule 1 to the Sex Discrimination Act 1975 (c.65), Schedule 17 to the Employment Protection (Consolidation) Act 1978 (c.44), section 1(2)(a) of the Employment Rights (Dispute Resolution) Act 1998 (c.8) and S.I. 2003/1656. Sections 2ZA, 2ZB and 2ZC were inserted by S.I. 2003/1656. Section 2A was inserted by S.I. 1983/1794 and amended by section 1(2)(a) of the Employment Rights (Dispute Resolution) Act 1998, S.I. 1996/438 and 2004/2352. Section 7A was inserted by section 24(2) of the Armed Forces Act 1996 (c.46) and amended by section 1(2)(a) of the Employment Rights (Dispute Resolution) Act 1998 and by S.I. 2003/1656. Sections 7AA, 7AB and 7AC were inserted by S.I. 2003/1656. There are other amendments to the Equal Pay Act 1970 but none is relevant to these Regulations.

“occupational pension scheme” has the meaning given by section 1 of the Pension Schemes Act 1993(a) (categories of pension scheme);

“pension-related term of service” has the meaning given by regulation 12(2); and

“pensioner member” includes a person who is entitled to the present payment of pension or other benefits derived through a member.

PART 2

EQUAL TREATMENT: AMENDMENTS

Application of Part 2

2.—(1) The modifications contained in amendments made by this Part of these Regulations apply to proceedings in respect of the terms of an occupational pension scheme if the proceedings are instituted on or after the commencement date (subject to paragraph (2)).

(2) Those modifications do not so apply if the last day on which the woman was employed in the employment to which the occupational pension scheme relates falls more than six months before the commencement date.

Pensions Act 1995

Modification of Equal Pay Act provisions applied to equal treatment rule

3. In section 63 of the Pensions Act 1995 (equal treatment rule: supplementary), subsection (4)(c) is repealed.

Occupational Pension Schemes (Equal Treatment) Regulations 1995

Equal Pay Act provisions applying to equal treatment rule and equality clause

4. The Occupational Pension Schemes (Equal Treatment) Regulations 1995(b) are amended in accordance with regulations 5 and 6.

Modifications: operation of equal treatment rule

5.—(1) In regulation 2 (application of Equal Pay Act to equal treatment rule)—

(a) renumber the existing text as paragraph (1);

(b) in paragraph (1), for sub-paragraph (a) substitute—

“(a) subject to the further modifications made in paragraph (2) below and in regulations 3 to 7 below;”;

(c) after paragraph (1) add—

“(2) Section 2ZA of the Equal Pay Act shall have effect in relation to an equal treatment rule as if—

(a) for subsection (1) there were substituted—

“(1) This section applies for the purpose of determining the qualifying date, in relation to relevant proceedings in respect of a woman, for the purposes of section 2(4) above.

(1A) In subsection (1) above “relevant proceedings” means proceedings in respect of the terms on which—

(a) persons become members of an occupational pension scheme, or

(b) members of an occupational pension scheme are treated.”;

(a) 1993 c.48. Section 1 was amended by section 239 of the Pensions Act 2004 (c. 35).

(b) S.I. 1995/3183.

(b) in subsection (2)—

- (i) in paragraph (a) of the definition of “concealment case”, the reference to the employer was a reference to the employer or the trustees or managers of the scheme, and
- (ii) in paragraph (c) of the definition of “disability case”, the reference to the employer was a reference to the employer or the trustees or managers of the scheme.”.

(2) For regulation 5 (power to declare right to admission to scheme and employer’s duty to provide additional resources) substitute—

“Power for a court or employment tribunal to declare right to admission to scheme

5. Where a claim to which regulation 3 applies relates to the terms on which persons become members of the scheme, section 2 of the Equal Pay Act shall have effect as if, after subsection (5A) (as inserted by regulation 4), there were added—

“(6A) Where a court or employment tribunal finds that there has been a breach of an equal treatment rule which relates to the terms on which persons become members of the scheme (including any terms concerning the age or length of service needed for becoming a member of the scheme), the court or tribunal may declare that a woman has the right to be admitted to the scheme with effect from such date as it may specify provided that, in any case, that date is not earlier than 8th April 1976.”.

(3) For regulation 7 (power to make financial award for equal treatment claims by pensioner members and employer’s duty to provide additional resources) substitute—

“Power for a court or employment tribunal to make a financial award for equal treatment claims by pensioner members and employer’s duty to provide additional resources

7.—(1) This regulation applies in the case of a claim by a pensioner member of a scheme in respect of a failure to comply with an equal treatment rule which relates to the terms on which the member is treated.

(2) Section 2 of the Equal Pay Act shall have effect as if—

(a) for subsection (5) there were substituted—

“(5) A woman who is a pensioner member shall not be entitled, in proceedings brought in respect of a failure to comply with an equal treatment rule (including proceedings before an employment tribunal), to be awarded any payment by way of arrears of benefits or damages or any other financial award—

- (a) in proceedings in England and Wales, in respect of a time earlier than the arrears date (determined in accordance with section 2ZB below), and
- (b) in proceedings in Scotland, in respect of a time before the period determined in accordance with section 2ZC below.”; and

(b) the following subsections were added after subsection (5A) (as inserted by regulation 4)—

“(6C) Where a court or employment tribunal awards a payment by way of arrears of benefits or damages, or makes any other financial award, the employer shall provide any such resources to the scheme as are specified in subsection (7C) below.

(7C) The resources referred to in subsection (6C) above are such additional resources, if any, as may be necessary for the scheme to secure to the pensioner member the payment of the amount awarded or other financial award made, without contribution or further contribution by the pensioner member or by other members of the scheme.”.

(3) Section 2ZB of the Equal Pay Act shall have effect as if—

(a) for subsection (1) there were substituted—

“(1) This section applies for the purpose of determining the arrears date, in relation to an award of any payment by way of arrears of benefits or damages or any other financial award in relevant proceedings in England and Wales in respect of a woman, for the purposes of section 2(5)(a) above.

- (1A) In subsection (1) above “relevant proceedings” means proceedings in respect of the terms on which members of an occupational pension scheme are treated.”; and
- (b) in subsection (2), the reference in the definition of “concealment case” to the employer were a reference to the employer or the trustees or managers of the scheme.
- (4) Section 2ZC of the Equal Pay Act shall have effect as if—
- (a) for subsection (1) there were substituted—
- “(1) This section applies, in relation to an award of any payment by way of arrears of benefits or damages or any other financial award in relevant proceedings in Scotland in respect of a woman, for the purposes of determining the period mentioned in section 2(5)(b) above.
- (1A) In subsection (1) above “relevant proceedings” means proceedings in respect of the terms on which members of an occupational pension scheme are treated.”; and
- (b) in subsection (2)(a), the reference to the employer or any person acting on his behalf was a reference to the employer, the trustees or managers of the scheme or any person acting on his or their behalf.”.

Modifications: operation of equality clause on pension-related terms of employment

6. For regulation 10 (power to declare right to admission to scheme for breach of term in contract of employment and employer’s duty to provide additional resources) substitute—

“Power for a court or employment tribunal to declare right to admission to scheme for breach of term in contract of employment in relation to access claims

10. Where a claim to which regulation 9 applies relates to the terms on which persons become members of the scheme, section 2 of the Equal Pay Act shall have effect as if, after subsection (5) (as modified by regulation 9), there were added—

“(6D) Where a court or employment tribunal finds that there has been a breach of an equality clause which relates to the terms on which persons become members of the scheme (including any terms concerning the age or length of service needed for becoming a member of the scheme), the court or tribunal may declare that a woman has a right to be admitted to the scheme with effect from such date as it may specify provided that, in any case, that date is not earlier than 8th April 1976.”.

PART 3

EQUAL TREATMENT RULE: ARMED FORCES SCHEMES

Application of Part 3

- 7.—(1) This Part of these Regulations—
- (a) applies (with modifications) certain provisions of the Equal Pay Act in relation to the operation of an equal treatment rule in respect of the terms of an occupational pension scheme; but
- (b) applies only to schemes which are armed forces schemes(a).
- (2) The modifications of the Equal Pay Act made by this Part of these Regulations apply to proceedings in respect of the terms of an armed forces scheme if the proceedings are instituted on or after the commencement date (subject to paragraph (3)).
- (3) Those modifications do not so apply if the last day of the woman’s period of service (to which the scheme relates) in the armed forces falls more than nine months before the commencement date.

(a) Section 63(4) of the Pensions Act 1995 applies (with modifications) certain provisions of the Equal Pay Act 1970 in relation to the operation of an equal treatment rule in respect of an occupational pension scheme. Section 63(5) confers power on the Secretary of State to provide for the Equal Pay Act 1970 to have effect in relation to an equal treatment rule subject to further modifications. Such provision has already been made by S.I. 1995/3183 in relation to occupational pension schemes which are not armed forces pension schemes.

Operation of equal treatment rule on armed forces schemes

8.—(1) Section 7A of the Equal Pay Act (service pay and conditions) shall have effect, in relation to the operation of an equal treatment rule in respect of an armed forces scheme, as if it were modified as follows (see also regulations 10 and 11 which make further modifications to deal with different cases).

(2) Omit subsections (1) and (2).

(3) For subsections (3) and (4) substitute—

“(3) Any claim in respect of the contravention, in respect of a woman, of a term of an armed forces scheme which—

(a) relates to the terms on which—

(i) persons become members of the scheme, or

(ii) members of the scheme are treated; and

(b) is modified or included by an equal treatment rule,

may be presented by way of a complaint to an employment tribunal under this section (and may not be presented by way of a complaint to an employment tribunal under section 2 above).

(4) Subsections (5) to (10) below apply in relation to any claim by a woman (“the claimant”) arising from a contravention of a term of a scheme referred to in subsection (3) above.”.

(4) For subsection (10) substitute—

“(10) Section 2A above shall apply in relation to a complaint in respect of the claim as it applies to a complaint presented to an employment tribunal under section 2(1) above, but with the substitution for any reference to section 1(2)(c) above of a reference to section 62(3)(c) of the Pensions Act 1995 (the equal treatment rule).”.

(5) In subsection (12), after the definition of “armed forces”, insert—

““armed forces scheme” has the same meaning as in the Occupational Pension Schemes (Equal Treatment) (Amendment) Regulations 2005;”.

(6) After subsection (13) insert—

“(14) In the application of this section and sections 7AA to 7AC below to any claim in respect of the contravention of a term of an armed forces pension scheme, expressions used in any of those sections and in the Pensions Act 1995 have the same meaning as in that Act.”.

Definition of “qualifying date”: proceedings relating to armed forces schemes

9.—(1) Section 7AA of the Equal Pay Act (meaning of “qualifying date” under section 7A(8)) shall have effect, in relation to the operation of an equal treatment rule in respect of an armed forces scheme, as if it were modified as follows.

(2) For subsection (1) substitute—

“(1) This section applies for the purpose of determining the qualifying date, in relation to relevant proceedings on a complaint in respect of a woman, for the purposes of section 7A(8) above.

(1A) In subsection (1) above “relevant proceedings” means proceedings in respect of the terms on which—

(a) persons become members of an armed forces scheme, or

(b) members of an armed forces scheme are treated.”.

(3) In subsection (2), in the definitions of “concealment case” and “disability case”, for the words “the employer” substitute “the employer or the managers of the armed forces scheme”.

Claims relating to contraventions of terms as to admission or treatment

10.—(1) In the case of a claim that—

(a) is made in respect of a contravention of a term of an armed forces scheme that relates to the terms on which—

(i) persons become members of the scheme, or

(ii) members of the scheme are treated, and

(b) does not fall within regulation 11,
section 7A of the Equal Pay Act shall have effect as if it were further modified as follows.

(2) For subsection (9) substitute—

“(9) A woman shall not be entitled, in proceedings on a complaint in respect of the claim, to be awarded any payment by way of arrears of benefits or damages or any other financial award.

(9A) A court or employment tribunal which finds that there has been a contravention of a term which is modified or included by an equal treatment rule may—

(a) where the contravention relates to the terms on which persons become members of an armed forces scheme (including any terms concerning the age or length of service needed for becoming a member of the scheme), declare that a woman has the right to be admitted to the scheme with effect from such date as the court or employment tribunal may specify provided that, in any case, that date is not earlier than 8th April 1976;

(b) where the contravention relates to the terms on which members of an armed forces scheme are treated, declare that a woman who is a member has a right to equal treatment in respect of such a period as the court or employment tribunal may specify provided that, in any case, that period does not begin before 17th May 1990.

(9B) Where a declaration under subsection (9A)(b) above relates to any period falling before the date of the declaration, the employer shall provide to the armed forces scheme such additional resources (if any) as may be necessary for the scheme to secure to the member, without contribution or further contribution by the member or by other members of the scheme, the same accrued rights in respect of the period falling before the date of the declaration as if that member had been treated equally in respect of that period.”.

Claims by pensioner members relating to contraventions of terms as to treatment

11.—(1) In the case of a claim that—

(a) is made in respect of a contravention of a term of an armed forces scheme that relates to the terms on which members of the scheme are treated; and

(b) is made by a pensioner member,

the following provisions of the Equal Pay Act shall have effect as if they were modified (or, in the case of section 7A, further modified) as follows.

(2) In section 7A for subsection (9) substitute—

“(9) A woman who is a pensioner member shall not be entitled, in proceedings on a complaint in respect of the claim, to be awarded any payment by way of arrears of benefits or damages or any other financial award—

(a) in proceedings in England and Wales, in respect of a time earlier than the arrears date (determined in accordance with section 7AB below);

(b) in proceedings in Scotland, in respect of a time before the period determined in accordance with section 7AC below.

(9A) Where a court or employment tribunal awards a payment by way of arrears of benefits or damages, or makes any other financial award, the employer shall provide any such resources to the armed forces scheme as are specified in subsection (9B) below.

(9B) The resources referred to in subsection (9A) above are such additional resources, if any, as may be necessary for the scheme to secure to the pensioner member the payment of the amount awarded or other financial award made, without contribution or further contribution by the pensioner member or by other members of the scheme.”.

(3) In section 7AB (“arrears date” in proceedings in England and Wales under section 7A(9))—

(a) for subsection (1) substitute—

“(1) This section applies for the purpose of determining the arrears date, in relation to an award of any payment by way of arrears of benefits or damages or any other financial award in relevant proceedings in England and Wales in respect of a woman, for the purposes of section 7A(9)(a) above.

- (1A) In subsection (1) above “relevant proceedings” means proceedings on a complaint in respect of the terms on which members of an armed forces scheme are treated.”; and
- (b) in subsection (2), in paragraph (a) of the definition of “concealment case” for the words “the employer” substitute “the employer or the managers of the armed forces scheme”.
- (4) In section 7AC (determination of “period” in proceedings in Scotland under section 7A(9))—
- (a) for subsection (1) substitute—
- “(1) This section applies, in relation to an award of any payment by way of arrears of benefits or damages or any other financial award in relevant proceedings in Scotland in respect of a woman, for the purposes of determining the period mentioned in section 7A(9)(b) above.
- (1A) In subsection (1) above “relevant proceedings” means proceedings on a complaint in respect of the terms on which members of an armed forces scheme are treated.”; and
- (b) in subsection (2)(a), for the words “the employer or any person acting on his behalf” substitute “the employer, the managers of the armed forces scheme or any person acting on his or their behalf.

PART 4

EQUALITY CLAUSE: SERVICE IN ARMED FORCES

Application of Part 4

12.—(1) This Part of these Regulations modifies the Equal Pay Act in relation to the operation of an equality clause in respect of a pension-related term of service.

(2) “Pension-related term of service” means a term of service in any of the armed forces which relates to the terms on which—

- (a) persons become members of an armed forces scheme; or
- (b) members of such a scheme are treated.

(3) The modifications of the Equal Pay Act made by this Part of these Regulations apply to proceedings in respect of pension-related terms of service if the proceedings are instituted on or after the commencement date (subject to paragraph (4)).

(4) Those modifications do not so apply if the last day of the woman’s period of service in the armed forces falls more than nine months before the commencement date.

Operation of equality clause on pension-related terms of service

13.—(1) Section 7A of the Equal Pay Act (service pay and conditions) shall have effect, in relation to the operation of an equality clause in respect of a pension-related term of service, as if it were modified as follows (see also regulations 14 and 15 which make further modifications to deal with different cases).

(2) In subsection (12), after the definition of “armed forces” insert—

“armed forces scheme” and “pension-related term of service” have the same meaning as in the Occupational Pension Scheme (Equal Treatment) (Amendment) Regulations 2005;”.

(3) After subsection (13) insert—

“(14) In the application of this section and sections 7AA to 7AC below to any claim in respect of a contravention of a pension-related term of service—

- (a) references to pay shall be regarded as references to benefits; and
- (b) expressions used in any of those sections and in the Pensions Act 1995 have the same meaning as in that Act.”.

Claims relating to contraventions of terms as to admission or treatment

14.—(1) In the case of a claim that—

- (a) is made in respect of a contravention of a pension-related term of service, and

(b) does not fall within regulation 15,
section 7A of the Equal Pay Act shall have effect as if it were further modified as follows.

(2) For subsection (9) substitute—

“(9) A woman shall not be entitled, in proceedings on a complaint in respect of the claim, to be awarded any payment by way of arrears of benefits or damages.

(9A) A court or employment tribunal which finds that there has been a contravention of a pension-related term of service which is modified or included by a term corresponding to an equality clause in a contract of employment may—

(a) where the contravention relates to the terms on which persons become members of an armed forces scheme (including any term concerning the age or length of service needed for becoming a member of the scheme), declare that a woman has the right to be admitted to the scheme with effect from such date as the court or employment tribunal may specify provided that, in any case, that date is not earlier than 8th April 1976;

(b) where the contravention relates to the terms on which members of an armed forces scheme are treated, declare that a woman who is a member has a right to equal treatment in respect of such a period as the court or employment tribunal may specify provided that, in any case, that period does not begin before 17th May 1990.

(9B) Where a declaration under subsection (9A)(b) above relates to any period falling before the date of the declaration, the employer shall provide to the armed forces scheme such additional resources (if any) as may be necessary for the scheme to secure to the member, without contribution or further contribution by the member or by other members of the scheme, the same accrued rights in respect of the period falling before the date of the declaration as if that member had been treated equally in respect of that period.”.

Claims by pensioner members relating to contraventions of terms as to treatment

15.—(1) In the case of a claim that—

(a) is made in respect of a contravention of a pension-related term of service that relates to the terms on which members of an armed forces scheme are treated; and

(b) is made by a pensioner member,

section 7A of the Equal Pay Act shall have effect as if it were further modified as follows.

(2) In subsection (9), after “A woman” insert “who is a pensioner member”.

(3) After subsection (9) insert—

“(9A) Where a court or employment tribunal awards a payment by way of arrears of benefits or damages, the employer shall provide any such resources to the armed forces scheme as are specified in subsection (9B) below.

(9B) The resources referred to in subsection (9A) above are such additional resources, if any, as may be necessary for the scheme to secure to the pensioner member the payment of the amount awarded, without contribution or further contribution by the pensioner member or by other members of the scheme.”.

Signed by authority of the Secretary of State for Work and Pensions.

Stephen C. Timms
Minister of State,
Department for Work and Pensions

14 July 2005

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the statutory provisions that require equal treatment of men and women in respect of occupational pension schemes. The amendments made by the Regulations reflect requirements of European Community law (specifically Article 141 of the Treaty of Rome on equal pay), as applied in a number of cases before the European Court of Justice and the domestic courts^(a). Part 2 of the Regulations applies to occupational pension schemes generally. Parts 3 and 4 of the Regulations introduce new provisions applying only to armed forces occupational pension schemes.

Under section 62 of the Pensions Act 1995 (c.26), occupational pension schemes that do not already contain provision for equal treatment are to be treated as if they contained an “equal treatment rule”. This enables a woman who receives less favourable treatment than a man in the same employment to complain to an employment tribunal. Men treated less favourably than women may also present complaints. Section 63(4) of the Pensions Act 1995 applies to an equal treatment rule certain time limits and other provisions that are imposed by section 2 of the Equal Pay Act 1970 (c.41) in relation to an “equality clause” in employment contracts. These time limits are modified, in their application to an equal treatment rule, by section 63(4) of the Pensions Act 1995 and by the Occupational Pension Schemes (Equal Treatment) Regulations 1995 (S.I. 1995/3183).

Regulation 3 of these Regulations repeals one of the modifications made by section 63 of the Pensions Act 1995, with the effect that the period within which a person can institute proceedings before an employment tribunal is the same for both an equal treatment rule and an equality clause.

Regulation 5 modifies the time limits that apply to proceedings about failure to comply with the equal treatment rule. Regulation 5(2) extends the time limits on the backdating of a declaration of a person’s right to be admitted to a pension scheme. Regulation 5(2) also removes the obligation on the employer to contribute funds where rights to be admitted to the scheme are backdated. Regulation 5(1) and (3) make changes consequential on amendments to certain provisions of the Equal Pay Act 1970 which were made by the Equal Pay Act 1970 (Amendment) Regulations 2003 (S.I. 2003/1656).

An equality clause applies to terms of an employment contract, including terms which relate to a person’s membership of, or treatment under, an occupational pension scheme. The operation of an equality clause in relation to such a scheme is subject to any modifications made by the Secretary of State under section 66(4) of the Pensions Act 1995. Regulation 6 of these Regulations makes changes relating to the operation of the equality clause in relation to a court or tribunal’s power to backdate a declaration of a person’s right to be admitted to a pension scheme. The effect is equivalent to the amendment made by regulation 5(2) of these Regulations.

Parts 3 and 4 modify provisions of the Equal Pay Act 1970 that relate to the armed forces. Part 3 modifies such provisions in relation to the operation of an equal treatment rule in respect of an armed forces occupational pension scheme. Part 4 modifies such provisions as they affect the operation of an equality clause on terms of service in the armed forces which relate to the way in which persons become members of such a scheme, or members of such a scheme are treated. These Parts make provision equivalent to that made by the Occupational Pension Schemes (Equal Treatment) Regulations 1995, as amended by Part 2 of these Regulations.

The changes made by the Regulations reflect the requirements of Article 141 as applied in a number of cases before the European Court of Justice and the domestic courts^(a), and are detailed in the Note that accompanied these Regulations. A copy of that Note has been placed in the libraries of both Houses of Parliament. Copies may be obtained from the Department for Work and Pensions, Private Pensions Policy and Regulation Team, 3rd floor, Adelphi, 1-11 John Adam Street, London WC2N 6HT.

(a) See the European Court of Justice’s decisions in *Levez v T.H. Jennings (Harlow Pools) Ltd* (Case C-326/96, judgment of 1st December 1998) and *Preston and others v Wolverhampton Healthcare NHS Trust Ltd and others* (Case C-78/98, judgment of 16th May 2000); the decision of the Employment Appeal Tribunal in *Levez v T.H. Jennings (Harlow Pools) Ltd* (decision of 1st October 1999) and the ruling of the House of Lords in *Preston and others v Wolverhampton Healthcare NHS Trust Ltd and others* (ruling of 8th February 2001).

A full regulatory impact assessment of the effect of the changes on the costs of business has been prepared and a copy of that assessment has been placed in the libraries of both Houses of Parliament. Copies can be obtained by post from the Department for Work and Pensions, Better Regulation Unit, 4th Floor, The Adelphi, 1-11 John Adam Street, London WC2N 6HT.

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**The Occupational Pension Schemes (Equal Treatment) (Amendment)
Regulations 2005**

£3.00

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under the authority and superintendence of Carol Tullo, Controller of Her Majesty's
Stationery Office and Queen's Printer of Acts of Parliament.

E1074 7/2005 151074T 19585

ISBN 0-11-073092-5



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