

## **EQUAL PAY ACT 1970 (AS AMENDED)**

This document is an amended version of the Equal Pay Act 1970 which incorporates amendments to the Act as at 24 June 2004

A list of the amendments and amending legislation begins at page 21.

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The Pensions Act 1995 sections 62-66 and the Occupational Pension Schemes (Equal Treatment) Regulations 1995, SI 1995/3183 provide for equal treatment relating to occupational pension schemes and provide for Section 2 of the Equal Payment Act to apply with amendments for the purposes of the 1995 Act. The Pensions Act and regulations are available at <http://www.hmso.gov.uk/>.

**EQUAL OPPORTUNITIES COMMISSION**  
**24 June 2004**

## ARRANGEMENT OF SECTIONS

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## 1. Requirement of equal treatment for men and women in same employment

- 1(1) If the terms of a contract under which a woman is employed at an establishment in Great Britain do not include (directly or by reference to a collective agreement or otherwise) an equality clause they shall be deemed to include one.
- 1(2) An equality clause is a provision which relates to terms (whether concerned with pay or not) of a contract under which a woman is employed (the "woman's contract"), and has the effect that --
- 1(2)(a) where the woman is employed on like work with a man in the same employment --
- 1(2)(a)(i) if (apart from the equality clause) any term of the woman's contract is or becomes less favourable to the woman than a term of a similar kind in the contract under which that man is employed, that term of the woman's contract shall be treated as so modified as not to be less favourable, and
- 1(2)(a)(ii) if (apart from the equality clause) at any time the woman's contract does not include a term corresponding to a term benefiting that man included in the contract under which he is employed, the woman's contract shall be treated as including such a term;
- 1(2)(b) where the woman is employed on work rated as equivalent with that of a man in the same employment --
- 1(2)(b)(i) if (apart from the equality clause) any term of the woman's contract determined by the rating of the work is or becomes less favourable to the woman than a term of a similar kind in the contract under which that man is employed, that term of the woman's contract shall be treated as so modified as not to be less favourable, and
- 1(2)(b)(ii) if (apart from the equality clause) at any time the woman's contract does not include a term corresponding to a term benefiting that man included in the contract under which he is employed and determined by the rating of the work, the woman's contract shall be treated as including such a term;
- 1(2)(c) where a woman is employed on work which, not being work in relation to which paragraph (a) or (b) above applies, is, in terms of the demands made on her (for instance under such headings as

effort, skill and decision), of equal value to that of a man in the same employment --

1(2)(c)(i) if (apart from the equality clause) any term of the woman's contract is or becomes less favourable to the woman than a term of a similar kind in the contract under which that man is employed, that term of the woman's contract shall be treated as so modified as not to be less favourable, and

1(2)(c)(ii) if (apart from the equality clause) at any time the woman's contract does not include a term corresponding to a term benefiting that man included in the contract under which he is employed, the woman's contract shall be treated as including such a term.

1(3) An equality clause shall not operate in relation to a variation between the woman's contract and the man's contract if the employer proves that the variation is genuinely due to a material factor which is not the difference of sex and that factor -

1(3)(a) in the case of an equality clause falling within subsection (2)(a) or (b) above, must be a material difference between the woman's case and the man's; and

1(3)(b) in the case of an equality clause falling within subsection (2)(c) above, may be such a material difference.

1(4) A woman is to be regarded as employed on like work with men if, but only if, her work and theirs is of the same or a broadly similar nature, and the differences (if any) between the things she does and the things they do are not of practical importance in relation to terms and conditions of employment; and accordingly in comparing her work with theirs regard shall be had to the frequency or otherwise with which any such differences occur in practice as well as to the nature and extent of the differences.

1(5) A woman is to be regarded as employed on work rated as equivalent with that of any men if, but only if, her job and their job have been given an equal value, in terms of the demand made on a worker under various headings (for instance effort, skill, decision), on a study undertaken with a view to evaluating in those terms the jobs to be done by all or any of the employees in an undertaking or group of undertakings, or would have been given an equal value but for the evaluation being made on a system setting different values for men and women on the same demand under any heading.

1(6) Subject to the following subsections, for purposes of this section --

1(6)(a) “employed” means employed under a contract of service or of apprenticeship or a contract personally to execute any work or labour, and related expressions shall be construed accordingly;

1(6)(b) .... repealed

1(6)(c) two employers are to be treated as associated if one is a company of which the other (directly or indirectly) has control or if both are companies of which a third person (directly or indirectly) has control,

and men shall be treated as in the same employment with a woman if they are men employed by her employer or any associated employer at the same establishment or at establishments in Great Britain which include that one and at which common terms and conditions of employment are observed either generally or for employees of the relevant classes.

1(7) .... repealed.

1(8) This section shall apply to --

1(8)(a) service for purposes of a Minister of the Crown or government department, other than service of a person holding a statutory office, or

1(8)(b) service on behalf of the Crown for purposes of a person holding a statutory office or purposes of a statutory body,

as it applies to employment by a private person, and shall so apply as if references to a contract of employment included references to the terms of service.

1(9) ... repealed.

1(10) In this section “statutory body” means a body set up by or in pursuance of an enactment (including an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament), and “statutory office” means an office so set up; and service “for purposes of” a Minister of the Crown or government department does not include service in any office in Schedule 2 (Ministerial offices) to the House of Commons Disqualification Act 1975 as for the time being in force.

1(10A) This section applies in relation to service as a relevant member of the House of Commons staff as in relation to service for the purposes of a Minister of the Crown or government department, and accordingly applies as if references to a contract of employment included references to the terms of service of such a member.

In this subsection “relevant member of the House of Commons staff” has the same meaning as in section 195 of the Employment Rights Act 1996; and subsections (6) to (12) of that section (person to be treated as employer of House of Commons staff) apply, with any necessary modifications, for the purposes of this section.

- 1(10B) This section applies in relation to employment as a relevant member of the House of Lords staff as in relation to other employment.

In this subsection “relevant member of the House of Lords staff” has the same meaning as in section 194 of the Employment Rights Act 1996 and subsection (7) of that section applies for the purposes of this section.

- 1(11) For the purposes of this Act it is immaterial whether the law which (apart from this subsection) is the law applicable to a contract is the law of any part of the United Kingdom or not.
- 1(12) In this Act “Great Britain” includes such of the territorial waters of the United Kingdom as are adjacent to Great Britain.
- 1(13) Provisions of this section and sections 2 to 2A below framed with reference to women and their treatment relative to men are to be read as applying equally in a converse case to men and their treatment relative to women.

## **2. Disputes as to, and enforcement of, requirement of equal treatment**

- 2(1) Any claim in respect of the contravention of a term modified or included by virtue of an equality clause, including a claim for arrears of remuneration or damages in respect of the contravention, may be presented by way of a complaint to an employment tribunal.
- 2(1A) Where a dispute arises in relation to the effect of an equality clause the employer may apply to an employment tribunal for an order declaring the rights of the employer and the employee in relation to the matter in question.
- 2(2) Where it appears to the Secretary of State that there may be a question whether the employer of any women is or has been contravening a term modified or included by virtue of their equality clauses, but that it is not reasonable to expect them to take steps to have the question determined, the question may be referred by him as respects all or any of them to an employment tribunal and shall be dealt with as if the reference were of a claim by the women or woman against the employer.
- 2(3) Where it appears to the court in which any proceedings are pending that a claim or counter claim in respect of the operation of an equality clause could more conveniently be disposed of separately by an employment tribunal, the court may direct that the claim or counter claim shall be struck out; and

(without prejudice to the foregoing) where in proceedings before any court a question arises as to the operation of an equality clause, the court may on the application of any party to the proceedings or otherwise refer that question, or direct it to be referred by a party to the proceedings, to an employment tribunal for determination by the tribunal, and may stay or sist the proceedings in the meantime.

2(4) No determination may be made by an employment tribunal in the following proceedings –

- (a) on a complaint under subsection (1) above,
- (b) on an application under subsection (1A) above, or
- (c) on a reference under subsection (2) above,

unless the proceedings are instituted on or before the qualifying date (determined in accordance with section 2ZA below).

2(5) A woman shall not be entitled, in proceedings brought in respect of a contravention of a term modified or included by virtue of an equality clause (including proceedings before an employment tribunal), to be awarded any payment by way of arrears of remuneration or damages –

- (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."

2(6)-(7) .... repealed.

## **2ZA. "Qualifying date" under section 2(4)**

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

2ZA(2) In this section –

"concealment case" means a case where –

- (a) the employer deliberately concealed from the woman any fact (referred to in this section as a "qualifying fact") -
  - (i) which is relevant to the contravention to which the proceedings relate, and

- (ii) without knowledge of which the woman could not reasonably have been expected to institute the proceedings, and
- (b) the woman did not discover the qualifying fact (or could not with reasonable diligence have discovered it) until after -
  - (i) the last day on which she was employed in the employment,
  - (ii) the day on which the stable employment relationship between her and the employer ended,

(as the case may be);

"disability case" means a case where the woman was under a disability at any time during the six months after -

- (a) the last day on which she was employed in the employment,
- (b) the day on which the stable employment relationship between her and the employer ended, or
- (c) the day on which she discovered (or could with reasonable diligence have discovered) the qualifying fact deliberately concealed from her by the employer (if that day falls after the day referred to in paragraph (a) or (b) above, as the case may be),

(as the case may be);

"stable employment case" means a case where the proceedings relate to a period during which a stable employment relationship subsists between the woman and the employer, notwithstanding that the period includes any time after the ending of a contract of employment when no further contract of employment is in force;

"standard case" means a case which is not -

- (a) a stable employment case,
- (b) a concealment case,
- (c) a disability case, or
- (d) both a concealment and a disability case.

2ZA(3) In a standard case, the qualifying date is the date falling six months after the last day on which the woman was employed in the employment.

2ZA(4) In a case which is a stable employment case (but not also a concealment or a disability case or both), the qualifying date is the date falling six months after the day on which the stable employment relationship ended.

2ZA(5) In a case which is a concealment case (but not also a disability case), the qualifying date is the date falling six months after the day on which the woman discovered the qualifying fact in question (or could with reasonable diligence have discovered it).



2ZA(6) In a case which is a disability case (but not also a concealment case), the qualifying date is the date falling six months after the day on which the woman ceased to be under a disability.

2ZA(7) In a case which is both a concealment and a disability case, the qualifying date is the later of the dates referred to in subsections (5) and (6) above.

## **2ZB. "Arrears date" in proceedings in England and Wales under section 2(5)**

2ZB(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 remuneration or damages in proceedings in England and Wales in respect of a woman's employment, for the purposes of section 2(5)(a) above.

2ZB(2) In this section -

"concealment case" means a case where –

- (a) the employer deliberately concealed from the woman any fact -
  - (i) which is relevant to the contravention to which the proceedings relate, and
  - (ii) without knowledge of which the woman could not reasonably have been expected to institute the proceedings, and
- (b) the woman instituted the proceedings within six years of the day on which she discovered the fact (or could with reasonable diligence have discovered it);

"disability case" means a case where -

- (a) the woman was under a disability at the time of the contravention to which the proceedings relate, and
- (b) the woman instituted the proceedings within six years of the day on which she ceased to be under a disability;

"standard case" means a case which is not –

- (a) a concealment case,
- (b) a disability case, or
- (c) both.

2ZB(3) In a standard case, the arrears date is the date falling six years before the day on which the proceedings were instituted.

2ZB(4) In a case which is a concealment or a disability case or both, the arrears date is the date of the contravention.

## **2ZC. Determination of "period" in proceedings in Scotland under section 2(5)**

- 2ZC(1) This section applies, in relation to an award of any payment by way of arrears of remuneration or damages in proceedings in Scotland in respect of a woman's employment, for the purpose of determining the period mentioned in section 2(5)(b) above.
- 2ZC(2) Subject to subsection (3) below, that period is the period of five years which ends on the day on which the proceedings were instituted, except that the five years shall not be regarded as running during –
- (a) any time when the woman was induced, by reason of fraud on the part of, or error induced by the words or conduct of, the employer or any person acting on his behalf, to refrain from commencing proceedings (not being a time after she could with reasonable diligence have discovered the fraud or error), or
  - (b) any time when she was under a disability.
- 2ZC(3) If, after regard is had to the exceptions in subsection (2) above, that period would include any time more than twenty years before the day mentioned in that subsection, that period is instead the period of twenty years which ends on that day.

## **2A. Procedure before tribunal in certain cases**

- 2A(1) Where on a complaint or reference made to an employment tribunal under section 2 above, a dispute arises as to whether any work is of equal value as mentioned in section 1(2)(c) above the tribunal may either-
- 2A(1)(a) proceed to determine that question; or
- 2A(1)(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.
- 2A(2) Without prejudice to the generality of subsection (1) above there shall be taken, for the purpose of that subsection, to be no reasonable grounds for determining that the work of a woman is of equal value as mentioned in section 1(2)(c) above if --
- 2A(2)(a) that work and the work of the man in question have been given different values on a study such as is mentioned in section 1(5) above; and

2A(2)(b) there are no reasonable grounds for determining that the evaluation contained in the study was (within the meaning of subsection (3) below) made on a system which discriminates on grounds of sex.

2A(3) An evaluation contained in a study such as is mentioned in section 1(5) above is made on a system which discriminates on grounds of sex where a difference, or coincidence, between values set by that system on different demands under the same or different headings is not justifiable irrespective of the sex of the person on whom those demands are made.

2A(4) In paragraph (b) of subsection (1) above the reference to a member of the panel of independent experts is a reference to a person who is for the time being designated by the Advisory, Conciliation and Arbitration Service for the purposes of that paragraph as such a member, being neither a member of the Council of that Service nor one of its officers or servants.

### **3 – 4. Collective agreements and pay structures**

Repealed.

### **5. Agricultural wages orders**

5(1) Where an agricultural wages order made before or after the commencement of this Act contains any provision applying specifically to men only or to women only, the order may be referred by the Secretary of State to the Central Arbitration Committee to declare what amendments need to be made in the order, in accordance with the like rules as apply under section 3(4) above to the amendment under that section of a collective agreement, so as to remove that discrimination between men and women; and when the Central Arbitration Committee have declared the amendments needing to be so made, it shall be the duty of the Agricultural Wages Board, by a further agricultural wages order coming into operation not later than five months after the date of the Central Arbitration Committee's decision, either to make those amendments in the order referred to the Central Arbitration Committee or otherwise to replace or amend that order so as to remove the discrimination.

5(2) Where the Agricultural Wages Board certify that the effect of an agricultural wages order is only to make such amendments of a previous order as have under this section been declared by the Central Arbitration Committee to be needed, or to make such amendments as aforesaid with minor modifications or modifications of limited application, or is only to revoke and reproduce with such amendments a previous order, then the Agricultural Wages Board may instead of complying with paragraphs 1 and 2 of Schedule 4, or in the case of

Scotland paragraphs 1 and 2 of Schedule 3, to the Agricultural Wages Act give notice of the proposed order in such manner as appears to the Agricultural Wages Board expedient in the circumstances, and may make the order at any time after the expiration of seven days from the giving of the notice.

5(3) An agricultural wages order shall be referred to the Central Arbitration Committee under this section if the Secretary of State is requested so to refer it either --

5(3)(a) by a body for the time being entitled to nominate for membership of the Agricultural Wages Board persons representing employers (or, if provision is made for any of the persons representing employers to be elected instead of nominated, then by a member or members representing employers); or

5(3)(b) by a body for the time being entitled to nominate for membership of the Agricultural Wages Board persons representing workers (or, if provision is made for any of the persons representing workers to be elected instead of nominated, then by a member or members representing workers);

or if in any case it appears to the Secretary of State that the order may be amendable under this section.

5(4) In this section “the Agricultural Wages Board” means the Agricultural Wages Board for England and Wales or the Scottish Agricultural Wages Board, “the Agricultural Wages Act” means the Agricultural Wages Act 1948 and “agricultural wages order” means an order of the Agricultural Wages Board under the Agricultural Wages Act.

## **6. Exclusion from ss.1 to 5 of pensions, etc.**

6(1) An equality clause shall not operate in relation to terms --

6(1)(a) affected by compliance with the laws regulating the employment of women, or

6(1)(b) affording special treatment to women in connection with pregnancy or childbirth.

6(1A) [superseded by ss (1B) and (1C)]

6(1B) An equality clause shall not operate in relation to terms relating to a person’s membership of, or rights under, an occupational pension scheme, being terms in relation to which, by reason only of any provision made by or under

sections 62 to 64 of the Pensions Act 1995 (equal treatment), an equal treatment rule would not operate if the terms were included in the scheme.

6(1C) In subsection (1B), “occupational pension scheme” has the same meaning as in the Pension Schemes Act 1993 and “equal treatment rule” has the meaning given by section 62 of the Pensions Act 1995.

6(2) [Superseded by ss(1B) and (1C)]

## **7A. Service pay**

7A(1) Section 1 and 6 above shall apply, with the modifications mentioned in subsection (2) below and any other necessary modifications, to service by a woman in any of the armed forces as they apply to employment by a private person.

7A(2) In the application of those sections to service by a woman in any of the armed forces-

7A(2)(a) references to a contract of employment shall be regarded as references to the terms of service;

7A(2)(b) in section 1, in subsection (6), paragraph (c) and the words “or any associated employer” and subsections (8) to (11) (which have no application) and subsection (13) shall be omitted; and

7A(2)(c) references to an equality clause shall be regarded as referring to a corresponding term of service capable of requiring the terms of service applicable in her case to be treated as modified or as including other terms.

7A(3) Any claim in respect of the contravention of a term of service modified or included, in relation to a women’s service in any of the armed forces, by a term corresponding to an equality clause in a contract of employment (including a claim for arrears of pay or damages in respect of the contravention) may be presented by way of complaint to an employment tribunal.

Any such contravention shall be regarded for the purposes of a claim under this subsection as if it were a breach of contract.

7A(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 service referred to in subsection (3) above.

7A(5) No complaint in respect of the claim shall be presented to an employment tribunal unless -

7A(5)(a) the claimant has made a complaint to an officer under the service redress procedures applicable to her and has submitted that complaint to the Defence Council under those procedures; and

7A(5)(b) the Defence Council have made a determination with respect to the complaint.

7A(6) Regulations may make provision enabling a complaint in respect of the claim to be presented to an industrial tribunal in such circumstances as may be specified by the regulations, notwithstanding that subsection (5) above would otherwise preclude its presentation.

7A(7) Where a complaint is presented to an employment tribunal by virtue of regulations under subsection (6) above, the service redress procedures may continue after the complaint is represented.

7A(8) No determination may be made by an employment tribunal in proceedings on a complaint in respect of the claim unless the complaint is presented on or before the qualifying date (determined in accordance with section 7AA below).

7A(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 pay or damages

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

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

7A(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.

7A(11) Regulations under subsection (6) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

7A(12) In this section and sections 7AA to 7AC below-

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

“the service redress procedures” means the procedures, excluding those which relate to the making of a report on a complaint to Her Majesty, referred to in section 180 of the Army Act 1955, section 180 of the Air Force Act 1955 and section 130 of the Naval Discipline Act 1957”.

7A(13) Provisions of this section and sections 7AA to 7AC below, and provisions applied by this section, framed with reference to women and their treatment relative to men are to be read as applying equally in a converse case to men and their treatment relative to women.

Note

*The Equal Pay (Complaints to Employment Tribunals) (Armed Forces) Regulations 1997 SI 1997/2162 allow complaints to be made to employment tribunals under S.7A where a complaint has been made under the service redress procedures and not withdrawn - <http://www.hmsso.gov.uk/>*

**7AA. "Qualifying date" under section 7A(8)**

7AA(1) This section applies for the purpose of determining the qualifying date, in relation to proceedings on a complaint in respect of a woman's service in any of the armed forces, for the purposes of section 7A(8) above.

7AA(2) In this section -

"concealment case" means a case where –

- (a) the employer deliberately concealed from the woman any fact (referred to in this section as a "qualifying fact") -
  - (i) which is relevant to the contravention to which the complaint relates, and
  - (ii) without knowledge of which the woman could not reasonably have been expected to present the complaint, and
- (b) the woman did not discover the qualifying fact (or could not with reasonable diligence have discovered it) until after the last day of the period of service during which the claim arose;

"disability case" means a case where the woman was under a disability at any time during the nine months after –

- (a) the last day of the period of service during which the claim arose, or
- (b) the day on which she discovered (or could with reasonable diligence have discovered) the qualifying fact deliberately concealed from her by the employer (if that day falls after the day referred to in paragraph (a) above),

(as the case may be);

"standard case" means a case which is not –

- (a) a concealment case,
- (b) a disability case, or
- (c) both.

7AA(3) In a standard case, the qualifying date is the date falling nine months after the last day of the period of service during which the claim arose.

7AA(4) In a case which is a concealment case (but not also a disability case), the qualifying date is the date falling nine months after the day on which the woman discovered the qualifying fact in question (or could with reasonable diligence have discovered it).

7AA(5) In a case which is a disability case (but not also a concealment case), the qualifying date is the date falling nine months after the day on which the woman ceased to be under a disability.

7AA(6) In a case which is both a concealment and a disability case, the qualifying date is the later of the dates referred to in subsections (4) and (5) above.

## **7AB "Arrears date" in proceedings in England and Wales under section 7A(9)**

7AB(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 pay or damages in proceedings in England and Wales on a complaint in respect of a woman's service in any of the armed forces, for the purposes of section 7A(9)(a) above.

7AB(2) In this section –

"concealment case" means a case where –

- (a) the employer deliberately concealed from the woman any fact –
  - (i) which is relevant to the contravention to which the proceedings relate, and
  - (ii) without knowledge of which the woman could not reasonably have been expected to institute the proceedings, and
- (b) the woman made a complaint under the service redress procedures within six years of the day on which she discovered the fact (or could with reasonable diligence have discovered it);

"disability case" means a case where –



- (a) the woman was under a disability at the time of the contravention to which the proceedings relate, and
- (b) the woman made a complaint under the service redress procedures within six years of the day on which she ceased to be under a disability;

"standard case" means a case which is not –

- (a) a concealment case,
- (b) a disability case, or
- (c) both.

7AB(3) In a standard case, the arrears date is the date falling six years before the day on which the complaint under the service redress procedures was made.

7AB(4) In a case which is a concealment or a disability case or both, the arrears date is the date of the contravention.

7AB(5) Subsection (6) below applies in a case where, in accordance with regulations made under section 7A(6) above, proceedings are instituted without a complaint having been made under the service redress procedures.

7AB(6) In that case, references in this section to the making of a complaint under the service redress procedures shall be read as references to the institution of proceedings.

#### **7AC. Determination of "period" in proceedings in Scotland under section 7A(9)**

7AC(1) This section applies, in relation to an award of any payment by way of arrears of pay or damages in proceedings in Scotland on a complaint in respect of a woman's service in any of the armed forces, for the purposes of determining the period mentioned in section 7A(9)(b) above.

7AC(2) Subject to subsection (3) below, that period is the period of five years which ends on the day on which the complaint under the service redress procedures was made, except that the five years shall not be regarded as running during –

- (a) any time when the woman was induced, by reason of fraud on the part of, or error induced by the words or conduct of, the employer or any person acting on his behalf, to refrain from instituting the proceedings (not being a time after she could with reasonable diligence have discovered the fraud or error), or

(b) any time when she was under a disability.

7AC(3) If, after regard is had to the exceptions in subsection (2) above, that period would include any time more than twenty years before the day mentioned in that subsection, that period is instead the period of twenty years which ends on that day.

7AC(4) Subsection (5) below applies in a case where, in accordance with regulations made under section 7A(6) above, proceedings are instituted without a complaint having been made under the service redress procedures.

7AC(5) In that case, the reference in subsection (2) above to the making of the complaint under the service redress procedures shall be read as a reference to the institution of proceedings.

## **7B Questioning of Employer**

7B(1) For the purposes of this section:-

7B(1)(a) a person who considers that she may have a claim under section 1 above is referred to as “the complainant”, and

7B(1)(b) a person against whom the complainant may decide to make, or has made, a complaint under section 2(1) or 7A(3) above is referred to as “the respondent”.

7B(2) With a view to helping a complainant to decide whether to institute proceedings and, if she does so, to formulate and present her case in the most effective manner, the Secretary of State shall by order prescribe:-

7B(2)(a) forms by which the complainant may question the respondent on any matter which is or may be relevant, and

7B(2)(b) forms by which the respondent may if he so wishes reply to any questions.

7B(3) Where the complainant questions the respondent (whether in accordance with an order under subsection (2) above or not), the question and any reply by the respondent (whether in accordance with such an order or not) shall, subject to the following provisions of this section, be admissible as evidence in any proceedings under section 2(1) or 7A(3) above

7B(4) If in any proceeding under section 2(1) or 7A(3) above it appears to the employment tribunal that the complainant has questioned the respondent (whether in accordance with an order under subsection (2) above or not) and that -

7B(4)(a) the respondent deliberately and without reasonable excuse omitted to reply within such period as the Secretary of State may by order prescribe, or

7B(4)(b) the respondent’s reply is evasive or equivocal,

it may draw any inference which it considers it just and equitable to draw, including an inference that the respondent has contravened a term modified or included by virtue of the complainant's equality clause or corresponding term of service.

7B(5) Where the Secretary of State questions an employer in relation to whom he may decide to make, or has made, a reference under section 2(2) above, the question and any reply by the employer shall, subject to the following provisions of this section, be admissible as evidence in any proceedings under that provision.

7B(6) If in any proceedings on a reference under section 2(2) above it appears to the employment tribunal that the Secretary of State has questioned the employer to whom the reference relates and that -

7B(6)(a) the employer deliberately and without reasonable excuse omitted to reply within such period as the Secretary of State may by order prescribe, or

7B(6)(b) the employer's reply is evasive or equivocal,

it may draw any inference which it considers it just and equitable to draw, including an inference that the employer has contravened a term modified or included by virtue of the equality clause of the woman, or women, as respects whom the reference is made.

7B(7) The Secretary of State may by order -

7B(7)(a) prescribe the period within which questions must be duly served in order to be admissible under subsection (3) or (5) above, and

7B(7)(b) prescribe the manner in which a question, and any reply, may be duly served.

7B(8) This section is without prejudice to any other enactment or rule of law regulating interlocutory and preliminary matters in proceedings before an employment tribunal, and has effect subject to any enactment or rule of law regulating the admissibility of evidence in such proceedings.

7B(9) Power to make orders under this section is exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament

7B(10) An order under this section may make different provision for different cases.

*Note: the [Equal Pay \(Questions and Replies\) Order 2003](#) SI 2003/722 set out the procedure for asking questions of the employer and the form of questionnaire to be used.*

**8.** Repealed.

**9. Commencement**

9(1) the foregoing provisions of this Act shall come into force on 29 December 1975 and references in this Act to its commencement shall be construed as referring to the coming into force of those provisions on that date.

9(2)-(5) .... repealed.

**10. Preliminary references to Central Arbitration Committee**

Repealed.

**11. Short title, interpretation and extent**

11(1) This Act may be cited as the Equal Pay Act 1970.

11(2) In this Act the expression “man” and “woman” shall be read as applying to persons of whatever age.

11(2)A For the purposes of this Act a woman is under a disability -

(a) in the case of proceedings in England and Wales, if she is a minor or of unsound mind (which has the same meaning as in section 38(2) of the Limitation Act 1980); or

(b) in the case of proceedings in Scotland, if she has not attained the age of sixteen years or is incapable within the meaning of the Adults with Incapacity (Scotland) Act 2000.

11(3) This Act shall not extend to Northern Ireland.

## Amendments to the Equal Pay Act 1970

Section Amended	Amending Instrument
Section 1 (1)	Sex Discrimination Act 1975 (SDA) s.8, Sch 1
Section 1 (2)	SDA 1975 s.8; Equal Pay (Amendment) Regulations SI 1983/1794
Section 1 (3)	SI 1983/1794
Section 1 (6)	SDA 1975 s.8, Sch 1
Section 1(7)	SDA 1975 s.8, Sch 1
Section 1(9)	Armed Forces Act 1996 s.24(1), s.35(2), Sch 7, Pt III
Section 1(10)	SDA 1975 s.8, Sch 1; Scotland Act 1998 (Consequential Modifications) Order 2000 SI 2000/2040
Section 1(10A)	Trade Union and Labour Relations (Consolidation) Act 1992 s.300(2), Sch 2; Employment Rights Act 1996 s.240, Sch 1.
Section 1(10B)	Trade Union Reform and Employment Rights Act 1993 s.49(1), Sch 7; Employment Rights Act 1996, s.240, Sch1
Section 1(11)	SDA 1975 s.8, Sch 1; Contracts (Applicable Law) Act 1990 s.5, Sch 4
Section 1(12)	SDA 1975 s.8, Sch 1
Section 1(13)	SDA 1975 s.8, Sch 1; SI 1983/1794 r 3(2); Equal Pay (Amendment) Regulations 2003, SI 2003/1656 r.10
Section 2(1), (1A), (2), (3)	SDA 1975 s.8, Sch 1; Employment Rights (Dispute Resolution) Act 1998, s.1(2)(a)
Section 2(4), (5)	Equal Pay (Amendment) Regulations 2003, SI 2003/1656 r.3
Section 2(6)	SDA 1975 s.8(6), Sch 1
Section 2(7)	Employment Protection (Consolidation) Act 1978, s.159(3), Sch 17
Section 2ZA	Equal Pay (Amendment) Regulations 2003, SI 2003/1656 r.4

Section 2ZB	Equal Pay (Amendment) Regulations 2003, SI 2003/1656 r.5
Section 2ZC	Equal Pay (Amendment) Regulations 2003, SI 2003/1656 r.5
Section 2A	Equal Pay (Amendment) Regulations 1983, SI 1983/1794 r.3(1); Sex Discrimination and Equal Pay (Miscellaneous Amendments) Regulations 1996 SI 1996/438 r.3(1), (2); Employment Rights (Dispute Resolution) Act 1988 s.1(2)(a).
Section 3	Sex Discrimination Act 1986 s.9, Sch
Section 4	Wages Act 1986 s.32(2), Sch 5
Section 5	Employment Protection Act 1975 s.125(1), Sch 16, pt iv; SDA 1975 s.58(6), Sch 1; Trade Union and Labour Relations (Consolidation) Act 1992 s.300(2) Sch 2
Section 6(1)	SDA 1975 s.8(6), Sch 1; SDA 1986 Sch, Pt II;
Section 6(1A)	SDA 1975 s.8(6), Sch 1; Subsections (1B) and (1C) substituted for (1A) and (2) by the Pensions Act 1995
Section 6(1B) and (1C)	Pensions Act 1995 s.66(1)
Section 6(2)	subsections (1B) and (1C) substituted for (1A) and (2) by the Pensions Act 1995
Section 7A	Armed Forces Act 1996 s.24(2); Employment Rights (Dispute Resolution) Act 1998 s.1(2)(a)
Section 7A(8), (9) and (13)	Equal Pay (Amendment) Regulations 2003, SI 2003/1656 r.6
Section 7AA	Equal Pay (Amendment) Regulations 2003, SI 2003/1656 r.7
Section 7AB	Equal Pay (Amendment) Regulations 2003, SI 2003/1656 r.8
Section 7AC	Equal Pay (Amendment) Regulations 2003, SI 2003/1656 r.8
Section 7B	Employment Act 2002 s.42
Section 8	SDA 1975 s.8(6), Sch 1
Section 9	SDA 1975 s.8(6), Sch 1
section 10	SDA 1986 s.9, Sch. Pt II
Section 11	Equal Pay (Amendment) Regulations 2003, SI 2003/1656 r.9