

**SECOND SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 2,763 of 27th January, 1994

LEGAL NOTICE NO. 11 OF 1994.

EMPLOYMENT ORDINANCE.

INTERPRETATION AND GENERAL CLAUSES ORDINANCE.

**EMPLOYMENT (SEX DISCRIMINATION AND EQUAL PAY)
(REMEDIES) REGULATIONS, 1994.**

In exercise of the powers conferred on it by section 23 (g) of the Interpretation and General Clauses Ordinance, and of all other enabling powers, the Government has made the following regulations -

Title and commencement.

1.(1) These regulations may be cited as the Employment (Sex Discrimination and Equal Pay) (Remedies) Regulations 1994.

(2) These regulations shall take effect in respect of any award by an Industrial Tribunal made after the 1st day of February, 1994.

Amendment to the Employment Ordinance.

2. The Employment Ordinance is amended in section 52F -

- (a) in sub-section (1) by omitting in paragraph (b) the words "Court of First Instance" and substituting therefor the words "Supreme Court";
- (b) by omitting sub-section (2) and substituting therefor the following new sub-section -

"(2) Where an Industrial Tribunal makes an award under subsection (1)(b) -

- (a) it may, subject to the provisions of section 52H, 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:

Provided that nothing in this sub-section shall prevent the Tribunal from making an award or decision, with regard to interest, in terms which have been agreed between the parties.";

(c) in sub-section (3) by omitting in paragraph (a) the expression "(subject to the limit in sub-section (2))".

New section 52H to the Employment Ordinance.

3. The Employment Ordinance is further amended by inserting after section 52G the following new section -

"Interest on compensation.

52H.(1) The provisions of this section shall apply for the purposes of determining interest under section 52F (2).

(2) Interest shall be calculated as simple interest which accrues from day to day.

(3) Subject to sub-section (4), the rate of interest to be applied shall be the rate of interest prescribed in respect of judgments of the Supreme Court in the order, made under section 36 of the Supreme Court Ordinance, in force from time to time.

(4) Where the rate of interest in sub-section (3) has varied during a period for which interest is to be calculated, the Tribunal may, if it so desires in the interest of simplicity, apply such median or average of those rates as seem to it appropriate.

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

(6) Subject to sub-sections (7) and (8) -

(a) in the case of any sum for injury to feelings, interest shall be for the period beginning on the day 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 in the award (other than any sum referred to in sub-section (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.

(7) 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 a corresponding part of the award shall be calculated as if the references in subsection (6) and in the definition of "mid point date" in sub-section (12) to the day of calculation were to the date on which the payment was made.

(8) 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 referred in sub-section (6) or (7),

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 this section.

- (9) The Tribunal's written statement of reasons for its decision shall contain a statement of the total amount of any interest awarded under section 52F (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.
- (10) The Tribunal's written statement of reasons shall include reasons for any decision not to award interest under section 52F (2).
- (11) The provisions of section 36 of the Supreme Court Ordinance shall apply to an award made by the Tribunal under section 52F as if the reference in section 36 of the Supreme Court Ordinance to a judgment debt is a reference to an award.

(12) In this section -

"day of calculation" means the day on which the amount of interest is calculated by the Tribunal;

"the mid point date" means the date half way through the period beginning on the date of the contravention or act of discrimination complained of and ending on the day of calculation."

Dated this 27th day of January, 1994.

J. Moss,

Minister for Education, Employment and Youth Affairs.