
STATUTORY INSTRUMENTS

2003 No. 1661

**The Employment Equality (Sexual
Orientation) Regulations 2003**

**PART VI
SUPPLEMENTAL**

Application to the Crown etc

36.—(1) These Regulations apply—

- (a) to an act done by or for purposes of a Minister of the Crown or government department; or
- (b) to an act done on behalf of the Crown by a statutory body, or a person holding a statutory office,

as they apply to an act done by a private person.

(2) These Regulations apply to—

- (a) service for purposes of a Minister of the Crown or government department, other than service of a person holding a statutory office;
- (b) service on behalf of the Crown for purposes of a person holding a statutory office or purposes of a statutory body; or
- (c) service in the armed forces,

as they apply 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.

(3) Paragraphs (1) and (2) have effect subject to regulation 11 (police).

(4) Regulation 9(3) (meaning of employment and contract work at establishment in Great Britain) shall have effect in relation to any ship, aircraft or hovercraft belonging to or possessed by Her Majesty in right of the government of the United Kingdom as it has effect in relation to a ship, aircraft or hovercraft specified in regulation 9(3)(a) or (b).

(5) The provisions of Parts II to IV of the Crown Proceedings Act 1947(1) shall apply to proceedings against the Crown under these Regulations as they apply to proceedings in England and Wales which by virtue of section 23 of that Act are treated for the purposes of Part II of that Act as civil proceedings by or against the Crown, except that in their application to proceedings under these Regulations section 20 of that Act (removal of proceedings from county court to High Court) shall not apply.

(6) The provisions of Part V of the Crown Proceedings Act 1947 shall apply to proceedings against the Crown under these Regulations as they apply to proceedings in Scotland which by virtue of the said Part are treated as civil proceedings by or against the Crown, except that in their application to proceedings under these Regulations the proviso to section 44 of that Act (removal of proceedings from the sheriff court to the Court of Session) shall not apply.

(1) 1947 c. 44.

(7) This paragraph applies to any complaint by a person (“the complainant”) that another person—

- (a) has committed an act of discrimination or harassment against the complainant which is unlawful by virtue of regulation 6 (applicants and employees); or
- (b) is by virtue of regulation 22 (liability of employers and principals) or 23 (aiding unlawful acts) to be treated as having committed such an act of discrimination or harassment against the complainant,

if at the time when the act complained of was done the complainant was serving in the armed forces and the discrimination or harassment in question relates to his service in those forces.

(8) A complainant may present a complaint to which paragraph (7) applies to an employment tribunal under regulation 28 only if—

- (a) he has made a complaint in respect of the same matter to an officer under the service redress procedures applicable to him; and
- (b) that complaint has not been withdrawn.

(9) For the purpose of paragraph (8)(b), a complainant shall be treated as having withdrawn his complaint if, having made a complaint to an officer under the service redress procedures applicable to him, he fails to submit that complaint to the Defence Council under those procedures.

(10) Where a complaint is presented to an employment tribunal under regulation 28 by virtue of paragraph (8), the service redress procedures may continue after the complaint is so presented.

(11) In this regulation—

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

“service for purposes of a Minister of the Crown or government department” does not include service in any office mentioned in Schedule 2 (Ministerial offices) to the House of Commons Disqualification Act 1975(2);

“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(3), section 180 of the Air Force Act 1955(4) and section 130 of the Naval Discipline Act 1957(5); and

“statutory body” means a body set up by or in pursuance of an enactment, and “statutory office” means an office so set up.

(2) 1975 c. 24; Schedule 2 was amended by the Scotland Act 1998 (c. 46), sections 48(6) and 87(1), and Schedule 9, and by S.I.2002/794.

(3) 1955 c. 18; section 180 was amended by section 20 of the Armed Forces Act 1996 (c. 46), and is to be amended by the Armed Forces Act 2001 (c. 19), Schedule 6, paragraph 41, on a date to be appointed.

(4) 1955 c. 19; section 180 was amended by section 20 of the Armed Forces Act 1996 (c. 46), and is to be amended by the Armed Forces Act 2001 (c. 19), Schedule 6, paragraph 41, on a date to be appointed.

(5) 1957 c. 53; section 130 was amended by section 20 of the Armed Forces Act 1996 (c. 46), and is to be amended by the Armed Forces Act 2001 (c. 19), Schedule 6, paragraph 42, on a date to be appointed.