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## EXPLANATORY NOTE

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

These Regulations come into force on 1st July 2000 and implement Directive 97/81/EC (normally referred to as the Part-time Work Directive) as extended to the United Kingdom by Directive 98/23/EC, in Great Britain.

The Regulations give part-time workers the right in principle not to be treated less favourably than full-time workers of the same employer who work under the same type of employment contract. In addition a right is given to workers who become part-time or, having been full-time, return part-time after absence, to be treated not less favourably than they were before going part-time.

The rights apply where the less favourable treatment is on the ground that the worker is part-time and is not justified on objective grounds.

The rights are exercisable by complaint to an employment tribunal.

A Regulatory Impact Assessment of the costs and benefits that these Regulations would have is available to the public from Employment Relations 5A, Department of Trade and Industry, 1 Victoria Street, London SW1H 0ET.

*These Notes accompany SI 2000/1551 The Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 and are issued free of charge to all purchasers.*

## GUIDANCE NOTES

These notes are not exhaustive. They cover the main changes brought in by the Government's proposals on part-timers. They only occasionally cross-reference to existing legislation, such as the Sex Discrimination Act 1975, which already covers part-timers. Fuller guidance is available on the DTI website at: <http://www.dti.gov.uk/er/ptime.htm>

### Rate of pay

The Regulations have a direct effect on pay. As a result of the Regulations, part-timers must not receive a lower basic rate of pay than comparable full-timers.

Part-timers can only be given a lower hourly rate when this is justified on objective grounds. One example where a different hourly rate might be objectively justified would be a performance related pay scheme. If employees are shown to have a different level of performance measured by a fair and consistent appraisal system this could justifiably result in different rates of pay.

*To comply with the law:*

Part-timers should receive the same hourly rate as comparable full-timers.

### Overtime

As case-law currently stands, part-timers do not have an automatic right to overtime payments once they work beyond their normal hours. However, once part-timers have worked up to the full-time hours of comparable full-timers they do have a legal right to overtime payments where these apply.

*To comply with the law:*

Part-timers should receive the same hourly rate of overtime pay as comparable full-timers, at least once they have worked more than the normal full-time hours.

*Status: This is the original version (as it was originally made).*

### **Contractual sick and maternity pay**

The Regulations apply directly to contractual sick and maternity pay. This means that there is an obligation on employers not to treat a part-timer less favourably than a comparable full-timer. The benefits that a full-timer receives must also apply to part-timers pro rata. The only exception will be if the different treatment is justified on objective grounds.

*To comply with the law, part-timers should not be treated less favourably than comparable full-timers in terms of:*

- calculating the rate of sick pay or maternity pay;
- the length of service required to qualify for payment;
- the length of time the payment is received.

### **Occupational Pensions**

Scheme rules may need to be revised, to ensure that they comply with the new legislation.

*To comply with the law:*

Employers must not discriminate between full-timers and part-timers over access to pension schemes, unless different treatment is justified on objective grounds.

### **Access to training**

Under the regulations, there is an obligation on employers not to exclude part-timers from training. Training will need to be structured wherever possible to be at the most convenient times for the majority of staff including part-timers.

*To comply with the law:*

- Employers should not exclude part-time staff from training simply because they work part-time.
- Training should be scheduled so far as possible so that staff, including part-timers, can attend.

### **Leave/holidays/breaks: annual leave, maternity and parental leave; career breaks**

Part-timers, like their full-time colleagues, are entitled to a minimum of statutory annual leave, maternity leave, parental leave, and time-off for dependants.

In some cases, companies extend these statutory entitlements with enhanced contractual conditions. When this occurs, part-timers should have the same entitlements as their full-time colleagues, on a pro-rata basis where appropriate.

In the case of career breaks, part-time staff should be treated no less favourably than comparable full-time staff.

*To comply with the law:*

- The contractual holiday entitlement of part-time staff should be pro rata to that of comparable full-timers.
- Contractual maternity leave and parental leave should be available to part-timers in the same way as for comparable full-timers.
- Careers break schemes should be available to part-timers in the same way as for comparable full-timers, unless their exclusion is objectively justified on grounds other than their part-time status.

## **Redundancy**

In a redundancy situation, part-timers should be treated no less favourably than their full-time equivalents. Different treatment of full-timers and part-timers will only be lawful if it can be justified on objective grounds.

*To comply with the law:*

The criteria used to select jobs for redundancy should be objectively justified, and part-timers must not be treated less favourably than comparable full-timers.

## **Objective Justification**

The right of part-timers not to be treated less favourably than a comparable full-timer applies only if the treatment is not justified on objective grounds.

Less favourable treatment will only be justified on objective grounds if it can be shown that the less favourable treatment:

- (1) is to achieve a legitimate objective, for example, a genuine business objective;
- (2) is necessary to achieve that objective; and
- (3) is an appropriate way to achieve the objective.