

**FIRST SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 2,509 of 10th August, 1989.



I ASSENT,
PETER TERRY,
GOVERNOR.

10th August, 1989.



GIBRALTAR

No. 23 of 1989.

AN ORDINANCE to amend the Employment Ordinance.

E NACTED by the Legislature of Gibraltar.

Title.

1. This Ordinance may be cited as the Employment (Amendment) Ordinance, 1989.

New Part.

2. The Employment Ordinance (hereinafter called "the principal Ordinance") is amended by inserting after Part V a new Part VA as set out in the Schedule to this Ordinance.

Sections repealed.

3. Sections 48, 49, 50 and 51 of the principal Ordinance are repealed.
Amendment of section 81.

4. Section 81 (1) of the principal Ordinance is amended by substituting for the reference to section 52 a reference to section 52G.

SCHEDULE

"PART VA. SEX DISCRIMINATION

Principle of equal treatment.

52A. (1) For the purpose of the provisions of this Part, the principle of equal treatment means that there shall be no discrimination whatsoever on grounds of sex either directly or indirectly by reference in particular to marital or family status.

(2) The said provisions shall not apply to those occupational activities and, where appropriate, the training leading thereto, for which, by reason of their nature or the context in which they are carried out, the sex of the worker constitutes a determining factor.

(3) The said provisions shall be without prejudice to provisions concerning the protection of women, particularly as regards pregnancy and maternity.

(4) The said provisions shall be without prejudice to measures to promote equal opportunity for men and women, in particular by removing existing inequalities which affect women's opportunities as regards access to employment, including promotion, and to vocational training and as regards working conditions.

Application of the principle of equal treatment.

52B. (1) Application of the principle of equal treatment means that there shall be no discrimination whatsoever on grounds of sex in the conditions, including selection criteria, for access to all

jobs or posts, whatever the sector or branch of activity, and to all levels of the occupational hierarchy.

(2) The principle of equal treatment shall apply-

(a) with regard to access to all types and to all levels of vocational guidance, vocational training, advanced vocational training and retraining, and

(b) with regard to working conditions, including the conditions governing dismissal.

(3) Except in such private training establishments, as the Governor may approve, vocational guidance, vocational training, advanced vocational training and retraining shall be accessible on the basis of the same criteria and at the same levels without any discrimination on grounds of sex.

Principle of equal pay

52C For the purpose of the provisions of this Part the principle of equal pay, means, for the same work or for work to which equal value is attributed, the elimination of all discrimination on grounds of sex with regard to all aspects and conditions of remuneration.

In particular, where a job classification system is used for determining pay, it must be based on the same criteria for both men and women and so drawn up as to exclude any discrimination on grounds of sex.

Laws etc contrary to the principles cease to have effect

52D It is hereby declared that-

(a) all laws, regulations and administrative provisions contrary to the principle of equal treatment or the principle of equal pay; and

(b) all provisions contrary to the principle of equal treatment or the principle of equal pay which are included in collective agreements, individual contracts of employment, internal rules of undertakings or in rules governing the independent occupations and professions, cease to have effect.

Enforcement of the principles.

52E (1) A complaint by any person (“the complainant”) that another person (“the respondent”) has committed against the complainant an act which is repugnant to the principle of equal treatment or the principle of equal pay (hereinafter called “an act of discrimination”) may be presented to an Industrial Tribunal.

(2) For the purposes of such complaint the provisions of the Industrial Tribunal Rules shall apply.

(3) An Industrial Tribunal shall not consider a complaint unless it is presented to the tribunal within the period of six months beginning when the act complained of is alleged to have been done;

Provided that the Tribunal may nevertheless consider any such complaint which is out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.

Remedies on complaint.

52F (1) Where an Industrial Tribunal finds that a complaint presented to it under section 52E is well-founded the tribunal shall make such of the following as it considers just and equitable-

(a) an order declaring the rights of the complainant and the respondent in relation to the act to which the complaint relates;

(b) an order requiring the respondent to pay to the complainant compensation of an amount corresponding to any damages he could have been ordered by the Court of First Instance to pay to the complainant if the complaint had been dealt with by that court;

(c) a recommendation that the respondent take within a specified period action appearing to the tribunal to be practicable for the purpose of obviating or reducing the adverse effect on the complainant of any act of discrimination to which the complaint relates.

(2) The amount of compensation awarded to a person under subsection (1) (b) shall not exceed the amount for the time being specified in section 72 of this Ordinance.

(3) If without reasonable justification the respondent to a complaint fails to comply with a recommendation made by an Industrial Tribunal under subsection (1) (c), then, if they think it just and equitable to do so-

(a) the tribunal may increase the amount of compensation (subject to the limit in subsection (2)) required to be paid to the complainant in respect of the complaint by an order made under subsection (1) (b), or

(b) if an order under subsection (1) (b) could have been made but was not, the Tribunal may make such an order.

Employer's duty to bring principles to notice of employees.

52G It shall be the duty of the employer to bring the provisions of this Part to the attention of employees by appropriate means, including posting at the place of employment."

Passed by the Gibraltar House of Assembly on the 1st day of August, 1989.

Employment (Amendment) Ordinance, 1989.

[No.23 of 1989]

C. M. COOM,

Clerk to the Assembly.