



Laws affecting UK Businesses

**THE PART-TIME WORKERS
(PREVENTION OF LESS FAVOURABLE TREATMENT) REGULATIONS 2000**

The Part-Time Workers (Prevention of Less Favourable Treatment) Regulations came into force on 1st July 2000.

The Regulations make it unlawful for part-time workers to be treated less favourably than full-time workers. This means the following:

1. Part-time workers should receive the same hourly rate as full-timers. A lower hourly rate should only be given if it can be justified on objective grounds, e.g. performance related pay.
2. Part-time workers should receive the same hourly rate for overtime once they have worked more than the normal full-time hours.
3. Part-time workers should not be excluded from training simply because they work part-time.
4. Part-time workers have the same entitlement as full-timers to maternity / parental leave and annual leave on a pro rata basis. The calculations used and the length of service required should be the same for both part-time and full-time staff.
5. Part-time workers have the same entitlements to pensions, perks and sick pay on a pro rata basis as full-timers. This will include the same entitlement to bonuses, shift allowances etc.
6. Entitlement to written reasons for any treatment they consider less favourable under the Regulations. The employer must respond to a request by an employee for a written statement within 21 days.

The Regulations apply to all workers and all businesses, including small businesses.

Less favourable treatment of a part-time worker will be justified on objective grounds if it can be shown it is necessary and appropriate to achieve a legitimate business objective.

To decide whether there has been unlawful treatment of a part-time worker they will be able to compare themselves with full-time workers on similar contracts working for the same firm. If there is no full-time worker in the same firm doing similar work the part-timer can compare themselves with a full-timer engaged in similar work in a different establishment for the same employer.

As statistically most part-time workers are women an employer could also face a claim for sex discrimination by discriminating against part-timers. Employers therefore have to ensure that even if different treatment between part-timers and full-timers can be justified on objective grounds that such grounds are unrelated to the sex of the employee and there is no disproportionate impact on women.

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The Regulations have implications for employers in a wide range of employment issues, for example:

- a) When reorganising workloads employers must be careful to ensure that part-time workers are not treated less favourably than full-time workers, unless the employer can justify the different treatment on objective grounds. This will mean for example, making a wider range of job types open to part-timers, such as levels of management. Part-timers should be given equal opportunity to seek promotion whether the post is full-time or part-time. The Department of Trade & Industry recommend as best practice that employers periodically review whether posts they are offering could be performed by part-time workers and seek to maximise the range of posts designated as suitable for part-time work or job-sharing.
- b) Employers need to ensure that part-time staff are not excluded from profit sharing or share option schemes as such exclusion will be unlawful. However, if the exclusion can be objectively justified then it may be permissible, e.g. where a pro rata entitlement to share options by part-time staff would mean their share options would be so small as to be worthless, as it would cost more to realise the shares.
- c) Part-timers should have the same access to occupational pension schemes as full-timers, unless exclusion can be justified on objective grounds.
- d) It is no longer acceptable to choose to make part-time workers redundant before full-time workers. This would be unlawful under the Regulations and might also amount to sex discrimination if the majority of the part-time workers were women. The criteria for selecting jobs for redundancy must be objectively justified and not cause less favourable treatment between full-timers and part-timers.
- e) As far as perks such as health insurance, staff discounts, company cars and subsidized mortgages are concerned it may not be possible to divide these on a pro rata basis for part-timers and in that case an employer can decide whether or not to withhold these benefits from part-timers, but their decision must be capable of justification on objective grounds. If ways can be found to provide the perks then they should be provided. For example, in the case of a company car for full-timers an employer might calculate the financial value of this perk and give that value to a part-timer pro rata by other means such as a car allowance.
- f) Career break schemes should be made available to part-time staff in the same way as for full-timers, unless exclusion can be objectively justified on grounds other than part-time status.
- g) Although there is no legal right for a worker to be able to change their hours of work the employment tribunals have in the past made rulings that where women returning from maternity leave are refused part-time hours that this could amount to indirect sex discrimination. As such employers must be sensitive to requests to work part-time and look at such requests sympathetically. Employers should consider establishing written procedures for considering requests by workers to change their hours.

The aim of the Regulations is to develop a flexible labour market in which the economy as a whole will benefit from the flexibility that part-time work can offer and lead to the increase in the quality and range of jobs considered suitable for part-time work or job sharing.