

2012 No. 462

SEX DISCRIMINATION

**The Sex Discrimination Order 1976 (Amendment) Regulations
(Northern Ireland) 2012**

Made - - - - - *21st December 2012*

Coming into operation - - - - - *21st December 2012*

The Office of the First Minister and deputy First Minister, being a Department designated for the purposes of section 2(2) of the European Communities Act 1972(a) in relation to discrimination(b), makes the following Regulations in exercise of the powers conferred by that section:

Citation and interpretation

1.—(1) These Regulations may be cited as the Sex Discrimination Order 1976 (Amendment) Regulations (Northern Ireland) 2012.

(2) In these Regulations, “the 1976 Order” means the Sex Discrimination (Northern Ireland) Order 1976 (c).

(3) The Interpretation Act (Northern Ireland) 1954(d) shall apply to these Regulations as it applies to an Act of the Assembly.

Amendment of the 1976 Order

2.—(1) Article 46 of the 1976 Order (insurance etc.) shall cease to have effect in relation to discrimination under Article 30 of that Order and accordingly Article 46 of the 1976 Order shall be amended in accordance with paragraphs (2) to (4).

(2) In paragraph (1) for “Nothing in Parts III to V” substitute “Nothing in Part III, Part IV (other than Article 30) or Part V”.

(3) In paragraph (2) omit “30,”.

(4) Paragraphs (3) and (4) are omitted.

Transitional provision

3. Notwithstanding regulation 2, Article 46 of the 1976 Order shall continue to have effect in relation to any contract concluded before 21st December 2012 as if these Regulations had not been made.

(a) 1972 c.68

(b) See the European Communities (Designation) (No. 3) Order 2002 (S.I.2002/1819)

(c) S.I. 1976/1042 (N.I. 15); Article 46 was amended by paragraph 13 of Schedule 2 to S.I. 2008/963

(d) 1954 c.33 (N.I.)

Review

- 4.—(1) The Office of the First Minister and deputy First Minister must from time to time —
- (a) carry out a review of the regulatory system established by the 1976 Order insofar as it implements Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services (a) in respect of insurance services,
 - (b) set out the conclusions of the review in a report, and
 - (c) publish the report.
- (2) In carrying out the review, the Office of the First Minister and deputy First Minister must, so far as is reasonable, have regard to how the Directive is implemented in other Member States and in Great Britain in respect of insurance services.
- (3) The report must in particular—
- (a) set out the objectives intended to be achieved by the regulatory system established by the 1976 Order insofar as it implements the Directive in respect of insurance services,
 - (b) assess the extent to which those objectives are achieved, and
 - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.
- (4) The first report under this legislation must be published before the end of the period of five years beginning with the day on which these Regulations come into operation.
- (5) Reports under this Regulation are afterwards to be published at intervals not exceeding five years.

Sealed with the Official Seal of the Office of the First Minister and deputy First Minister on 21st December 2012.



Fergus Devitt

A senior officer of the
Office of the First Minister and deputy First Minister

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Sex Discrimination (Northern Ireland) Order 1976 (“the 1976 Order”) to reflect a change to European Union law consequent on the ruling by the Court of Justice of the European Union in Case C-236/09 of 1st March 2011 (*Association Belge des Consommateurs Test-Achats ASBL and Others v Council*). In that case, the Court ruled that Article 5(2) of Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services (“the Gender Directive”) is invalid with effect from 21st December 2012. Article 5(2) provides that Member States may permit proportionate differences in individuals’ premiums and benefits where

(a) O.J. No. L 373, 21.12.2004, p37

the use of sex is a determining factor in the assessment of risk based on relevant and accurate actuarial and statistical data.

Regulation 2 amends Article 46 of the 1976 Order (insurance etc) to remove the exception which specified the circumstances under which insurance companies may charge different premiums or offer different benefits to men and women in relation to areas with which Article 30 of the 1976 Order is concerned (discrimination in the provision of goods, facilities or services).

Regulation 3 provides that notwithstanding the amendments made to Article 46 of the 1976 Order by regulation 2, Article 46 continues to apply to a contract concluded before 21st December 2012.

Regulation 4 requires the Office of the First Minister and deputy First Minister to review the operation and effect of these Regulations and publish a report within five years after they come into operation and within every five years after that. Following a review, it will fall to the Office of the First Minister and deputy First Minister to consider whether these Regulations should remain as they are, or be revoked or be amended.

A Regulatory Impact Assessment of the effect that these Regulations will have on the costs of business in Northern Ireland and a Transposition Note showing how the European Court of Justice ruling has been implemented here have been placed in the Library of the Northern Ireland Assembly. Copies may be obtained from Equality and Good Relations Division, Office of the First Minister and deputy First Minister, Room E.3.19A, Castle Buildings, Stormont Belfast, BT4 3SR.

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