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DRAFT STATUTORY RULES OF NORTHERN IRELAND

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**2012 No.**

**The Race Relations Order 1997  
(Amendment) Order (Northern Ireland) 2012**

**Amendments to the Race Relations (Northern Ireland) Order 1997**

5. For Article 11 substitute the following—

**“Seafarers**

**11.**—(1) If paragraph (2), (3) or (4) applies to a seafarer, this Part applies to the seafarer as if the seafarer were employed at an establishment in Northern Ireland.

(2) This paragraph applies to a seafarer who works wholly or partly within Northern Ireland on—

- (a) a UK ship; or
- (b) a UK hovercraft operated by a person whose principal place of business, or ordinary residence, is in Northern Ireland.

(3) This paragraph applies to a seafarer who works wholly or partly within Northern Ireland if—

- (a) the seafarer is on a ship registered in or entitled to fly the flag of an EEA State other than the United Kingdom, or a hovercraft registered in an EEA State other than the United Kingdom,
- (b) the ship or hovercraft is in United Kingdom waters adjacent to Northern Ireland,
- (c) the seafarer is a British citizen, or a national of an EEA State other than the United Kingdom or of a designated state; and
- (d) the legal relationship of the seafarer’s employment is located within Northern Ireland or retains a sufficiently close link to Northern Ireland.

(4) This paragraph applies to a seafarer who works wholly outside Northern Ireland if—

- (a) the seafarer is on a UK ship registered at a port of registry in Northern Ireland or a UK hovercraft operated by a person whose principal place of business, or ordinary residence, is in Northern Ireland,
- (b) the seafarer is a British citizen, or a national of an EEA State other than the United Kingdom or of a designated state; and
- (c) the legal relationship of the seafarer’s employment is located within Northern Ireland or retains a sufficiently close link to Northern Ireland.

(5) It is not a contravention of Article 6 or 9 for an employer or principal to offer to pay, or to pay, a person (A) at a lower rate than that at which the employer or principal offers to pay or pays another person (B) because A is of a different nationality from B, if—

- (a) A—
  - (i) applied for work as a seafarer, or
  - (ii) was recruited as a seafarer,

outside Northern Ireland, and

- (b) A is not—
- (i) a British citizen,
  - (ii) a national of another EEA State, or
  - (iii) a national of a designated state.
- (6) For the purposes of this Article—
- (a) paying an employee or contract worker includes making provision for a pension, annuity, lump sum, gratuity or other similar benefit which will be paid or given to the employee or contract worker or a member of his family or household in the event of his retirement or death;
  - (b) the legal relationship of the seafarer’s employment is located within Northern Ireland if the contract under which the seafarer is employed—
    - (i) was entered into in Northern Ireland; or
    - (ii) takes effect in Northern Ireland;
  - (c) whether the legal relationship of the seafarer’s employment retains a sufficiently close link with Northern Ireland is to be determined by reference to all relevant factors including—
    - (i) where the seafarer is subject to tax;
    - (ii) where the employer or principal is incorporated;
    - (iii) where the employer or principal is established;
    - (iv) where the ship or hovercraft on which the seafarer works is registered.

(7) In this Article—

“British citizen” has the same meaning as the British Nationality Act 1981(1);

“designated state” means the countries of the African, Caribbean, and Pacific Group of States, the Kingdom of Morocco, Montenegro, the Most Serene Republic of San Marino, the People’s Democratic Republic of Algeria, the Principality of Andorra, the Republic of Albania, the Republic of Croatia, the Republic of Macedonia, the Republic of Tunisia, the Republic of Turkey, the Russian Federation and the Swiss Confederation;

“seafarer” means a person employed or engaged in any capacity on board a ship or hovercraft;

“UK hovercraft” means a hovercraft registered in the United Kingdom;

“UK ship” means a ship registered in the United Kingdom;

“United Kingdom waters” means the sea or other waters within the seaward limits of the territorial sea of the United Kingdom.”.