

2011 No. 156

SEX DISCRIMINATION

**The Sex Discrimination Order 1976 (Amendment) Regulations
(Northern Ireland) 2011**

Made - - - - - *24th March 2011*

Coming into operation - - - - - *31st March 2011*

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, commencement and interpretation

1.—(1) These Regulations may be cited as the Sex Discrimination Order 1976 (Amendment) Regulations (Northern Ireland) 2011 and shall come into operation on 31st March 2011.

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

Amendments to the Sex Discrimination (Northern Ireland) Order 1976

2. The Sex Discrimination (Northern Ireland) Order 1976(d) shall be amended in accordance with Regulations 3 to 10.

Part II Discrimination to which the Order applies

3. In Article 3(2)(b)(ii) after the word “puts” insert the words “, or would put,”.

4. In Article 5(1)(b)(ii) after the word “puts” insert the words “, or would put,”.

Part V Other Unlawful Acts

5. In Article 38(3) for the words “shall be brought only” substitute the words “may be brought”.

Part VIII Enforcement

6. In Article 63 at the end of paragraph (1)(b) insert—
“or

(a) 1972 c.68

(b) See Schedule 2 to the European Communities (Designation)(No.3) Order 2002 (S.I.2002/1819)

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

(d) S.I.1976/1042 (N.I.15); relevant amending Regulations are S.R. 2005 No.426

(c) has contravened Article 40 or 41 in relation to an act which is unlawful by virtue of Part III,”.

7. In Article 63A at the end of paragraph (2)(b) insert —

“or

(c) has contravened Article 40 or 41 in relation to an act which is unlawful by virtue of Part III,”.

8. In Article 66 at the end of paragraph (1)(b) insert—

“or

(c) has contravened Article 40 or 41 in relation to an act which is unlawful by virtue of Part IV,”.

9. In Article 66A at the end of paragraph (2)(b) insert—

“or

(c) has contravened Article 40 or 41 in relation to an act which is unlawful by virtue of Part IV,”.

10. In Article 72(1) for the words “shall be brought only” substitute the words “may be brought”.

Sealed with the Official Seal of the Office of the First Minister and deputy First Minister



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

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations amend the Sex Discrimination (Northern Ireland) Order 1976 (“the 1976 Order”) to give full effect in Northern Ireland to Articles 2(1)(b) (indirect discrimination) and 17(1) (Defence of rights) of Council Directive 2006/54/EC of 5th July 2006 (“the Directive”) on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast).

Regulations 3 and 4 amend the definition of indirect discrimination in Articles 3(2)(b)(ii) and 5(1)(b)(ii) of the Order. The amendment makes clear that the provisions cover both persons who are put at a disadvantage by the discriminatory provision and those who would be put at such a disadvantage.

Regulation 5 amends Article 38 to clarify that an individual may take proceedings in respect of the discriminatory practices to which Article 38 applies.

Regulations 6 and 7 enable an individual to make a complaint to an industrial tribunal under Article 63 in respect of an act made unlawful by Article 40 or 41.

Regulations 8 and 9 enable an individual to make a claim and bring proceedings to a county court under Article 66 in respect of an act made unlawful by Article 40 or 41.

Regulation 10 amends Article 72 which deals with the enforcement of Articles 39 to 41. The amendment clarifies that proceedings under Articles 39 to 41 may be taken by an individual.

A Regulatory Impact Assessment of the effect these Regulations will have on business cost and a Transposition Note setting out how these Regulations transpose the Directive in Northern Ireland have been placed in the library of the Northern Ireland Assembly. Copies of each may be obtained from the Equality Directorate, Office of the First Minister and deputy First Minister, Room E3.18, Castle Buildings, Stormont Estate, Belfast BT4 3SR.

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