

**EXPLANATORY MEMORANDUM TO
THE EQUALITY ACT (SEXUAL ORIENTATION) REGULATIONS (NORTHERN
IRELAND) 2006**

SR 2006 No. 439

1. General

1.1 This explanatory memorandum has been prepared by The Office of the First Minister and deputy First Minister and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The Order was made on 8th November 2006 and prohibits discrimination on the grounds of sexual orientation in the provision of goods, facilities, services, education, functions of public authorities and the disposal of property.

3. Matters of special interest

3.1 There are no matters of special interest.

4. Legislative Background

4.1 These Regulations are made under section 82 of the Equality Act 2006 and are subject to the affirmative resolution procedure of the Northern Ireland Assembly. During suspension of the Assembly, they are subject to negative resolution under paragraph 7(3) of the schedule to the Northern Ireland Act 2000 and are to be laid before Parliament. They come into operation on 1 January 2007.

4.2 Similar Regulations are being prepared in GB under section 81 of the Equality Act 2006.

4.3 The Regulations do not have any EU implications

5. Extent

5.1 These Regulations apply only to Northern Ireland

6. European Convention on Human Rights

6.1 As the Regulations are subject to negative resolution procedure at Westminster and do not amend primary legislation, no statement is required.

7. Policy background

7.1 The Equality Act 2006 at section 82 gave the Department a power to make Regulations, based on the Race Relations (Northern Ireland) Order 1997, to outlaw

discrimination on the basis of sexual orientation in the provision of goods, facilities, services, education, public functions and the disposal of property.

- 7.2 The regulations will protect people from direct discrimination i.e. where a person treats another person less favourably because of his sexual orientation. They also prohibit indirect discrimination, where the discrimination is often an unintended consequence of the action and harassment on the ground of sexual orientation. They also prohibit victimisation, to ensure no-one feels that they cannot bring, or support a claim, under these Regulations.
- 7.3 The main areas where the Regulations will impact include, the provision of education where the Government believes that no child should be denied a place at a school because of its sexual orientation or the sexual orientation of people associated with it; in the area of religion, where the Government has acknowledged a difficulty with doctrinal teaching and practice and provided an exemption within the Regulations for such bodies. The Regulations will also impact on hotel and bed and breakfast owners, who will not be able to deny a same sex couple accommodation on the basis of their sexual orientation. The Government has also extended the Regulations to cover private members clubs.
- 7.4 The Department undertook an eight week consultation, which ended on 25 September, with statutory consultees and the public generally. The response was encouraging with 375 responses. However, of these a significant majority addressed only the questions concerning exemptions for religion and religious organisations.
- 7.5 There was, therefore, no significant opposition from the consultees to the basic premise behind the Regulations, which is to ensure equality of treatment for all sections of society. Of the concerns that were expressed regarding exemptions for religion the Government believes that those concerns have been addressed by the wording of the exemption at regulation 16.
- 7.6 Those that were not covered by the wording of the exemptions in the Regulations were generally asking for something that could not be defined legally, such as a “Christian business” or asking for exemptions that were too wide and would have made the Regulations unenforceable.
- 7.7 Further detail on the consultation responses received and the Government’s response to the consultation can be found at www.ofmdfmi.gov.uk/equality

8. Impact

- 8.1 A Regulatory Impact Assessment and an Equality Impact Assessment are available by writing to the Equality, Rights and Social Needs Directorate, Office of the First and deputy First Minister, Room E3.17, Castle Buildings, Stormont Estate, Belfast BT4 3SR. Copies have also been placed in the library of the Northern Ireland Assembly and the libraries of the Houses of Parliament.

9. Contact

- 9.1 Alastair James, at the Office of the First Minister and deputy First Minister Tel: 02890523154 or e-mail: Alastair.james@ofmdfmi.gov.uk, can address any queries regarding the Regulations.