

2012 No. 2992

EQUALITY

The Equality Act 2010 (Amendment) Regulations 2012

Made - - - - 29th November 2012

Laid before Parliament 30th November 2012

Coming into force - - 21st December 2012

The Treasury are a government department designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to discrimination.

The Treasury, in exercise of the powers conferred on them by section 2(2) of the European Communities Act 1972, make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Equality Act 2010 (Amendment) Regulations 2012 and come into force on 21st December 2012.

(2) In these Regulations “the Act” means the Equality Act 2010(c).

Amendment of the Equality Act 2010

2. Paragraph 22 of Schedule 3 (services: exceptions relating to insurance etc.) to the Act is omitted.

Transitional provision

3. Despite its omission by regulation 2, paragraph 22 of Schedule 3 to the Act continues to apply to a contract concluded before 21st December 2012.

Review

4.—(1) The Treasury must from time to time—

(a) carry out a review of the regulatory system established by the Act 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(d) in respect of insurance services,

(b) set out the conclusions of the review in a report, and

(a) S.I. 2011/2718.

(b) 1972 c.68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7).

(c) 2010 c.15.

(d) OJ L 373. 21.12.2004, p.37.

(c) publish the report.

(2) In carrying out the review the Treasury must, so far as is reasonable, have regard to how the Directive is implemented in other member States 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 Act 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 regulation must be published before the end of the period of five years beginning with the day on which these Regulations come into force.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.

*Anne Milton
Desmond Swayne*

29th November 2012

Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Equality Act 2010 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 the use of sex is a determining factor in the assessment of risk based on relevant and accurate actuarial and statistical data.

Regulation 2 omits paragraph 22 of Schedule 3 (services: exceptions relating to insurance etc.) to the Equality Act 2010 (“the Insurance Exception”). This is the provision that implements Article 5(2) of the Gender Directive.

Regulation 3 provides that the Insurance Exception continues to apply to a contract concluded before 21st December 2012.

Regulation 4 requires the Treasury to review the operation and effect of these Regulations and publish a report within five years after they come into force and within every five years after that. Following a review it will fall to the Treasury to consider whether these Regulations should remain as they are, or be revoked or be amended. A further instrument would be needed to revoke these Regulations or amend them.

An Impact Assessment of the effect that these Regulations will have on the costs of business and the voluntary sector is available on HM Treasury’s website (www.hm-treasury.gov.uk) and is published with the Explanatory Memorandum alongside these Regulations on the legislation.gov.uk website.

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