
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement in Northern Ireland Council Directive [2002/73/EC](#) of 23rd September 2002 (“the Directive”), in part, and come into operation on 6th April 2008. The Directive concerns the principle of equal treatment of men and women as regards access to employment, vocational training and promotion and working conditions.

The Sex Discrimination (Northern Ireland) Order 1976 (“the 1976 Order”) was previously amended by the Employment Equality (Sex Discrimination) Regulations (Northern Ireland) 2005 to meet the Directive’s requirements. These Regulations amend the 1976 Order to give full effect to the Directive in relation to the definitions of harassment and discrimination on grounds of pregnancy or maternity leave and so far as it relates to terms and conditions during maternity leave.

Regulation 2 amends the definition of discrimination on grounds of pregnancy or maternity leave to eliminate the requirement for a comparator who is not pregnant or not on maternity leave, as the case may be.

Regulation 3 amends the definition of harassment to remove the causal link between harassment and the sex of the person being harassed. The change enables claims to be made by someone who is not subjected to the unwanted conduct himself or herself but the effect of which nonetheless violates his or her dignity or creates an intimidating, etc. environment for him or her.

Regulation 4 makes it unlawful for an employer to fail to take reasonably practicable steps to protect employees from harassment by third parties where such harassment is known to have occurred on at least two other occasions.

Regulation 5 narrows the extent to which it is not discriminatory to deprive a woman of the benefit of her terms and conditions of employment during maternity leave. The amendment facilitates claims for discrimination in relation to eligibility for remuneration by way of bonus while on compulsory maternity leave. In addition, it enables claims for discrimination in relation to terms and conditions of employment in relation to periods of additional maternity leave to the same extent to which they are available in relation to periods of ordinary maternity leave. The amendments made by this regulation apply where a woman’s expected week of childbirth (as defined in the Maternity and Parental Leave etc. Regulations (Northern Ireland) 1999) begins on or after 5th October 2008.

A Regulatory Impact Assessment of the effect that these Regulations will have on business costs 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 Equality, Rights and Social Need Division, Office of the First Minister and deputy First Minister, Room E.3.18, Castle Buildings, Stormont, Belfast, BT4 3SR.