

**EXPLANATORY MEMORANDUM TO
THE EMPLOYMENT EQUALITY (AGE) (AMENDMENT) REGULATIONS
2006**

2006 No. 2408

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Description

- 2.1 These Regulations postpone until 1st December 2006 the coming into force of the obligations and exemptions in the Age Regulations relating to pension schemes. These Regulations amend regulation 1(1) of the Employment Equality (Age) Regulations 2006 (SI 1031) in order to defer Regulation 11 (Schedule 2) from 1 October 2006 to 1 December 2006 (the latest date of implementation of the European Employment Directive is 2 December 2006). The deferral will give employers/scheme administrators more time to comply with the provisions.

3. Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

4. Legislative Background

- 4.1 The Employment Equality (Age) Regulations implements the age provisions of the European Employment Directive. The Directive establishes a general framework for equal treatment in employment and occupation, including vocational training. It requires Member States to ensure that they have legislation in place outlawing discrimination on the new grounds of sexual orientation, religion or belief, age, and disability.
- 4.1 The Government implemented the other new strands – sexual orientation and religion or belief – in December 2003. The Directive allows Member States until December 2006 to implement age and disability discrimination legislation. In line with DTI policy of introducing employment legislation on two common commencement dates every year, the age discrimination regulations are due to come into force on 1 October 2006.
- 4.3 The implementation of the Employment Equality (Age) Regulations must come into force by 2 December 2006 to be compliant with the European Employment Directive. Therefore, by amending Regulation 1(1) of the Employment Equality (Age) regulations, it will defer the implementation of

Regulation 11 (Schedule 2) from 1 October to 1 December 2006. Regulation 11 relates to pensions only.

5. Extent

- 5.1 The regulations extend to Great Britain. Separate regulations are to be made to implement the Directive in Northern Ireland. Therefore, they do not extend to Northern Ireland except in the case of those amendments to legislation which itself extends to Northern Ireland.
- 5.2 The regulations do not extend to Gibraltar, the Channel Isles or the Isle of Man.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- 7.1 The Government has aimed for a light touch implementation that strikes the right balance between tackling age discrimination effectively by giving important new rights for individuals, whilst allowing business to continue to operate productively but fairly. Following further consultation, the regulations relating to occupational pensions have been found to be too narrow in their interpretation. The pensions industry has explained that if the requirements are not clarified and extended to include further limited exemptions, there is a danger that employers may level down their pension provision to comply with their interpretation of the regulations and to reduce or remove the risk of proceedings being taken. The further amendments will be contained in a future instrument. Meanwhile it is necessary to defer the pension requirements of the Employment Equality (Age) Regulations 2006 in order to give schemes more time to adjust and to formulate the further limited exemptions.
- 7.2 As this instrument only defers the pension provision coming into force, there are no plans to specifically consolidate. Information will be provided as set out below.
- 7.3 To ensure that industry are aware of this deferral, there will be a press notice issued, which will also be posted on the Department for Work and Pension (DWP), and the Department of Trade and Industry (DTI) websites. All key stakeholders who have contacted DTI and DWP about the Age Regulations will be informed of the deferral as the press notice is released.

8. Impact

- 8.1 An amended Regulatory Impact Assessments (RIA) is being prepared for the further amendments and will be included with the draft amendments themselves.

8.2 The impact on the public sector is they will have more time to comply with these provisions.

9. Contact

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