

**Statutory Rules of Northern Ireland 2006 No. 439  
Sexual Orientation Discrimination  
Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006**

**Summary Paper**

This is a summary of some parts of the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006 which follow on from the *Getting Equal* consultation process held earlier this year.

They have not yet been laid before Parliament and this is due to happen before the end of the year. The regulations will come into operation on 1 January 2007.

The full document can be found at [http://www.opsi.gov.uk/sr/sr2006/nisr\\_20060439\\_en.pdf](http://www.opsi.gov.uk/sr/sr2006/nisr_20060439_en.pdf).

**Par 2 Interpretation**

In the regulations 'sexual orientation' means a sexual orientation towards –

- (a) persons of the same sex;
- (b) persons of the opposite sex;
- (c) persons of the same sex and of the opposite sex.

**Par 3 Discrimination and harassment on grounds of sexual orientation**

This paragraph provides definitions of discrimination and harassment. Harassment is defined as violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for a person.

In deciding on a case regard will be given to all the circumstances, including, in particular the perception of the person who believes they have been harassed.

**Par 4 Discrimination by way of victimisation**

This paragraph covers victimisation in regard to proceedings and those who may be involved in providing evidence or information in connection with proceedings.

**Par 5 Goods, facilities or services**

This applies to the provision of goods, services and facilities to the public or section of the public whether or not for payment.

It is unlawful to refuse or deliberately omit to provide goods, facilities to a person or to refuse or deliberately omit to provide that person with goods, facilities or services of the same quality, in the same manner and on the same terms as a normal in relation to other members of the public.

Facilities include:

- (a) Access to and use of any place where members of the public are permitted to enter;
- (b) Accommodation in a hotel, boarding house or similar establishment
- (c) Facilities by way of banking or insurance for grants, loans, credit or finance
- (d) Facilities for education

- (e) Facilities for entertainment, recreation or refreshment
- (f) Facilities for transport or travel
- (g) Services of any profession or trader, or any local or other public authority

#### **Par 9 – 11 Bodies in charge of education establishments**

It will be unlawful for an educational establishment to discriminate against a person by refusing to admit them as a pupil or by refusing or deliberately omitting to accept an application for admission as a pupil

It will also be unlawful to discriminate in the accessing of benefits or by exclusion of the person from the establishment on grounds of sexual orientation.

Facilities provided for education and any ancillary benefits and services must be provided without discrimination on the grounds of sexual orientation.

#### **Par 12 Public authorities**

It will be unlawful for a public authority to discriminate against a person on the grounds of sexual orientation or subject a person to harassment in the course of carrying out any functions of the authority, which consist of the provision of any form of social security, healthcare, and any other form of social protection or any form of social advantage.

Public authority includes any person certain whose functions are functions of a public nature.

#### **Par 16 Organisations relating to religion or belief**

The following exceptions apply to an organisation the purpose of which is:

- To practice a religion or belief;
- To advance a religion or belief;
- To teach the practice or principles of a religion or belief
- To enable persons of a religion or belief to receive any benefit, or to engage in any activity, within the framework of that religion or belief.

*The exception does not apply if the sole or main purpose of the organisation is commercial or in relation to the regulations around education*

Under the exception it shall not be unlawful for an organisation, or for anyone acting on behalf of or under the auspices of such and organisation to which this regulation applies:

- To restrict membership of the organisation
- To restrict participation in activities undertaken by the organisation or on its behalf or under its auspices
- To restrict the provision of goods, facilities and services in the course of activities undertaken by the organisation or on its behalf or under its auspices; or
- To restrict the use or disposal of premises owned or controlled by the organisation.

It will not be unlawful for a minister to restrict participation in activities carried out in the performance of his functions in connection with or in respect of an organisation to which this regulation relates; or to restrict the provision of goods, facilities and services in the course of

activities carried on in the performance of his functions in connection with or in respect of an organisation to which this regulation relates.

These exceptions will only be imposed if:

- it is necessary to comply with the doctrine of the organisation; or
- so as to avoid conflicting with the strongly held religious convictions of a significant number of the religions followers.

This exception will not apply where an organisation makes provision in relation to goods, services and facilities on behalf of a public authority *under the terms of a contract* for provision of that kind made between that authority and an organisation (the purpose of which is outlined above).

#### **Par 21 & 22 Instruction & Pressure to commit unlawful acts**

It will be unlawful for a person to instruct another person to do any act which is unlawful by virtue of any provision contained within regulations 5 to 17 or attempt to procure the doing by him of such an act.

#### **Par 23 Liability of employers**

Anything done by a person in the course of his employment shall be treated for the purposes of these regulations as done by his employer as well as by him, whether or not it was done with the employer's knowledge or approval.

#### **Par 24 Aiding unlawful acts**

A person who knowingly aids another person to do an act made unlawful by these regulations will be treated for the purposes of these regulations as himself doing the same kind of unlawful act.

#### **Par 26 Charities**

It will be possible to provide benefits only to persons of a particular sexual orientation if in pursuance of a charitable instrument and the restriction of benefits to persons of that sexual orientation is imposed by reason of or on the grounds of the provisions of the charitable instrument.

#### **Par 27 – 34 Equality Commission Northern Ireland**

The Equality Commission will work towards the elimination of discrimination and harassment; promote equality of opportunity between persons of discrimination & harassment; and to keep under review the working of these Regulations.

The Commission may make financial assistance to any organisation concerned with the promotion of equality of opportunity between persons of different sexual orientations.

The Commission may issue codes of practice containing such practical guidance as the Commission thinks fit for the elimination of discrimination and harassment in the field of housing; or the promotion of equality of opportunity in the field of housing between persons of different sexual orientations.

The Commission may if it thinks fit or if required by the Department conduct a formal investigation for any purpose in carrying out these duties.

**Par 36 Claims under regulations 5 – 17**

A claim may be made the subject of civil proceedings in like manner as any other tort for breach of statutory duty.

In respect of regulations 3 (1)(b) or 3 (1)(c), no award of damages shall be made if the respondent proves that the requirement or condition in question, or as the case may be provision, criteria or practice, was not applied with the intention of treating the claimant unfairly on the grounds of sexual orientation.

**Par 37 – 41 Non-discrimination notices & persistent discrimination**

A 'non-discrimination notice' may be served on a person whom the Commission is satisfied is committing or has committed an lawful act of discrimination or harassment; and an act contravening regulation 19,20,21 or 22.

A person may appeal a 'non-discrimination notice' no later than six weeks after it has been served.

The Commission shall establish and maintain a register or non-discrimination notices which have become final.