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12/11/2004 15:25

To: Ruth Fiddis/OFMDFM/DFP@DFP, Paul
Naylor/OFMDFM/DFP@DFP
Subject: SEB Response - Ministry of Defense



"Harkness, Joy Miss"
<Joy.Harkness809@mod.uk>
12/11/2004 14:27

To: <Ivan.Millen@ofmdfmi.gov.uk>
cc:
Subject: Single Equality Bill

Ivan,

Please see attached our comments on the consultation paper.

If I can be of any assistance please do not hesitate to get in touch,

Many thanks,

Joy Harkness,
SPPolEOAT

02078078110

Dear Joy

I refer to your E mail to Linda McAllister.

The position on the age Regulations for Northern Ireland is that they will come into operation in December 2006. They will implement our obligations under the EU Employment Framework Directive.

The single Equality Bill will come into force after that, current projections indicate mid to late 2007. It would take on board the age regulations and depending on the current consultation responses and Minister's consideration, possibly also include "age" , discrimination in the provision of goods, facilities and services.

If you have any specific age- related questions, Carol McCabe is working on the Regulations and her number is 028 90 520080, E mail carol.mccabe@ofmdfmi.gov.uk

Trust this is helpful.

Ivan

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From Joy Harkness, Administrative Trainee Equal Opportunities



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Reference: D/SPPol/EO48/1/9/2

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Date: ----- 8 Nov 04

NORTHERN IRELAND SINGLE EQUALITY BILL CONSULTATION

References:

- A. Consultation paper on the Single Equality Bill for Northern Ireland.
- B. Letter from Mike Cotton to Linda McAllister dated 25 Nov 03.

Dear Ivan,

1. Thank you for sight of the consultation paper referenced above, which I have circulated for comment. At this stage we would like to reiterate our position regarding the Armed Forces' exemptions and suggest that these are clearly spelled out in the Bill. In addition, we are concerned that the inclusion of a clause prohibiting discrimination on the grounds of marital status would have significant financial implications for the MOD and impact on operational effectiveness. As I am sure you will understand, we would wish to reserve our position on whether any further exemptions may be necessary until we have seen the full text of the Bill.

ARMED FORCES' EXEMPTIONS

2. As outlined in our communication of 25 November 03 (reference A), social and employment legislation generally applies to the Forces, except where exemptions are required in order to safeguard operational effectiveness. The Armed Forces have a special position in relation to, and/or exemptions from, much of the law governing employment in the UK including contracts of employment, trade union membership, flexible working, working time, sex, disability and (in due course) age discrimination.

Due to the unique role of the Armed Forces, and the overriding need to safeguard operational effectiveness, it is imperative that the Bill contain exemptions in relation to gender, disability age and flexible working. This is also important on the grounds of consistency with the approach adopted to the exemptions in the rest of the UK. To take a different line would mean that the Armed Forces were subject to different provisions in Northern Ireland than elsewhere in the UK.

3. The consultation document states (page 69 paragraph 9) that the Armed Forces' exemptions "are the responsibility of the Westminster Parliament." Our concern was that the Bill would remain silent regarding the Armed Forces' exemptions, which could lead to confusion as to whether or not the exemptions have been preserved. However, we have been assured this reference simply means that the Northern Ireland Assembly would not be able to legislate on these matters. To avoid confusion, we advise that the draft bill explicitly set out the Armed Forces' exemptions on gender, disability and flexible working. The Age Regulations for Northern Ireland, which will come into force in December 2006, will contain an exemption for the Armed Forces. This exemption should, in due course, be mirrored in the SEB.

DISCRIMINATION ON THE GROUNDS OF MARITAL STATUS

4. The consultation document suggests introducing protection from discrimination on the grounds of marital status (page 26 paragraph 19). Any proposal to make unlawful discrimination on the grounds of marital status would have significant financial implications for the MOD and impact on operational efficiency. Current departmental policy uses marital status as the determinant for certain benefits and entitlements for Service personnel. It is consistent with the policies of many other authorities, both at home and abroad. Benefits and allowances available to married personnel include subsidised housing (Service Families Accommodation), educational allowances for dependent children, and relocation allowances. The need for these provisions is driven by the requirement for Armed Forces personnel and their families to be mobile.

5. To remove the distinction between benefits and entitlements for married personnel and single personnel would present the Department with unpalatable financial decisions, which may lead to levelling down, or withdrawing, some existing married benefits and allowances to afford a new category of entitled personnel. This is likely to have serious negative effects and consequences for morale and retention, which would impact upon operational effectiveness.

6. If you require any further information please do not hesitate to contact me.

Yours Sincerely,

Joy Harkness

Service Personnel Policy – Equal Opportunities
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