

# **EQUALITY IMPACT ASSESSMENT**

## **IMPLEMENTATION OF EU RACE DIRECTIVE**

### **Background**

In its consultation document “Promoting Equality of Opportunity – Implementing EU Equality Obligations in Northern Ireland” which was issued in February 2003 the Office of the First Minister and deputy First Minister sought views on the equality impact of proposals to implement certain EC Directives and decisions of the European Court of Justice. The completion of the equality impact process, i.e. the decision by this Department and the publication of the results of the impact assessment, relates only to the proposals to implement the EC Race Directive. Final decisions have yet to be made on the other proposals – the implementation of the Employment Framework Directive and decisions of the European Court of Justice. These will be the subject of a separate statement of results.

### **Policy**

The policy aim is to ensure that the Race Directive is implemented in Northern Ireland. The Race Directive lays down a framework for combating discrimination on the grounds of racial or ethnic origin in employment, vocational training, education, social protection, social advantages and access to and supply of goods and services including housing. To a large extent these are areas which are currently covered by existing legislation – the Race Relations (Northern Ireland) Order 1997 (“the 1997 Order”). The Department is obliged to amend the 1997 Order so that it complies with the Directive. This will be done through two separate pieces of subordinate legislation – the Race Relations Order (Amendment) Regulations to be made under powers conferred by section 2(2) of the European Communities Act 1972 and the Race Relations Order (Seamen Recruited Abroad) Order which will be made under existing powers contained in the 1997 Order.

## **Consultation**

The main points raised in response to the Race element of the consultation were that the amendments should be applied to the grounds of colour and nationality, that Travellers should be explicitly included and that the Regulations should cover all public functions, social protection and social advantages, office holders and public appointments. With the exception of extending the amendments to the grounds of colour and nationality these points have been taken on board and are included in the Regulations. As was pointed out in the Consultation Document the Race Directive does not cover the ground of colour and specifically excludes nationality. To apply amendments to these two grounds in the Regulations would exceed the powers conferred by section 2(2) of the European Communities Act 1972.

The consultation document sought views specifically on whether Article 11 of the 1997 Order should be repealed so far as it relates to the grounds covered by the Directive. Article 11 provides an exception from the employment provisions of the 1997 Order when an employer is recruiting seafarers from abroad to work on UK Registered ships. The majority of those who responded to this question agreed that Article 11 should be repealed in relation to the grounds covered by the Directive ie race or ethnic or national origins. In line with policy in GB and because this amendment is being made under existing powers rather than European Community Act powers, the Department is also removing the exception in respect of the grounds of colour. This means that the only ground on which discrimination in employment will not be outlawed is nationality and the only matter not covered by the discrimination provisions is pay.

## **Conclusion**

The Department is satisfied that the combined effect of the Regulations and the Order properly implements the EC Race Directive. They will enhance protection for people of different racial or ethnic or national origins and, although not applying to the grounds of colour (except in the case of the Order) or nationality, nevertheless there will be no adverse impact to people on either of those grounds – the existing protection provided by the 1997

Order will still apply, nor will there be any adverse impact on any of the other section 75 groups.

As stated in the consultation document the forthcoming single Equality Bill will provide a means for considering the harmonisation of the law across all of the racial groups covered by the 1997 Order.

**OFFICE OF THE FIRST MINISTER AND DEPUTY FIRST MINISTER**

16 July 2003

## **RACE: OUTCOME OF CONSULTATION**

### **Employment and training for those not ordinarily resident in Northern Ireland.**

*Consultation question 2.1 Do you think this provision should be repealed so far as it relates to discrimination on grounds of race or ethnic or national origins?*

A majority supported the proposed repeal. In opposing the repeal 1 public body expressed concerns about the possible effect on overseas training activities such as the Overseas Doctors Training Scheme while another public body thought there might be potential for abuse of the new procedure in practice.

### **Statistical details**

16 respondents answered the question (response rate = 43%).  
Of these 9 (56%) supported the proposed repeal with 5 (31%) opposed to it. 2 (13%) were unsure.

### **Seamen recruited abroad**

*Consultation question 2.2 Do you think that Article 11 of the RRO, which provides an exception for seamen recruited outside Northern Ireland, should be repealed so far as it relates to the grounds covered by the Race Directive?*

A majority supported the proposed repeal. No significant points were raised.

### **Statistical details**

15 respondents answered the question (response rate = 38%).  
Of these 8 (53%) supported the repeal, 1 (7%) disagreed with it and the 6 (40%) were unsure.

### **Charities as providers of goods and services**

*Consultation question 2.3 Do you agree that the blanket exception for charities as providers of goods and services should be repealed?*

A significant majority supported the proposed repeal. In supporting the repeal one respondent highlighted the importance of guidance and support for charities.

### **Statistical details**

18 respondents answered the question (response rate = 49%).  
Of these 12 (67%) supported the repeal, 4 (22%) disagreed with it and 2 (11%) were unsure.

*Consultation question 2.4 Should a provision on positive action, i.e. action designed to compensate for disadvantage, be retained so as to allow charities to continue to provide support where appropriate?*

An overwhelming majority supported the inclusion of the provision on positive action. In supporting positive action one voluntary organisation called for the inclusion of a new provision to reflect the concept of positive action as covered by the Race Directive. Another respondent thought that charities should be required to define the basis on which any positive action is taken.

### **Statistical details**

15 respondents answered the question (response rate = 41%).  
Of these 13 (87%) agreed, 1 was unsure and 1 disagreed.

## **Disposal and management of small dwellings**

*Consultation question 2.5 Do you agree that the exception in the RRO which permits landlords who do not share facilities with their tenants to discriminate should be repealed in relation to the grounds covered by the Directive?*

A large majority supported the repeal. No significant comments were raised.

### **Statistical details**

13 respondents answered the question (response rate= 35%).

Of these 9 (69%) agreed with the repeal, 1 (8%) disagreed and 3 (23%) were unsure.

## **Acts done under statutory authority**

*Consultation question 2.6 Are there any specific instances where an exception might be justified?*

A majority thought that exceptions could not be justified. Legislation to meet needs of particular racial groups e.g. Traveller's children and education was cited by one voluntary organisation as an example where discrimination is permitted.

### **Statistical details**

15 respondents answered the question (response rate = 41%).

Of these 9 (60%) agreed that specific exception could not be justified, 3 (20%) thought that specific exceptions could be justified and 3 (20%) were unsure.

## OTHER COMMENTS

### COMMENTS RECEIVED

Amendments should apply to colour and nationality

Travellers should be explicitly covered by the Regulations

Regulations should extend to trade organizations

Regulations should be applied to public authorities and should cover social protection and social advantages

Public appointments, political office-holders and volunteers should be brought within scope

Organisations etc should have standing to act on behalf of complainants

### DEPARTMENT'S RESPONSE

Not a Directive requirement and not possible under the legislation powers available. Will be considered in relation to the single Equality Bill.

The Regulations now amend the Race Order to provide that the new provisions will apply to Irish Travellers.

Article 13 of the Order deals with trade organizations. The amendments introduced by the Regulations are applied to that Article.

Regulations now clarify that public authority functions which are within the scope of the Directive are covered.

Public appointments and office-holders are covered by the Regulations. However political offices and unpaid volunteers are outside the scope of the Directive and are therefore not covered.

Under existing rules of procedure there is no obstacle to organisations supporting a complainant in proceedings.