

Subsidiary Legislation made under s.82.

Equal Opportunities (Self-employed Workers) Regulations 2012

LN.2012/135

Commencement **4.10.2012**

Transposing:
Directive 2010/41/EU

ARRANGEMENT OF REGULATIONS

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2006-37

Equal Opportunities

2012/135

Equal Opportunities (Self-employed Workers) Regulations 2012

In exercise of the powers conferred on it by section 82 of the Equal Opportunities Act 2006 and for the purpose of transposing into the law of Gibraltar Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC, the Government has made the following Regulations—

Title and commencement.

1. These Regulations may be cited as the Equal Opportunities (Self-employed Workers) Regulations 2012 and come into operation on the day of publication.

Application of these Regulations.

2.(1) These Regulations apply to—

- (a) self-employed workers, namely all persons pursuing a gainful activity for their own account; and
- (b) the spouses of self-employed workers not being employees or business partners, where they habitually participate in the activities of the self-employed worker and perform the same tasks or ancillary tasks.

(2) These Regulations shall not affect the implementation of the principle of equal treatment between men and women in the access to and supply of goods and services provided for in the Equal Opportunities Act 2006.

Discrimination.

3.(1) Direct discrimination takes place where one person is treated less favourably on grounds of sex than another is, has been or would be, treated in a comparable situation.

(2) Indirect discrimination takes place where an apparently neutral provision, criterion or practice would put persons of one sex at a particular disadvantage compared with persons of the other sex, unless that provision, criterion or practice is objectively justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary.

Harassment.

4.(1) Harassment takes place where unwanted conduct related to the sex of a person occurs with the purpose, or effect, of violating the dignity of that person, and of creating an intimidating, hostile, degrading, humiliating or offensive environment.

(2) Sexual harassment takes place where any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment.

Principle of equal treatment.

5.(1) No person shall, whether directly or indirectly, discriminate against another on grounds of sex, for instance in relation to the establishment, equipment or extension of a business or the launching or extension of any other form of self-employed activity.

(2) In the areas referred to in subregulation (1), harassment and sexual harassment shall be deemed to be discrimination on the grounds of sex and prohibited under subregulation (1).

(3) A person's rejection of, or submission to, any conduct covered by this regulation may not be used as a basis for a decision affecting that person.

(4) In the areas covered by subregulation (1), an instruction to discriminate against persons on grounds of sex shall be deemed to be discrimination.

Positive action.

6. Nothing in these Regulations shall render unlawful any act done for the purpose of preventing or compensating for disadvantages linked to sex.

Remedies.

7. All rights, remedies and procedures set out in Part IX – Remedies, of the Equal Opportunities Act 2006 shall apply where discrimination or harassment takes place in contravention of these Regulations, as though such a contravention had occurred under that Act.

Gender mainstreaming.

8. Section 80 of the Equal Opportunities Act 2006 relating to the duty to actively take into account the objective of equality between men and women shall apply in respect of the areas referred to in regulation 5(1).