Draft Legislation: *This is a draft item of legislation and has not yet been made as a UK Statutory Instrument. This draft has been replaced by a new draft, The Employment Equality (Repeal of Retirement Age Provisions) Regulations 2011 ISBN 978-0-11-150773-5*

Draft Regulations laid before Parliament under section 2(2) of the European Communities Act 1972, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2011 No. 0000

EQUALITY

The Employment Equality (Repeal of Retirement Age Provisions) Regulations 2011

Made - - - -	*2011*
Coming into force - -	*6th April 2011*

A draft of these Regulations was laid before Parliament in accordance with section 2(2) of the European Communities Act 1972(**1**) and approved by a resolution of each House of Parliament.

The Secretary of State is a Minister designated(**2**) for the purposes of section 2(2) of the European Communities Act 1972 in relation to discrimination.

The Secretary of State, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972, makes the following Regulations.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Employment Equality (Repeal of Retirement Age Provisions) Regulations 2011 and come into force on 6th April 2011.

(2) These Regulations extend to England and Wales and Scotland.

Amendments to the Equality Act 2010

2.—(1) Schedule 9 to the Equality Act 2010 (work: exceptions relating to age)(**3**) is amended as follows.

(2) Omit paragraph 8 (retirement).

(3) Omit paragraph 9 (applicants at or approaching retirement age).

(4) For paragraph 14 (life assurance), substitute—

(**1**) 1972 c.68.
(**2**) S.I. 2002/1819.
(**3**) 2010 c.15.

"**Insurance etc.**

14.—(1) It is not an age contravention for an employer to make arrangements for, or afford access to, the provision of insurance or a related financial service to or in respect of an employee for a period ending when the employee attains whichever is the greater of—

(a) the age of 65, and

(b) the state pensionable age.

(2) It is not an age contravention for an employer to make arrangements for, or afford access to, the provision of insurance or a related financial service to or in respect of only such employees as have not attained whichever is the greater of—

(a) the age of 65, and

(b) the state pensionable age.

(3) Sub-paragraphs (1) and (2) apply only where the insurance or related financial service is, or is to be, provided to the employer's employees or a class of those employees—

(a) in pursuance of an arrangement between the employer and another person, or

(b) where the employer's business includes the provision of insurance or financial services of the description in question, by the employer.

(4) The state pensionable age is the pensionable age determined in accordance with the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995(**4**).".

Amendments to the Employment Rights Act 1996

3.—(1) The Employment Rights Act 1996(**5**) is amended as follows.

(2) In section 98(**6**) (fairness of dismissals: general)—

(a) omit subsections (2)(ba), (2A) and (3A), and

(b) in subsection (4), for "In any other case where" substitute "Where".

(3) Omit sections 98ZA to 98ZH (retirement dismissals)(**7**).

(4) In section 105 (redundancy) omit subsection (7IA)(**8**).

(5) In section 108 (qualifying period of employment) omit subsection (3)(n)(**9**).

(6) In section 112 (remedies for unfair dismissal: orders for compensation), omit subsections (5) and (6)(**10**).

(7) In section 120 (basic award in certain cases), omit subsections (1A) and (1B)(**11**).

(**4**) 1995 c.26; paragraph 1 of Schedule 4 was amended by the State Pension Credit Act 2002 (c.16), section 14, Schedule 2, Part 3, paragraph 39; the Welfare Reform Act 2007 (c.5) section 28(1), Schedule 3, paragraph 13; and the Pensions Act 2007 (c.22), section 13(1), Schedule 3, paragraph 4.
(**5**) 1996 c.18.
(**6**) Relevant amendments to section 98 have been made by S.I. 2006/1031, Schedule 8, Part 1, paragraphs 21 and 22.
(**7**) Subsections 98ZA to 98ZH inserted by S.I. 2006/1031, Schedule 8, Part 1, paragraphs 21 and 23.
(**8**) Subsection (7IA) inserted by S.I. 2007/825.
(**9**) Paragraph (n) inserted by S.I. 2006/1031, Schedule 8, Part 1, paragraphs 21 and 24.
(**10**) Subsection (5) was inserted by the Employment Act 2002 (c.22), section 34(1) and (3) and amended by S.I. 2006/1031, Schedule 8, Part 1, paragraphs 21 and 26. Subsection (6) was inserted by the Employment Act 2002 (c.22), section 34(1) and (3).
(**11**) Subsection (1A) was inserted by the Employment Act 2002 (c.22), section 34(1) and (6) and amended by S.I. 2006/1031, Schedule 8, Part 1, paragraphs 21 and 28 and the Employment Act 2008 (c.24), section 20, Schedule, Part 1. Subsection (1B) was inserted by the Employment Act 2002 (c.22), section 34(1) and (6).