VERŻJONI ELETTRONIKA

L.N. 417 of 2012

EQUALITY OF MEN AND WOMEN ACT (CAP. 456)

Access to Goods and Services and their Supply (Equal Treatment) (Amendment) Regulations, 2012

IN exercise of the powers conferred by article 20 of the Equality of Men and Women Act, the Minister for Justice, Dialogue and the Family has made the following regulations:-

Citation and scope.

S.L. 456.01

1. (1) The title of these regulations is the Access to Goods and Services and their Supply (Equal Treatment) (Amendment) Regulations, 2012, and these regulations shall be read and construed as one with the Access to Goods and Services and their Supply (Equal Treatment) Regulations, hereinafter referred to as "the principal regulations".

(2) These regulations give effect to the Communication from the European Commission (22.12.2011 C(2011) 9497) containing Guidelines on the application of Council Directive 2004/113/EC to insurance, in the light of the judgment of the Court of Justice of the European Union in Case C-236/09 (Test-Achats).

Amends regulation 5 of the principal regulations

2. Regulation 5 of the principal regulations shall be amended as follows:

(a) sub-regulation (1) thereof shall be substituted by the following:

"(1) Subject to sub-regulation (2), the use of sex as a factor in the calculation of premiums and benefits for the purposes of insurance and related financial services shall not result in differences in the premiums and benefits relating to an individual with respect to insurance contracts concluded after 21st December 2007 where the policyholder is an individual.";

(b) sub-regulations (2) and (3) thereof shall be renumbered as sub-regulations (3) and (4) respectively;

(c) immediately after sub-regulation (1) thereof, there shall be added the following new sub-regulation:

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"(2) The provisions of sub-regulation (1) shall not apply with respect to insurance contracts concluded before 21st December 2012, where the use of sex is a determining factor in the assessment of risk, if the resulting differences in the premiums and benefits relating to an individual are proportionate, and where this assessment is based on relevant and accurate actuarial statistical data.";

(d) in sub-regulation (3) thereof, as re-numbered, for the words "Providers of insurance" there shall be substituted the words "For the purposes of sub-regulation (2), providers of insurance"; and

(e) immediately after sub-regulation (4) thereof, as re-numbered, there shall be added the following new sub-regulation:

"(5) For the purposes of sub-regulation (2), an insurance contract shall be deemed to have been concluded before 21st December 2012 notwithstanding that:

(a) the said insurance contract is extended automatically on or after 21st December 2012 on the basis of terms and conditions in an insurance contract concluded before 21st December 2012 (hereinafter referred as a "pre-existing contract"); or

(b) the said insurance contract is amended on or after 21st December 2012 on the basis of terms and conditions in a pre-existing contract, where the consent of the policyholder is not required; or

(c) the said insurance contract is a top-up or follow-on insurance policy whose terms were agreed in a pre-existing contract, where such insurance contract is activated by the unilateral decision of the policyholder; or

(d) a pre-existing contract is amended on or after 21st December 2012 on the request and with the consent of the policyholder, on condition that such amendment does not result in any increase in premium; or

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(e) the said insurance contract is part of a scheme under which an insurance company transfers to another insurance company all rights and obligations arising from pre-existing contracts in accordance with the provisions of the Insurance Business Act.".

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