

AGE DISCRIMINATION (GOODS, FACILITIES AND SERVICES) BILL

EXPLANATORY AND FINANCIAL MEMORANDUM

INTRODUCTION

1. This Explanatory and Financial Memorandum has been prepared by Claire Sugden MLA (the Bill Sponsor) in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.
2. The Memorandum should be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill, and where a clause or any part of a clause does not seem to require an explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

3. The Age Discrimination (Goods, Facilities and Services) Bill seeks to prohibit unjustified discrimination, harassment and victimisation on the ground of age in the provision of goods, facilities and services. While age discrimination is already prohibited in employment, there are currently no equivalent protections outside the workplace in Northern Ireland. This leaves individuals vulnerable to unjustified differential treatment in areas such as healthcare, insurance, housing, retail, and leisure. This Bill aims to close the legislative gap by establishing clear legal protections to ensure fairness and equality for those of different age groups. In so doing, the Bill aims to foster a more inclusive society in which age does not limit access to services or diminish quality of life.
4. While Northern Ireland equality law prohibits discrimination on grounds including race, sex and disability in the provision of goods, facilities and services, there is no equivalent legislative protection on the ground of age. This omission has been identified for many years by organisations including the Equality Commission for Northern Ireland (ECNI), the Commissioner for Older People for Northern Ireland (COPNI), the Northern Ireland Commissioner for Children and Young People (NICCY) and Age NI as a significant gap in the equality framework.
5. Northern Ireland is currently the only region within the UK and Ireland that does not have legal protections for age discrimination in the provision of goods, facilities and services. Comparable protections already exist in Great Britain under the Equality Act 2010 and in Ireland under the Equal Status Act 2000. Both pieces of legislation demonstrate that protection against age discrimination can be successfully implemented while allowing for justified exceptions. These existing models provide confidence that extending protections here is both practical and effective. This also provides an opportunity for Northern Ireland to learn from the strengths and weaknesses of both the

Equality Act 2010 and the Equal Status Act 2000, adopting a best-practice approach while avoiding limitations identified in those models.

6. In Great Britain, protection against unjustifiable age discrimination in the provision of goods, facilities and services has been in place since 2012 under the Equality Act 2010, supported by the Equality Act 2010 (Age Exceptions) Order 2012. While age is a protected characteristic, the Act adopts a distinct approach by permitting direct age discrimination where it can be objectively justified as a proportionate means of achieving a legitimate aim.
7. In the Republic of Ireland, the Equal Status Act 2000 (as amended) prohibit discrimination in the provision of goods and services on grounds including age. The legislation similarly allows for age-based distinctions in defined circumstances through a series of explicit statutory carve-outs. In particular, differential treatment of persons under the age of 18 is generally not regarded as discrimination on the age ground, subject to limited exceptions such as motor insurance.
8. Commitments to address the absence of age discrimination protections in the provision of goods, facilities, and services have appeared in successive government strategies and agreements, including the Programme for Government (2011–2015), the Active Ageing Strategy (2016–2021), and the New Decade, New Approach agreement (2020).
9. Parliamentary records from the early 2000s show that Members of Parliament raised the issue through written questions to Ministers, highlighting the lack of age discrimination protection outside employment and asking whether legislative reform was under consideration. Ministers recognised the significance of the issue but indicated that further work was required before extending protections to goods, facilities and services.
10. Policy development accelerated during the 2011–2016 mandate. Committee scrutiny in 2013 and 2014 examined how age discrimination could be prohibited while still allowing legitimate age-based distinctions, particularly in health, social care and financial services.
11. In 2015, the Executive Office launched a public consultation on proposals to legislate, with an intention initially to cover individuals aged 16 and over. Responses indicated broad support from stakeholders; however, progress stalled due to disagreement within the Executive over the scope of protection rather than the principle of legislating.
12. No Bill was introduced before the end of the 2011–2016 mandate. Assembly debates in 2015 and early 2016 acknowledged frustration at the growing divergence with other jurisdictions and the failure to deliver on the Programme for Government commitment. The collapse of the Executive in 2017 halted further development, leaving Northern Ireland without age discrimination protection in goods, facilities and services while equivalent frameworks were already embedded in Great Britain and Ireland.
13. In developing this Bill, the Bill Sponsor gave careful consideration to how age discrimination protections operate in practice in other jurisdictions.
14. Evidence presented to the All-Party Group on Ageing and Older People, together with comparative analysis of the Equality Act 2010 (GB) and Equal Status Act 2000 (Ireland),

reinforces that legislative reform remains the only practical and proportionate means of closing the current gap in protections.

15. This Bill therefore seeks to introduce a clear statutory framework to protect people from unjustifiable age discrimination in the provision of goods, facilities and services, while allowing proportionate exceptions where distinctions are evidence-based and in the public interest.

CONSULTATION

16. The Bill Sponsor wrote to The Executive Office on 16 September 2024, and the First and deputy First Ministers confirmed that there were no plans to introduce legislation in this area and that no similar proposals were currently under development.
17. The Bill Sponsor then conducted an online consultation which opened on 24 March 2025 and closed on 20 June 2025. A total of 68 responses were received including from statutory bodies, representative organisations, civil society groups, trade unions, local councils, public bodies, private sector organisations and individual members of the public. Contributors included ECNI, COPNI, NICCY, Age NI, the Law Society of Northern Ireland, the National Society for the Prevention of Cruelty to Children (NSPCC), health sector organisations and private businesses.
18. In addition to written submissions, direct engagement meetings were held with a range of key stakeholders, including ECNI, COPNI, NICCY and Age NI. These discussions provided an opportunity to explore specific issues in greater depth and to consider the practical implications of legislative change alongside the policy intent of the Bill.
19. ECNI and NIHRC have consistently emphasised that the practical impact of this gap is a lack of enforceable legal remedies for individuals who experience age-based disadvantage in accessing services, in contrast to the position in Great Britain. This absence of protection has been identified as contributing to legal uncertainty, inconsistent treatment across jurisdictions, and reduced clarity for individuals seeking to understand or assert their rights. On this basis, both ECNI and NIHRC have argued that legislative intervention is required to address the identified rights gap and ensure equality of protection.
20. Direct engagement was also undertaken with a number of private sector stakeholders who may be impacted by the proposed legislation, including representatives from the Northern Ireland Hotels Federation, the Association of British Insurers and Property mark. These meetings provided valuable insight into service provider concerns, particularly in relation to the insurance sector, where stakeholders highlighted the potential risk that additional or unclear regulatory requirements could affect market participation. Concerns were raised that, if not carefully framed, this could lead to reduced provision or increased premiums, reinforcing the importance of proportionate drafting and a balanced implementation approach.
21. Support for the proposed legislation was expressed across equality and human rights bodies, organisations representing older and younger people, charities, voluntary and community organisations, trade unions, the legal profession, local authorities, public

bodies and private sector interests. Individual respondents frequently referred to personal experience of age-related exclusion, particularly in relation to access to healthcare, financial products, digital services and everyday commercial transactions. Any concerns primarily related to operational detail and implementation. These concerns have been taken into account during the development of the Bill. For example, there was consistent agreement that the legislation should be supported by guidance, allow for public awareness activity and provide clarity around permitted exceptions.

22. Overall, the consultation confirmed a strong mandate for legislative reform and the prohibition of unjustified age discrimination on the ground of age in connection with the provision of goods, facilities, and services.

OPTIONS CONSIDERED

Option 1 - Do Nothing, and continue with the status quo i.e. take no legislative action. Under this option people in Northern Ireland would continue to lack legal protection against discrimination on the basis of age in the provision of goods, facilities and services.

Option 2 - Legislate to prohibit unjustified discrimination, harassment and victimisation on the ground of age in connection with the provision of goods, facilities and services.

Following consultation, advice and deliberation, the Bill Sponsor considers that option 2 is the most appropriate method by which to achieve the policy objectives.

OVERVIEW

23. The Bill makes provision for the prohibition of unjustified discrimination, harassment and victimisation on the ground of age in connection with the provision of goods, facilities, and services.
24. The Bill comprises 9 Parts. It has 50 clauses and 2 schedules. A commentary on each of the clauses follows below.

COMMENTARY ON CLAUSES

PART 1 – PROTECTED CHARACTERISTIC OF AGE

Clause 1: Protected characteristic of age

This clause establishes age as a protected characteristic for the purposes of the Bill. It provides that a reference to a person who has a particular protected characteristic is a reference to a person of a particular age group, and that persons who share a protected characteristic are persons of the same age group. An age group is defined by reference to a particular age or a range of ages. The clause also provides that any reference to age includes assumed age. This clause is based on sections 4 and 5 of the Equality Act 2010 and expanded to include assumed age.

PART 2 – PROHIBITED CONDUCT

Clause 2: Discrimination on the ground of age

This clause defines discrimination on the ground of age. It sets out three forms of discrimination: direct discrimination, where a person treats another less favourably on the ground of their age; indirect discrimination, where a provision, criterion or practice is applied equally but puts persons of a particular age group at a disadvantage; and a third form of indirect discrimination addressing persons who are not of a particular age group but suffer substantively the same disadvantage as those within that group. The clause provides a defence: a person does not discriminate if they can show that the treatment is a proportionate means of achieving a legitimate aim. This clause is based on sections 13 and 19 of the Equality Act 2010 and Regulation 3 of the Employment Equality (Age) Regulations (Northern Ireland) 2006.

Clause 3: Harassment on the ground of age

This clause defines harassment on the ground of age. A person harasses another where, on the ground of age, they engage in unwanted conduct which has the purpose or effect of violating that person's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. In deciding whether conduct has that effect, the perception of the person affected, the other circumstances of the case, and whether it is reasonable for the conduct to have that effect must all be taken into account. This clause is based on section 26 of the Equality Act 2010.

Clause 4: Victimisation on the ground of age

This clause defines victimisation on the ground of age. A person victimises another if they subject that person to a detriment because they have done, or the first person believes they have done or may do, a protected act. Protected acts include bringing proceedings under the Bill, giving evidence or information in connection with such proceedings, doing anything for the purposes of or in connection with the Bill, or making an allegation of a contravention of the Bill. Giving false evidence or making a false allegation in bad faith is not a protected act. This clause applies only where the person subjected to a detriment is an individual. This clause is based on Regulation 4 of the Employment Equality (Age) Regulations (Northern Ireland) 2006.

Clause 5: Instructions to discriminate

This clause makes it unlawful for a person who has authority over another, or in accordance with whose wishes that other person is accustomed to act, to instruct that person to do any act which is unlawful under Part 2 of the Bill. It also provides that a person discriminates against another if they treat that person less favourably because that person has not carried out such an instruction, or has complained about such an instruction. This clause is based on Regulation 5 of the Employment Equality (Age) Regulations (Northern Ireland) 2006.

Clause 6: Pressure to discriminate

This clause makes it unlawful to induce, or attempt to induce, a person to do any act which contravenes Part 2 of the Bill. An attempted inducement falls within this provision even if it

is not made directly to the person in question, provided it is made in such a way that that person is likely to hear of it. This clause is based on article 31 of the Race Relations (Northern Ireland) Order 1997.

Clause 7: Liability of employers and principals

This clause addresses the liability of employers and principals. Anything done by a person in the course of their employment is treated as also done by the employer, and anything done by an agent for a principal with the authority of the principal is treated as also done by the principal. It does not matter whether the thing is done with the employer's or principal's knowledge or approval. However, it is a defence for an employer to show that they took all reasonable steps to prevent the employee from doing the act in question, or from doing anything of that description. This clause is based on section 109 of the Equality Act 2010.

Clause 8: Aiding unlawful acts, liability of employees and agents

This clause deals with the liability of persons who knowingly aid another to do an unlawful act under the Bill. A person who knowingly aids another to commit an unlawful act is treated as doing an unlawful act of the like description. The clause also provides that an employee or agent who does something treated as having been done by their employer or principal contravenes the Bill if that act amounts to a contravention by the employer or principal. A person does not contravene this clause if they reasonably rely on a statement by their employer or principal that the act is not a contravention of the Bill. A person who knowingly or recklessly makes such a statement which is false or misleading in a material respect commits an offence, punishable on summary conviction by a fine not exceeding level 5 on the standard scale. This clause is based on sections 110 and 112 of the Equality Act 2010.

PART 3 – DISCRIMINATION IN THE PROVISION OF GOODS, FACILITIES AND SERVICES

Clause 9: Application of this Part

This clause limits the application of Part 3 of the Bill (which deals with discrimination in the provision of goods, facilities and services) so that it does not apply to persons who have not attained the age of 16.

Clause 10: Provision of services, etc.

This clause sets out the core prohibition on discrimination in the provision of services. It provides that a service-provider concerned with the provision of a service to the public or a section of the public must not discriminate against a person by refusing or deliberately omitting to provide them with that service. The clause prohibits discrimination in the terms on which a service is provided, terminating the provision of a service, or subjecting a person to any other detriment. It also prohibits harassment and victimisation in the provision of services. The clause defines the provision of services broadly, including access to places open to the public, hotel accommodation, banking and insurance facilities, educational facilities, entertainment and recreation, transport, club services available to the public, and the services of any profession, trade, or public authority. It also extends to the exercise of public

functions. This clause is based on section 29 of the Equality Act 2010 and article 21 of the Race Relations (Northern Ireland) Order 1997.

PART 4 – EXCEPTIONS FROM PART 3

Clause 11: Extent of Part 3

This clause sets out the territorial extent of Part 3. Clause 10 does not apply to goods, facilities or services outside Northern Ireland, with certain exceptions relating to travel facilities and activities on ships, aircraft or hovercrafts registered in Northern Ireland or the United Kingdom. It also provides that the Bill does not render unlawful any act done in or over a country outside the United Kingdom for the purpose of complying with the laws of that country. This clause is based on article 27 of the Race Relations (Northern Ireland) Order 1997.

Clause 12: Positive Action

This clause provides for positive action. Where a person reasonably thinks that persons of a particular age group suffer a disadvantage connected to their age, have different needs, or participate disproportionately low in an activity, the Bill does not prohibit that person from taking proportionate action to address those matters. Regulations may specify actions to which this exception does not apply, and the clause does not enable anything prohibited by other legislation. This clause is based on section 158 of the Equality Act 2010.

Clause 13: Exception for statutory authority

This clause provides an exception for statutory authority. Nothing in the core prohibition on discrimination renders unlawful any act of discrimination done in pursuance of a statutory provision, or in order to comply with a condition or requirement imposed by a Minister of the Crown, Northern Ireland Minister or government department by virtue of a statutory provision. This applies whether the relevant provision was passed before or after the making of the Bill. This clause is based on regulation 49 of the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006.

Clause 14: Exceptions specified by regulations

This clause confers a power on the Department to make regulations specifying circumstances in which differential treatment on grounds of age does not contravene the Bill. Such regulations may make provision about financial services and insurance, health and social care services, age-related concessions and benefits, safeguarding and welfare, sport and physical recreation, and any other appropriate matter. The regulations must require that any excepted treatment is a proportionate means of achieving a legitimate aim and no more than is necessary to achieve that aim. The regulations are subject to the draft affirmative procedure, and the Department must consult the Equality Commission and other appropriate persons before making them.

Clause 15: Financial services

This clause makes supplementary provision about financial services. In making regulations under clause 14 relating to financial services, the Department must have regard to the

principle that differential treatment on grounds of age must be related to the assessment of risk based on actuarial or statistical data or other relevant underwriting or commercial factors, the need to preserve access to financial products and services for persons of all ages, and the desirability of consistency with other parts of the United Kingdom. The regulations may not provide for a blanket exemption for financial services, and any exception must be conditional and evidence-based. The clause defines "financial services" to include banking and savings, credit and lending, insurance and assurance, pensions and annuities, investment services, payment services, and any other financial product or service. This clause is based in part on section 5 of the Equal Status Act 2000.

Clause 16: Small dwellings exception

This clause provides a small dwellings exception. The core prohibition on discrimination does not apply where certain conditions are satisfied relating to the occupier residing on the premises, sharing accommodation with persons who are not members of their household, and the premises being "small premises". The clause defines small premises either as premises where there are not normally more than two other households in addition to the relevant occupier, or where there is not normally residential accommodation for more than six persons in addition to the relevant occupier and their household. This clause is based on article 23 of the Race Relations (Northern Ireland) Order 1997.

Clause 17: Care in the home exception

This clause provides a care in the home exception. The core prohibition does not apply to anything done by a person who takes into their home, and treats as members of their family, children, elderly persons, or persons requiring a special degree of care and attention. This clause is based on article 24 of the Race Relations (Northern Ireland) Order 1997.

Clause 18: The Employment Equality (Age) Regulations (Northern Ireland) 2006 exception

This clause provides an exception for discrimination or harassment which is already rendered unlawful by The Employment Equality (Age) Regulations (Northern Ireland) 2006. The effect is that matters covered by the existing employment provisions are excluded from the services provisions of this Bill. This clause is based on regulation 8 of the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006.

Clause 19: Associations and private members clubs

This clause extends the Bill to associations and private members clubs with 25 or more members. It is unlawful for such an association to discriminate against a non-member in the terms on which it is prepared to admit them to membership, or by refusing to accept their application. It is also unlawful to discriminate against a member or associate in the way it affords access to benefits, by depriving them of membership, varying terms, or subjecting them to any other detriment. The clause does not apply to an association whose main object is to enable benefits to be enjoyed by persons of a particular age. This clause is based on article 24 of the Race Relations (Northern Ireland) Order 1997.

PART 5 – FUNCTIONS OF THE EQUALITY COMMISSION FOR NORTHERN IRELAND

Clause 20: General duty of Commission

This clause places a general duty on the Equality Commission for Northern Ireland to work towards the elimination of discrimination on the ground of age in the provision of goods, facilities and services, to promote equality of access to goods, facilities and services between persons of differing age groups, and to keep under review the working of the Bill. This clause is based on regulation 27 of the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006.

Clause 21: Research, education and assistance to organisations

This clause enables the Commission to undertake or assist research and educational activities which appear necessary or expedient for the purposes of its general duty. The Commission may make charges for educational or other facilities or services, and may give financial or other assistance to organisations concerned with the promotion of equality of opportunity between persons of different ages. This clause is based on regulation 28 of the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006.

Clause 22: Codes of practice

This clause enables the Commission to issue codes of practice containing practical guidance for the elimination of discrimination or harassment which is unlawful under the Bill, and the promotion of equality of access to goods, facilities and services. Before issuing a code of practice, the Commission must prepare and publish a draft, consider representations, and consult with appropriate organisations. This clause is based on regulation 29 of the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006.

Clause 23: Power to conduct formal investigations

This clause empowers the Commission to conduct formal investigations for any purpose connected with carrying out its duties under clause 20. The Commission may appoint additional Commissioners for the purposes of a formal investigation and may delegate functions to nominated Commissioners. This clause is based on regulation 30 of the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006.

Clause 24: Terms of reference

This clause sets out the requirements for the terms of reference of a formal investigation. The terms of reference are to be drawn up by the Commission or, if required by the Department, by the Department after consulting the Commission. Where the terms confine the investigation to named persons and the Commission proposes to investigate a potentially unlawful act, it must inform the person and offer them an opportunity to make representations. This clause is based on regulation 31 of the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006.

Clause 25: Power to obtain information

This clause gives the Commission power to obtain information for the purposes of a formal investigation. The Commission may require any person to furnish written information or to attend and give oral information and produce documents. A person who wilfully alters, suppresses, conceals or destroys a required document, or who knowingly or recklessly makes a false statement, is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale. This clause is based on regulation 32 of the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006.

Clause 26: Recommendations and reports on formal investigations

This clause enables the Commission to make recommendations arising from its findings in a formal investigation. It may make recommendations to any person for changes in their policies or procedures with a view to promoting equality, or to the Department for changes in the law or otherwise. The Commission must prepare a report of its findings, which must be published or made available for inspection. If, however, the investigation has been required by the Department, it is the Department that will cause the report to be published. This clause is based on regulation 33 of the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006.

Clause 27: Restriction on disclosure of information

This clause restricts the disclosure of information given to the Commission in connection with a formal investigation. Disclosure is permitted only in specified circumstances, including by court order, with the informant's consent, in summary non-identifying form, in investigation reports, to Commission staff for proper performance of functions, or for civil or criminal proceedings under the Bill. A person who discloses information in contravention of this provision is guilty of an offence, liable on summary conviction to a fine not exceeding level 5 on the standard scale. This clause is based on regulation 34 of the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006.

PART 6 – ENFORCEMENT

Clause 28: Restriction on proceedings for breach of Act

This clause restricts proceedings for breach of the Bill. Except as provided by the Bill, no proceedings, whether civil or criminal, may lie against any person in respect of an act which is unlawful under the Bill. This does not preclude the making of an application for judicial review. This clause is based on regulation 35 of the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006.

Clause 29: Claims under Part 3

This clause provides the mechanism for claims under Part 3. A person who considers that another has committed an unlawful act of discrimination against them may bring civil proceedings in the county court. Damages may include compensation for injury to feelings. This clause is based on article 66 of the Sex Discrimination (Northern Ireland) Order 1976.

Clause 30: Burden of proof: county court

This clause addresses the burden of proof in county court proceedings. If there are facts from which the court could decide, in the absence of any other explanation, that a person contravened the provision concerned, the court must hold that the contravention occurred. This does not apply if the respondent shows that they did not contravene the provision. This clause is based on section 136 of the Equality Act 2010.

Clause 31: Time limits

This clause sets out time limits for bringing claims. A claim may not be brought after the end of the period of 6 months starting with the date of the act to which the claim relates, or such other period as the court thinks just and equitable. Where an application for assistance from the Commission is made before the end of that 6-month period, the time limit is extended by 2 months. This clause is based on section 118 of the Equality Act 2010.

Clause 32: Issue of non-discrimination notice

This clause enables the Commission to serve a non-discrimination notice where, in the course of a formal investigation, it becomes satisfied that a person is committing or has committed unlawful acts. The notice requires the person not to commit any such acts, and where compliance involves changes in practices or arrangements, to inform the Commission of those changes. Before serving a non-discrimination notice, the Commission must give the person notice that it is minded to issue such a notice, offer an opportunity for representations and take account of any representations made. This clause is based on regulation 37 of the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006.

Clause 33: Appeal against non-discrimination notice

This clause provides a right of appeal against a non-discrimination notice to a county court within 6 weeks of the notice being served. The court may quash a requirement it considers unreasonable, and may direct that the notice be treated as if it contained a replacement requirement. This clause is based on regulation 38 of the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006.

Clause 34: Investigation as to compliance with a non-discrimination notice

This clause enables the Commission to investigate compliance with a non-discrimination notice. If the terms of reference of a formal investigation state that its purpose is to determine whether requirements of a non-discrimination notice have been or are being carried out, the Commission may serve notices for the purposes of the investigation within specified time periods. This clause is based on regulation 39 of the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006.

Clause 35: Register of non-discrimination notices

This clause requires the Commission to establish and maintain a register of non-discrimination notices which have become final. Any person is entitled to inspect the register

during ordinary office hours and take copies of any entry. This clause is based on regulation 40 of the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006.

Clause 36: Persistent discrimination

This clause addresses persistent discrimination. Where, within 5 years of a non-discrimination notice becoming final or a court finding of unlawful discrimination, it appears to the Commission that a person is likely to commit further unlawful acts, the Commission may apply to a county court for an injunction restraining that person. This clause is based on regulation 41 of the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006.

Clause 37: Help for persons in obtaining information etc.

This clause assists persons in obtaining information from persons they consider may have discriminated against them. The person aggrieved may serve questions in a prescribed form (or forms to the like effect). Any replies are admissible as evidence. A question is admissible as evidence if it has been served before the institution of the proceedings and within six months of the act complained of being carried out or if it is served after the institution of the proceedings with the leave of the court and within the period specified by the court. If the respondent deliberately and without reasonable excuse omits to reply within eight weeks, or gives an evasive or equivocal reply, the court may draw such inferences as it considers just and equitable. This clause is based on regulation 42 of the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006.

Clause 38: Enforcement of sections 5 and 6

This clause provides for the enforcement of clauses 5 and 6 (instructions to discriminate and pressure to discriminate) by the Commission. Proceedings may be brought by application to a county court for a decision on whether the contravention occurred, or for an injunction restraining further unlawful acts. This clause is based on regulation 43 of the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006.

Clause 39: Undertakings by persons contravening this Act

This clause enables the Commission to seek undertakings from persons who have committed unlawful discriminatory acts or contravened clauses 5 or 6, for the purpose of preventing further contraventions. Undertakings must be in writing and may specify acts to do or refrain from doing, practices to institute, or changes to existing practices. If a person fails to comply with an undertaking, the Commission may apply to the county court for a decision on compliance. This clause is based on regulation 44 of the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006.

Clause 40: Assistance by the Commission

This clause enables the Commission to provide assistance to individuals who are actual or prospective complainants or claimants in proceedings under the Bill. Assistance may be granted where the case raises a question of principle, where it is unreasonable to expect the applicant to deal with the case unaided, or by reason of any other special consideration. Assistance may include giving advice, procuring settlement, arranging for legal advice or

assistance, or any other appropriate form of assistance. This clause is based on regulation 45 of the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006.

PART 7 – VALIDITY OF CONTRACTS

Clause 41: Unenforceable terms

This clause provides that a term of a contract is unenforceable against a person in so far as it constitutes, promotes or provides for treatment which is prohibited by the Bill. This clause is based on section 142 of the Equality Act 2010.

Clause 42: Removal or modification of unenforceable terms

This clause enables the county court, on application by a person with an interest in a contract, to make an order removing or modifying an unenforceable term. Every person who would be affected must be given notice and an opportunity to make representations. This clause is based on section 143 of the Equality Act 2010.

Clause 43: Contracting out

This clause provides that a term of a contract is unenforceable in so far as it purports to exclude or limit a provision of or made under the Bill. This clause is based on section 144 of the Equality Act 2010.

PART 8 – GUIDANCE AND REGULATIONS

Clause 44: Duty to publish guidance

This clause places a duty on the Department to issue guidance before the commencement of the substantive provisions of the Bill. The guidance must cover the operation of the prohibition of discrimination, the application of the proportionate means test, the scope and effect of any exceptions made by regulations, and examples of lawful and unlawful age-based distinctions. The Department must consult the Commission and other appropriate persons before publishing the guidance. The Department must review the guidance at least every five years and must publish any issued or revised guidance.

Clause 45: Review

This clause requires the Department to carry out a review of the operation of the Bill within 3 years of the substantive provisions coming into operation, and at intervals of not more than 5 years thereafter. The review must consider the effectiveness of the prohibition of discrimination, the scope and operation of any exceptions, the extent to which the objective justification defence has been relied upon, and such other matters as the Department considers appropriate. The Department must lay a report of its findings before the Assembly.

Clause 46: Regulations

Regulations are generally subject to the draft affirmative procedure. This clause confers a regulation making power on the Department, enabling it to amend Part 3 of the Bill so as to render lawful an act which would otherwise be unlawful by reason of clause 10. The

Department's regulation making powers include power to make supplementary, incidental, consequential, transitional, transitory and saving provision.

PART 9 – SUPPLEMENTARY PROVISIONS

Clause 47: Application to Crown etc.

This clause provides that the Bill applies to acts done by or for the purposes of a Minister of the Crown, a Northern Ireland Minister, or a government department, and to acts done on behalf of the Crown by a statutory body or a person holding a statutory office, as it applies to acts done by a private person. This clause is based on regulation 53 of the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006.

Clause 48: Interpretation: general

This clause defines some of the terms that are used in the Bill.

Clause 49: Commencement

This clause provides that the Bill comes into operation twelve months after the day on which it receives Royal Assent other than Part 5 and the commencement section which come into operation on the day after the day on which the Bill receives Royal Assent.

Clause 50: Short title

This clause gives the short title of the Bill as the Age Discrimination (Goods, Facilities and Services) Act (Northern Ireland) 2026.

Schedules

Schedule 1 contains the Form of Question that may be used by the Claimant or Potential Claimant.

Schedule 2 contains the Form of Reply that may be used by the Respondent. These schedules are based on the schedules to the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006.

FINANCIAL EFFECTS OF THE BILL

25. The main financial effects of this Bill relate to administration, enforcement and litigation costs. The Bill extends the functions of ECNI to include a duty to work towards the elimination of age discrimination in the provision of goods, facilities and services, to promote equality of access to services between persons of differing age groups and to keep the working of the Act under review. In addition, ECNI may undertake or assist research, education or the promotion of age-related equality of opportunity all of which may incur costs. There may also be costs associated with the development and issuing of codes of practice, conducting investigations and any proceedings for a breach of the Act.
26. During the consultation ECNI advised that it would require appropriate funding to deliver any new responsibilities. This represents a potential cost to the public purse, although

implementation through existing equality structures is expected to remain more efficient and less resource intensive than establishing new bodies.

27. There may also be costs to the providers of goods, facilities and services to ensure compliance. This may include changes to how these are delivered or updating administrative systems for example. Some resource implications may arise as service providers review policies, update procedures and support staff through relevant training. These requirements are not expected to create a significant financial burden and can be mitigated by the provision of clear guidance and templates to support proportionate compliance, especially for smaller organisations.
28. Any short term implementation costs are expected to relate primarily to awareness raising, training and compliance support, and these are considered modest and achievable within existing resources.
29. Public bodies may incur legal expenses, settlements or compensation awards, particularly in the early implementation phase. However, over time the legislation is anticipated to support improved health outcomes, increased economic participation and greater social inclusion. These benefits have the potential to ease pressure on public services, particularly in health, social care and housing, by reducing the impact and cost of age related inequality.
30. In conclusion, the legislation is considered a cost effective reform with manageable financial implications and a strong expectation of long term public benefit. It is anticipated that any associated costs will be met within the Block Grant and existing departmental allocations, with no requirement for alternative funding streams.

HUMAN RIGHTS ISSUES

31. At an international level, organisations responsible for monitoring human rights standards have increasingly highlighted the need to protect people from age discrimination when accessing everyday services. This has included particular concern about the barriers faced by older people in areas such as health, housing, financial services and interactions with public authorities.
32. Since June 2024, the NIHRC, along with ECNI, has continued to classify the absence of age discrimination protection in the provision of goods, facilities and services as a significant gap within Northern Ireland's equality and human rights framework and has reiterated calls for legislative reform.
33. The Bill has been considered for compatibility with the Human Rights Act 1998 and the European Convention on Human Rights (ECHR). Article 14 of ECHR requires that Convention rights be enjoyed without discrimination, including on grounds such as age as an "other status." Article 14 applies where another Convention right is engaged; in this instance, potential interaction may arise with Article 8 (right to respect for private and family life) in circumstances where age-based distinctions influence access to services.

34. The Bill Sponsor is satisfied that the Bill does not contain any provisions which are incompatible with Convention Rights defined by the Human Rights Act 1998. Nor does the Bill Sponsor consider that the Bill deals with any matter referred to in Article 2(1) of the Windsor Framework. Under Article 2(1) of the Windsor Framework, Northern Ireland remains committed to maintaining certain EU-derived equality protections following Brexit.
35. The Bill Sponsor believes that the proportionate, well-defined exceptions will ensure human rights obligations are met.

EQUALITY IMPACT ASSESSMENT

36. The Bill Sponsor is satisfied that the provisions within the Bill do not discriminate against any of the equality groups and will in fact improve the promotion of equality of opportunity on the ground of age. ECNI has been actively involved in the development of the legislative proposal and is supportive of it.

LEGISLATIVE COMPETENCE

37. At Introduction the Member in charge of the Bill, Ms Claire Sugden, had made the following statement under Standing Order 30:

“In my view the Age Discrimination (Goods, Facilities and Services) Bill would be within the legislative competence of the Northern Ireland Assembly.”



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