

STATES OF JERSEY



DRAFT DISCRIMINATION (SEX AND RELATED CHARACTERISTICS) (JERSEY) REGULATIONS 201- (P.40/2015): AMENDMENT (P.40/2015 Amd.) – AMENDMENT

Lodged au Greffe on 22nd May 2015
by the Deputy of St. John

STATES GREFFE

DRAFT DISCRIMINATION (SEX AND RELATED CHARACTERISTICS)
(JERSEY) REGULATIONS 201- (P.40/2015): AMENDMENT (P.40/2015 Amd.) –
AMENDMENT

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In the inserted paragraph (3), delete the words “under the age of 24 months”.

DEPUTY OF ST. JOHN

REPORT

The importance of breastfeeding is not one to be underestimated. As this has been clearly outlined in the amendment of Deputy L.M.C. Doublet of St. Saviour, I will not repeat the relevant information already provided.

I am fully supportive of the amendment, but I do not believe it is appropriate to place a time limit on what is essentially a choice for mother and child.

In recognising that every mother and child is different, and acknowledging that it is up to them to determine what is best for their wellbeing, it would be wrong for us to assume that breastfeeding would need to stop at any particular time.

Although we are not necessarily suggesting that a mother should stop breastfeeding at either 26 weeks or 24 months, to place such a restriction in legislation may give that impression.

In an extract from a UK Public Bills Committee debate, the exact same question I had was placed before their Solicitor General –

“Lynne Featherstone: I do not understand why there should be any time limit for breastfeeding. Why should discrimination be allowed at any point?”

The Solicitor-General: I do not know how long the hon. Lady has in mind, but discrimination is not allowed at any point.

Lynne Featherstone: As I understand it, six months is the minimum EU requirement. Is that correct?

The Solicitor-General: Six months is the recommended period during which breastfeeding should be the exclusive way that the child is fed. After that, the recommendation is to start to mix foods, but of course breastfeeding may continue. The hon. Lady need not worry about protection stopping. It does not stop. It is sex discrimination in any event to discriminate against a breastfeeding mother. We have made a special characteristic of those first six months for the purpose of enhancing their importance.

It is a shame that the relatively recent 2005 infant feeding survey showed that the majority of mothers in this country stop breastfeeding long before the recommended 26 weeks are up. We want to flag up that period and give encouragement. As I have said, after that period, any discrimination continues to be direct sex discrimination. If we want to get technical, there has been a successful claim, notwithstanding that sex discrimination requires a comparator, but that has not presented an obstacle.

I hope that with that reassurance, the amendments will not be pressed, although they have provoked a useful debate.”

<http://www.publications.parliament.uk/pa/cm200809/cmpublic/equality/090611/pm/90611s06.htm>

As you will see from this extract, their reasoning for having a time limit under the maternity characteristic, and then an open distinction under direct discrimination, for the characteristic of sex, enables choice but recognises the importance of the first 6 months.

By placing a time limit it would be wrong, in my opinion, to those mothers who feel they can and are willing to continue to provide their child with such nourishment, as and when needed, after the limit of 24 months, because of fear of discrimination.

Not all mothers have the confidence to carry out such an act in a public domain. I believe it is important to send the message that there are no barriers: this is an accepted practice whether your child is 3 weeks or 2 years and 6 months, and we are fully supportive of mothers trying their best in their child's early years without segregation or isolation!

Financial and manpower implications

There are no financial or manpower implications arising from this amendment to Deputy Doublet's amendment.