



Gender Directive

Background

Article 5 of Council Directive 2004/113/EC of 13 December 2004 implemented the principle of equal treatment between men and women in the access to and supply of goods and services, including regulation of the use of actuarial factors related to gender in the provision of insurance and other related financial services.

Article 5(2) of the Directive allowed Member States to maintain proportionate differences in individuals' premiums and benefits where the use of gender is a determining factor in the assessment of risk based, on relevant and accurate actuarial and statistical data.

In a judgment delivered on 1 March 2011, ('the Test-Achats ruling'), the Court of Justice of the European Union declared Article 5(2) invalid with effect from 21 December 2012.

The Court of Justice considers that allowing an exemption from the 'unisex rule' runs counter to achievement of the objective of equal treatment between men and women in relation to the calculation of insurance premiums and benefits, and is therefore incompatible with Articles 21 and 23 of the Charter of Fundamental Rights of the European Union.

As a result of this ruling as from 21 December 2012 (G-day), the 'unisex rule' must be applied without any possible exception in relation to the calculation of individuals' premiums and benefits in new contracts, i.e. we can no longer vary the cost of insurance by gender.

When is the new ruling coming into effect?

Legislation provides that the new 'unisex rule' will apply to new contracts which go into force from 21 December 2012.

If the proposal was submitted prior to 21 December 2012 will the 'old' rate apply?

Any cases in the pipeline, which have not as yet issued on 21 December 2012, will have to be changed to the new unisex premium rates.

What if the client has a quotation which includes a premium rate?

Even though a quotation has been given to a client with a stated premium, the premium will only be valid until 21 December 2012 or the clients next birthday, whichever is earlier.

Legislation provides that the new 'unisex rule' will apply to all new contracts which go into force from 21 December 2012.

What does this mean in terms of premium rate changes?

We are not expecting there to be large changes to protection policy premiums. The bulk of protection business being written is on a dual or joint life basis and future premiums on those contracts will be less affected due to the offsetting effect of each gender.

For Life Cover we would expect a small reduction for single life male premiums and a moderate increase for single life female premiums.

Specified illness rate changes are less clear as at different ages males currently pay higher premiums than females and at other ages females currently pay higher premiums than males. We do not anticipate major changes in the premium levels being offered in the market.

For Income protection we expect a moderate increase for males and a small decrease for females.

What about existing contracts, will the rates change?

Generally, the changes only apply to contracts which go into force from 21 December 2012.

What about premium reviews on existing unit-linked protection policies?

The European Commission guidance is not completely clear on this point. Our current understanding is that the premium reviews form part of the original contract with the customer so a premium review would not trigger a move to a unisex premium. This is our current view and the likely outcome but this view could change when we see draft Irish legislation. We will update on this as soon as we get further clarity.

If I top up an existing contract will the new rates apply?

We are awaiting draft Irish legislation but our current understanding is that if the top-up on the existing contract requires consent by both parties, then a new contract is formed and so the 'unisex rule' would apply to the top-up.

What about conversions and Guaranteed Insurability Options within existing contracts?

It is clearly stated in our customer terms and conditions that when a conversion option or Guaranteed Insurability Option is exercised, the premiums offered will be on the standard terms available at that time. From the 21 December onwards our standard terms will be a unisex premium so policies created when these options are exercised will be on a unisex basis.

What Irish Life contracts are affected?

All of the products in our current protection suite will be subject to the new unisex rates. i.e. Life Term, Life Mortgage, Over 50's, Income Protection, Life Long Cover and Pension Term Assurance.

Are there any contracts which are not affected?

The Directive only covers insurance and pensions which are private, voluntary and separate from the employment relationship.

This means that Corporate Risk schemes where premiums are paid by the employer or the scheme trustees are not impacted by the Directive. Member paid arrangements should be unisex. However, for annuities, which can be paid for by either the scheme trustees or the member, insurers may consider moving to a unisex basis depending upon the type of pension the funds come from.

So will we not have to indicate a client's gender in the proposal form?

The 'unisex rule' means that premiums and benefits cannot be different between two individuals for the same insurance policy simply because their gender is not the same. There are however other risk factors, e.g. health status or family history, which we can differentiate on, in light of certain physiological differences between men and women. In addition, insurance companies will for internal risk management, reserve calculations and reinsurance agreements generally require gender as an input factor. We will therefore still be allowed to ask for the client's gender in order to underwrite a contract.

Ongoing Monitoring

Member States have to adapt their legislation before 21 December 2012 in order to guarantee the application of the 'unisex rule' by insurers within each state. The Commission will monitor the situation after that date, to ensure all relevant legislation is fully compliant.

This means that after 21 December 2012 Irish Life will not be able to issue cases at old gender specific premium rates.