

Don't call the barmaid 'love', by order of Harriet Harman

By STEVE DOUGHTY Daily Mail
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Bar managers and store owners face large-scale compensation claims if their customers ogle their barmaids, waitresses or check-out staff.

New sex discrimination laws also mean that landlords who allow loud sexist jokes or banter among drinkers could be taken before a tribunal.

The regulations say that bosses are responsible for protecting their staff from sexual harassment by customers - and that those who fail to do so can face unlimited compensation claims.

They mean that a pub landlord could be sued if a bar worker complains about being called "love", or over customers telling each other off-colour jokes.

Restaurant managers or hoteliers risk action if staff object to backchat from diners or guests asking for a date.

By order: Women and Equalities Minister Harriet Harman

Lawyers said yesterday that businesses will need to show they have tried to clamp down on sexual harassment of workers by customers if they are to guard against the risk of compensation claims.

They advised pub operators to put up warning notices telling drinkers that "harassment is not tolerated".

The regulations were pushed through by Women and Equalities Minister Harriet Harman, who has powers under European legislation to amend discrimination law.

Miss Harman has used a statutory instrument that does not require a division or debate in Parliament.

Complying with the rules is likely to cost "micro and small" businesses more than £10million, according to an assessment by the Government Equalities Office.

Last year the High Court ruled that existing sex discrimination law was not strong enough to meet the demands of European directives.

However the regulations - which will come into force on Sunday - have sweeping implications for employers, especially in the pub, restaurant and hotel trade.

Stuart Chamberlain, an employment law specialist at Consult GEE, said: "Employers may feel uncomfortable about confronting clients but they need to be aware that failing to take action could result in a claim for compensation, including for injury to feelings.

"Shops, bars or gyms may be able to put up notices explaining that harassment of staff is not tolerated by the management.

"However, professional services companies who encourage staff to socialise with clients may find it far more difficult to convey that message."

The rules allow tribunals to award unlimited damages for injury to feelings if a case is proved.

The burden of proof will lie with employers. There will be no need for workers to show their employer allowed harassment to happen - instead, managers must demonstrate that they were not at fault.

Workers must show they suffered three incidents of harassment before they can make a claim. The incidents can involve different customers, so it will not be enough for a bar manager to ban just one difficult drinker.

The kind of behaviour that amounts to harassment will be for a tribunal to decide. If an employee can prove she was hurt or upset, being called "love" or "darling" repeatedly might be enough to win compensation.

Jill Kirby of the centre-Right think tank Centre for Policy Studies said: 'This latest round of discrimination legislation has moved far beyond common sense. It will bring the law into disrepute.

"It is trying to legislate against everyday behaviour. People will start to be afraid if they call someone young lady or my love. It is impossible for an employer to control customers in this way."

Stephen Alambritis, of the Federation of Small Businesses, said: "It really is unfair to employers to expect them to vouch for every customer, including those who aren't regulars.

"Landlords will have to sit around trying to listen in on customers' conversations, rather than having any rest period or break.

"We would hope that common sense would prevail without the need for heavy-handed legislation that leaves employers immensely worried.

"Pubs are mostly well run in this country and landlords know when to step in and calm things down. They should be trusted to do so."

The laws will be policed by the Government's Commission for Equality and Human Rights. A spokesman said: "When employers know that harassment is going on they are in a position to do something about it."

The commission said the regulations are aimed at dealing with the "particular problem" of harassment in the hotel and restaurant trade, which employs 670,000 women.

The European Equal Treatment Directive which the regulations will enforce says that women at work should not be "subjected to any conduct related to their sex which violates their dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment".