
STATUTORY RULES OF NORTHERN IRELAND

2004 No. 55

**The Disability Discrimination Act 1995
(Amendment) Regulations (Northern Ireland) 2004**

PART II

AMENDMENTS TO THE ACT

Other unlawful acts

15. After section 16, insert the following sections –

“Other unlawful acts

Relationships which have come to an end

16A.—(1) This section applies where –

- (a) there has been a relevant relationship between a disabled person and another person (“the relevant person”), and
- (b) the relationship has come to an end.

(2) In this section a “relevant relationship” is –

- (a) a relationship during the course of which an act of discrimination against, or harassment of, one party to the relationship by the other party to it is unlawful under any preceding provision of this Part; or
- (b) a relationship between a person providing employment services (within the meaning of Part III) and a person receiving such services.

(3) It is unlawful for the relevant person –

- (a) to discriminate against the disabled person by subjecting him to a detriment, or
- (b) to subject the disabled person to harassment,

where the discrimination or harassment arises out of and is closely connected to the relevant relationship.

(4) This subsection applies where –

- (a) a provision, criterion or practice applied by the relevant person to the disabled person in relation to any matter arising out of the relevant relationship, or
- (b) a physical feature of premises which are occupied by the relevant person,

places the disabled person at a substantial disadvantage in comparison with persons who are not disabled, but are in the same position as the disabled person in relation to the relevant person.

(5) Where subsection (4) applies, it is the duty of the relevant person to take such steps as it is reasonable, in all the circumstances of the case, for him to have to take in order to prevent the provision, practice or criterion, or feature, having that effect.

(6) Nothing in subsection (5) imposes any duty on the relevant person if he does not know, and could not reasonably be expected to know, that the disabled person has a disability and is likely to be affected in the way mentioned in that subsection.

(7) In subsection (2), reference to an act of discrimination or harassment which is unlawful includes, in the case of a relationship which has come to an end before the commencement of this section, reference to such an act which would, after the commencement of this section, be unlawful.

Discriminatory advertisements

16B.—(1) It is unlawful for a person, in relation to a relevant appointment or benefit which he intends to make or confer, to publish or cause to be published an advertisement which –

- (a) invites applications for that appointment or benefit; and
- (b) indicates, or might reasonably be understood to indicate, that an application will or may be determined to any extent by reference to –
 - (i) the applicant not having any disability, or any particular disability, or
 - (ii) any reluctance of the person determining the application to comply with a duty to make reasonable adjustments or (in relation to employment services) with the duty imposed by section 21(1) as modified by section 21A(6).

(2) Subsection (1) does not apply where it would not in fact be unlawful under this Part or, to the extent that it relates to the provision of employment services, Part III for an application to be determined in the manner indicated (or understood to be indicated) in the advertisement.

(3) In subsection (1), “relevant appointment or benefit” means –

- (a) any employment, promotion or transfer of employment;
- (b) membership of, or a benefit under, an occupational pension scheme;
- (c) an appointment to any office or post to which section 4D applies;
- (d) any partnership in a firm (within the meaning of section 6A);
- (e) any pupillage (within the meaning of section 7A);
- (f) any membership of a trade organisation (within the meaning of section 13);
- (g) any professional or trade qualification (within the meaning of section 14A);
- (h) any work placement (within the meaning of section 14C);
- (i) any employment services (within the meaning of Part III).

(4) In this section, “advertisement” includes every form of advertisement or notice, whether to the public or not.

Instructions and pressure to discriminate

16C.—(1) It is unlawful for a person –

- (a) who has authority over another person, or
- (b) in accordance with whose wishes that other person is accustomed to act,

to instruct him to do any act which is unlawful under this Part or, to the extent that it relates to the provision of employment services, Part III, or to procure or attempt to procure the doing by him of any such act.

(2) It is also unlawful to induce, or attempt to induce, a person to do any act which contravenes this Part or, to the extent that it relates to the provision of employment services, Part III by –

- (a) providing or offering to provide him with any benefit, or
- (b) subjecting or threatening to subject him to any detriment.

(3) An attempted inducement is not prevented from falling within subsection (2) because it is not made directly to the person in question, if it is made in such a way that he is likely to hear of it.”