

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 1 U.K.

Section 1(1).

#### PROVISIONS SUPPLEMENTING SECTION 1

##### Extent Information

- E1** In its application to Northern Ireland, this Schedule has effect subject to the modifications set out in Sch. 8; see s. 70(6)

##### Modifications etc. (not altering text)

- C1** [S. 1, Sch. 1](#) applied (N.I.) (6.4.2005) by The Special Educational Needs and Disability (Northern Ireland) Order ([S.I. 2005/1117 \(N.I. 6\)](#)), {art. 2(3)}

#### *Impairment*

- 1 (1) <sup>F1</sup>.....
- (2) Regulations may make provision, for the purposes of this Act—
- (a) for conditions of a prescribed description to be treated as amounting to impairments;
  - (b) for conditions of a prescribed description to be treated as not amounting to impairments.
- (3) Regulations made under sub-paragraph (2) may make provision as to the meaning of “condition” for the purposes of those regulations.

##### Textual Amendments

- F1** [Sch. 1 para. 1\(1\)](#) repealed (E.W.S.) (5.12.2005) by [Disability Discrimination Act 2005 \(c. 13\)](#), [ss. 18\(2\), 19\(2\), 20\(3\)–\(6\)](#), [Sch. 2](#); [S.I. 2005/2774](#), [art. 3\(i\)\(k\)\(i\)](#) and said [Sch. 1 para. 1\(1\)](#) repealed (N.I.) (31.10.2007) by The Disability Discrimination (Northern Ireland) Order ([S.I. 2006/312 \(N.I. 1\)](#)), arts. 1, {18(2)}, 19(2), {Sch. 2}; [S.R. 2007/430](#), [art. 2\(a\)\(d\)](#)

##### Commencement Information

- I1** [Sch. 1 para. 1](#) wholly in force at 30.5.1996; [Sch. 1 para. 1](#) not in force at Royal Assent see s. 70(3); [Sch. 1 para. 1](#) in force (E.W.S.) at 17.5.1996 by [S.I. 1996/1336](#), [art. 3\(m\)](#); [Sch. 1 para. 1](#) in force (N.I.) at 30.5.1996 by [S.R. 1996/219](#), [art. 3\(1\)](#)

#### *Long-term effects*

- 2 (1) The effect of an impairment is a long-term effect if—

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- (a) it has lasted at least 12 months;
  - (b) the period for which it lasts is likely to be at least 12 months; or
  - (c) it is likely to last for the rest of the life of the person affected.
- (2) Where an impairment ceases to have a substantial adverse effect on a person's ability to carry out normal day-to-day activities, it is to be treated as continuing to have that effect if that effect is likely to recur.
- (3) For the purposes of sub-paragraph (2), the likelihood of an effect recurring shall be disregarded in prescribed circumstances.
- (4) Regulations may prescribe circumstances in which, for the purposes of this Act—
- (a) an effect which would not otherwise be a long-term effect is to be treated as such an effect; or
  - (b) an effect which would otherwise be a long-term effect is to be treated as not being such an effect.

**Commencement Information**

**I2** Sch. 1 para. 2 wholly in force at 30.5.1996; Sch. 1 para. 2 not in force at Royal Assent see s. 70(3); Sch. 1 para. 2 in force (E.W.S.) at 17.5.1996 by S.I. 1996/1336, art. 3(m); Sch. 1 para. 2 in force (N.I.) at 30.5.1996 by S.R. 1996/219, art. 3(1)

*Severe disfigurement*

- 3 (1) An impairment which consists of a severe disfigurement is to be treated as having a substantial adverse effect on the ability of the person concerned to carry out normal day-to-day activities.
- (2) Regulations may provide that in prescribed circumstances a severe disfigurement is not to be treated as having that effect.
- (3) Regulations under sub-paragraph (2) may, in particular, make provision with respect to deliberately acquired disfigurements.

**Commencement Information**

**I3** Sch. 1 para. 3 wholly in force at 30.5.1996; Sch. 1 para. 3 not in force at Royal Assent see s. 70(3); Sch. 1 para. 3 in force (E.W.S.) at 17.5.1996 by S.I. 1996/1336, art. 3(m); Sch. 1 para. 3 in force (N.I.) at 30.5.1996 by S.R. 1996/219, art. 3(1)

*Normal day-to-day activities*

- 4 (1) An impairment is to be taken to affect the ability of the person concerned to carry out normal day-to-day activities only if it affects one of the following—
- (a) mobility;
  - (b) manual dexterity;
  - (c) physical co-ordination;

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- (d) continence;
  - (e) ability to lift, carry or otherwise move everyday objects;
  - (f) speech, hearing or eyesight;
  - (g) memory or ability to concentrate, learn or understand; or
  - (h) perception of the risk of physical danger.
- (2) Regulations may prescribe—
- (a) circumstances in which an impairment which does not have an effect falling within sub-paragraph (1) is to be taken to affect the ability of the person concerned to carry out normal day-to-day activities;
  - (b) circumstances in which an impairment which has an effect falling within sub-paragraph (1) is to be taken not to affect the ability of the person concerned to carry out normal day-to-day activities.

#### Commencement Information

**I4** Sch. 1 para. 4 wholly in force at 30.5.1996; Sch. 1 para. 4 not in force at Royal Assent see s. 70(3); Sch. 1 para. 4 in force (E.W.S.) at 17.5.1996 by S.I. 1996/1336, art. 3(m); Sch. 1 para. 4 in force (N.I.) at 30.5.1996 by S.R. 1996/219, art. 3(1)

#### *Substantial adverse effects*

- 5 Regulations may make provision for the purposes of this Act—
- (a) for an effect of a prescribed kind on the ability of a person to carry out normal day-to-day activities to be treated as a substantial adverse effect;
  - (b) for an effect of a prescribed kind on the ability of a person to carry out normal day-to-day activities to be treated as not being a substantial adverse effect.

#### Commencement Information

**I5** Sch. 1 para. 5 wholly in force at 30.5.1996; Sch. 1 para. 5 not in force at Royal Assent see s. 70(3); Sch. 1 para. 5 in force (E.W.S.) at 17.5.1996 by S.I. 1996/1336, art. 3(m); Sch. 1 para. 5 in force (N.I.) at 30.5.1996 by S.R. 1996/219, art. 3(1)

#### *Effect of medical treatment*

- 6
- (1) An impairment which would be likely to have a substantial adverse effect on the ability of the person concerned to carry out normal day-to-day activities, but for the fact that measures are being taken to treat or correct it, is to be treated as having that effect.
  - (2) In sub-paragraph (1) “measures” includes, in particular, medical treatment and the use of a prosthesis or other aid.
  - (3) Sub-paragraph (1) does not apply—

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- (a) in relation to the impairment of a person's sight, to the extent that the impairment is, in his case, correctable by spectacles or contact lenses or in such other ways as may be prescribed; or
- (b) in relation to such other impairments as may be prescribed, in such circumstances as may be prescribed.

#### **Commencement Information**

**I6** Sch. 1 para. 6 wholly in force at 30.5.1996; Sch. 1 para. 6 not in force at Royal Assent see s. 70(3); Sch. 1 para. 6 in force (E.W.S.) at 17.5.1996 by S.I. 1996/1336, art. 3(m); Sch. 1 para. 6 in force (N.I.) at 30.5.1996 by S.R. 1996/219, art. 3(1)

#### *Persons deemed to be disabled*

- 6A (1) Subject to sub-paragraph (2), a person who has cancer, HIV infection or multiple sclerosis is to be deemed to have a disability, and hence to be a disabled person.
- (2) Regulations may provide for sub-paragraph (1) not to apply in the case of a person who has cancer if he has cancer of a prescribed description.
- (3) A description of cancer prescribed under sub-paragraph (2) may (in particular) be framed by reference to consequences for a person of his having it.
- 7 (1) Sub-paragraph (2) applies to any person whose name is, both on 12th January 1995 and on the date when this paragraph comes into force, in the register of disabled persons maintained under section 6 of the <sup>M1</sup>Disabled Persons (Employment) Act 1944.
- (2) That person is to be deemed—
- (a) during the initial period, to have a disability, and hence to be a disabled person; and
  - (b) afterwards, to have had a disability and hence to have been a disabled person during that period.
- (3) A certificate of registration shall be conclusive evidence, in relation to the person with respect to whom it was issued, of the matters certified.
- (4) Unless the contrary is shown, any document purporting to be a certificate of registration shall be taken to be such a certificate and to have been validly issued.
- (5) Regulations may provide for prescribed descriptions of person to be deemed to have disabilities, and hence to be disabled persons, for the purposes of this Act.
- [<sup>F2</sup>(5A) The generality of sub-paragraph (5) shall not be taken to be prejudiced by the other provisions of this Schedule.]
- (6) Regulations may prescribe circumstances in which a person who has been deemed to be a disabled person by the provisions of sub-paragraph (1) or regulations made under sub-paragraph (5) is to be treated as no longer being deemed to be such a person.
- (7) In this paragraph—

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“certificate of registration” means a certificate issued under regulations made under section 6 of the Act of 1944; and

“initial period” means the period of three years beginning with the date on which this paragraph comes into force.

#### Textual Amendments

- F2** Sch. 1 para. 7(5A) inserted (E.W.S.) (30.6.2005 for certain purposes, otherwise 5.12.2005) by [Disability Discrimination Act 2005 \(c. 13\)](#), ss. {18(4)}, 20(3)-(6); [S.I. 2005/1676, art. 2\(2\)\(f\)](#); [S.I. 2005/2774, art. 3\(i\)](#) and said Sch. 1 para. 7(5A) inserted (N.I.) (3.7.2006 for certain purposes and otherwise 31.10.2007) by The Disability Discrimination (Northern Ireland) Order ([S.I. 2006/312 \(N.I. 1\)](#)), arts. 1, {18(4)}; [S.R. 2006/289, art. 2\(2\)\(e\)](#); [S.R. 2007/430, art. 2\(a\)](#)

#### Marginal Citations

- M1** 1944 c. 10.

### *Progressive conditions*

- 8 (1) Where—
- (a) a person has a progressive condition (such as cancer, multiple sclerosis or muscular dystrophy or [<sup>F3</sup>HIV infection]),
  - (b) as a result of that condition, he has an impairment which has (or had) an effect on his ability to carry out normal day-to-day activities, but
  - (c) that effect is not (or was not) a substantial adverse effect,
- he shall be taken to have an impairment which has such a substantial adverse effect if the condition is likely to result in his having such an impairment.
- (2) Regulations may make provision, for the purposes of this paragraph—
- (a) for conditions of a prescribed description to be treated as being progressive;
  - (b) for conditions of a prescribed description to be treated as not being progressive.

#### Textual Amendments

- F3** Words in [Sch. 1 para. 8\(1\)\(a\)](#) substituted (E.W.S.) (5.12.2005) by [Disability Discrimination Act 2005 \(c. 13\)](#), ss. 19(1), 20(3)-(6), [Sch. 1 para. 36](#); [S.I. 2005/2774, art. 3\(j\)](#) and said words substituted (N.I.) (31.10.2007) by The Disability Discrimination (Northern Ireland) Order ([S.I. 2006/312 \(N.I. 1\)](#)), arts. 1, 19(1), {Sch. 1 para. 27}; [S.R. 2007/430, art. 2\(b\)](#)

#### Commencement Information

- I7** [Sch. 1 para. 8](#) wholly in force at 30.5.1996; [Sch. 1 para. 8](#) not in force at Royal Assent see [s. 70\(3\)](#); [Sch. 1 para. 8](#) in force (E.W.S.) at 17.5.1996 by [S.I. 1996/1336, art. 3\(m\)](#); [Sch. 1 para. 8](#) in force (N.I.) at 30.5.1996 by [S.R. 1996/219, art. 3\(1\)](#)

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## <sup>F4</sup> Interpretation

### Textual Amendments

- F4** Sch. 1 para. 9 and cross-heading inserted (E.W.S.) (30.6.2005 for certain purposes, otherwise 5.12.2005) by Disability Discrimination Act 2005 (c. 13), ss. {18(5)}, 20(3)-(6); S.I. 2005/1676, { art. 2(2) (f)}; S.I. 2005/2774, art. 3(i) and said Sch. 1 para. 9 and cross-heading inserted (N.I.) (3.7.2006 for certain purposes, otherwise 31.10.2007) by The Disability Discrimination (Northern Ireland) Order (S.I. 2006/312 (N.I. 1)), {art. 18(5)}; S.R. 2006/289, art. 2(2)(e); S.R. 2007/430, art. 2(a)

- 9 In this Schedule, “HIV infection” means infection by a virus capable of causing the Acquired Immune Deficiency Syndrome.]

## SCHEDULE 2 U.K.

Section 2(2).

### PAST DISABILITIES

- 1 The modifications referred to in section 2 are as follows.

### Commencement Information

- I8** Sch. 2 wholly in force at 30.5.1996; Sch. 2 not in force at Royal Assent see s. 70(3); Sch. 2 in force (E.W.S.) at 17.5.1996 by S.I. 1996/1336, art. 3(m); Sch. 2 in force (N.I.) at 30.5.1996 by S.R. 1996/219, art. 3(1)

- 2 References in Parts II [<sup>F5</sup>to 4][<sup>F6</sup>and 5A] to a disabled person are to be read as references to a person who has had a disability.

### Extent Information

- E2** This version of this provision extends to England and Wales and Scotland. A separate version has been created for Northern Ireland only.

### Textual Amendments

- F5** Sch. 2 para. 2: words “to 4” substituted for words “and III” (E.W.S.) (1.9.2002) by 2001 c. 10, s. 38(11) (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. I
- F6** Words in Sch. 2 para. 2 inserted (E.W.S.) (5.12.2005) by Disability Discrimination Act 2005 (c. 13), ss. 19(1), 20(3)-(6), Sch. 1 para. 37(2); S.I. 2005/2774, art. 3(j)

### Commencement Information

- I9** Sch. 2 wholly in force at 30.5.1996; Sch. 2 not in force at Royal Assent see s. 70(3); Sch. 2 in force (E.W.S.) at 17.5.1996 by S.I. 1996/1336, art. 3(m); Sch. 2 in force (N.I.) at 30.5.1996 by S.R. 1996/219, art. 3(1)

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- 2 References in Parts II [<sup>F181</sup>, III and VA]<sup>F182</sup> and Part III of the 2005 Order] to a disabled person are to be read as references to a person who has had a disability.

#### Extent Information

- E18** This version of this provision extends to Northern Ireland only. A separate version has been created for England and Wales and Scotland only

#### Textual Amendments

- F181** Words in [Sch. 2 para. 2](#) substituted (N.I.) (31.10.2007) by [The Disability Discrimination \(Northern Ireland\) Order 2006 \(S.I. 2006/312 \(N.I. 1\)\)](#), arts. 1, 19, [Sch. 1 para. 28\(2\)](#); [S.R. 2007/430, art. 2\(b\)](#)
- F182** Words in [Sch. 2 para. 2](#) inserted (N.I.) (1.9.2005 for certain purposes, otherwise 16.1.2007) by [The Special Educational Needs and Disability \(Northern Ireland\) Order \(S.I. 2005/1117 \(N.I. 6\)\)](#), arts. 1, {48(9)}; [S.R. 2005/336, art. 2, Sch.](#) (as amended (16.1.2007) by [S.R. 2007/25, art. 2](#)); [S.R. 2005/337, art. 2, Sch.](#)

#### Commencement Information

- I18** [Sch. 2](#) wholly in force at 30.5.1996; [Sch. 2](#) not in force at Royal Assent see [s. 70\(3\)](#); [Sch. 2](#) in force (E.W.S.) at 17.5.1996 by [S.I. 1996/1336, art. 3\(m\)](#); [Sch. 2](#) in force (N.I.) at 30.5.1996 by [S.R. 1996/219, art. 3\(1\)](#)

- <sup>F7</sup>2A References in Chapter 1 of Part 4 to a disabled pupil are to be read as references to a pupil who has had a disability.]

- <sup>F8</sup>2B References in Chapter 2 of Part 4 to a disabled student are to be read as references to a student who has had a disability.

#### Textual Amendments

- F8** [Sch. 2 paras. 2A, 2B](#) inserted (E.W.S.) (1.9.2002) by [2001 c. 10, s. 38\(12\)](#) (with [s. 43\(13\)](#)); [S.I. 2002/2217, art. 3, Sch. 1 Pt. I](#)

- 2C In [<sup>F9</sup>sections 3A(5) and 31AB(8)], after “not having that particular disability” insert “and who has not had that particular disability”.

#### Textual Amendments

- F9** Words in [Sch. 2 para. 2C](#) substituted (1.9.2007) by [Disability Discrimination Act 2005 \(c. 13\), ss. 19\(1\), 20\(3\)-\(6\), Sch. 1 para. 37\(3\)](#); [S.I. 2007/1555, art. 3\(b\)](#)

- <sup>F10</sup>3 In sections 4A(1), 4B(4), 4E(1), [<sup>F11</sup>4H(1),] 6B(1), 7B(1), 7D(1), 14(1), 14B(1), 14D(1) [<sup>F12</sup>, 15C(1)] and 16A(4), section 21A(4)(a) (in the words to be read as section 19(1)(aa)) and section 21A(6)(a) (in the words to be substituted in section 21(1)) [<sup>F13</sup>and section 31AD(1)(d), (2)(c) and (3),] after “not disabled” (in each place it occurs) insert “and who have not had a disability”.]

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### Extent Information

- E3** This version of this provision extends to England, Wales and Scotland; a separate version has been created for Northern Ireland.

### Textual Amendments

- F10** Sch. 2 para. 3 substituted (E.W.S.) (3.7.2003 for certain purposes and otherwise 1.10.2004) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), **29(1)(b)**
- F11** Words in Sch. 2 para. 3 inserted (E.W.S.) (1.12.2003 for certain purposes and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Pensions\) Regulations 2003 \(S.I. 2003/2770\)](#), regs. 1(2)(3), **4(4)(a)**
- F12** Words in Sch. 2 para. 3 inserted (E.W.S.) (4.12.2006) by [Disability Discrimination Act 2005 \(c. 13\)](#), ss. 19(1), 20(3)–(6), {Sch. 1 para. 37(4)(a)}; S.I. 2005/2774, **art. 4**
- F13** Words in Sch. 2 para. 3 inserted (E.W.S.) (1.9.2007) by [Disability Discrimination Act 2005 \(c. 13\)](#), ss. 19(1), 20(3)–(6), **Sch. 1 para. 37(4)(b)**; S.I. 2007/1555, **art. 3(b)**

### Commencement Information

- I10** Sch. 2 wholly in force at 30.5.1996; Sch. 2 not in force at Royal Assent see s. 70(3); Sch. 2 in force (E.W.S.) at 17.5.1996 by S.I. 1996/1336, **art. 3(m)**; Sch. 2 in force (N.I.) at 30.5.1996 by S.R. 1996/219, **art. 3(1)**

- 3 In section 6(1), after “not disabled” insert “ and who have not had a disability ”.

### Commencement Information

- I10** Sch. 2 wholly in force at 30.5.1996; Sch. 2 not in force at Royal Assent see s. 70(3); Sch. 2 in force (E.W.S.) at 17.5.1996 by S.I. 1996/1336, **art. 3(m)**; Sch. 2 in force (N.I.) at 30.5.1996 by S.R. 1996/219, **art. 3(1)**

- [<sup>F184</sup>3 In sections 4A(1), 4B(4), 4E(1), 4H(1), 6B(1), 7B(1), 14(1), 14B(1), 14D(1) [<sup>F185</sup>, 15C(1)] and 16A(4), section 21A(4)(a) (in the words to be read as section 19(1)(aa)) and section 21A(6)(a) (in the words to be substituted in section 21(1)), after “not disabled” (in each place it occurs) insert “ and who have not had a disability ”.]

### Extent Information

- E20** This version of this provision extends to Northern Ireland only; a separate version has been created for England, Wales and Scotland.

### Textual Amendments

- F184** Sch. 2 para. 3 substituted (N.I.) (21.2.2004 for certain purposes and 1.10.2004 insofar as not yet in force) by the Disability Discrimination Act (Amendment) Regulations (Northern Ireland) (S.R. 2004/55), {reg. 28(1)(b)}
- F185** Words in Sch. 2 para. 3 inserted (N.I.) (31.10.2007) by [The Disability Discrimination \(Northern Ireland\) Order 2006 \(S.I. 2006/312 \(N.I. 1\)\)](#), arts. 1, 19, **Sch. 1 para. 28(3)**; S.R. 2007/430, **art. 2**

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#### Commencement Information

- I10** Sch. 2 wholly in force at 30.5.1996; Sch. 2 not in force at Royal Assent see s. 70(3); Sch. 2 in force (E.W.S.) at 17.5.1996 by S.I. 1996/1336, art. 3(m); Sch. 2 in force (N.I.) at 30.5.1996 by S.R. 1996/219, art. 3(1)

- [<sup>F14</sup> In sections 4A(3)(b), 4E(3)(b), [<sup>F15</sup>4H(3)(b),] 6B(3)(b), 7B(4)(b), 7D(3)(b), 14(3)(b), 14B(3)(b), 14D(3)(b) [<sup>F16</sup>, 15C(3)(a)] [<sup>F17</sup>, 16A(6) and 31AD(4)(b),] for “has” (in each place it occurs) substitute “ has had ”.]

#### Extent Information

- E4** This version of this provision extends to England, Wales and Scotland; a separate version has been created for Northern Ireland.

#### Textual Amendments

- F14** Sch. 2 para. 4 substituted (E.W.S.) (3.7.2003 for certain purposes and otherwise 1.10.2004) by The Disability Discrimination Act 1995 (Amendment) Regulations 2003 (S.I. 2003/1673), regs. 1(2)(3), 29(1)(c)
- F15** Words in Sch. 2 para. 4 substituted (E.W.S.) (1.12.2003 for certain purposes and 1.10.2004 otherwise) by The Disability Discrimination Act 1995 (Pensions) Regulations 2003 (S.I. 2003/2770), regs. 1(2)(3), 4(4)(b)
- F16** Words in Sch. 2 para. 4 inserted (E.W.S.) (4.12.2006) by Disability Discrimination Act 2005 (c. 13), ss. 19(1), 20(3)-(6), Sch. 1 para. 37(5)(a); S.I. 2005/2774, art. 4(f)
- F17** Words in Sch. 2 para. 4 substituted (E.W.S.) (1.9.2007) by Disability Discrimination Act 2005 (c. 13), ss. 19(1), 20(3)-(6), Sch. 1 para. 37(5)(b); S.I. 2007/1555, art. 3(b)

#### Commencement Information

- I11** Sch. 2 wholly in force at 30.5.1996; Sch. 2 not in force at Royal Assent see s. 70(3); Sch. 2 in force (E.W.S.) at 17.5.1996 by S.I. 1996/1336, art. 3(m); Sch. 2 in force (N.I.) at 30.5.1996 by S.R. 1996/219, art. 3(1)

- 4 In section 6(6), for “has” substitute “ has had ”.

#### Commencement Information

- I11** Sch. 2 wholly in force at 30.5.1996; Sch. 2 not in force at Royal Assent see s. 70(3); Sch. 2 in force (E.W.S.) at 17.5.1996 by S.I. 1996/1336, art. 3(m); Sch. 2 in force (N.I.) at 30.5.1996 by S.R. 1996/219, art. 3(1)

- [<sup>F186</sup>4 In sections 4A(3)(b), 4E(3)(b), 4H(3)(b), 6B(3)(b), 7B(3)(b), 14(3)(b), 14B(3)(b), 14D(3)(b) [<sup>F187</sup>, 15C(3)(a)] and 16A(6), for “has” (in each place it occurs) substitute “ has had ”.]

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#### Extent Information

- E21** This version of this provision extends to Northern Ireland only; a separate version has been created for England, Wales and Scotland.

#### Textual Amendments

- F186** Sch. 2 para. 4 substituted (N.I.) (21.2.2004 for certain purposes and otherwise 1.10.2004) by the Disability Discrimination Act (Amendment) Regulations (Northern Ireland) 2004 (S.R. 2004/55), regs. 1(2)(3), **28(1)(c)**
- F187** Words in Sch. 2 para. 4 inserted (N.I.) (31.10.2007) by The Disability Discrimination (Northern Ireland) Order 2006 (S.I. 2006/312 (N.I. 1)), arts. 1, 19, **Sch. 1 para. 28(4)**; S.R. 2007/430, **art. 2(b)**

#### Commencement Information

- I11** Sch. 2 wholly in force at 30.5.1996; Sch. 2 not in force at Royal Assent see s. 70(3); Sch. 2 in force (E.W.S.) at 17.5.1996 by S.I. 1996/1336, **art. 3(m)**; Sch. 2 in force (N.I.) at 30.5.1996 by S.R. 1996/219, **art. 3(1)**

4ZA In section 24(3)(e)(i) and (f)(i), after “having” insert “ had ”

4ZB In sections 24D(2)(a) and 24J(3)(b), for “did not have” substitute “ had not had ”.

<sup>F18</sup>4A In section 28B(3)(a) and (4), after “disabled” insert “or that he had had a disability”.]

<sup>F19</sup>4B In section 28C(1), in paragraphs (a) and (b), after “not disabled” insert “and who have not had a disability”.

<sup>F20F21</sup>4C In section 28S

- (a) in subsection (3)(a), after “disabled” insert “ or that he had had a disability ”,
- (b) in subsection (6)(a), after “who do not have” insert “ and have not had ”, and
- (c) in subsection (10), for “that particular disability” substitute “and who has not had that particular disability and]

#### Textual Amendments

- F20** Sch. 2 para. 4C substituted (30.6.2006 for certain purposes and otherwise 1.9.2006) by The Disability Discrimination Act 1995 (Amendment) (Further and Higher Education) Regulations 2006 (S.I. 2006/1721), regs. 1, **18(2)**
- F21** Sch. 2 paras. 4A-4E inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. **38(13)** (with s. 43(13)); S.I. 2002/2217, art. 3, **Sch. 1 Pt. I**

<sup>F22</sup>4D In [<sup>F23</sup>subsections (1), (1A), (1B) (1C) and (1D)] of section 28T, after “not disabled” insert “and who have not had a disability”.

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

#### Textual Amendments

- F22** Sch. 2 paras. 4A-4E inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 38(13) (with s. 43(13); S.I. 2002/2217, art. 3, Sch. 1 Pt. I)
- F23** Words in Sch. 2 para. 4D substituted (30.6.2006 for certain purposes and otherwise 1.9.2006) by The Disability Discrimination Act 1995 (Amendment) (Further and Higher Education) Regulations 2006 (S.I. 2006/1721), regs. 1, 18(3)

<sup>F24</sup>4E In [<sup>F25</sup>subsection (1) of that section] as substituted by paragraphs 2 [<sup>F26</sup>9, 14 and 21] of Schedule 4C, after “not disabled” insert “and who have not had a disability”.

#### Textual Amendments

- F24** Sch. 2 paras. 4A-4E inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 39(13) (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. I
- F25** Words in Sch. 2 para. 4E substituted (30.6.2006 for certain purposes and otherwise 1.9.2006) by The Disability Discrimination Act 1995 (Amendment) (Further and Higher Education) Regulations 2006 (S.I. 2006/1721), regs. 1, 18(4)(a)
- F26** Words in Sch. 2 para. 4E substituted (30.6.2006 for certain purposes and otherwise 1.9.2006) by The Disability Discrimination Act 1995 (Amendment) (Further and Higher Education) Regulations 2006 (S.I. 2006/1721), regs. 1, 18(4)(b)

5 For paragraph 2(1) to (3) of Schedule 1, substitute—

- “(1) The effect of an impairment is a long-term effect if it has lasted for at least 12 months.
- (2) Where an impairment ceases to have a substantial adverse effect on a person’s ability to carry out normal day-to-day activities, it is to be treated as continuing to have that effect if that effect recurs.
- (3) For the purposes of sub-paragraph (2), the recurrence of an effect shall be disregarded in prescribed circumstances.”

#### Commencement Information

- I12** Sch. 2 wholly in force at 30.5.1996; Sch. 2 not in force at Royal Assent see s. 70(3); Sch. 2 in force (E.W.S.) at 17.5.1996 by S.I. 1996/1336, art. 3(m); Sch. 2 in force (N.I.) at 30.5.1996 by S.R. 1996/219, art. 3(1)

[<sup>F27</sup><sup>F28</sup>6 References in Chapter I of Part III of the 2005 Order to a disabled pupil are to be read as references to a pupil who has had a disability.

#### Textual Amendments

- F27** Sch. 2 paras. 6-13 inserted (N.I.) (1.9.2005 for certain purposes, otherwise 16.1.2007 ) by The Special Educational Needs and Disability (Northern Ireland) Order (S.I. 2005/1117 (N.I. 6)), art. 1, {48(10)}; S.R. 2005/336, art. 2, Sch. (as amended 16.1.2007 by S.R. 2007/25, art. 2); S.R. 2005/337, art. 2, Sch.

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

**F28** Sch. 2 para. 6 substituted without change of text (10.8.2006 for certain purposes and 1.9.2006 insofar as not yet in force) by virtue of S.R. 2006/332, regs. 1(2)(3), 14

**F29**<sup>7</sup> References in Chapter II of Part III of the 2005 Order to a disabled student are to be read as references to a student who has had a disability.

#### Textual Amendments

**F27** Sch. 2 paras. 6-13 inserted (N.I.) (1.9.2005 for certain purposes, otherwise 16.1.2007 ) by The Special Educational Needs and Disability (Northern Ireland) Order (S.I. 2005/1117 (N.I. 6)), art. 1, {48(10)}; S.R. 2005/336, art. 2, Sch. (as amended 16.1.2007 by S.R. 2007/25, art. 2); S.R. 2005/337, art. 2, Sch.

**F29** Sch. 2 para. 7 substituted without change of text (10.8.2006 for certain purposes, otherwise 1.9.2006) by virtue of S.R. 2006/332, regs. 1(2)(3), 14

**F30**<sup>8</sup> In Article 15(3)(a) and (4) of the 2005 Order, after “disabled” insert “ or that he had had a disability ”.

#### Textual Amendments

**F27** Sch. 2 paras. 6-13 inserted (N.I.) (1.9.2005 for certain purposes, otherwise 16.1.2007 ) by The Special Educational Needs and Disability (Northern Ireland) Order (S.I. 2005/1117 (N.I. 6)), art. 1, {48(10)}; S.R. 2005/336, art. 2, Sch. (as amended 16.1.2007 by S.R. 2007/25, art. 2); S.R. 2005/337, art. 2, Sch.

**F30** Sch. 2 para. 8 substituted without change of text (10.8.2006 for certain purposes, otherwise 1.9.2006) by virtue of S.R. 2006/332, regs. 1(2)(3), 14

**F31**<sup>9</sup> In Article 16(1) of the 2005 Order, in sub-paragraphs (a) and (b), after “not disabled” insert “ and who have not had a disability ”.

#### Textual Amendments

**F27** Sch. 2 paras. 6-13 inserted (N.I.) (1.9.2005 for certain purposes, otherwise 16.1.2007 ) by The Special Educational Needs and Disability (Northern Ireland) Order (S.I. 2005/1117 (N.I. 6)), art. 1, {48(10)}; S.R. 2005/336, art. 2, Sch. (as amended 16.1.2007 by S.R. 2007/25, art. 2); S.R. 2005/337, art. 2, Sch.

**F31** Sch. 2 para. 9 substituted without change of text (10.8.2006 for certain purposes, otherwise 1.9.2006) by virtue of S.R. 2006/332, regs. 1(2)(3), 14

**F32**<sup>10</sup> (1) In Article 29 of the 2005 Order in paragraph (3)(a), after “disabled” insert “ or that he had had a disability ”;

(2) in paragraph (6)(a) of that Article, after “who do not have” insert “ and have not had ”; and

(3) in paragraph (10) of that Article, for “that particular disability” substitute “ and who has not had that particular disability and ”.]

#### Textual Amendments

**F27** Sch. 2 paras. 6-13 inserted (N.I.) (1.9.2005 for certain purposes, otherwise 16.1.2007 ) by The Special Educational Needs and Disability (Northern Ireland) Order (S.I. 2005/1117 (N.I. 6)), art. 1, {48(10)}; S.R. 2005/336, art. 2, Sch. (as amended 16.1.2007 by S.R. 2007/25, art. 2); S.R. 2005/337, art. 2, Sch.

**F32** Sch. 2 para. 10 substituted (10.8.2006 for certain purposes, otherwise 1.9.2006) by virtue of S.R. 2006/332, regs. 1(2)(3), 14

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

[<sup>F33</sup>11 In Articles 30(1)(c), (1A)(d), (1B)(c), (1C) and (1D) and 37(1)(d), 2(c) and (3) of the 2005 Order, after “not disabled” insert “ and who have not had a disability ”.]

#### Textual Amendments

- F27** Sch. 2 paras. 6-13 inserted (N.I.) (1.9.2005 for certain purposes, otherwise 16.1.2007 ) by The Special Educational Needs and Disability (Northern Ireland) Order (S.I. 2005/1117 (N.I. 6)), art. 1, {48(10)}; S.R. 2005/336, art. 2, Sch. (as amended 16.1.2007 by S.R. 2007/25, art. 2); S.R. 2005/337, art. 2, Sch.
- F33** Sch. 2 para. 11 substituted (10.8.2006 for certain purposes, otherwise 1.9.2006) by virtue of S.R. 2006/332, regs. 1(2)(3), 14

<sup>F34</sup>12 In Article 35(8) of the 2005 Order after “not having that particular disability” insert “ and who has not had that particular disability ”.

#### Textual Amendments

- F27** Sch. 2 paras. 6-13 inserted (N.I.) (1.9.2005 for certain purposes, otherwise 16.1.2007 ) by The Special Educational Needs and Disability (Northern Ireland) Order (S.I. 2005/1117 (N.I. 6)), art. 1, {48(10)}; S.R. 2005/336, art. 2, Sch. (as amended 16.1.2007 by S.R. 2007/25, art. 2); S.R. 2005/337, art. 2, Sch.
- F34** Sch. 2 para. 12 substituted without change of text (10.8.2006 for certain purposes, otherwise 1.9.2006) by virtue of S.R. 2006/332, regs. 1(2)(3), 14

<sup>F35</sup>13 In Article 37(4)(b) of the 2005 Order for “has” substitute “ has had ”.]

#### Textual Amendments

- F27** Sch. 2 paras. 6-13 inserted (N.I.) (1.9.2005 for certain purposes, otherwise 16.1.2007 ) by The Special Educational Needs and Disability (Northern Ireland) Order (S.I. 2005/1117 (N.I. 6)), art. 1, {48(10)}; S.R. 2005/336, art. 2, Sch. (as amended 16.1.2007 by S.R. 2007/25, art. 2); S.R. 2005/337, art. 2, Sch.
- F35** Sch. 2 para. 13 substituted without change of text (10.8.2006 for certain purposes, otherwise 1.9.2006) by virtue of S.R. 2006/332, regs. 1(2)(3), 14

## SCHEDULE 3 U.K.

### SECTIONS [<sup>F36</sup>17A(8)] AND 25(6)[<sup>F37</sup>, 31ADA] ENFORCEMENT AND PROCEDURE

#### Extent Information

- E5** In its application to Northern Ireland, this Schedule has effect subject to the modifications set out in Sch. 8; see s. 70(6)

#### Textual Amendments

- F36** Sch. 3: word in side note substituted (E.W.S.) (3.7.2003 for certain purposes and otherwise 1.10.2004) by The Disability Discrimination Act 1995 (Amendment) Regulations 2003 (S.I. 2003/1673), regs. 1(2)(3), 29(2)(a) and same word substituted (N.I.) (21.2.2004 for certain purposes and otherwise 1.10.2004) by the Disability Discrimination Act (Amendment) Regulations (Northern Ireland) 2004 (S.R. 2004/55), regs. 1(2)(3), 28(2)(a)

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

**F37** Sch. 3: word in sidenote inserted (E.W.S.) (1.9.2007) by The Disability Discrimination Act 1995 (Amendment etc.) (General Qualifications Bodies) (Alteration of Premises and Enforcement) Regulations (S.I. 2007/2405), regs. 1(2), 4(2)

## PART I U.K.

### EMPLOYMENT

#### *Conciliation*

**F38**<sup>1</sup> .....

#### **Textual Amendments**

**F38** Sch. 3 para. 1 repealed (E.W.S.)(22.8.1996) by 1996 c. 17, ss. 45, 46, **Sch. 3 Pt. I** (with s. 38) and (N.I.) (24.9.1996) by S.I. 1996/1921 (N.I.18), art. 28, **Sch. 3** (with Sch. 2)

#### *Restriction on proceedings for breach of Part II*

- 2 [F39(1) Except as provided by Part 2, no civil or criminal proceedings may be brought against any person in respect of an act merely because the act is unlawful under that Part.]
- (2) Sub-paragraph (1) does not prevent the making of an application for judicial review [F40 or the investigation or determination of any matter in accordance with Part 10 (investigations) of the Pension Schemes Act 1993 F41 by the Pensions Ombudsman”][F42 or the investigation or determination of any matter in accordance with the Part X (investigations: the Pensions Ombudsman) of the Pension Schemes (Northern Ireland) Act 1993 F43 by the Pensions Ombudsman].
- [F44(3) Sub-paragraph (1) does not prevent the bringing of proceedings in respect of an offence under section 16B(2B).]

#### **Textual Amendments**

- F39** Sch. 3 para. 2(1) substituted (E.W.S.) (3.7.2003 for certain purposes and otherwise 1.10.2004) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), **29(2)(b)** and said words substituted (N.I.) (21.2.2004 for certain purposes and otherwise 1.10.2004) by the [Disability Discrimination Act \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), **28(2)(b)**
- F40** Words in Sch. 3 para. 2(2) inserted (E.W.S) (1.12.2003 for certain purposes, otherwise 1.10.2004) by [The Disability Discrimination Act 1995 \(Pensions\) Regulations 2003 \(S.I. 2003/2770\)](#), regs. 1(2)(3), **4(5)**
- F41** 1993 c. 48.
- F42** Words in Sch. 3 para. 2(2) added (N.I.) (21.2.2004 for certain purposes and otherwise 1.10.2004) by the [Disability Discrimination Act \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), **28(2)(c)**
- F43** 1993 c. 49; Part X was amended by Articles 152 to 156 of the [Pensions \(Northern Ireland\) Order 1995 \(S.I. 1995/3213 \(N.I. 22\)\)](#), **paragraph 70** of Schedule 5 to the [Bank of England Act 1998 \(c. 11\)](#) and sections 49 and 50 of, and Schedule 9 to, the [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4 \(N.I.\)\)](#)

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

**F44** Sch. 3 para. 2(3) inserted (E.W.S.) (5.12.2005) by Disability Discrimination Act 2005 (c. 13), ss. 19(1), 20(3)-(6), **Sch. 1 para. 38(2)**; S.I. 2005/2774, **art. 3(j)** and said sub-paragraph inserted (N.I.) (9.11.2007) by The Disability Discrimination (Northern Ireland) Order 2006 (S.I. 2006/312 (N.I. 1)), arts. 1, 19, **Sch. 1 para. 29(2)**; S.R. 2007/466, **art. 2(2)(l)**

*Period within which proceedings must be brought*

- 3 (1) An [<sup>F45</sup>employment tribunal] shall not consider a complaint under [<sup>F46</sup>section 17A or 25(8)] unless it is presented before the end of the period of three months beginning when the act complained of was done.
- (2) A tribunal may consider any such complaint which is out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.
- (3) For the purposes of sub-paragraph (1)—
- (a) where an unlawful act <sup>F47</sup> . . . is attributable to a term in a contract, that act is to be treated as extending throughout the duration of the contract;
  - (b) any act extending over a period shall be treated as done at the end of that period; and
  - (c) a deliberate omission shall be treated as done when the person in question decided upon it.
- (4) In the absence of evidence establishing the contrary, a person shall be taken for the purposes of this paragraph to decide upon an omission—
- (a) when he does an act inconsistent with doing the omitted act; or
  - (b) if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the omitted act if it was to be done.

**Textual Amendments**

**F45** Words in Sch. 3 para. 3 substituted (1.8.1998) by 1998 c. 8, **s. 1(2)** (with s. 16(2))

**F46** Words in Sch. 3 para. 3(1) substituted (E.W.S.) (3.7.2003 for certain purposes, otherwise 1.10.2004) by The Disability Discrimination Act 1995 (Amendment) Regulations 2003 (S.I. 2003/1673), regs. 1(2)(3), **29(2)(c)** and said words substituted (N.I.) (21.2.2004 for certain purposes, otherwise 1.10.2004) by the Disability Discrimination Act (Amendment) Regulations (Northern Ireland) 2004 (S.R. 2004/55), regs. 1(2)(3), **28(2)(d)**

**F47** Words in Sch. 3 para. 3(3)(a) omitted (E.W.S.) (3.7.2003 for certain purposes, otherwise 1.10.2004) by virtue of The Disability Discrimination Act 1995 (Amendment) Regulations 2003 (S.I. 2003/1673), regs. 1(2)(3), **29(2)(d)** and said words omitted (N.I.) (21.2.2004 for certain purposes, otherwise 1.10.2004) by virtue of the Disability Discrimination Act (Amendment) Regulations (Northern Ireland) 2004 (S.R. 2004/55), regs. 1(2)(3), **28(2)(e)**

*Evidence*

- 4 (1) In any proceedings under [<sup>F48</sup>section 17A or 25(8)], a certificate signed by or on behalf of a Minister of the Crown and certifying—

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

- (a) that any conditions or requirements specified in the certificate were imposed by a Minister of the Crown and were in operation at a time or throughout a time so specified, <sup>F49</sup> . . .

<sup>F49</sup>(b) . . . . .

shall be conclusive evidence of the matters certified.

[<sup>F50</sup>(1A) In any proceedings under section 17A or 25(8), a certificate signed by or on behalf of the Scottish Ministers and certifying that any conditions or requirements specified in the certificate—

- (a) were imposed by a member of the Scottish Executive, and  
 (b) were in operation at a time or throughout a time so specified,

shall be conclusive evidence of the matters certified.

(1B) In any proceedings under section 17A or 25(8), a certificate signed by or on behalf of the National Assembly for Wales and certifying that any conditions or requirements specified in the certificate—

- (a) were imposed by the Assembly, and  
 (b) were in operation at a time or throughout a time so specified,

shall be conclusive evidence of the matters certified.]

(2) A document purporting to be such a certificate [<sup>F51</sup>as is mentioned in subparagraph (1), (1A) or (1B)] shall be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

#### Extent Information

**E6** In its application to Northern Ireland, this section has effect subject to the modifications set out in Sch. 8; see s. 70(6)

#### Textual Amendments

**F48** Words in Sch. 3 para. 4(1) substituted (E.W.S.) (3.7.2003, otherwise 1.10.2004) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), **29(2)(e)** and said words substituted (N.I.) (21.2.2004 for certain purposes and 1.10.2004 insofar as not yet in force) by the [Disability Discrimination Act \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), **28(2)(f)**

**F49** Sch. 3 para. 4(1)(b) and preceding word repealed (16.7.2001) by 1999 c. 26, ss. 41, 44, Sch. 8 para. 7, **Sch. 9(12)**; S.I. 2001/1187, art. 3, **Sch.** (as amended by S.I. 2001/1461, **art. 2**)

**F50** Sch. 3 para. 4(1A)(1B) inserted (E.W.S.) (30.6.2005) by [Disability Discrimination Act 2005 \(c. 13\)](#), ss. 19(1), 20(3)-(6), **Sch. 1 para. 38(3)**; S.I. 2005/1676, **art. 2(1)(c)**

**F51** Words in Sch. 3 para. 4(2) inserted (E.W.S.) (30.6.2005) by [Disability Discrimination Act 2005 \(c. 13\)](#), ss. 19(1), 20(3)-(6), **Sch. 1 para. 38(4)**; S.I. 2005/1676, **art. 2(1)(c)**

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

## PART II U.K.

### DISCRIMINATION IN OTHER AREAS

#### *Restriction on proceedings for breach of Part III*

- 5 (1) Except as provided by section 25 no civil or criminal proceedings may be brought against any person in respect of an act merely because the act is unlawful under Part III.
- (2) Sub-paragraph (1) does not prevent the making of an application for judicial review.

#### *Period within which proceedings must be brought*

- 6 (1) A county court or a sheriff court shall not consider a claim under section 25 unless proceedings in respect of the claim are instituted before the end of the period of six months beginning when the act complained of was done.
- [<sup>F52</sup>(2) Where, in relation to proceedings or prospective proceedings under section 25, the dispute concerned is referred for conciliation in pursuance of arrangements under section 27 of the Equality Act 2006 before the end of the period of six months mentioned in sub-paragraph (1), the period allowed by that sub-paragraph shall be extended by three months.]
- (3) A court may consider any claim under section 25 which is out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.
- (4) For the purposes of sub-paragraph (1)—
- (a) where an unlawful act of discrimination is attributable to a term in a contract, that act is to be treated as extending throughout the duration of the contract;
  - (b) any act extending over a period shall be treated as done at the end of that period; and
  - (c) a deliberate omission shall be treated as done when the person in question decided upon it.
- (5) In the absence of evidence establishing the contrary, a person shall be taken for the purposes of this paragraph to decide upon an omission—
- (a) when he does an act inconsistent with doing the omitted act; or
  - (b) if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the omitted act if it was to be done.

#### **Extent Information**

- E7** In its application to Northern Ireland, this paragraph has effect subject to the modifications set out in Sch. 8: see s. 70(6)

#### **Textual Amendments**

- F52** Sch. 3 para. 6(2) substituted (E.W.S.) (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 93, Sch. 3 para. 56(1) (with s. 92); S.I. 2007/2603, art. 2 (subject to art. 3)

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

*[<sup>F53</sup>Staying or sisting proceedings on section 21B claim affecting criminal matters] [<sup>F54</sup>Staying proceedings on section 21B claim affecting criminal matters]*

#### **Textual Amendments**

**F53** Sch. 3 paras. 6A, 6B and cross-headings inserted (E.W.S.) (4.12.2006) by *Disability Discrimination Act 2005* (c. 13), ss. 19(1), 20(3)–(6), **Sch. 1 para. 38(5)**; S.I. 2005/2774, **art. 4**

**F54** Sch. 3 paras. 6A, 6B inserted (N.I.) (31.12.2007) by *The Disability Discrimination (Northern Ireland) Order 2006* (S.I. 2006/312 (N.I. 1)), arts. 1, 19, **Sch. 1 para. 29(3)**; S.R. 2007/466, **art. 2(2)(I)**

- [<sup>F53</sup>6A (1) Sub-paragraph (2) applies where a party to proceedings under section 25 which have arisen by virtue of section 21B(1) has applied for a stay or sist of those proceedings on the grounds of prejudice to—
- (a) particular criminal proceedings;
  - (b) a criminal investigation; or
  - (c) a decision to institute criminal proceedings.
- (2) The court shall grant the stay or sist unless it is satisfied that the continuance of the proceedings under section 25 would not result in the prejudice alleged.]

*<sup>F54</sup>[<sup>F53</sup>Restriction of remedies for section 21B claim relating to criminal matters]*

- [<sup>F53</sup>6B (1) Sub-paragraph (2) applies to a remedy other than—
- (a) damages; or
  - (b) a declaration or, in Scotland, a declarator.
- (2) In proceedings under section 25, the remedy shall be obtainable in respect of a relevant discriminatory act only if the court is satisfied that—
- (a) no criminal investigation,
  - (b) no decision to institute criminal proceedings, and
  - (c) no criminal proceedings,
- would be prejudiced by the remedy.
- (3) In sub-paragraph (2) “relevant discriminatory act” means an act—
- (a) which is done, or by virtue of section 57 or 58 is treated as done, by a person—
    - (i) in carrying out public investigator functions, or
    - (ii) in carrying out functions as a public prosecutor; and
  - (b) which is unlawful by virtue of section 21B(1).]

#### *Compensation for injury to feelings*

- 7 In any proceedings under section 25, the amount of any damages awarded as compensation for injury to feelings shall not exceed the prescribed amount.

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

### *Evidence*

- 8 (1) In any proceedings under section 25, a certificate signed by or on behalf of a Minister of the Crown and certifying—
- (a) that any conditions or requirements specified in the certificate were imposed by a Minister of the Crown and were in operation at a time or throughout a time so specified, or
  - (b) that an act specified in the certificate was done for the purpose of safeguarding national security,
- shall be conclusive evidence of the matters certified.
- (2) A document purporting to be such a certificate shall be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.
- [<sup>F55</sup>(3) In any proceedings under section 25, a certificate signed by or on behalf of the Scottish Ministers and certifying that any conditions or requirements specified in the certificate—
- (a) were imposed by a member of the Scottish Executive, and
  - (b) were in operation at a time or throughout a time so specified,
- shall be conclusive evidence of the matters certified.
- (4) In any proceedings under section 25, a certificate signed by or on behalf of the [<sup>F56</sup>Welsh Ministers] and certifying that any conditions or requirements specified in the certificate—
- (a) were imposed by the [<sup>F57</sup>National Assembly for Wales constituted by the Government of Wales Act 1998, the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government], and
  - (b) were in operation at a time or throughout a time so specified,
- shall be conclusive evidence of the matters certified.
- (5) A document purporting to be such a certificate as is mentioned in sub-paragraph (3) or (4) shall be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.]

#### **Textual Amendments**

- F55** Sch. 3 para. 8(3)-(5) inserted (E.W.S.) (30.6.2005) by [Disability Discrimination Act 2005 \(c. 13\)](#), ss. 19(1), 20(3)-(6), [Sch. 1 para. 38\(6\)](#); S.I. 2005/1676, [art. 2\(1\)\(c\)](#)
- F56** Words in [Sch. 3 para. 8\(4\)](#) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order ([S.I. 2007/1388](#)), arts. 1, 3, {[Sch. 1 para. 63\(3\)\(a\)](#)}, the amending provision coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see [s. 161\(5\)](#) of the Government of Wales Act 2006.
- F57** Words in [Sch. 3 para. 8\(4\)\(a\)](#) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order ([S.I. 2007/1388](#)), arts. 1, 3, {[Sch. 1 para. 63\(3\)\(b\)](#)}, the amending provision coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see [s. 161\(5\)](#) of the Government of Wales Act 2006.

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

## [<sup>F58</sup>PART 3 U.K.]

### DISCRIMINATION IN SCHOOLS]

#### Textual Amendments

**F58** Sch. 3 Pt. 3 (paras. 9-11) inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 19(2), **Sch. 3 para. 1** (with s. 43(13)); S.I. 2002/2217, art. 3, **Sch. 1 Pt. 1**

#### *Restriction on proceedings for breach of Part 4, Chapter 1*

- <sup>F59</sup> (1) Except as provided by sections 28I, 28K [<sup>F60</sup>, 28L and 28N], no civil or criminal proceedings may be brought against any person in respect of an act merely because the act is unlawful under Chapter 1 of Part 4.
- (2) Sub-paragraph (1) does not prevent the making of an application for judicial review.
- [<sup>F61</sup>(3) Sub-paragraph (1) does not prevent the bringing of proceedings in respect of an offence under section 28J(9).]

#### Textual Amendments

- F59** Sch. 3 Pt. 3 (paras. 9-11) inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 19(2), **Sch. 3 para. 1** (with s. 43(13)); S.I. 2002/2217, art. 3, **Sch. 1 Pt. 1**
- F60** Words in Sch. 3 para. 9(1) substituted (30.6.2005) by Disability Discrimination Act 2005 (c. 13), ss. 19(1), 20(3)-(6), **Sch. 1 para. 38(7)**; S.I. 2005/1676, art. 2(1)(c)
- F61** Sch. 3 para. 9(3) inserted (30.6.2005) by Disability Discrimination Act 2005 (c. 13), ss. 19(1), 20(3)-(6), **Sch. 1 para. 38(8)**; S.I. 2005/1676, art. 2(1)(c)

#### *Period within which proceedings must be brought*

- <sup>F62</sup>10 (1) The <sup>F63</sup> . . . [<sup>F64</sup>Welsh Tribunal] shall not consider a claim under section 28I unless proceedings in respect of the claim are instituted before the end of the period of six months beginning when the act complained of was done.
- (2) If, in relation to proceedings or prospective proceedings under section 28I, the dispute concerned is referred for conciliation in pursuance of arrangements under [<sup>F65</sup>section 27 of the Equality Act 2006] before the end of the period of six months mentioned in sub-paragraph (1), the period allowed by that sub-paragraph shall be extended by [<sup>F66</sup>three months].
- (3) The <sup>F63</sup> . . . [<sup>F64</sup>Welsh Tribunal] may consider any claim under section 28I which is out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.
- (4) But sub-paragraph (3) does not permit the <sup>F63</sup> . . . [<sup>F64</sup>Welsh Tribunal] to decide to consider a claim if a decision not to consider that claim has previously been taken under that sub-paragraph.
- (5) For the purposes of sub-paragraph (1)—
- (a) if an unlawful act of discrimination is attributable to a term in a contract, that act is to be treated as extending throughout the duration of the contract;

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

- (b) any act extending over a period shall be treated as done at the end of that period; and
  - (c) a deliberate omission shall be treated as done when the person in question decided upon it.
- (6) In the absence of evidence establishing the contrary, a person shall be taken for the purposes of this paragraph to decide upon an omission—
- (a) when he does an act inconsistent with doing the omitted act; or
  - (b) if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the omitted act if it was to be done.

#### Textual Amendments

- F62** Sch. 3 Pt. 3 (paras. 9-11) inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 19(2), **Sch. 3 para. 1** (with s. 43(13)); S.I. 2002/2217, art. 3, **Sch. 1 Pt. 1**
- F63** Words in Sch. 3 para. 10(1)(3)(4) omitted (3.11.2008) by virtue of The Transfer of Tribunal Functions Order (S.I. 2008/2833), arts. 1(1), 6, {Sch. 3 para. 121}
- F64** Words in Sch. 3 para. 10(1)(3)(4) inserted (1.9.2003) by 2002 c. 32, s. 195, **Sch. 18 para. 12** (with ss. 210(8), 214(4), Sch. 18 para. 17); S.I. 2002/3185, art. 6, **Sch. Pt. III**
- F65** Words in Sch. 3 para. 10(2) substituted (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 93, **Sch. 3 para. 56(2)(a)** (with s. 92); S.I. 2007/2603, **art. 2** (subject to art. 3)
- F66** Words in Sch. 3 para. 10(2) substituted (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 93, **Sch. 3 para. 56(2)(b)** (with s. 92); S.I. 2007/2603, **art. 2** (subject to art. 3)

#### Evidence

- <sup>F67</sup>11 (1) In any proceedings under section 28I, 28K [<sup>F68</sup>, 28L or 28N], a certificate signed by or on behalf of a Minister of the Crown and certifying that any conditions or requirements specified in the certificate—
- (a) were imposed by a Minister of the Crown, and
  - (b) were in operation at a time or throughout a time so specified,
- shall be conclusive evidence of the matters certified.
- [<sup>F69</sup>(1A) In any proceedings under section 28N, a certificate signed by or on behalf of the Scottish Ministers and certifying that any conditions or requirements specified in the certificate—
- (a) were imposed by a member of the Scottish Executive, and
  - (b) were in operation at a time or throughout a time so specified,
- shall be conclusive evidence of the matters certified.
- (1B) In any proceedings under section 28I, 28K or 28L, a certificate signed by or on behalf of the [<sup>F70</sup>Welsh Ministers] and certifying that any conditions or requirements specified in the certificate—
- (a) were imposed by the [<sup>F71</sup>National Assembly for Wales constituted by the Government of Wales Act 1998, the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government], and
  - (b) were in operation at a time or throughout a time so specified,
- shall be conclusive evidence of the matters certified.]

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

- (2) A document purporting to be such a certificate [<sup>F72</sup>as is mentioned in sub-paragraph (1), (1A) or (1B)] shall be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

#### Textual Amendments

- F67** Sch. 3 Pt. 3 (paras. 9-11) inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 19(2), **Sch. 3 para. 1** (with s. 43(13)); S.I. 2002/2217, art. 3, **Sch. 1 Pt. 1**
- F68** Words in Sch. 3 para. 11(1) inserted (30.6.2005) by Disability Discrimination Act 2005 (c. 13), ss. 19(1), 20(3)-(6), **Sch. 1 para. 38(9)**; S.I. 2005/1676, art. 2(1)(c)
- F69** Sch. 3 para. 11(1A)(1B) inserted (30.6.2005) by Disability Discrimination Act 2005 (c. 13), ss. 19(1), 20(3)-(6), **Sch. 1 para. 38(10)**; S.I. 2005/1676, art. 2(1)(c)
- F70** Words in Sch. 3 para. 11(1B) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order (S.I. 2007/1388), arts. 1, 3, {Sch. 1 para. 63(4)(a)}, the amending provision coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see s. 161(5) of the Government of Wales Act 2006.
- F71** Words in Sch. 3 para. 11(1B)(a) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order (S.I. 2007/1388), arts. 1, 3, {Sch. 1 para. 63(4)(b)}, the amending provision coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see s. 161(5) of the Government of Wales Act 2006.
- F72** Words in Sch. 3 para. 11(2) inserted (30.6.2005) by Disability Discrimination Act 2005 (c. 13), ss. 19(1), 20(3)-(6), **Sch. 1 para. 38(11)**; S.I. 2005/1676, art. 2(1)(c)

### [<sup>F73</sup>PART 4 E+W+S

#### DISCRIMINATION IN FURTHER AND HIGHER EDUCATION INSTITUTIONS]

#### Textual Amendments

- F73** Sch. 3 Pt. 4 (paras. 12-15) inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 30(2), **Sch. 3 para. 2** (with s. 43(13)); S.I. 2002/2217, art. 3, **Sch. 1 Pt. 1**

#### *Restriction on proceedings for breach of Part 4, Chapter 2*

- <sup>F74</sup>12 (1) Except as provided by [<sup>F75</sup>Chapter 2 of Part 4], no civil or criminal proceedings may be brought against any person in respect of an act merely because the act is unlawful under [<sup>F76</sup>that Chapter].

- (2) Sub-paragraph (1) does not prevent the making of an application for judicial review.

#### Textual Amendments

- F74** Sch. 3 Pt. 4 (paras. 12-15) inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 30(2), (with s. 43(13)); S.I. 2002/2217, art. 3, **Sch. 1 Pt. 1**
- F75** Words in Sch. 3 para. 12(1) substituted (30.6.2006 for certain purposes and otherwise 1.9.2006) by The Disability Discrimination Act 1995 (Amendment) (Further and Higher Education) Regulations 2006 (S.I. 2006/1721), regs. 1, **19(2)(a)**

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

**F76** Words in Sch. 3 para. 12(1) substituted (30.6.2006 for certain purposes and otherwise 1.9.2006) by The Disability Discrimination Act 1995 (Amendment) (Further and Higher Education) Regulations 2006 (S.I. 2006/1721), regs. 1, **19(2)(b)**

*Period within which proceedings must be brought*

<sup>F77</sup>13 (1) A county court or a sheriff court shall not consider a claim under section 28V unless proceedings in respect of the claim are instituted before the end of the period of six months beginning when the act complained of was done.

[<sup>F78</sup>(2) If, in relation to proceedings or prospective proceedings under section 28V—

- (a) the dispute concerned is referred for conciliation in pursuance of arrangements under [<sup>F79</sup>section 27 of the Equality Act 2006] before the end of the period of six months mentioned in sub-paragraph (1), or
- (b) in England and Wales, in a case not falling within paragraph (a), the dispute concerned relates to the act or omission of a qualifying institution and is referred as a complaint under the student complaints scheme before the end of that period,

the period of six months allowed by sub-paragraph (1) shall be extended by [<sup>F80</sup>three months.].

(2A) In sub-paragraph (2)(b)—

“qualifying institution” has the meaning given by section 11 of the Higher Education Act 2004;

“the student complaints scheme” means a scheme for the review of qualifying complaints, as defined by section 12 of that Act, that is provided by the designated operator, as defined by section 13(5)(b) of that Act.]

(3) A court may consider any claim under section 28V which is out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.

(4) For the purposes of sub-paragraph (1)—

- (a) if an unlawful act <sup>F81</sup>. . . is attributable to a term in a contract, that act is to be treated as extending throughout the duration of the contract;
- (b) any act extending over a period shall be treated as done at the end of that period; and
- (c) a deliberate omission shall be treated as done when the person in question decided upon it.

(5) In the absence of evidence establishing the contrary, a person shall be taken for the purposes of this paragraph to decide upon an omission—

- (a) when he does an act inconsistent with doing the omitted act; or
- (b) if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the omitted act if it was to be done.

**Textual Amendments**

**F77** Sch. 3 Pt. 4 (paras. 12-15) inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 30(2), (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. I

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

- F78** Sch. 3 para. 13(2)(2A) substituted for Sch. 3 para. 13(2) (1.11.2004) by Higher Education Act 2004 (c. 8), ss. 19(3), 52; S.I. 2004/2781, art. 3
- F79** Words in Sch. 3 para. 13(2) substituted (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 93, Sch. 3 para. 56(2)(a) (with s. 92); S.I. 2007/2603, art. 2 (subject to art. 3)
- F80** Words in Sch. 3 para. 13(2) substituted (1.10.2007) by Equality Act 2006 (c. 3), ss. 40, 93, Sch. 3 para. 56(2)(b) (with s. 92); S.I. 2007/2603, art. 2 (subject to art. 3)
- F81** Words in Sch. 3 para. 13(4)(a) omitted (30.6.2006 for certain purposes and otherwise 1.9.2006) by virtue of The Disability Discrimination Act 1995 (Amendment) (Further and Higher Education) Regulations 2006 (S.I. 2006/1721), regs. 1, 19(3)

### *Compensation for injury to feelings*

- <sup>F82</sup>14 In any proceedings under section 28V, the amount of any damages awarded as compensation for injury to feelings shall not exceed the prescribed amount.

#### **Textual Amendments**

- F82** Sch. 3 Pt. 4 (paras. 12-15) inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 30(2), (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. I

### *Evidence*

- <sup>F83</sup>15 (1) In any proceedings under section 28V, a certificate signed by or on behalf of a Minister of the Crown and certifying that any conditions or requirements specified in the certificate—
- (a) were imposed by a Minister of the Crown, and
  - (b) were in operation at a time or throughout a time so specified,
- is conclusive evidence of the matters certified.
- [<sup>F84</sup>(1A) In any proceedings under section 28V, a certificate signed by or on behalf of the Scottish Ministers and certifying that any conditions or requirements specified in the certificate—
- (a) were imposed by a member of the Scottish Executive, and
  - (b) were in operation at a time or throughout a time so specified,
- is conclusive evidence of the matters certified.]
- (1B) In any proceedings under section 28V, a certificate signed by or on behalf of the [<sup>F85</sup>Welsh Ministers] and certifying that any conditions or requirements specified in the certificate—
- (a) were imposed by the [<sup>F86</sup>National Assembly for Wales constituted by the Government of Wales Act 1998, the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government], and
  - (b) were in operation at a time or throughout a time so specified,
- is conclusive evidence of the matters certified.]
- (2) A document purporting to be such a certificate [<sup>F87</sup>as is mentioned in subparagraph (1), (1A) or (1B)] is to be—
- (a) received in evidence; and
  - (b) deemed to be such a certificate unless the contrary is proved.

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

#### Textual Amendments

- F83** Sch. 3 Pt. 4 (paras. 12-15) inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 30(2), (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. I
- F84** Sch. 3 para. 15(1A)(1B) inserted (30.6.2005) by Disability Discrimination Act 2005 (c. 13), ss. 19(1), 20(3)-(6), Sch. 1 para. 38(12); S.I. 2005/1676, art. 2(1)(c)
- F85** Words in Sch. 3 para. 15(1B) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order (S.I. 2007/1388), arts. 1, 3, {Sch. 1 para. 63(5)(a)}, the amending provision coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see s. 161(5) of the Government of Wales Act 2006.
- F86** Words in Sch. 3 para. 15(1B)(a) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order (S.I. 2007/1388), arts. 1, 3, {Sch. 1 para. 63(5)(b)}, the amending provision coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see s. 161(5) of the Government of Wales Act 2006.
- F87** Words in Sch. 3 para. 15(2) inserted (30.6.2005) by Disability Discrimination Act 2005 (c. 13), ss. 19(1), 20(3)-(6), Sch. 1 para. 38(13); S.I. 2005/1676, art. 2(1)(c)

## <sup>F88</sup>PART 5 E+W+S

### DISCRIMINATION IN GENERAL QUALIFICATIONS BODIES

#### Textual Amendments

- F88** Sch. 3 Pt. 5 (paras. 16-18 and cross-headings) inserted (E.W.S.) (1.9.2007) by The Disability Discrimination Act 1995 (Amendment etc.) (General Qualifications Bodies) (Alteration of Premises and Enforcement) Regulations (S.I. 2007/2405), regs. 1(2), 4(3) (with reg. 14)

#### *Restriction on proceedings for breach of Part 4, Chapter 2A*

- 16 (1) Except as provided by section 31ADA, no civil or criminal proceedings may be brought against any person in respect of an act merely because the act is unlawful under Chapter 2A of Part 4.
- (2) Sub-paragraph (1) does not prevent the making of an application for judicial review.

#### *Period within which proceedings must be brought*

- 17 (1) A county court or a sheriff court shall not consider a claim under section 31ADA unless proceedings in respect of the claim are instituted before the end of the period of six months beginning when the act complained of was done.
- (2) If, in relation to proceedings or prospective proceedings under section 31ADA, the dispute concerned is referred to conciliation in pursuance of arrangements under section 27 of the Equality Act 2006 before the end of the period of six months

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

mentioned in sub-paragraph (1), the period of six months allowed by that sub-paragraph shall be extended by three months.

- (3) A court may consider any claim under section 31ADA which is out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.
- (4) For the purposes of sub-paragraph (1)—
  - (a) if an unlawful act is attributable to a term in a contract, that act is to be treated as extending throughout the duration of the contract;
  - (b) any act extending over a period shall be treated as done at the end of that period; and
  - (c) a deliberate omission shall be treated as done when the person in question decided upon it.
- (5) In the absence of evidence establishing the contrary, a person shall be taken for the purposes of this paragraph to decide upon an omission—
  - (a) when he does an act inconsistent with doing the omitted act; or
  - (b) if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the omitted act if it was to be done.

#### *Evidence]*

- 18 (1) In any proceedings under section 31ADA, a certificate signed by or on behalf of a Minister of the Crown and certifying that any conditions or requirements specified in the certificate—
  - (a) were imposed by a Minister of the Crown, and
  - (b) were in operation at a time or throughout a time so specified,
 is conclusive evidence of the matters certified.
- (2) In any proceedings under section 31ADA, a certificate signed by or on behalf of the Scottish Ministers and certifying that any conditions or requirements specified in the certificate—
  - (a) were imposed by a member of the Scottish Executive, and
  - (b) were in operation at a time or throughout a time so specified,
 is conclusive evidence of the matters certified.
- (3) In any proceedings under section 31ADA, a certificate signed by or on behalf of the Welsh Ministers and certifying that any conditions or requirements specified in the certificate—
  - (a) were imposed by them, and
  - (b) were in operation at a time or throughout a time so specified,
 is conclusive evidence of the matters certified.
- (4) A document purporting to be such a certificate as is mentioned in sub-paragraph (1), (2) or (3) is to be—
  - (a) received in evidence; and
  - (b) deemed to be such a certificate unless the contrary is proved.

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

## [<sup>F89</sup>SCHEDULE 3A N.I.]

Section 17C

### VALIDITY OF CONTRACTS, COLLECTIVE AGREEMENTS AND RULES OF UNDERTAKINGS

#### Textual Amendments

**F89** Sch. 3A inserted (N.I.) (21.2.2004 for certain purposes and 1.10.2004 insofar as not yet in force) by the Disability Discrimination Act (Amendment) Regulations (Northern Ireland) (S.R. 2004/55), reg. 16(2), {Sch.}

## PART I N.I.

### VALIDITY AND REVISION OF CONTRACTS

- 1 (1) A term of a contract is void where –
  - (a) the making of the contract is, by reason of the inclusion of the term, unlawful by virtue of this Part of this Act;
  - (b) it is included in furtherance of an act which is unlawful by virtue of this Part of this Act; or
  - (c) it provides for the doing of an act which is unlawful by virtue of this Part of this Act.
- (2) Sub-paragraph (1) does not apply to a term the inclusion of which constitutes, or is in furtherance of, or provides for, unlawful discrimination against, or harassment of, a party to the contract, but the term shall be unenforceable against that party.
- (3) A term in a contract which purports to exclude or limit any provision of this Part of this Act is unenforceable by any person in whose favour the term would operate apart from this paragraph.
- (4) Sub-paragraphs (1), (2) and (3) apply whether the contract was entered into before or after the date on which this Schedule comes into operation; but in the case of a contract made before that date, those sub-paragraphs do not apply in relation to any period before that date.
- 2 (1) Paragraph 1(3) does not apply –
  - (a) to a contract settling a complaint to which section 17A(1) or 25(8) applies where the contract is made with the assistance of the Agency; or
  - (b) to a contract settling a complaint to which section 17A(1) or 25(8) applies if the conditions regulating compromise contracts under this Schedule are satisfied in relation to the contract.
- (2) The conditions regulating compromise contracts under this Schedule are that –
  - (a) the contract must be in writing;
  - (b) the contract must relate to the particular complaint;
  - (c) the complainant must have received advice from a relevant independent adviser as to the terms and effect of the proposed contract and in particular its effect on his ability to pursue a complaint before an industrial tribunal;
  - (d) there must be in force, when the adviser gives the advice, a contract of insurance, or an indemnity provided for members of a profession or

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

- professional body, covering the risk of a claim by the complainant in respect of loss arising in consequence of the advice;
- (e) the contract must identify the adviser; and
  - (f) the contract must state that the conditions regulating compromise contracts under this Schedule are satisfied.
- (3) A person is a relevant independent adviser for the purposes of sub-paragraph (2)(c) –
- (a) if he is a qualified lawyer;
  - (b) if he is an officer, official, employee or member of an independent trade union who has been certified in writing by the trade union as competent to give advice and as authorised to do so on behalf of the trade union;<sup>F90</sup> . . .
  - (c) if he works at an advice centre (whether as an employee or a volunteer) and has been certified in writing by the centre as competent to give advice and as authorised to do so on behalf of the centre.<sup>F91</sup>; or
  - (d) if he is a person of a description specified in an order made by the Office.]
- (4) But a person is not a relevant independent adviser for the purposes of sub-paragraph (2)(c) in relation to the complainant –
- (a) if he is, is employed by or is acting in the matter for the other party or a person who is connected with the other party;
  - (b) in the case of a person within sub-paragraph (3)(b) or (c), if the trade union or advice centre is the other party or a person who is connected with the other party; or
  - (c) in the case of a person within sub-paragraph (3)(c), if the complainant makes a payment for the advice received from him.
- (5) In sub-paragraph (3)(a) “qualified lawyer” means a barrister (whether in practice as such or employed to give legal advice) or a solicitor who holds a practising certificate.
- (6) In sub-paragraph (3)(b) “independent trade union” has the same meaning as in the Industrial Relations (Northern Ireland) Order 1992<sup>F92</sup>.
- (7) For the purposes of sub-paragraph (4)(a) any two persons are to be treated as connected –
- (a) if one is a company of which the other (directly or indirectly) has control; or
  - (b) if both are companies of which a third person (directly or indirectly) has control.
- (8) An agreement under which the parties agree to submit a dispute to arbitration –
- (a) shall be regarded for the purposes of sub-paragraph (1)(a) and (b) as being a contract settling a complaint if –
    - (i) the dispute is covered by a scheme having effect by virtue of an order under Article 84A of the Industrial Relations (Northern Ireland) Order 1992<sup>F93</sup>, and
    - (ii) the agreement is to submit it to arbitration in accordance with the scheme; but
  - (b) shall be regarded as neither being nor including such a contract in any other case.

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

### Textual Amendments

- F90** Word in Sch. 3A para. 2(3)(b) repealed (9.11.2007) by [The Disability Discrimination \(Northern Ireland\) Order 2006 \(S.I. 2006/312 \(N.I. 1\)\)](#), arts. 1, 19(2), [Sch. 2](#); S.R. 2007/466, [art. 2\(2\)\(n\)](#)
- F91** Sch. 3A para. 2(3)(d) and preceding word inserted (3.7.2006) by [The Disability Discrimination \(Northern Ireland\) Order 2006 \(S.I. 2006/312 \(N.I. 1\)\)](#), arts. 1, 19, [Sch. 1 para. 30\(2\)](#); S.R. 2006/289, [art. 2\(1\)\(b\)](#)
- F92** S.I. 1992/807 (N.I. 5)
- F93** Article 84A was inserted by Article 8 of the [Employment Rights \(Dispute Resolution\) \(Northern Ireland\) Order 1998 \(S.I. 1998/1265 \(N.I. 8\)\)](#)

- 3 (1) On the application of a disabled person interested in a contract to which paragraph 1(1) or (2) applies, a county court may make such order as it thinks fit for –
- (a) removing or modifying any term rendered void by paragraph 1(1), or
  - (b) removing or modifying any term made unenforceable by paragraph 1(2);
- but such an order shall not be made unless all persons affected have been given notice in writing of the application (except where under county court rules notice may be dispensed with) and have been afforded an opportunity to make representations to the court.
- (2) An order under sub-paragraph (1) may include provision as respects any period before the making of the order (but after the coming into operation of this Schedule).

## PART II **N.I.**

### COLLECTIVE AGREEMENTS AND RULES OF UNDERTAKINGS

- 4 (1) This Part of this Schedule applies to –
- (a) any term of a collective agreement, including an agreement which was not intended, or is presumed not to have been intended, to be a legally enforceable contract;
  - (b) any rule made by an employer for application to all or any of the persons who are employed by him or who apply to be, or are, considered by him for employment;
  - (c) any rule made by a trade organisation (within the meaning of section 13) or a qualifications body (within the meaning of section 14A) for application to –
    - (i) all or any of its members or prospective members; or
    - (ii) all or any of the persons on whom it has conferred authorisations or qualifications or who are seeking the authorisations or qualifications which it has power to confer.
- (2) Any term or rule to which this Part of this Schedule applies is void where –
- (a) the making of the collective agreement is, by reason of the inclusion of the term, unlawful by virtue of this Part of this Act;
  - (b) the term or rule is included in furtherance of an act which is unlawful by virtue of this Part of this Act; or
  - (c) the term or rule provides for the doing of an act which is unlawful by virtue of this Part of this Act.
- (3) Sub-paragraph (2) applies whether the agreement was entered into, or the rule made, before or after the date on which this Schedule comes into operation; but in the case of an agreement entered into, or a rule made, before the date on which this Schedule

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*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

comes into operation, that sub-paragraph does not apply in relation to any period before that date.

- 5 A disabled person to whom this paragraph applies may present a complaint to an industrial tribunal that a term or rule is void by virtue of paragraph 4 if he has reason to believe –
- (a) that the term or rule may at some future time have effect in relation to him; and
  - (b) where he alleges that it is void by virtue of paragraph 4(2)(c), that –
    - (i) an act for the doing of which it provides, may at some such time be done in relation to him, and
    - (ii) the act would be unlawful by virtue of this Part of this Act if done in relation to him in present circumstances.
- 6 In the case of a complaint about –
- (a) a term of a collective agreement made by or on behalf of –
    - (i) an employer,
    - (ii) an organisation of employers of which an employer is a member, or
    - (iii) an association of such organisations of one of which an employer is a member, or
  - (b) a rule made by an employer within the meaning of paragraph 4(1)(b),
- paragraph 5 applies to any disabled person who is, or is genuinely and actively seeking to become, one of his employees.
- 7 In the case of a complaint about a rule made by an organisation or body to which paragraph 4(1)(c) applies, paragraph 5 applies to any disabled person –
- (a) who is, or is genuinely and actively seeking to become, a member of the organisation or body;
  - (b) on whom the organisation or body has conferred an authorisation or qualification; or
  - (c) who is genuinely and actively seeking an authorisation or qualification which the organisation or body has power to confer.
- 8 (1) When an industrial tribunal finds that a complaint presented to it under paragraph 5 is well-founded the tribunal shall make an order declaring that the term or rule is void.
- (2) An order under sub-paragraph (1) may include provision as respects any period before the making of the order (but after the coming into operation of this Schedule).
- 9 The avoidance by virtue of paragraph 4(2) of any term or rule which provides for any person to be discriminated against shall be without prejudice to the following rights (except in so far as they enable any person to require another person to be treated less favourably than himself), namely –
- (a) such of the rights of the person to be discriminated against, and
  - (b) such of the rights of any person who will be treated more favourably in direct or indirect consequence of the discrimination,
- as are conferred by or in respect of a contract made or modified wholly or partly in pursuance of, or by reference to, that term or rule.

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

### PART III **N.I.**

#### INTERPRETATION

10 In this Schedule “collective agreement” means any agreement relating to one or more of the matters mentioned in Article 96(1) of the Industrial Relations (Northern Ireland) Order 1992 (meaning of trade dispute), being an agreement made by or on behalf of one or more employers or one or more organisations of employers or associations of such organisations with one or more organisations of workers or associations of such organisations.

[<sup>F94</sup>11 Any reference in this Schedule to this Part of this Act shall be taken to include a reference to Part III of this Act, to the extent that it relates to—

- (a) the provision of employment services; or
- (b) the provision under a group insurance arrangement of facilities by way of insurance.]

#### Textual Amendments

**F94** Sch. 3A paras. 11, 12 substituted (31.12.2007) for Sch. 3A para. 11 by [The Disability Discrimination \(Northern Ireland\) Order 2006 \(S.I. 2006/312 \(N.I. 1\)\)](#), arts. 1, 19, **Sch. 1 para. 30(3)**; S.R. 2007/466, **art. 2(2)(m)**

#### Modifications etc. (not altering text)

**C2** Sch. 3A extends to Northern Ireland only; a separate Sch.3A for England, Wales and Scotland only repealed (1.10.2010).

[<sup>F95</sup>12 Where a term to which section 26(1A)(c) applies is a term in an agreement which is not a contract, Part I of this Schedule shall have effect as if the agreement were a contract.]]

#### Textual Amendments

**F95** Sch. 3A paras. 11, 12 substituted (31.12.2007) for Sch. 3A para. 11 by [The Disability Discrimination \(Northern Ireland\) Order 2006 \(S.I. 2006/312 \(N.I. 1\)\)](#), arts. 1, 19, **Sch. 1 para. 30(3)**; S.R. 2007/466, **art. 2(2)(m)**

[<sup>F96</sup>SCHEDULE 3A **E+W+S**

Section 17C

### VALIDITY OF CONTRACTS, COLLECTIVE AGREEMENTS AND RULES OF UNDERTAKINGS

#### Textual Amendments

**F96** Sch. 3A inserted (E.W.S.) (3.7.2003 for certain purposes and otherwise 1.10.2004) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), 16(2), **Sch.**

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

## PART 1 E+W+S

### VALIDITY AND REVISION OF CONTRACTS

1

- (1) A term of a contract is void where—
  - (a) the making of the contract is, by reason of the inclusion of the term, unlawful by virtue of this Part of this Act;
  - (b) it is included in furtherance of an act which is unlawful by virtue of this Part of this Act; or
  - (c) it provides for the doing of an act which is unlawful by virtue of this Part of this Act.
- (2) Sub-paragraph (1) does not apply to a term the inclusion of which constitutes, or is in furtherance of, or provides for, unlawful discrimination against, or harassment of, a party to the contract, but the term shall be unenforceable against that party.
- (3) A term in a contract which purports to exclude or limit any provision of this Part of this Act is unenforceable by any person in whose favour the term would operate apart from this paragraph.
- (4) Sub-paragraphs (1), (2) and (3) apply whether the contract was entered into before or after the date on which this Schedule comes into force; but in the case of a contract made before that date, those sub-paragraphs do not apply in relation to any period before that date.

2

- (1) Paragraph 1(3) does not apply—
  - (a) to a contract settling a complaint to which section 17A(1) or 25(8) applies where the contract is made with the assistance of a conciliation officer (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992<sup>F97</sup>); or
  - (b) to a contract settling a complaint to which section 17A(1) or 25(8) applies if the conditions regulating compromise contracts under this Schedule are satisfied in relation to the contract.
- (2) The conditions regulating compromise contracts under this Schedule are that—
  - (a) the contract must be in writing;
  - (b) the contract must relate to the particular complaint;
  - (c) the complainant must have received advice from a relevant independent adviser as to the terms and effect of the proposed contract and in particular its effect on his ability to pursue a complaint before an employment tribunal;
  - (d) there must be in force, when the adviser gives the advice, a contract of insurance, or an indemnity provided for members of a profession or professional body, covering the risk of a claim by the complainant in respect of loss arising in consequence of the advice;
  - (e) the contract must identify the adviser; and
  - (f) the contract must state that the conditions regulating compromise contracts under this Schedule are satisfied.

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*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

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- (3) A person is a relevant independent adviser for the purposes of sub-paragraph (2)(c)—
- (a) if he is a qualified lawyer;
  - (b) if he is an officer, official, employee or member of an independent trade union who has been certified in writing by the trade union as competent to give advice and as authorised to do so on behalf of the trade union;<sup>F98</sup> . . .
  - (c) if he works at an advice centre (whether as an employee or a volunteer) and has been certified in writing by the centre as competent to give advice and as authorised to do so on behalf of the centre.<sup>F99</sup>; or
  - (d) if he is a person of a description specified in an order made by the Secretary of State.]
- (4) But a person is not a relevant independent adviser for the purposes of sub-paragraph (2)(c) in relation to the complainant—
- (a) if he is, is employed by or is acting in the matter for the other party or a person who is connected with the other party;
  - (b) in the case of a person within sub-paragraph (3)(b) or (c), if the trade union or advice centre is the other party or a person who is connected with the other party; or
  - (c) in the case of a person within sub-paragraph (3)(c), if the complainant makes a payment for the advice received from him.
- (5) In sub-paragraph (3)(a) “qualified lawyer” means—
- (a) as respects England and Wales, a barrister (whether in practice as such or employed to give legal advice), a solicitor who holds a practising certificate, or a person other than a barrister or solicitor who is an authorised advocate or authorised litigator (within the meaning of the Courts and Legal Services Act 1990<sup>F100</sup>); and
  - (b) as respects Scotland, an advocate (whether in practice as such or employed to give legal advice), or a solicitor who holds a practising certificate.
- (6) In sub-paragraph (3)(b) “independent trade union” has the same meaning as in the Trade Union and Labour Relations (Consolidation) Act 1992<sup>F101</sup>.
- (7) For the purposes of sub-paragraph (4)(a) any two persons are to be treated as connected—
- (a) if one is a company of which the other (directly or indirectly) has control; or
  - (b) if both are companies of which a third person (directly or indirectly) has control.
- (8) An agreement under which the parties agree to submit a dispute to arbitration—
- (a) shall be regarded for the purposes of sub-paragraph (1)(a) and (b) as being a contract settling a complaint if—
    - (i) the dispute is covered by a scheme having effect by virtue of an order under section 212A of the Trade Union and Labour Relations (Consolidation) Act 1992, and
    - (ii) the agreement is to submit it to arbitration in accordance with the scheme; but
  - (b) shall be regarded as neither being nor including such a contract in any other case.

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

### Textual Amendments

**F97** 1992 c. 52.

**F98** Word in Sch. 3A para. 2(3)(b) repealed (30.6.2005) by [Disability Discrimination Act 2005 \(c. 13\)](#), ss. 19(2), 20(3)-(6), [Sch. 2](#); S.I. 2005/1676, [art. 2\(1\)\(c\)](#)

**F99** Sch 3A para. 2(3)(d) and preceding word inserted (30.6.2005) by [Disability Discrimination Act 2005 \(c. 13\)](#), ss. 19(1), 20(3)-(6), [Sch. 1 para. 39\(2\)](#); S.I. 2005/1676, [art. 2\(1\)\(c\)](#)

**F100** 1990 c. 41.

**F101** 1992 c. 52.

3

- (1) On the application of a disabled person interested in a contract to which paragraph 1(1) or (2) applies, a county court or a sheriff court may make such order as it thinks fit for—
  - (a) removing or modifying any term rendered void by paragraph 1(1), or
  - (b) removing or modifying any term made unenforceable by paragraph 1(2);
 but such an order shall not be made unless all persons affected have been given notice in writing of the application (except where under rules of court notice may be dispensed with) and have been afforded an opportunity to make representations to the court.
- (2) An order under sub-paragraph (1) may include provision as respects any period before the making of the order (but after the coming into force of this Schedule).

## PART 2 E+W+S

### COLLECTIVE AGREEMENTS AND RULES OF UNDERTAKINGS

4

- (1) This Part of this Schedule applies to—
  - (a) any term of a collective agreement, including an agreement which was not intended, or is presumed not to have been intended, to be a legally enforceable contract;
  - (b) any rule made by an employer for application to all or any of the persons who are employed by him or who apply to be, or are, considered by him for employment;
  - (c) any rule made by a trade organisation (within the meaning of section 13) or a qualifications body (within the meaning of section 14A) for application to—
    - (i) all or any of its members or prospective members; or
    - (ii) all or any of the persons on whom it has conferred authorisations or qualifications or who are seeking the authorisations or qualifications which it has power to confer.
- (2) Any term or rule to which this Part of this Schedule applies is void where—
  - (a) the making of the collective agreement is, by reason of the inclusion of the term, unlawful by virtue of this Part of this Act;

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*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

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- (b) the term or rule is included in furtherance of an act which is unlawful by virtue of this Part of this Act; or
    - (c) the term or rule provides for the doing of an act which is unlawful by virtue of this Part of this Act.
  - (3) Sub-paragraph (2) applies whether the agreement was entered into, or the rule made, before or after the date on which this Schedule comes into force; but in the case of an agreement entered into, or a rule made, before the date on which this Schedule comes into force, that sub-paragraph does not apply in relation to any period before that date.
- 5 A disabled person to whom this paragraph applies may present a complaint to an employment tribunal that a term or rule is void by virtue of paragraph 4 if he has reason to believe—
- (a) that the term or rule may at some future time have effect in relation to him; and
  - (b) where he alleges that it is void by virtue of paragraph 4(2)(c), that—
    - (i) an act for the doing of which it provides, may at some such time be done in relation to him, and
    - (ii) the act would be unlawful by virtue of this Part of this Act if done in relation to him in present circumstances.
- 6 In the case of a complaint about—
- (a) a term of a collective agreement made by or on behalf of—
    - (i) an employer,
    - (ii) an organisation of employers of which an employer is a member, or
    - (iii) an association of such organisations of one of which an employer is a member, or
  - (b) a rule made by an employer within the meaning of paragraph 4(1)(b),
- paragraph 5 applies to any disabled person who is, or is genuinely and actively seeking to become, one of his employees.
- 7 In the case of a complaint about a rule made by an organisation or body to which paragraph 4(1)(c) applies, paragraph 5 applies to any disabled person—
- (a) who is, or is genuinely and actively seeking to become, a member of the organisation or body;
  - (b) on whom the organisation or body has conferred an authorisation or qualification; or
  - (c) who is genuinely and actively seeking an authorisation or qualification which the organisation or body has power to confer.
- 8
- (1) When an employment tribunal finds that a complaint presented to it under paragraph 5 is well-founded the tribunal shall make an order declaring that the term or rule is void.

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

- (2) An order under sub-paragraph (1) may include provision as respects any period before the making of the order (but after the coming into force of this Schedule).
- 9 The avoidance by virtue of paragraph 4(2) of any term or rule which provides for any person to be discriminated against shall be without prejudice to the following rights (except in so far as they enable any person to require another person to be treated less favourably than himself), namely—
- (a) such of the rights of the person to be discriminated against, and
  - (b) such of the rights of any person who will be treated more favourably in direct or indirect consequence of the discrimination,
- as are conferred by or in respect of a contract made or modified wholly or partly in pursuance of, or by reference to, that term or rule.

### PART 3 E+W+S

#### INTERPRETATION]

- 10 In this Schedule “collective agreement” means any agreement relating to one or more of the matters mentioned in section 178(2) of the Trade Union and Labour Relations (Consolidation) Act 1992 <sup>F102</sup> (meaning of trade dispute), being an agreement made by or on behalf of one or more employers or one or more organisations of employers or associations of such organisations with one or more organisations of workers or associations of such organisations.

#### Textual Amendments

**F102** 1992 c. 52.

- [<sup>F103</sup>11 Any reference in this Schedule to this Part of this Act shall be taken to include a reference to Part 3 of this Act, to the extent that it relates to—
- (a) the provision of employment services; or
  - (b) the provision under a group insurance arrangement of facilities by way of insurance.]

#### Textual Amendments

**F103** Sch. 3A paras. 11, 12 substituted (5.12.2005) for Sch. 3A para. 11 by [Disability Discrimination Act 2005](#) (c. 13), ss. 19(1), 20(3)-(6), [Sch. 1 para. 39\(3\)](#); S.I. 2005/2774, [art. 3\(j\)](#)

- [<sup>F104</sup>12 Where a term to which section 26(1A)(c) applies is a term in an agreement which is not a contract, Part 1 of this Schedule shall have effect as if the agreement were a contract.]

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

### Textual Amendments

**F104** Sch. 3A paras. 11, 12 substituted (5.12.2005) for Sch. 3A para. 11 by [Disability Discrimination Act 2005](#) (c. 13), ss. 19(1), 20(3)-(6), **Sch. 1 para. 39(3)**; S.I. 2005/2774, **art. 3(j)**

## SCHEDULE 4 **U.K.**

Sections [<sup>F105</sup>18A(5)] and 27(5)  
[<sup>F106</sup>31ADB].

### PREMISES OCCUPIED UNDER LEASES

#### Extent Information

**E8** In its application to Northern Ireland, this Schedule has effect subject to the modifications set out in Sch. 8; see s. 70(6)

#### Textual Amendments

**F105** Sch. 4 : word in side note substituted (E.W.S.) (3.7.2003 for certain purposes, otherwise 1.10.2004) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003](#) (S.I. 2003/1673), regs. 1(2)(3), **29(3)(a)** and said words substituted (N.I.) (21.2.2004 for certain purposes, otherwise 1.10.2004) by the [Disability Discrimination Act \(Amendment\) Regulations \(Northern Ireland\) 2004](#) (S.R. 2004/55), regs. 1(2)(3), **28(3)(a)**

**F106** Sch. 4: words in shoulder note inserted (E.W.S.) (1.9.2007) by [The Disability Discrimination Act 1995 \(Amendment etc.\) \(General Qualifications Bodies\) \(Alteration of Premises and Enforcement\) Regulations](#) (S.I. 2007/2405), regs. 1(2), {6(2)}

## PART I **U.K.**

### OCCUPATION BY [<sup>F107</sup>EMPLOYER ETC]

#### Textual Amendments

**F107** Sch. 4 Pt. 1: words in heading substituted (E.W.S.) (3.7.2003 for certain purposes, otherwise 1.10.2004) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003](#) (S.I. 2003/1673), regs. 1(2)(3), **29(3)(b)** and said words substituted (N.I.) (21.2.2004 for certain purposes, otherwise 1.10.2004) by the [Disability Discrimination Act \(Amendment\) Regulations \(Northern Ireland\) 2004](#) (S.R. 2004/55), regs. 1(2)(3), **28(3)(b)**

#### Modifications etc. (not altering text)

**C3** Pt. 1 modified (E.W.S.) (1.10.2004) by [The Disability Discrimination \(Employment Field\) \(Leasehold Premises\) Regulations 2004](#) (S.I. 2004/153), **regs. 4-9** and said Part 1 modified (N.I.) (1.10.2004) by the [Disability Discrimination \(Employment Field\) \(Leasehold Premises\) Regulations \(Northern Ireland\) 2004](#) (S.R. 2004/374), **regs. 4-9**

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

*Failure to obtain consent to alteration*

- 1 If any question arises as to whether the occupier has failed to comply with [<sup>F108</sup>any duty to make reasonable adjustments], by failing to make a particular alteration to the premises, any constraint attributable to the fact that he occupies the premises under a lease is to be ignored unless he has applied to the lessor in writing for consent to the making of the alteration.

**Textual Amendments**

**F108** Words in *Sch. 4 para.1* substituted (E.W.S.) (3.7.2003 for certain purposes, otherwise 1.10.2004) by *The Disability Discrimination Act 1995 (Amendment) Regulations 2003 (S.I. 2003/1673)*, regs. 1(2)(3), **29(3)(c)** and said words substituted (N.I.) (21.2.2004 for certain purposes, otherwise 1.10.2004) by the *Disability Discrimination Act (Amendment) Regulations (Northern Ireland) 2004 (S.R. 2004/55)*, regs. 1(2)(3), **28(3)(c)**

**Modifications etc. (not altering text)**

**C4** *Sch. 4 para. 1* modified (7.6.1996) by *S.I. 1996/1333*, **art. 4(a)**

*Joining lessors in proceedings under [<sup>F109</sup>section 17A <sup>F110</sup>. . . ]*

**Textual Amendments**

**F109** *Sch. 4:* words in cross-heading preceding para. 2 substituted (E.W.S.) (3.7.2003 for certain purposes, otherwise 1.10.2004) by *The Disability Discrimination Act 1995 (Amendment) Regulations 2003 (S.I. 2003/1673)*, regs. 1(2)(3), **29(3)(d)** and same words substituted (N.I.) (21.2.2004 for certain purposes, otherwise 1.10.2004) by the *Disability Discrimination Act (Amendment) Regulations (Northern Ireland) 2004 (S.R. 2004/55)*, regs. 1(2)(3), **28(3)(d)**

**F110** *Sch. 4 para. 2:* words in heading omitted (E.W.S.) (5.12.2005) by virtue of *Disability Discrimination Act 2005 (c. 13)*, ss. 19(1), 20(3)-(6), **Sch. 1 para. 40(2)(a)**; *S.I. 2005/2774*, **art. 3(j)** and same words omitted (N.I.) (31.12.2007) by virtue of *The Disability Discrimination (Northern Ireland) Order 2006 (S.I. 2006/312 (N.I. 1))*, arts. 1, 19, **Sch. 1 para. 31(2)(a)**; *S.R. 2007/466*, **art. 2(2)(l)**

- 2 (1) In any proceedings [<sup>F111</sup>on a complaint under section 17A], in a case to which [<sup>F112</sup>section 18A] applies, the complainant or the occupier may ask the tribunal hearing the complaint to direct that the lessor be joined or sisted as a party to the proceedings.
- (2) The request shall be granted if it is made before the hearing of the complaint begins.
- (3) The tribunal may refuse the request if it is made after the hearing of the complaint begins.
- (4) The request may not be granted if it is made after the tribunal has determined the complaint.
- (5) Where a lessor has been so joined or sisted as a party to the proceedings, the tribunal may determine—
- (a) whether the lessor has—

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

- (i) refused consent to the alteration, or
  - (ii) consented subject to one or more conditions, and
  - (b) if so, whether the refusal or any of the conditions was unreasonable,
- (6) If, under sub-paragraph (5), the tribunal determines that the refusal or any of the conditions was unreasonable it may take one or more of the following steps—
- (a) make such declaration as it considers appropriate;
  - (b) make an order authorising the occupier to make the alteration specified in the order;
  - (c) order the lessor to pay compensation to the complainant.
- (7) An order under sub-paragraph (6)(b) may require the occupier to comply with conditions specified in the order.
- (8) Any step taken by the tribunal under sub-paragraph (6) may be in substitution for, or in addition to, any step taken by the tribunal under [F113section 17A(2)].
- (9) If the tribunal orders the lessor to pay compensation it may not make an order under [F113section 17A(2)] ordering the occupier to do so.

#### **Extent Information**

- E9** In its application to Northern Ireland, this section has effect subject to the modifications set out in Sch. 8; see s. 70(6)

#### **Textual Amendments**

- F111** Words in Sch. 4 para. 2(1) substituted (E.W.S.) (5.12.2005) by [Disability Discrimination Act 2005 \(c. 13\)](#), ss. 19(1), 20(3)-(6), [Sch. 1 para. 40\(2\)\(b\)](#); S.I. 2005/2774, [art. 3\(j\)](#) and said words substituted (N.I.) (31.12.2007) by [The Disability Discrimination \(Northern Ireland\) Order 2006 \(S.I. 2006/312 \(N.I. 1\)\)](#), arts. 1, 19, [Sch. 1 para. 31\(2\)\(b\)](#); S.R. 2007/466, [art. 2\(2\)\(l\)](#)
- F112** Words in Sch. 4 para. 2(1) substituted (E.W.S.) (3.7.2003 for certain purposes, otherwise 1.10.2004) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), [29\(3\)\(e\)\(ii\)](#) and said words substituted (N.I.) (21.2.2004 for certain purposes, otherwise 1.10.2004) by the [Disability Discrimination Act \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), [28\(3\)\(e\)\(ii\)](#)
- F113** Words in Sch. 4 paras. 2(8)(9) substituted (E.W.S.) (3.7.2003 for certain purposes, otherwise 1.10.2004) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), [29\(3\)\(f\)](#) and said words substituted (N.I.) (21.2.2004 for certain purposes, otherwise 1.10.2004) by the [Disability Discrimination Act \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), [28\(3\)\(f\)](#)

#### **Modifications etc. (not altering text)**

- C5** [Sch. 4 para. 2](#) modified (7.6.1996) by [S.I. 1996/1333](#), [art. 4\(c\)](#)

### *Regulations*

- 3 Regulations may make provision as to circumstances in which—
- (a) a lessor is to be taken, for the purposes of [F114section 18A] and this Part of this Schedule to have—
    - (i) withheld his consent;

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

- (ii) withheld his consent unreasonably;
- (iii) acted reasonably in withholding his consent;
- (b) a condition subject to which a lessor has given his consent is to be taken to be reasonable;
- (c) a condition subject to which a lessor has given his consent is to be taken to be unreasonable.

#### Textual Amendments

**F114** Words in [Sch. 4 para. 3](#) substituted (E.W.S.) (3.7.2003 for certain purposes, otherwise 1.10.2004) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), [regs. 1\(2\)\(3\), 29\(3\)\(g\)](#) and said words substituted (N.I.) (21.2.2004 for certain purposes, otherwise 1.10.2004) by the [Disability Discrimination Act \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), [regs. 1\(2\)\(3\), 28\(3\)\(g\)](#)

#### Modifications etc. (not altering text)

**C6** [Sch. 4 para. 3](#) modified (7.6.1996) by [S.I. 1996/1333](#), [art. 4\(c\)](#)

#### Commencement Information

**I13** [Sch. 4 para. 3](#) wholly in force at 11.7.1996; [Sch. 4 para. 3](#) not in force at Royal Assent see [s. 70\(3\)](#); [Sch. 4 Pt. I para. 3](#) in force (E.W.S.) at 6.6.1996 by [S.I. 1996/1474](#), [art. 2\(1\)](#), [Sch. Pt. I](#); [Sch. 4 Pt. I para. 3](#) in force (N.I.) at 11.7.1996 by [S.R. 1996/280](#), [art. 2\(1\)](#), [Sch. Pt. I para. 3](#)

*Sub-leases etc.*

- 4 The Secretary of State may by regulations make provision supplementing, or modifying, the provision made by <sup>F115</sup>[section 18A] or any provision made by or under this Part of this Schedule in relation to cases where the occupier occupies premises under a sub-lease or sub-tenancy.

#### Textual Amendments

**F115** Words in [Sch. 4 para. 4](#) substituted (E.W.S.) (3.7.2003 for certain purposes, otherwise 1.10.2004) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), [regs. 1\(2\)\(3\), 29\(3\)\(g\)](#) and said words substituted (N.I.) (21.2.2004 for certain purposes, otherwise 1.10.2004) by the [Disability Discrimination Act \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), [regs. 1\(2\)\(3\), 28\(3\)\(g\)](#)

#### Commencement Information

**I14** [Sch. 4 para. 4](#) wholly in force at 30.5.1996; [Sch. 4 para. 4](#) not in force at Royal Assent see [s. 70\(3\)](#); [Sch. 4 para. 4](#) in force (E.W.S.) at 17.5.1996 by [S.I. 1996/1336](#), [art. 3\(o\)](#); [Sch. 4 para. 4](#) in force (N.I.) at 30.5.1996 by [S.R. 1996/219](#), [art. 3\(n\)](#)

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

## PART II U.K.

### OCCUPATION BY <sup>F116</sup>PERSONS SUBJECT TO A DUTY UNDER SECTION 21, 21E OR 21H]

#### Textual Amendments

**F116** Sch. 4 Pt. 2: words in heading substituted (E.W.S.) (4.12.2006) by Disability Discrimination Act 2005 (c. 13), ss. 19(1), 20(3)-(6), **Sch. 1 para. 40(3)**; S.I. 2005/2774, **art. 4(f)** and said words substituted (N.I.) (31.12.2007) by The Disability Discrimination (Northern Ireland) Order 2006 (S.I. 2006/312 (N.I. 1)), arts. 1, 19, **Sch. 1 para. 31(3)**; S.R. 2007/466, **art. 2(I)**

#### Modifications etc. (not altering text)

**C7** Sch. 4 Pt. II modified (1.10.2004) by S.I. 2001/3253, **reg. 9**

**C8** Sch. 4 Pt. II modified (N.I.) (1.10.2004) by The Disability Discrimination (Providers of Services) (Adjustment of Premises) Regulations (Northern Ireland) 2003 (S.R. 2003/109), **reg. 9**

#### *Failure to obtain consent to alteration*

- 5 If any question arises as to whether the occupier has failed to comply with the section 21 duty <sup>F117</sup> or a duty imposed under section 21E or 21H], by failing to make a particular alteration to premises, any constraint attributable to the fact that he occupies the premises under a lease is to be ignored unless he has applied to the lessor in writing for consent to the making of the alteration.

#### Extent Information

**E10** This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only

#### Textual Amendments

**F117** Words in Sch. 4 para. 5 inserted (E.W.S.) (4.12.2006) by Disability Discrimination Act 2005 (c. 13), ss. 19(1), 20(3)-(6), **Sch. 1 para. 40(4)**; S.I. 2005/2774, **art. 4**

- 5 If any question arises as to whether the occupier has failed to comply with the section 21 duty <sup>F189</sup> or the duty imposed under section 21E or 21H], by failing to make a particular alteration to premises, any constraint attributable to the fact that he occupies the premises under a lease is to be ignored unless he has applied to the lessor in writing for consent to the making of the alteration.

#### Extent Information

**E26** This version of this provision extends to Northern Ireland only. A separate version has been created for England and Wales and Scotland only

#### Textual Amendments

**F189** Words in Sch. 4 para. 5 inserted (N.I.) (31.12.2007) by The Disability Discrimination (Northern Ireland) Order 2006 (S.I. 2006/312 (N.I. 1)), arts. 1, 19, **Sch. 1 para. 31(4)**; S.R. 2007/466, **art. 2(2)(I)**

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

### *Reference to court*

- 6 (1) If the occupier has applied in writing to the lessor for consent to the alteration and—
- (a) that consent has been refused, or
  - (b) the lessor has made his consent subject to one or more conditions,
- the occupier or a disabled person who has an interest in the proposed alteration to the premises being made, may refer the matter to a county court or, in Scotland, to the sheriff.
- (2) In the following provisions of this Schedule “court” includes “sheriff”.
- (3) On such a reference the court shall determine whether the lessor’s refusal was unreasonable or (as the case may be) whether the condition is, or any of the conditions are, unreasonable.
- (4) If the court determines—
- (a) that the lessor’s refusal was unreasonable, or
  - (b) that the condition is, or any of the conditions are, unreasonable,
- it may make such declaration as it considers appropriate or an order authorising the occupier to make the alteration specified in the order.
- (5) An order under sub-paragraph (4) may require the occupier to comply with conditions specified in the order.

### *Joining lessors in proceedings under section 25*

- 7 (1) In any proceedings on a claim [<sup>F118</sup>under section 25 in a case to which section 27 applies, other than a claim presented as a complaint under section 25(8),] the plaintiff, the pursuer or the occupier concerned may ask the court to direct that the lessor be joined or sisted as a party to the proceedings.
- (2) The request shall be granted if it is made before the hearing of the claim begins.
- (3) The court may refuse the request if it is made after the hearing of the claim begins.
- (4) The request may not be granted if it is made after the court has determined the claim.
- (5) Where a lessor has been so joined or sisted as a party to the proceedings, the court may determine—
- (a) whether the lessor has—
    - (i) refused consent to the alteration, or
    - (ii) consented subject to one or more conditions, and
  - (b) if so, whether the refusal or any of the conditions was unreasonable.
- (6) If, under sub-paragraph (5), the court determines that the refusal or any of the conditions was unreasonable it may take one or more of the following steps—
- (a) make such declaration as it considers appropriate;
  - (b) make an order authorising the occupier to make the alteration specified in the order;
  - (c) order the lessor to pay compensation to the complainant.

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

- (7) An order under sub-paragraph (6)(b) may require the occupier to comply with conditions specified in the order.
- (8) If the court orders the lessor to pay compensation it may not order the occupier to do so.

#### Textual Amendments

**F118** Words in Sch. 4 para. 7(1) substituted (E.W.S.) (5.12.2005) by Disability Discrimination Act 2005 (c. 13), ss. 19(1), 20(3)-(6), Sch. 1 para. 40(5); S.I. 2005/2774, art. 3(j) and said words substituted (N.I.) (31.12.2007) by The Disability Discrimination (Northern Ireland) Order 2006 (S.I. 2006/312 (N.I. 1)), arts. 1, 19, Sch. 1 para. 31(5); S.R. 2007/466, art. 2(2)(l)

*F119* *F120* *Joining lessors in proceedings relating to group insurance or employment services*

#### Textual Amendments

**F119** Sch. 4 para. 7A and cross-heading inserted ((N.I.) (31.12.2007) by The Disability Discrimination (Northern Ireland) Order 2006 (S.I. 2006/312 (N.I. 1)), arts. 1, 19, Sch. 1 para. 31(6); S.R. 2007/466, art. 2(2)(l)

**F120** Sch. 4 para. 7A and cross-heading inserted (E.W.S.) (5.12.2005) by Disability Discrimination Act 2005 (c. 13), ss. 19(1), 20(3)-(6), Sch. 1 para. 40(6); S.I. 2005/2774, art. 3(j)

- [<sup>F120</sup>7A(1) In any proceedings on a complaint under section 25(8) in a case to which section 27 applies, the complainant or the occupier may ask the tribunal hearing the complaint to direct that the lessor be joined or sisted as a party to the proceedings.
- (2) The request shall be granted if it is made before the hearing of the complaint begins.
  - (3) The tribunal may refuse the request if it is made after the hearing of the complaint begins.
  - (4) The request may not be granted if it is made after the tribunal has determined the complaint.
  - (5) Where a lessor has been so joined or sisted as a party to the proceedings, the tribunal may determine—
    - (a) whether the lessor has—
      - (i) refused consent to the alteration, or
      - (ii) consented subject to one or more conditions; and
    - (b) if so, whether the refusal or any of the conditions was unreasonable.
  - (6) If, under sub-paragraph (5), the tribunal determines that the refusal or any of the conditions was unreasonable it may take one or more of the following steps—
    - (a) make such declaration as it considers appropriate;
    - (b) make an order authorising the occupier to make the alteration specified in the order;
    - (c) order the lessor to pay compensation to the complainant.
  - (7) An order under sub-paragraph (6)(b) may require the occupier to comply with conditions specified in the order.

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

- (8) Any step taken by the tribunal under sub-paragraph (6) may be in substitution for, or in addition to, any step taken by the tribunal under section 17A(2).
- (9) If the tribunal orders the lessor to pay compensation it may not make an order under section 17A(2) ordering the occupier to do so.]

### *Regulations*

- 8 Regulations may make provision as to circumstances in which—
- (a) a lessor is to be taken, for the purposes of section 27 and this Part of this Schedule to have—
    - (i) withheld his consent;
    - (ii) withheld his consent unreasonably;
    - (iii) acted reasonably in withholding his consent;
  - (b) a condition subject to which a lessor has given his consent is to be taken to be reasonable;
  - (c) a condition subject to which a lessor has given his consent is to be taken to be unreasonable.

#### **Commencement Information**

**I15** Sch. 4 para. 8 wholly in force at 31.12.2001; Sch. 4 para. 8 not in force at Royal Assent see s. 70(3); Sch. 4 para. 8 in force (E.W.S.) (9.5.2001) by S.I. 2001/2030, art. 2(c)(i); Sch. 4 para. 8 in force (N.I.) (31.12.2001) by S.R. 2001/439, art. 2(1)(c)(i)

### *Sub-leases etc.*

- 9 The Secretary of State may by regulations make provision supplementing, or modifying, the provision made by section 27 or any provision made by or under this Part of this Schedule in relation to cases where the occupier occupies premises under a sub-lease or sub-tenancy.

#### **Commencement Information**

**I16** Sch. 4 para. 9 wholly in force at 31.12.2001; Sch. 4 para. 9 not in force at Royal Assent see s. 70(3); Sch. 4 para. 9 in force (E.W.S.) (9.5.2001) by S.I. 2001/2030, art. 2(c)(ii); Sch. 4 para. 9 in force (N.I.) (31.12.2001) by S.R. 2001/439, art. 2(1)(c)(ii)

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

## [<sup>F121</sup>PART 3 E+W+S

### OCCUPATION BY EDUCATIONAL INSTITUTIONS]

#### Textual Amendments

**F121** Sch. 4 Pt. 3 (paras. 10-14) inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 31(2), Sch. 6 (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. I

#### Modifications etc. (not altering text)

- C9** Sch. 4 Pt. 3 (paras. 10-14) modified (28.6.2002) by S.I. 2002/1458, reg. 7 (which Regulations were revoked (1.5.2005) by S.I. 2005/1070, reg. 8)
- C10** Sch. 4 Pt. 3 modified (1.5.2005) by The Disability Discrimination (Educational Institutions) (Alteration of Leasehold Premises) Regulations 2005, {reg. 7}

#### Failure to obtain consent

- <sup>F122</sup>10 If any question arises as to whether a responsible body has failed to comply with the duty imposed by section 28T [<sup>F123</sup>or section 28UA(5)], by failing to make a particular alteration to premises, any constraint attributable to the fact that the premises are occupied by the educational institution under a lease is to be ignored unless the responsible body has applied to the lessor in writing for consent to the making of the alteration.

#### Textual Amendments

- F122** Sch. 4 Pt. 3 (paras. 10-14) inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 31(2), Sch. 6 (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. I
- F123** Words in Sch. 4 para. 10 inserted (30.6.2006 for certain purposes and otherwise 1.9.2006) by The Disability Discrimination Act 1995 (Amendment) (Further and Higher Education) Regulations 2006 (S.I. 2006/1721), regs. 1, 20

#### Reference to court

- <sup>F124</sup>11 (1) If the responsible body has applied in writing to the lessor for consent to the alteration and—
- (a) that consent has been refused, or
  - (b) the lessor has made his consent subject to one or more conditions,
- that body or a disabled person who has an interest in the proposed alteration to the premises being made, may refer the matter to a county court or, in Scotland, to the sheriff.
- (2) On such a reference the court must determine whether the lessor's refusal was unreasonable or (as the case may be) whether the condition is, or any of the conditions are, unreasonable.
- (3) If the court determines—
- (a) that the lessor's refusal was unreasonable, or
  - (b) that the condition is, or any of the conditions are, unreasonable,

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

it may make such declaration as it considers appropriate or an order authorising the responsible body to make the alteration specified in the order.

- (4) An order under sub-paragraph (3) may require the responsible body to comply with conditions specified in the order.

#### Textual Amendments

**F124** Sch. 4 Pt. 3 (paras. 10-14) inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 31(2), Sch. 6 (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. I

#### *Joining lessors in proceedings under section 28V*

- <sup>F125</sup>12 (1) In proceedings on a claim under section 28V, in a case to which this Part of this Schedule applies, the claimant, the pursuer or the responsible body concerned may ask the court to direct that the lessor be joined or sisted as a party to the proceedings.
- (2) The request must be granted if it is made before the hearing of the claim begins.
- (3) The court may refuse the request if it is made after the hearing of the claim begins.
- (4) The request may not be granted if it is made after the court has determined the claim.
- (5) If a lessor has been so joined or sisted as a party to the proceedings, the court may determine—
- (a) whether the lessor has—
    - (i) refused consent to the alteration, or
    - (ii) consented subject to one or more conditions, and
  - (b) if so, whether the refusal or any of the conditions was unreasonable.
- (6) If, under sub-paragraph (5), the court determines that the refusal or any of the conditions was unreasonable it may take one or more of the following steps—
- (a) make such a declaration as it considers appropriate;
  - (b) make an order authorising the responsible body to make the alteration specified in the order;
  - (c) order the lessor to pay compensation to the complainant.
- (7) An order under sub-paragraph (6)(b) may require the responsible body to comply with conditions specified in the order.
- (8) If the court orders the lessor to pay compensation it may not order the responsible body to do so.

#### Textual Amendments

**F125** Sch. 4 Pt. 3 (paras. 10-14) inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 31(2), Sch. 6 (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. I

#### *Regulations*

- <sup>F126</sup>13 Regulations may make provision as to circumstances in which—

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

- (a) a lessor is to be taken, for the purposes of section 28W and this Part of this Schedule to have—
  - (i) withheld his consent;
  - (ii) withheld his consent unreasonably;
  - (iii) acted reasonably in withholding his consent;
- (b) a condition subject to which a lessor has given his consent is to be taken to be reasonable;
- (c) a condition subject to which a lessor has given his consent is to be taken to be unreasonable.

#### Textual Amendments

**F126** Sch. 4 Pt. 3 (paras. 10-14) inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 31(2), Sch. 6 (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. I

#### *Sub-leases etc.*

- <sup>F127</sup>14 Regulations may make provision supplementing, or modifying, section 28W or any provision made by or under this Part of this Schedule in relation to cases where the premises of the educational institution are occupied under a sub-lease or sub-tenancy.

#### Textual Amendments

**F127** Sch. 4 Pt. 3 paras. 10-14 inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 31(2), Sch. 6 (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. I

## [<sup>F128</sup>PART 4 E+W+S

### OCCUPATION BY GENERAL QUALIFICATIONS BODIES

#### Textual Amendments

**F128** Sch. 4 Pt. 4 inserted (E.W.S.) (1.9.2007) by The Disability Discrimination Act 1995 (Amendment etc.) (General Qualifications Bodies) (Alteration of Premises and Enforcement) Regulations (S.I. 2007/2405), regs. 1(2), 6(3) (with regs. 8-13)

#### *Failure to obtain consent to alteration*

- 15 If any question arises as to whether a general qualifications body has failed to comply with the duty imposed by section 31AD by failing to make a particular alteration to the premises, any constraint attributable to the fact that the body occupies the premises under a lease is to be ignored unless the body has applied to the lessor in writing for consent to the making of the alteration.

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

*Reference to court*

- 16 (1) If the general qualifications body has applied in writing to the lessor for consent to the alteration and—
- (a) that consent has been refused, or
  - (b) the lessor has made his consent subject to one or more conditions,
- that general qualifications body or a disabled person who has an interest in the proposed alteration to the premises being made may refer the matter to a county court or, in Scotland, to the sheriff.
- (2) On such a reference the court must determine whether the refusal was unreasonable or (as the case may be) whether the condition is, or any of the conditions are, unreasonable.
- (3) If the court determines—
- (a) that the refusal was unreasonable, or
  - (b) that the condition is, or any of the conditions are, unreasonable,
- it may make such declaration as it considers appropriate or an order authorising the general qualifications body to make the alteration specified in the order.
- (4) An order under sub-paragraph (3) may require the general qualifications body to comply with conditions specified in the order.

*Joining lessors in proceedings under section 31ADA]*

- 17 (1) In any proceedings on a claim under section 31ADA in which a question arises as to whether a general qualifications body has failed to comply with the duty imposed by section 31AD by failing to make an alteration to premises occupied by the general qualifications body under a lease—
- (a) the claimant (or pursuer in Scotland), or
  - (b) the general qualifications body concerned,
- may ask the court to direct that the lessor be joined (or sisted) as a party to the proceedings.
- (2) The request shall be granted if it is made before the hearing of the claim begins.
- (3) The court may refuse the request if it is made after the hearing of the claim begins.
- (4) The request may not be granted if it is made after the court has determined the claim.
- (5) Where a lessor has been so joined (or sisted) as a party to the proceedings, the court may determine—
- (a) whether the lessor has—
    - (i) refused consent to the alteration, or
    - (ii) consented subject to one or more conditions, and
  - (b) if so, whether the refusal or any of the conditions was unreasonable.
- (6) If, under sub-paragraph (5), the court determines that the refusal or any of the conditions was unreasonable, it may take one or more of the following steps—
- (a) make such declaration as it considers appropriate;

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

- (b) make an order authorising the general qualifications body to make the alteration specified in the order;
  - (c) order the lessor to pay compensation to the claimant or pursuer.
- (7) An order under sub-paragraph (6)(b) may require the general qualifications body to comply with the conditions specified in the order.
- (8) If the court orders the lessor to pay compensation it may not order the general qualifications body to do so.

[<sup>F129</sup>SCHEDULE  
4A E+W+S

Section 28A]

RESPONSIBLE BODIES FOR SCHOOLS

**Textual Amendments**

**F129** Sch. 4A inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 11(2), Sch. 2 (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. 1

- 1 (1) The bodies responsible for schools in England and Wales are set out in the following table.
- (2) In that Table—
- “the local education authority” has the meaning given by section 22(8) of the School Standards and Framework Act 1998; and
  - “proprietor” has the meaning given by section 579 of the Education Act 1996.

TABLE

Type of school	Responsible body
1. Maintained school [ <sup>F130</sup> or maintained nursery school].	The local education authority or governing body, according to which has the function in question.
2. Pupil referral unit.	The local education authority.
3. <sup>F131</sup>	<sup>F131</sup> ...
...	
4. Independent school.	The proprietor.
5. Special school not maintained by a local education authority.	The proprietor.

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

#### Textual Amendments

**F130** Words in **Sch. 4A para. 1** Table para. 1 inserted (1.9.2003 except in relation to W. and 31.10.2005 for W.) by 2002 c. 32, ss. 215(1), 216, **Sch. 21 para. 29(a)** (with ss. 210(8), 214(4)); S.I. 2003/1667, **art. 4**; S.I. 2005/2910, **art. 4**, **Sch.**

**F131** **Sch. 4A para. 1** Table para. 3 repealed (1.9.2003 except in relation to W. and 31.10.2005 for W.) by 2002 c. 32, ss. 215(1)(2), 216, **Sch. 21 para. 29(b)**, **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2003/1667, **art. 4**; S.I. 2005/2910, **art. 4**, **Sch.**

- 2 (1) The bodies responsible for schools in Scotland are set out in the following table.
- (2) In that Table “board of management”, “education authority”, “managers” and “proprietor” each have the meaning given in section 135(1) of the Education (Scotland) Act 1980.

#### T A B L E

Type of school	Responsible body
1. School managed by an education authority	The education authority.
2. Independent school.	The proprietor.
3. Self-governing school.	The board of management.
4. School in respect of which the managers are for the time being receiving grants under section 73(c) or (d) of the Education (Scotland) Act 1980.	The managers of the school.

### [<sup>F132</sup>SCHEDULE 4B E+W+S

Section 28R]

#### RESPONSIBLE BODIES FOR EDUCATIONAL INSTITUTIONS

#### Textual Amendments

**F132** **Sch. 4B** inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 26(2), **Sch. 4** (with s. 43(13)); S.I. 2002/2217, **art. 3**, **Sch. 1 Pt. 1**

- <sup>F133</sup>1 (1) The bodies responsible for educational institutions in England and Wales are set out in the following table.
- (2) In that Table “governing body” has the meaning given by section 90 of the Further and Higher Education Act 1992.

Type of institution	Responsible body
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*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

1. Institution within the further education sector.	The governing body.
2. University.	The governing body.
3. Institution, other than a university, within the higher education sector.	The governing body.
4. Institution designated under section 28R(6)(c).	The body specified in the order as the responsible body.

#### Textual Amendments

**F133** Sch. 4B inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 26(2), Sch. 4 (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. I

<sup>F134</sup>2 (1) The bodies responsible for relevant institutions in Scotland are set out in the following table.

(2) In that Table—

“board of management” has the meaning given in section 36(1) of the Further and Higher Education (Scotland) Act 1992 (“the 1992 Act”);

“central institution”, “education authority” and “managers” have the meaning given in section 135(1) of the Education (Scotland) Act 1980; and

“governing body” has the meaning given in section 56(1) of the 1992 Act.

Table

Type of institution	Responsible body
1. Designated institution within the meaning of Part 2 of the 1992 Act.	The governing body.
2. University.	The governing body.
3. College of further education with a board of management.	The board of management.
4. Institution maintained by an education authority in the exercise of their further education functions.	The education authority.
5. Central institution.	The governing body.
6. School in respect of which the managers are for the time being receiving grants under section 73(c) or (d) of the Education (Scotland) Act 1980.	The managers of the school.
7. Institution designated under section 28R(7)(e).	The body specified in the order as the responsible body.

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

#### Textual Amendments

**F134** Sch. 4B inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 26(2), **Sch. 4** (with s. 43(13)); S.I. 2002/2217, art. 3, **Sch. 1 Pt. I**

## [<sup>F135</sup>SCHEDULE 4C **E+W+S**

Section 28U

### MODIFICATIONS OF CHAPTER 2 OF PART 4

#### Textual Amendments

**F135** Sch. 4C substituted (30.6.2006 for certain purposes and otherwise 1.9.2006) by [The Disability Discrimination Act 1995 \(Amendment\) \(Further and Higher Education\) Regulations 2006](#) (S.I. 2006/1721), regs. 1(2)(3), **21**

## PART 1 **E+W+S**

### MODIFICATIONS FOR ENGLAND AND WALES – FURTHER EDUCATION, ETC PROVIDED BY LOCAL EDUCATION AUTHORITIES

1 The following is substituted for section 28R—

#### “28R Higher and further education secured by local education authorities

- (1) Subsections (2) to (4) apply in relation to—
  - (a) any course of higher education secured by a local education authority under section 120 of the Education Reform Act 1988, and
  - (b) any course of further education secured by a local education authority.
- (2) It is unlawful for the local education authority to discriminate against a disabled person—
  - (a) in the arrangements they make for determining who should be enrolled on the course;
  - (b) in the terms on which they offer to enrol him on the course; or
  - (c) by refusing or deliberately omitting to accept an application for his enrolment on the course.
- (3) It is unlawful for the local education authority to discriminate against a disabled person who has enrolled on the course in the services which they provide or offer to provide.
- (4) It is unlawful for the local education authority to subject to harassment a disabled person who—
  - (a) seeks enrolment on the course,

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*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

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- (b) is enrolled on the course, or
    - (c) is a user of any services provided by that authority in relation to the course .
  - (5) “Services“, in relation to a course, means services of any description which are provided wholly or mainly for persons enrolled on the course.
  - (6) In relation to further education secured by a local education authority—
    - (a) “course” includes each of the component parts of a course of further education if, in relation to the course, there is no requirement imposed on persons registered for any component part of the course to register for any other component part of that course; and
    - (b) “enrolment”, in relation to such a course, includes registration for any one of those parts.
  - (7) In this Chapter—
    - “responsible body” means a local education authority in relation to a course of further or higher education secured by them;
    - “further education” in relation to a course secured by the local education authority, has the meaning given in section 2(3) of the Education Act 1996;
    - “higher education” has the meaning given in section 579(1) of the Education Act 1996; and
    - “local education authority” has the meaning given in section 12 of the Education Act 1996.”.
- 2 Subsections (1A) to (1D) of section 28T (responsible bodies' duties to make adjustments) are omitted and the following subsection is substituted for subsection (1) of that section —
- “(1) Each responsible body must take such steps as it is reasonable for it to have to take to ensure that—
- (a) in relation to its arrangements for enrolling persons on a course of further and higher education provided by it, and
  - (b) in relation to services provided or offered by it,
- disabled persons are not placed at a substantial disadvantage in comparison with persons who are not disabled.”.
- 3 In subsections (2) and (4) of section 28T, for “any of subsections (1) to (1D)” there is substituted “ subsection (1) ”.
- 4 In section 28W(1)(a) for “by an educational institution” there is substituted “ by a responsible body wholly or partly for the purpose of its functions ”.
- 5 Section 31A is omitted.

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

## PART 1A E+W+S

### MODIFICATIONS FOR ENGLAND AND WALES – FURTHER EDUCATION PROVIDED BY SCHOOLS, ETC

6 The following is substituted for section 28R—

**“28R 28R Further education provided by schools and recreational or training facilities provided by local education authorities**

- (1) Subsections (2) and (3) apply in relation to any course of further education provided by the governing body of a maintained school under section 80 of the School Standards and Framework Act 1998.
- (2) It is unlawful for the governing body to discriminate against a disabled person—
  - (a) in the arrangements they make for determining who should be enrolled on the course;
  - (b) in the terms on which they offer to enrol him on the course; or
  - (c) by refusing or deliberately omitting to accept an application for his enrolment on the course.
- (3) It is unlawful for the governing body to discriminate against a disabled person who has enrolled on the course in the services which they provide or offer to provide.
- (4) “Services“, in relation to a course, means services of any description which are provided wholly or mainly for persons enrolled on the course.
- (5) It is unlawful for a local education authority to discriminate against a disabled person in the terms on which they provide or offer to provide recreational or training facilities.
- (6) In this Chapter—
 

“Responsible body” means—

  - (a) the governing body of a maintained school, in relation to a course of further education provided under section 80 of the School Standards and Framework Act 1998, and
  - (b) a local education authority in relation to recreational or training facilities;

“Further education”, in relation to a course provided under section 80 of the School Standards and Framework Act 1998, means education of a kind mentioned in subsection (1) of that section;

“Local education authority” has the meaning given in section 12 of the Education Act 1996;

“Governing Body” and “maintained school” have the same meaning as in Chapter 1;

<sup>F136</sup>“Recreational or training facilities” means—

  - (a) in the case of a local education authority in England, any facilities secured by the authority under section 507A or 507B of the Education Act 1996 <sup>F137</sup> (functions of local

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

- education authorities in England in respect of recreation etc.), and
- (b) in the case of a local education authority in Wales, any facilities secured by the authority under subsection (1), or provided by them under subsection (1A), of section 508 of that Act (functions of local education authorities in Wales in respect of recreation and social and physical training).”].

#### Textual Amendments

**F136** Sch. 4C para. 6: definition of "Recreational or training facilities" (in the substituted s. 28R(6)) substituted (E.W.) (2.7.2007) by [The Disability Discrimination Act 1995 \(Amendment\) \(Further Education\) Regulations 2007 \(S.I. 2007/1849\)](#), [reg. 2](#)

**F137** 1996 c. 56: Sections 507A and 507B were inserted by section 6 of the Education and Inspections Act 2006; section 508 was amended by section 137 of the [Learning and Skills Act 2000 \(c. 21\)](#).

- 7 In section 28S (meaning of “discrimination”), the following subsection is substituted for subsection (2) —

“(2) For the purposes of section 28R, a responsible body also discriminates against a disabled person if—

- (a) it fails, to his detriment, to comply with section 28T; and  
(b) it cannot show that its failure to comply is justified.”.

- 8 In section 28S, the following subsections are substituted for subsections (5) to (11) —

“(5) Subsections (6) to (9) apply in determining whether for the purposes of this section—

- (a) less favourable treatment of a person, or  
(b) failure to comply with section 28T,

is justified.

(6) Less favourable treatment of a person is justified if it is necessary in order to maintain —

- (a) academic standards; or  
(b) standards of any other prescribed kind.

(7) Less favourable treatment is also justified if —

- (a) it is of a prescribed kind;  
(b) it occurs in prescribed circumstances; or  
(c) it is of a prescribed kind and occurs in prescribed circumstances.

(8) Otherwise less favourable treatment, or a failure to comply with section 28T, is justified only if the reason for it is both material to the circumstances of the particular case and substantial.

(9) If, in a case falling within subsection (1)—

- (a) the responsible body is under a duty imposed by section 28T in relation to the disabled person, but  
(b) fails without justification to comply with that duty,

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

its treatment of that person cannot be justified under subsection (8) unless that treatment would have been justified even if it had complied with that duty.”.

- 9 Subsections (1A) to (1D) of section 28T (responsible bodies' duties to make adjustments) are omitted and the following subsection is substituted for subsection (1) of that section—

“(1) Each responsible body must take such steps as it is reasonable for it to have to take to ensure that—

- (a) in relation to its arrangements for enrolling persons on a course of further education provided by it, and
- (b) in relation to services provided or offered by it,

disabled persons are not placed at a substantial disadvantage in comparison with persons who are not disabled.”.

- 10 In subsections (2) and (4) of section 28T, for “any of subsections (1) to (1D)” there is substituted “subsection (1).

- 11 In section 28W(1)(a) for “by an educational institution” there is substituted “ by a responsible body wholly or partly for the purpose of its functions ”.

- 12 Sections 28SA, 28UA, 28UB, 28UC, 28V(1A) and 31A are omitted.

## PART 2 E+W+S

### MODIFICATIONS FOR SCOTLAND – FURTHER EDUCATION

- 13 The following is substituted for section 28R—

**“28R Further education etc provided by education authorities in Scotland**

- (1) Subsections (2) and (3) apply to any course of further education secured by an education authority.
- (2) It is unlawful for the education authority to discriminate against a disabled person—
  - (a) in the arrangements they make for determining who should be enrolled on the course;
  - (b) in the terms on which they offer to enrol him on the course; or
  - (c) by refusing or deliberately omitting to accept an application for his enrolment on the course.

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*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

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- (3) It is unlawful for the education authority to discriminate against a disabled person who has enrolled on the course in the services which they provide or offer to provide.
- (4) It is unlawful for the education authority to subject to harassment a disabled person who—
- (a) seeks enrolment on a course offered by that authority,
  - (b) is enrolled on a course offered by that authority, or
  - (c) is a user of services provided by that authority.
- (5) “Services“, in relation to a course, means services of any description which are provided wholly or mainly for persons enrolled on the course.
- (6) In this Chapter —
- “Responsible body” means an education authority;
  - “Further education” has the meaning given in section 1(5) of the Education (Scotland) Act 1980;
  - “Education authority” has the meaning given in section 135(1) of that Act.”.
- 14 Subsections (1A) to (1D) of section 28T are omitted and the following subsection is substituted for subsection (1) of that section—
- “(1) Each responsible body must take such steps as it is reasonable for it to have to take to ensure that—
- (a) in relation to its arrangements for enrolling persons on a course of further education provided by it, and
  - (b) in relation to services provided or offered by it,
- disabled persons are not placed at a substantial disadvantage in comparison with persons who are not disabled.”.
- 15 In subsections (2) and (4) of section 28T, for “any of subsections (1) to (1D)” there is substituted “ subsection (1) ”.
- 16 In section 28W(1)(a) for “by an educational institution” there is substituted “ by a responsible body wholly or partly for the purpose of its functions ”.
- 17 Section 31A is omitted.

## **PART 2A** **E+W+S**

### **MODIFICATIONS FOR SCOTLAND – RECREATIONAL OR TRAINING FACILITIES]**

- 18 The following is substituted for section 28R—

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

### **“28R Recreational or training facilities provided by education authorities**

(1) It is unlawful for an education authority to discriminate against a disabled person in the terms on which they provide, or offer to provide, recreational or training facilities.

(2) In this Chapter —

“Responsible body” means an education authority;

“Education authority” has the meaning given in section 135(1) of the Education (Scotland) Act 1980.”.

19 In section 28S (Meaning of “discrimination”), the following subsection is substituted for subsection (2)—

“(2) For the purposes of section 28R, a responsible body also discriminates against a disabled person if—

- (a) it fails, to his detriment, to comply with section 28T; and
- (b) it cannot show that its failure to comply is justified.”.

20 In section 28S (Meaning of “discrimination”), the following subsections are substituted for subsections (5) to (11)—

“(5) Subsections (6) to (9) apply in determining whether for the purposes of this section—

- (a) less favourable treatment of a person, or
- (b) failure to comply with section 28T,

is justified.

(6) Less favourable treatment of a person is justified if it is necessary in order to maintain—

- (a) academic standards; or
- (b) standards of any other prescribed kind.

(7) Less favourable treatment is also justified if—

- (a) it is of a prescribed kind;
- (b) it occurs in prescribed circumstances; or
- (c) it is of a prescribed kind and occurs in prescribed circumstances.

(8) Otherwise less favourable treatment, or a failure to comply with section 28T, is justified only if the reason for it is both material to the circumstances of the particular case and substantial.

(9) If, in a case falling within subsection (1)—

- (a) the responsible body is under a duty imposed by section 28T in relation to the disabled person, but
- (b) fails without justification to comply with that duty,

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

its treatment of that person cannot be justified under subsection (8) unless that treatment would have been justified even if it had complied with that duty.”.

21 Subsections (1A) to (1D) of section 28T are omitted and the following subsection is substituted for subsection (1) of that section—

“(1) Each responsible body must take such steps as it is reasonable for it to have to take to ensure that, in relation to services provided or offered by it for any recreational or training facilities, disabled persons are not placed at a substantial disadvantage in comparison with persons who are not disabled.”.

22 In subsections (2) and (4) of section 28T, for “any of subsections (1) to (1D)” there is substituted “ subsection (1) ”.

23 In section 28W(1)(a) for “by an educational institution” there is substituted “ by a responsible body wholly or partly for the purpose of its functions ”.

24 Sections 28SA, 28UA, 28UB, 28UC, 28V(1A) and 31A are omitted.

[<sup>F138F139</sup>SCHEDULE 5 U.K.]

Section 50(8).]

#### THE NATIONAL DISABILITY COUNCIL

##### Textual Amendments

**F138** Sch. 5 repealed (E.W.S.)(25.4.2000) by 1999 c. 17, s. 14(2), **Sch. 5** (with s. 15); S.I. 2000/880, art. 2, **Sch. 2** Appendix

**F139** Sch. 5 repealed (N.I.) (25.4.2000) by S.I. 2000/1110 (N.I. 2), arts. 1(2), 16, **Sch. 2** (with art. 17); S.R. 2000/140, art. 2, **Sch.**

[<sup>F140</sup> Status]

##### Textual Amendments

**F140** Sch. 5 repealed (E.W.S.) (25.4.2000) by 1999 c. 17, s. 14(2), **Sch. 5** (with s. 15); S.I. 2000/880, art. 2, **Sch. 2** Appendix and Sch. 5 repealed (N.I.) (25.4.2000) by S.I. 2000/1110 (N.I. 2), arts. 1(2), 16, **Sch. 2** (with art. 17); S.R. 2000/140, art. 2, **Sch.**

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<sup>F141</sup> .....

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

**Textual Amendments**

**F141** Sch. 5 repealed (E.W.S.) (25.4.2000) by 1999 c. 17, s. 14(2), Sch. 5 (with s. 15); S.I. 2000/880, art. 2, Sch. 2 Appendix and Sch. 5 repealed (N.I.) (25.4.2000) by S.I. 2000/1110 (N.I. 2), arts. 1(2), 16, Sch. 2 (with art. 17); S.R. 2000/140, art. 2, Sch.

*[<sup>F142</sup> Procedure]*

**Textual Amendments**

**F142** Sch. 5 repealed (E.W.S.) (25.4.2000) by 1999 c. 17, s. 14(2), Sch. 5 (with s. 15); S.I. 2000/880, art. 2, Sch. 2 Appendix and Sch. 5 repealed (N.I.) (25.4.2000) by S.I. 2000/1110 (N.I. 2), arts. 1(2), 16, Sch. 2 (with art. 17); S.R. 2000/140, art. 2, Sch.

2 **F143** .....

**Textual Amendments**

**F143** Sch. 5 repealed (E.W.S.) (25.4.2000) by 1999 c. 17, s. 14(2), Sch. 5 (with s. 15); S.I. 2000/880, art. 2, Sch. 2 Appendix and Sch. 5 repealed (N.I.) (25.4.2000) by S.I. 2000/1110 (N.I. 2), arts. 1(2), 16, Sch. 2 (with art. 17); S.R. 2000/140, art. 2, Sch.

*[<sup>F144</sup> Membership]*

**Textual Amendments**

**F144** Sch. 5 repealed (E.W.S.) (25.4.2000) by 1999 c. 17, s. 14(2), Sch. 5 (with s. 15); S.I. 2000/880, art. 2, Sch. 2 Appendix and Sch. 5 repealed (N.I.) (25.4.2000) by S.I. 2000/1110 (N.I. 2), arts. 1(2), 16, Sch. 2 (with art. 17); S.R. 2000/140, art. 2, Sch.

3 **F145** .....

**Textual Amendments**

**F145** Sch. 5 repealed (E.W.S.) (25.4.2000) by 1999 c. 17, s. 14(2), Sch. 5 (with s. 15); S.I. 2000/880, art. 2, Sch. 2 Appendix and Sch. 5 repealed (N.I.) (25.4.2000) by S.I. 2000/1110 (N.I. 2), arts. 1(2), 16, Sch. 2 (with art. 17); S.R. 2000/140, art. 2, Sch.

*[<sup>F146</sup> Term of office of members]*

**Textual Amendments**

**F146** Sch. 5 repealed (E.W.S.) (25.4.2000) by 1999 c. 17, s. 14(2), Sch. 5 (with s. 15); S.I. 2000/880, art. 2, Sch. 2 Appendix and Sch. 5 repealed (N.I.) (25.4.2000) by S.I. 2000/1110 (N.I. 2), arts. 1(2), 16, Sch. 2 (with art. 17); S.R. 2000/140, art. 2, Sch.

4 **F147** .....

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

**Textual Amendments**

**F147** Sch. 5 repealed (E.W.S.) (25.4.2000) by 1999 c. 17, s. 14(2), Sch. 5 (with s. 15); S.I. 2000/880, art. 2, Sch. 2 Appendix and Sch. 5 repealed (N.I.) (25.4.2000) by S.I. 2000/1110 (N.I. 2), arts. 1(2), 16, Sch. 2 (with art. 17); S.R. 2000/140, art. 2, Sch.

*[<sup>F148</sup> Remuneration]*

**Textual Amendments**

**F148** Sch. 5 repealed (E.W.S.) (25.4.2000) by 1999 c. 17, s. 14(2), Sch. 5 (with s. 15); S.I. 2000/880, art. 2, Sch. 2 Appendix and Sch. 5 repealed (N.I.) (25.4.2000) by S.I. 2000/1110 (N.I. 2), arts. 1(2), 16, Sch. 2 (with art. 17); S.R. 2000/140, art. 2, Sch.

5 **F149** .....

**Textual Amendments**

**F149** Sch. 5 repealed (E.W.S.) (25.4.2000) by 1999 c. 17, s. 14(2), Sch. 5 (with s. 15); S.I. 2000/880, art. 2, Sch. 2 Appendix and Sch. 5 repealed (N.I.) (25.4.2000) by S.I. 2000/1110 (N.I. 2), arts. 1(2), 16, Sch. 2 (with art. 17); S.R. 2000/140, art. 2, Sch.

*[<sup>F150</sup> Staff]*

**Textual Amendments**

**F150** Sch. 5 repealed (E.W.S.) (25.4.2000) by 1999 c. 17, s. 14(2), Sch. 5 (with s. 15); S.I. 2000/880, art. 2, Sch. 2 Appendix and Sch. 5 repealed (N.I.) (25.4.2000) by S.I. 2000/1110 (N.I. 2), arts. 1(2), 16, Sch. 2 (with art. 17); S.R. 2000/140, art. 2, Sch.

6 **F151** .....

**Textual Amendments**

**F151** Sch. 5 repealed (E.W.S.) (25.4.2000) by 1999 c. 17, s. 14(2), Sch. 5 (with s. 15); S.I. 2000/880, art. 2, Sch. 2 Appendix and Sch. 5 repealed (N.I.) (25.4.2000) by S.I. 2000/1110 (N.I. 2), arts. 1(2), 16, Sch. 2 (with art. 17); S.R. 2000/140, art. 2, Sch.

*[<sup>F152</sup> Supplementary regulation-making power]*

**Textual Amendments**

**F152** Sch. 5 repealed (E.W.S.) (25.4.2000) by 1999 c. 17, s. 14(2), Sch. 5 (with s. 15); S.I. 2000/880, art. 2, Sch. 2 Appendix and Sch. 5 repealed (N.I.) (25.4.2000) by S.I. 2000/1110 (N.I. 2), arts. 1(2), 16, Sch. 2 (with art. 17); S.R. 2000/140, art. 2, Sch.

7 **F153** .....

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

**Textual Amendments**

**F153** Sch. 5 repealed (E.W.S.) (25.4.2000) by 1999 c. 17, s. 14(2), Sch. 5 (with s. 15); S.I. 2000/880, art. 2, Sch. 2 Appendix and Sch. 5 repealed (N.I.) (25.4.2000) by S.I. 2000/1110 (N.I. 2), arts. 1(2), 16, Sch. 2 (with art. 17); S.R. 2000/140, art. 2, Sch.

*[<sup>F154</sup> Annual report]*

**Textual Amendments**

**F154** Sch. 5 repealed (E.W.S.) (25.4.2000) by 1999 c. 17, s. 14(2), Sch. 5 (with s. 15); S.I. 2000/880, art. 2, Sch. 2 Appendix and Sch. 5 repealed (N.I.) (25.4.2000) by S.I. 2000/1110 (N.I. 2), arts. 1(2), 16, Sch. 2 (with art. 17); S.R. 2000/140, art. 2, Sch.

8 **F155** .....

**Textual Amendments**

**F155** Sch. 5 repealed (E.W.S.) (25.4.2000) by 1999 c. 17, s. 14(2), Sch. 5 (with s. 15); S.I. 2000/880, art. 2, Sch. 2 Appendix and Sch. 5 repealed (N.I.) (25.4.2000) by S.I. 2000/1110 (N.I. 2), arts. 1(2), 16, Sch. 2 (with art. 17); S.R. 2000/140, art. 2, Sch.

SCHEDULE 6 **U.K.**

Section 70(4).

CONSEQUENTIAL AMENDMENTS

**Extent Information**

**E11** In its application to Northern Ireland, this Schedule has effect as substituted by Sch. 8 para. 53, and the Schedule is amended (N.I.) (24.9.1996) by S.I. 1996/1919 (N.I. 16), art. 257, Sch. 3 (with Sch. 2)

*Employment and Training Act 1973 (c. 50)*

- 1 In section 12(1) of the Employment and Training Act 1973 (duty of Secretary of State to give preference to ex-service men and women in exercising certain powers in respect of disabled persons) —
  - (a) for “persons registered as handicapped by disablement” substitute “disabled persons”; and
  - (b) for the words after “disabled person” substitute “has the same meaning as in the Disability Discrimination Act 1995.”

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

**Extent Information**

**E12** In its application to Northern Ireland, this Schedule has effect as substituted by Sch. 8 para. 53, and Sch. 6 para. 1 is repealed (N.I.) (24.9.1996) by [S.I. 1996/1919 \(N.I. 16\)](#), [art. 257](#), [Sch. 3](#) (with [Sch. 2](#))

*Employment Protection (Consolidation) Act 1978 (c. 44)*

2 **F156** .....

**Extent Information**

**E13** In its application to Northern Ireland, this Schedule has effect as substituted by Sch. 8 para. 53

**Textual Amendments**

**F156** [Sch. 6 para. 2](#) repealed (E.W.S.) (22.8.1996) by [1996 c. 17](#), [ss. 45, 46](#), [Sch. 3 Pt. I](#) (with [s. 38](#))

**F157** 3 .....

**Extent Information**

**E14** In its application to Northern Ireland, this Schedule has effect as substituted by Sch. 8 para. 53

**Textual Amendments**

**F157** [Sch. 6 para. 3](#) repealed (22.8.1996) by [1996 c. 18](#), [ss. 242, 243](#), [Sch. 3 Pt. I](#) (with [ss. 191-195, 202](#))

*Companies Act 1985 (c. 6)*

4 **F158** .....

**Extent Information**

**E15** In its application to Northern Ireland, this Schedule has effect as substituted by Sch. 8 para. 53

**Textual Amendments**

**F158** [Sch. 6 para. 4](#) repealed (6.4.2008) by [Companies Act 2006 \(c. 46\)](#), [ss. 1295, 1300](#), [Sch. 16](#); [S.I. 2007/3495](#), [art. 8](#), [Sch. 2](#) (with [arts. 7, 12](#), [Sch. 4](#)) (as amended by [S.I. 2008/674](#), [S.I. 2008/1886](#) and [S.I. 2008/2860](#))

*Local Government and Housing Act 1989 (c. 42)*

5 In section 7 of the Local Government and Housing Act 1989 (all staff of a local authority etc. to be appointed on merit), in subsection (2)—

- (a) paragraph (a) shall be omitted;
- (b) the word “and” at the end of paragraph (d) shall be omitted; and
- (c) after paragraph (e) insert—

“; and

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

- (f) sections 5 and 6 of the Disability Discrimination Act 1995 (meaning of discrimination and duty to make adjustments).”

*Enterprise and New Towns (Scotland) Act 1990 (c. 35)*

- 6 In section 16 of the Enterprise and New Towns (Scotland) Act 1990 (duty of certain Scottish bodies to give preference to ex-service men and women in exercising powers to select disabled persons for training), in subsection (2), for “said Act of 1944” substitute “ Disability Discrimination Act 1995 ”.

SCHEDULE 7 **U.K.**

Section 70(5).

REPEALS

**Extent Information**

- E16** In its application to Northern Ireland, this Schedule has effect as substituted by Sch. 8 para. 53; see [s. 70\(6\)](#)

**Commencement Information**

- I17** Sch. 7 not in force at Royal Assent see [s. 70\(3\)](#); [Sch. 7](#) in force for specified purposes (E.W.S.) at 2.12.1996 by [S.I. 1996/1474](#), [art. 2](#) (3), Sch. Pt. III (with [art. 3](#)); [Sch. 7](#) in force for specified purposes (N.I.) at 2.12.1996 by [S.R. 1996/280](#), [art. 2\(2\)](#), [Sch. Pt. II](#) (with [art. 3](#))

Chapter	Short title	Extent of repeal
7 & 8 Geo. 6 c. 10.	The Disabled Persons (Employment) Act 1944.	Section 1.  Sections 6 to 14. Section 19. Section 21. Section 22(4).
6 & 7 Eliz. 2 c. 33.	The Disabled Persons (Employment) Act 1958.	Section 2.
1970 c. 44.	The Chronically Sick and Disabled Persons Act 1970.	Section 16.
1978 c. 44.	The Employment Protection (Consolidation) Act 1978.	In Schedule 13, in paragraph 20(3), the word “or” in the definitions of “relevant complaint of dismissal” and “relevant conciliation powers”.

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

1989 c. 42.	The Local Government and Housing Act 1989.	In section 7(2), paragraph (a) and the word “and” at the end of paragraph (d).
1993 c. 62.	The Education Act 1993.	In section 161(5), the words from “and in this subsection” to the end.

SCHEDULE 8 **U.K.**

Section 70(6).

MODIFICATIONS OF THIS ACT IN ITS APPLICATION TO NORTHERN IRELAND

**Extent Information**

**E17** Sch. 8 extends to the United Kingdom but the operation of Sch. 8 is limited by application as mentioned in s. 70(6).

- 1 In its application to Northern Ireland this Act shall have effect subject to the following modifications.
- 2 (1) <sup>F159</sup>.....  
(2) In section 3 for subsections (4) to (12) substitute—
  - “(4) In preparing a draft of any guidance, the Department shall consult such persons as it considers appropriate.
  - (5) Where the Department proposes to issue any guidance, the Department shall publish a draft of it, consider any representations that are made to the Department about the draft and, if the Department thinks it appropriate, modify its proposals in the light of any of those representations.
  - (6) If the Department decides to proceed with any proposed guidance, the Department shall lay a draft of it before the Assembly.
  - (7) If, within the statutory period, the Assembly resolves not to approve the draft, the Department shall take no further steps in relation to the proposed guidance.
  - (8) If no such resolution is made within the statutory period, the Department shall issue the guidance in the form of its draft.
  - (9) The guidance shall come into force on such date as the Department may by order appoint.
  - (10) Subsection (7) does not prevent a new draft of the proposed guidance being laid before the Assembly.
  - (11) The Department may—
    - (a) from time to time revise the whole or any part of any guidance and re-issue it ;

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

(b) by order revoke any guidance.

(12) In this section—

“the Department” means the Department of Economic Development;

“guidance” means guidance issued by the Department under this section and includes guidance which has been revised and re-issued;

“statutory period” has the meaning assigned to it by section 41(2) of the Interpretation Act (Northern Ireland) 1954.”

**Textual Amendments**

**F159** Sch. 8 para. 2(1) repealed (31.10.2007) by [The Disability Discrimination \(Northern Ireland\) Order 2006](#) (S.I. 2006/312 (N.I. 1)), arts. 1, 19, Sch. 1 para. 32(4), **Sch. 2**; S.R. 2007/430, **art. 2(b)(d)**

3

**F160**

**Textual Amendments**

**F160** Sch. 8 para. 3 omitted (21.2.2004 for certain purposes, otherwise 1.10.2004) by virtue of the Disability Discrimination Act (Amendment) Regulations (Northern Ireland) ([S.R. 2004/55](#)), regs. 1, {28(4)}

3

**F160**

**Textual Amendments**

**F160** Sch. 8 para. 3 omitted (21.2.2004 for certain purposes, otherwise 1.10.2004) by virtue of the Disability Discrimination Act (Amendment) Regulations (Northern Ireland) ([S.R. 2004/55](#)), regs. 1, {28(4)}

4

(1) **F161**

**F162**(2)

**F162**(3)

**Textual Amendments**

**F161** Sch. 8 para. 4(1) omitted (21.2.2004 for certain purposes, otherwise 1.10.2004) by virtue of the Disability Discrimination Act (Amendment) Regulations (Northern Ireland) ([S.R. 2004/55](#)), regs. 1, {28(4)}

**F162** Sch. 8 para. 4(2)(3) repealed (N.I.) (25.4.2000) by [S.I. 2000/1110](#) (N.I. 2), art. 16, **Sch. 2** (with art. 17); S.R. 2000/140, art. 2, **Sch. Appendix**

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

.....  
5            F163            .....

**Textual Amendments**

**F163** Sch. 8 para. 5 omitted (21.2.2004 for certain purposes, otherwise 1.10.2004) by virtue of the Disability Discrimination Act (Amendment) Regulations (Northern Ireland) (S.R. 2004/55), regs. 1, {28(4)}

6            (1) F164            .....

[<sup>F165</sup>(2) In section 9(4) in the definition of “qualified lawyer” for the words from “means” to the end substitute “ means a barrister (whether in practice as such or employed to give legal advice) or a solicitor of the Supreme Court who holds a practising certificate. ”.]

**Textual Amendments**

**F164** Sch. 8 para. 6(1) omitted (21.2.2004 for certain purposes, otherwise 1.10.2004) by virtue of the Disability Discrimination Act (Amendment) Regulations (Northern Ireland) (S.R. 2004/55), regs. 1, {28(4)}

**F165** Sch. 8 para. 6(2) repealed (N.I.) (1.1.1999) by S.I. 1998/1265 (N.I. 8), art. 16, Sch. 2; S.R. 1998/274, art. 2(3), Sch. 3

.....  
7            F166            .....

**Textual Amendments**

**F166** Sch. 8 para. 7 omitted (21.2.2004 for certain purposes, otherwise 1.10.2004) by virtue of the Disability Discrimination Act (Amendment) Regulations (Northern Ireland) (S.R. 2004/55), regs. 1, {28(4)}

.....  
8            F167            .....

**Textual Amendments**

**F167** Sch. 8 para. 8 omitted (21.2.2004 for certain purposes, otherwise 1.10.2004) by virtue of the Disability Discrimination Act (Amendment) Regulations (Northern Ireland) (S.R. 2004/55), regs. 1, {28(4)}

9            (1) In section 19(3)(g) for “section 2 of the Employment and Training Act 1973” substitute “ sections 1 and 2 of the Employment and Training Act (Northern Ireland) 1950 ”.

(2) F168            .....

(3) F168            .....

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

#### Textual Amendments

**F168** Sch. 8 para. 9(2)(3) repealed (1.9.2005) by The Special Educational Needs and Disability (Northern Ireland) Order (S.I. 2005/1117 (N.I. 6)), arts. 1, 50(2), {Sch. 6}; S.R. 2005/337, art. 2, Sch.

- 10 In section 20(7) for paragraphs (b) and (c) substitute “; or  
 (b) functions conferred by or under Part VIII of the Mental Health (Northern Ireland) Order 1986 are exercisable in relation to a disabled person’s property or affairs.”.
- 11 In section 22(4) and (6) omit “or (in Scotland) the subject of”.
- 12 (1) In section 25(1) omit “or (in Scotland) in reparation”.  
 (2) In section 25(3) for “England and Wales” substitute “ Northern Ireland ”.  
 (3) Omit section 25(4).  
 (4) In section 25(5) omit the words from “or” to the end.
- 13 In section 26(3) omit “or a sheriff court”.

.....  
 F169<sup>14</sup>

#### Textual Amendments

**F169** Sch. 8 para. 14 repealed (N.I.) (25.4.2000) by S.I. 2000/1110 (N.I. 2), art. 16, Sch. 2 (with art. 17); S.R. 2000/140, art. 2, Sch. Appendix

- 15 Omit sections 29, 30 and 31.
- 16 (1) In section 32(1) for “Secretary of State” substitute “ Department of the Environment ”.  
 (2) In section 32(5) for the definition of “taxi” substitute—  
 ““taxi” means a vehicle which—  
 (a) is licensed under Article 61 of the Road Traffic (Northern Ireland) Order 1981 to stand or ply for hire; and  
 (b) seats not more than 8 passengers in addition to the driver”.
- 17 In section 33, for “Secretary of State”, wherever it occurs, substitute “ Department of the Environment ”.

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

18 For section 34 substitute—

**“34 New licences conditional on compliance with accessibility tax regulations**

- (1) The Department of the Environment shall not grant a public service vehicle licence under Article 61 of the Road Traffic (Northern Ireland) Order 1981 for a taxi unless the vehicle conforms with those provisions of the taxi accessibility regulations with which it will be required to conform if licensed.
- (2) Subsection (1) does not apply if such a licence was in force with respect to the vehicle at any time during the period of 28 days immediately before the day on which the licence is granted.
- (3) The Department of the Environment may by order provide for subsection (2) to cease to have effect on such date as may be specified in the order.”

19 Omit section 35.

20 In section 36(7) for “licensing authority” substitute “ Department of the Environment ”.

21 (1) In section 37(5) and (6) for “licensing authority” substitute “ Department of the Environment ”.

(2) In section 37(9) for “Secretary of State” substitute “ Department of the Environment ”.

[<sup>F170</sup>21A] (1) In section 37A(5) and (6) for “licensing authority” substitute “Department of the Environment”.

(2) In section 37A(9) for the definitions of “driver”, “licensing authority”, “operator” and “private hire vehicle” substitute— “

“driver” means a person who holds a taxi driver’s licence under Article 79A of the Road Traffic (Northern Ireland) Order 1981 (SI 1981/154 (NI 1));

“operator” means a person who in the course of a business makes provision for the invitation or acceptance of bookings for a private hire vehicle;

“private hire vehicle” means a vehicle which—

- (a) seats not more than 8 passengers in addition to the driver; and
- (b) is licensed under Article 61 of the Road Traffic (Northern Ireland) Order 1981 to carry passengers for hire (but not to stand or ply for hire). ”.]

**Textual Amendments**

**F170** Sch. 8 para. 21A inserted (31.12.2003 for E.W. for certain purposes otherwise 31.3.2004 for E.W. and 1.1.2008 for N.I. for certain purposes, otherwise 1.6.2008 for N.I.) by 2002 c. 37, ss. 1(2), 6(2); S.I. 2003/3123, art. 2; S.I. 2007/3477, art. 2

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

- 22 (1) In section 38(1) for “a licensing authority” substitute “ the Department of the Environment ”.
- (2) In section 38(2) for “licensing authority concerned” substitute “ Department of the Environment ”.
- (3) In section 38(3) for the words from “the magistrates’ court” to the end substitute “ a court of summary jurisdiction acting for the petty sessions district in which the aggrieved person resides ”.
- 23 Omit section 39.
- 24 (1) In section 40 for “Secretary of State” wherever it occurs substitute “ Department of the Environment ”.
- (2) In section 40(5) for the definition of “public service vehicle” substitute—
- ““public service vehicle” means a vehicle which—
- (a) seats more than 8 passengers in addition to the driver; and
- (b) is a public service vehicle for the purposes of the Road Traffic (Northern Ireland) Order 1981;”.
- (3) In section 40(7) for the words from “the Disabled” to the end substitute “ such representative organisations as it thinks fit ”.
- 25 (1) In section 41(2) for “Secretary of State” substitute “ Department of the Environment ”.
- (2) In section 41 for subsections (3) and (4) substitute—
- “(3) Any person who uses a regulated public service vehicle in contravention of this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.”.
- 26 (1) In section 42 for “Secretary of State” wherever it occurs substitute “ Department of the Environment ”.
- (2) In section 42(1) for “he” substitute “ it ”.
- (3) In section 42(6) for “his” substitute “ its ”.
- 27 In section 43 for “Secretary of State” wherever it occurs substitute “ Department of the Environment ”.
- 28 (1) In section 44 for “Secretary of State” wherever it occurs substitute “ Department of the Environment ”.
- (2) In section 44(2) for “him” substitute “ it ”.
- (3) In section 44(6) for “he” substitute “ it ” and for “his” substitute “ its ”.

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

- 29 (1) In section 45 for “Secretary of State” wherever it occurs substitute “ Department of the Environment ”.
- (2) In section 45(2) for “him” substitute “ it ” and at the end add “ of Northern Ireland ”.
- (3) In section 45(4) for “he” substitute “ it ”.
- 30 (1) In section 46 for “Secretary of State” wherever it occurs substitute “ Department of the Environment ”.
- (2) In section 46(6) in the definition of “rail vehicle” for the words “on any railway, tramway or prescribed system” substitute “ by rail ”.
- (3) Omit section 46(7).
- (4) In section 46(11) for the words from “the Disabled” to the end substitute “ such representative organisations as it thinks fit ”.
- 31 (1) In section 47 for “Secretary of State” wherever it occurs substitute “ Department of the Environment ”.
- (2) In section 47(3) for the words “the Disabled Persons Transport Advisory Committee and such other persons as he” substitute “ such persons as it ” and for “he” substitute “ it ”.
- 32 Omit section 48(3).

.....  
F17133

**Textual Amendments**

**F171** Sch. 8 para. 33 repealed (N.I.) (25.4.2000) by S.I. 2000/1110 (N.I. 2), art. 16, Sch. 2 (with art. 17); S.R. 2000/140, art. 2 Sch. Appendix

[<sup>F172</sup>~~F171~~34(1) .....

<sup>F172</sup>(2) .....

- (3) In section 51(4) for “a county court or a sheriff court” substitute “ or a county court ”.
- (4) In section 51(6) for “the Secretary of State” substitute “ a Northern Ireland department ”.]

**Textual Amendments**

**F172** Sch. 8 para. 34 repealed (N.I.) (25.4.2000 in relation to sub-paras. (1)(2) and otherwise prosp.) by S.I. 2000/1110 (N.I. 2), art. 16, Sch. 2 (with art. 17); S.R. 2000/140, art. 2, Sch. Appendix

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

35 For section 52 substitute—

**“52 Further provisions about codes issued under section 51.**

(1) In this section—

“proposal” means a proposal made by [<sup>F173</sup>the Equality Commission for Northern Ireland] to a Northern Ireland department under section 51;

“responsible department”—

(a) in relation to a proposal, means the Northern Ireland department to which the proposal is made,

(b) in relation to a code, means the Northern Ireland department by which the code is issued; and

“statutory period” has the meaning assigned to it by section 41(2) of the Interpretation Act (Northern Ireland) 1954.

(2) In preparing any proposal, [<sup>F173</sup>the Equality Commission for Northern Ireland] shall consult—

(a) such persons (if any) as the responsible department has specified in making its request to [<sup>F173</sup>the Equality Commission for Northern Ireland]; and

(b) such other persons (if any) as [<sup>F173</sup>the Equality Commission for Northern Ireland] considers appropriate.

(3) Before making any proposal [<sup>F173</sup>the Equality Commission for Northern Ireland] shall publish a draft, consider any representations made to it about the draft and, if it thinks it appropriate, modify its proposal in the light of any of those representations.

(4) Where [<sup>F173</sup>the Equality Commission for Northern Ireland] makes any proposal, the responsible department may—

(a) approve it;

(b) approve it subject to such modifications as that department thinks appropriate; or

(c) refuse to approve it.

(5) Where the responsible department approves any proposal (with or without modifications) that department shall prepare a draft of the proposed code and lay it before the Assembly.

(6) If, within the statutory period, the Assembly resolves not to approve the draft, the responsible department shall take no further steps in relation to the proposed code.

(7) If no such resolution is made within the statutory period, the responsible department shall issue the code in the form of its draft.

(8) The code shall come into force on such date as the responsible department may appoint by order.

(9) Subsection (6) does not prevent a new draft of the proposed code from being laid before the Assembly.

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

- (10) If the responsible department refuses to approve a proposal, that department shall give [<sup>F173</sup>the Equality Commission for Northern Ireland] a written statement of the department's reasons for not approving it.
- (11) The responsible department may by order revoke a code.”.

#### Textual Amendments

**F173** Words in Sch. 8 substituted (1.10.1999) by 1998 c. 47, s. 99, Sch. 13 para. 16(2)(a) (with s. 95); S.I. 1999/2204, art. 3

- 36 (1) In section 53 for “Secretary of State” wherever it occurs substitute “ Department of Economic Development ”.
- (2) In section 53(1) for “he” substitute “it”.
- (3) In section 53(5) for “a county court or a sheriff court” substitute “ or a county court ”.
- 37 For section 54 substitute—

#### “54 Further provisions about codes issued under section 53.

- (1) In preparing a draft of any code under section 53, the Department shall consult such organisations representing the interests of employers or of disabled persons in, or seeking, employment as the Department considers appropriate.
- (2) Where the Department proposes to issue a code, the Department shall publish a draft of the code, consider any representations that are made to the Department about the draft and, if the Department thinks it appropriate, modify its proposals in the light of any of those representations.
- (3) If the Department decides to proceed with the code, the Department shall lay a draft of it before the Assembly.
- (4) If, within the statutory period, the Assembly resolves not to approve the draft, the Department shall take no further steps in relation to the proposed code.
- (5) If no such resolution is made within the statutory period, the Department shall issue the code in the form of its draft.
- (6) The code shall come into force on such date as the Department may appoint by order.
- (7) Subsection (4) does not prevent a new draft of the proposed code from being laid before the Assembly.
- (8) The Department may by order revoke a code.
- (9) In this section—  
“the Department” means the Department of Economic Development; and

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

“statutory period” has the meaning assigned to it by section 41(2) of the Interpretation Act (Northern Ireland) 1954.”.

38 In section 56(2) and (4) for “Secretary of State” substitute “ Department of Economic Development ”.

39 In section 59(1) after “Crown” where it twice occurs insert “ or a Northern Ireland department ”.

40 (1) In section 60(1) to (3) for “Secretary of State” wherever it occurs substitute “ Department of Economic Development ” and for “he” and “him” wherever they occur substitute “ it ”.

(2) In section 60(4) for “Treasury” substitute “ Department of Finance and Personnel in Northern Ireland ”.

(3) For section 60(6) substitute—

“(6) The Department of Economic Development may by order repeal section 17 of, and Schedule 2 to, the Disabled Persons (Employment) Act (Northern Ireland) 1945 (district advisory committees).”.

(4) In section 60(7) omit “paragraph (b) of”, for “1944” substitute “ 1945 ”and omit “in each case”.

(5) In section 60, omit subsection (8).

41 For section 61 substitute—

**“61 Amendments of Disabled Persons (Employment) Act (Northern Ireland) 1945.**

(1) Section 15 of the Disabled Persons (Employment) Act (Northern Ireland) 1945 (which gives the Department of Economic Development power to make arrangements for the provision of supported employment) is amended as set out in subsections (2) to (5).

(2) In subsection (1)—

(a) for “persons registered as handicapped by disablement” substitute “ disabled persons ”;

(b) for “their disablement” substitute “ their disability ”; and

(c) for “are not subject to disablement” substitute “ do not have a disability ”.

(3) In subsection (2) for the words from “any of one or more companies” to “so required and prohibited” substitute “ any company, association or body ”.

(4) After subsection (2) insert—

“(2A) The only kind of company which the Department itself may form in exercising its powers under this section is a company which is—

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

- (a) required by its constitution to apply its profits, if any, or other income in promoting its objects; and
- (b) prohibited by its constitution from paying any dividend to its members.”.

(5) After subsection (5) insert—

“(5A) For the purposes of this section—

- (a) a person is a disabled person if he is a disabled person for the purposes of the Disability Discrimination Act 1995; and
- (b) “disability” has the same meaning as in that Act.”.

(6) The provisions of section 16 of the Act of 1945 (preference to be given under section 15 of that Act to ex-service men and women) shall become subsection (1) of that section and at the end insert—

“and whose disability is due to that service.

- (2) or the purposes of subsection (1) of this section, a disabled person’s disability shall be treated as due to service of a particular kind only in such circumstances as may be prescribed.”

(7) The following provisions of the Act of 1945 shall cease to have effect—

- (a) section 1 (definition of “disabled person”);
- (b) sections 2 to 4 (training for disabled persons);
- (c) sections 6 to 8 (the register of disabled persons);
- (d) sections 9 to 11 (obligations on employers with substantial staffs to employ quota of registered persons);
- (e) section 12 (the designated employment scheme for persons registered as handicapped by disablement);
- (f) section 13 (interpretation of provisions repealed by this Act);
- (g) section 14 (records to be kept by employer);
- (h) section 19 (proceedings in relation to offences);
- (j) sections 21 and 22 (supplementary).

(8) Any statutory provision in which “disabled person” is defined by reference to the Act of 1945 shall be construed as if that expression had the same meaning as in this Act.

42 (1) In section 62(2) for “Secretary of State” substitute “ Department of Economic Development ”.

[<sup>F174</sup>(2) In section 62(7) for “Great Britain” where it twice occurs substitute “ Northern Ireland ”.]

#### Textual Amendments

**F174** Sch. 8 para. 42(2) repealed (N.I.)(24.9.1996) by S.I. 1996/1921 (N.I.18), art. 28, Sch. 3 (with Sch. 2)

43 Omit section 63.

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

- 44 (1) In section 64(3) for “England and Wales” substitute “ Northern Ireland ”.
- (2) Omit section 64(4).
- (3) <sup>F175</sup> .....
- (4) In section 64(8)—
- (a) omit the definitions of “British Transport Police”, “Royal Parks Constabulary” and “United Kingdom Atomic Energy Authority Constabulary”;
  - (b) in the definition of “the 1947 Act” at the end add “ as it applies both in relation to the Crown in right of Her Majesty’s Government in Northern Ireland and in relation to the Crown in right of Her Majesty’s Government in the United Kingdom ”;
  - (c) <sup>F176</sup> .....
  - (d) <sup>F176</sup> .....
  - (e) in the definition of “service for purposes of a Minister of the Crown or government department” at the end add “ or service as the head of a Northern Ireland department ”.

#### **Textual Amendments**

**F175** Sch. 8 para. 44(3) omitted (21.2.2004 for certain purposes, otherwise 1.10.2004) by virtue of the Disability Discrimination Act (Amendment) Regulations (Northern Ireland) (S.R. 2004/55), regs. 1, {28(4)}

**F176** Sch. 8 para. 44(4)(c)(d) omitted (21.2.2004 for certain purposes, otherwise 1.10.2004) by virtue of the Disability Discrimination Act (Amendment) Regulations (Northern Ireland) (S.R. 2004/55), regs. 1, {28(4)}

- 45 Omit section 65.

- 46 For section 67 substitute—

#### **“67 Regulations and orders etc.**

- (1) Any power under this Act to make regulations or orders shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.
- (2) Any such power may be exercised to make different provision for different cases, including different provision for different areas or localities.
- (3) Any such power, includes power—
  - (a) to make such incidental, supplementary, consequential or transitional provision as appears to the Northern Ireland department exercising the power to be expedient; and
  - (b) to provide for a person to exercise a discretion in dealing with any matter.
- (4) <sup>F177</sup> .....

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

- (5) Any other order made under this Act, other than an order under section 3(9), [<sup>F178</sup>54A(6)(a)] or 70(3), and any regulations made under this Act shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were statutory instruments within the meaning of that Act.
- (6) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 shall apply in relation to any instrument or document which by virtue of this Act is required to be laid before the Assembly as if it were a statutory instrument or statutory document within the meaning of that Act.
- (7) Subsection (1) does not require an order under section 43 which applies only to a specified vehicle, or to vehicles of a specified person, to be made by statutory rule.
- (8) Nothing in section 40(6) or 46(5) affects the powers conferred by subsections (2) and (3).”

#### Textual Amendments

**F177** Sch. 8 para. 46: s. 67(4) (as it has effect in its application to Northern Ireland by virtue of this provision) repealed (25.4.2000) by S.I. 2000/1110, art. 16, Sch. 2; S.R. 2000/140, art. 2, Sch. Appendix

**F178** Sch. 8 para. 46: words in s. 67(5) (as it has effect in its application to Northern Ireland by virtue of this provision) substituted (25.4.2000) by S.I. 2000/1110, art. 15 (with art. 17); S.R. 2000/140, art. 2, Sch.

47 (1) For section 68(1) substitute—

“(1) In this Act—

“accessibility certificate” means a certificate issued under section 41(1)(a);

“act” includes a deliberate omission;

“the Agency” means the Labour Relations Agency;

“approval certificate” means a certificate issued under section 42(4);

“the Assembly” means the Northern Ireland Assembly;

“benefits”, in Part II, has the meaning given in section 4(4);

“the Department of Economic Development” means the Department of Economic Development in Northern Ireland;

“the Department of the Environment” means the Department of the Environment for Northern Ireland;

“the Department of Health and Social Services” means the Department of Health and Social Services for Northern Ireland;

“employment” means, subject to any prescribed provision, employment under a contract of service or of apprenticeship or a contract personally to do work and related expressions are to be construed accordingly;

“employment at an establishment in Northern Ireland” is to be construed in accordance with subsections (2) to (5);

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“enactment” means any statutory provision within the meaning of section 1(f) of the Interpretation Act (Northern Ireland) 1954;

“government department” means a Northern Ireland department or a department of the Government of the United Kingdom;

“Minister of the Crown” includes the Treasury;

“Northern Ireland department” includes (except in sections 51 and 52) the head of a Northern Ireland department;

“occupational pension scheme” has the same meaning as in the Pension Schemes (Northern Ireland) Act 1993;

“premises”, includes land of any description;

“prescribed” means prescribed by regulations;

“profession” includes any vocation or occupation;

“provider of services” has the meaning given in section 19(2)(b);

“public service vehicle” and “regulated public service vehicle” have the meaning given in section 40;

“PSV accessibility regulations” means regulations made under section 40(1);

“rail vehicle” and “regulated rail vehicle” have the meaning given in section 46;

“rail vehicle accessibility regulations” means regulations made under section 46(1);

“regulations” means—

- (a) in Parts I and II of this Act, section 66, the definition of “employment” above and subsections (3) and (4) below, regulations made by the Department of Economic Development;
- (b) in Part V of this Act, regulations made by the Department of the Environment;
- (c) in any other provision of this Act, regulations made by the Department of Health and Social Services.

“section 6 duty” means any duty imposed by or under section 6;

“section 15 duty” means any duty imposed by or under section 15;

“section 21 duty” means any duty imposed by or under section 21;

“taxi” and “regulated taxi” have the meaning given in section 32;

“taxi accessibility regulations” means regulations made under section 32(1);

“trade” includes any business;

“trade organisation” has the meaning given in section 13;

“vehicle examiner” means an officer of the Department of the Environment authorised by that Department for the purposes of sections 41 and 42.”.

[<sup>F179</sup>(2) In section 68—

(a) for subsection (2) substitute— “

(2) Where an employee does his work wholly outside Northern Ireland, his employment is not to be treated as being work at an establishment in Northern Ireland. ”; and

(b) in subsections (3) and (4) for “Great Britain” wherever it occurs substitute “Northern Ireland”.]

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*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

### Textual Amendments

**F179** Sch. 8 para. 47(2) substituted (N.I.) (9.3.2000) by S.R. 2000/8, reg. 3

- 48 (1) In section 70(3) for “Secretary of State” substitute “ Department of Health and Social Services ”.
- (2) In section 70(8) for “the Secretary of State” substitute “ a Northern Ireland department ” and for “him” substitute “ it ”.
- 49 (1) In Schedule 1 in paragraph 7(1) for “Act 1944” substitute “ Act (Northern Ireland) 1945 ”.
- (2) In Schedule 1 in paragraph 7(7) for “1944” substitute “ 1945 ”.
- 50 (1) In Schedule 3 in paragraph 1—
- (a) for “a conciliation officer” wherever it occurs substitute “ the Agency ”;
  - (b) in sub-paragraphs (1) and (4) for “he” substitute “ it ”;
  - (c) in sub-paragraph (3) for “the conciliation officer” substitute “ the Agency ”.
- (2) In Schedule 3 for paragraph 4(1) substitute—
- “(1) In any proceedings under section 8—
- (a) a certificate signed by or on behalf of a Minister of the Crown or a Northern Ireland department and certifying that any conditions or requirements specified in the certificate were imposed by that Minister or that department (as the case may be) and were in operation at a time or throughout a time so specified; or
  - (b) a certificate signed by or on behalf of the Secretary of State and certifying that an act specified in the certificate was done for the purpose of safeguarding national security,
- shall be conclusive evidence of the matters certified.”.
- (3) In Schedule 3 in paragraph 6(1) omit “or a sheriff court”.
- (4) In Schedule 3 for paragraph 8(1) substitute—
- “(1) In any proceedings under section 25—
- (a) a certificate signed by or on behalf of a Minister of the Crown or a Northern Ireland department and certifying that any conditions or requirements specified in the certificate were imposed by that Minister or that department (as the case may be) and were in operation at a time or throughout a time so specified; or
  - (b) a certificate signed by or on behalf of the Secretary of State and certifying that an act specified in the certificate was done for the purpose of safeguarding national security,
- shall be conclusive evidence of the matters certified.”.

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*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995. (See end of Document for details)*

- 51 (1) In Schedule 4 in paragraphs 2(1) and (5) and 7(1) and (5) omit “or sisted”.
- (2) In Schedule 4 in paragraph 4 for “Secretary of State” substitute “ Department of Economic Development ”.
- (3) In Schedule 4 in paragraph 6(1) omit “or, in Scotland, to the sheriff”.
- (4) In Schedule 4 omit paragraph 6(2).
- (5) In Schedule 4 in paragraph 9 for “Secretary of State” substitute “ Department of Health and Social Services ”.

.....  
F180 52

**Textual Amendments**

**F180** Sch. 8 para. 52 repealed (N.I.) (25.4.2000) by S.I. 2000/1110 (N.I. 2), art. 16, Sch. 2 (with art. 17); S.R. 2000/140, art. 2, Sch. Appendix

- 53 For Schedules 6 and 7 substitute—

“SCHEDULE  
6 U.K.

CONSEQUENTIAL AMENDMENTS

*The Industrial Relations (Northern Ireland) Order 1976 (NI 16)*

- 1 In Article 68(6) of the Industrial Relations (Northern Ireland) Order 1976 (reinstatement or re-engagement of dismissed employees)—
- (a) in the definition of “relevant complaint of dismissal”, omit “or” and at the end insert “ or a complaint under section 8 of the Disability Discrimination Act 1995 arising out of a dismissal ”;
- (b) in the definition of “relevant conciliation powers”, omit “or” and at the end insert “ or paragraph 1 of Schedule 3 to the Disability Discrimination Act 1995 ”;
- (c) in the definition of “relevant compromise contract” for “or Article” substitute “ Article ” and at the end insert “ or section 9(2) of the Disability Discrimination Act 1995 ”.

*The Companies (Northern Ireland) Order 1986 (NI 6)*

- 3 In paragraph 9 of Schedule 7 to the Companies (Northern Ireland) Order 1986 (disclosure in directors’ report of company policy in relation to disabled persons) in the definition of “disabled person” in sub-paragraph (4) (b) for “Disabled Persons (Employment) Act (Northern Ireland) 1945” substitute “ Disability Discrimination Act 1995 ”.

*Status: Point in time view as at 03/11/2008.*

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SCHEDULE  
7 U.K.

REPEALS

Chapter	Short title	Extent of repeal
1945 c. 6 (N.I.)	The Disabled Persons (Employment) Act (Northern Ireland) 1945.	Sections 1 to 4.  Sections 6 to 14.  In section 16 the words “vocational training and industrial rehabilitation courses and”, the words “courses and” and the words from “and in selecting” to “engagement”.  Section 19.  Section 21.  Section 22.
1960 c. 4 (N.I.)	The Disabled Persons (Employment) Act (Northern Ireland) 1960.	The whole Act.
1976 NI16	The Industrial Relations (Northern Ireland) Order 1976.	In Article 68(6) the word “or” in the definitions of “relevant complaint of dismissal” and “relevant conciliation powers”.

**Status:**

Point in time view as at 03/11/2008.

**Changes to legislation:**

There are currently no known outstanding effects for the Disability Discrimination Act 1995.