



Disability Discrimination Act 1995

1995 CHAPTER 50

PART III

DISCRIMINATION IN OTHER AREAS

[^{F1}Private clubs etc.]

VALID FROM 30/06/2005

[^{F1}21G Meaning of “discrimination”

- (1) For the purposes of section 21F, an association discriminates against a disabled person if—
 - (a) for a reason which relates to the disabled person’s disability, the association treats him less favourably than it treats or would treat others to whom that reason does not or would not apply; and
 - (b) it cannot show that the treatment in question is justified.
- (2) For the purposes of subsection (1), treatment is justified only if—
 - (a) in the opinion of the association, one or more of the conditions mentioned in subsection (3) are satisfied; and
 - (b) it is reasonable, in all the circumstances, for it to hold that opinion.
- (3) The conditions are that—
 - (a) the treatment is necessary in order not to endanger the health or safety of any person (which may include that of the disabled person);
 - (b) the disabled person is incapable of entering into an enforceable agreement, or giving an informed consent, and for that reason the treatment is reasonable in that case;
 - (c) in a case falling within section 21F(2)(a), (3)(a), (c)(ii), (d)(ii) or (e), (4)(a) or (c) or (5)(a), the treatment is necessary in order for the association

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- to be able to afford members, associates or guests of the association, or the disabled person, access to a benefit, facility or service;
- (d) in a case falling within section 21F(2)(b), (3)(b), (c)(i) or (d)(i), (4)(b) or (5)(b) or (c), the treatment is necessary because the association would otherwise be unable to afford members, associates or guests of the association access to a benefit, facility or service;
- (e) in a case falling within section 21F(2)(a), the difference between—
- (i) the terms on which membership is offered to the disabled person, and
 - (ii) those on which it is offered to other persons,
- reflects the greater cost to the association of affording the disabled person access to a benefit, facility or service;
- (f) in a case falling within section 21F(3)(a), (c)(ii) or (d)(ii) or (4)(a), the difference between—
- (i) the association's treatment of the disabled person, and
 - (ii) its treatment of other members or (as the case may be) other associates or other guests of the association,
- reflects the greater cost to the association of affording the disabled person access to a benefit, facility or service;
- (g) in a case falling within section 21F(5)(a), the difference between—
- (i) the terms on which the disabled person is invited, or permitted to be invited, to be a guest of the association, and
 - (ii) those on which other persons are invited, or permitted to be invited, to be guests of the association,
- reflects the greater cost to the association of affording the disabled person access to a benefit, facility or service.
- (4) Any increase in the cost of affording a disabled person access to a benefit, facility or service which results from compliance with a duty under section 21H shall be disregarded for the purposes of subsection (3)(e), (f) and (g).
- (5) Regulations may—
- (a) make provision, for purposes of this section, as to circumstances in which it is, or as to circumstances in which it is not, reasonable for an association to hold the opinion mentioned in subsection (2)(a);
 - (b) amend or omit a condition specified in subsection (3) or make provision for it not to apply in prescribed circumstances;
 - (c) make provision as to circumstances (other than any for the time being mentioned in subsection (3)) in which treatment is to be taken to be justified for the purposes of subsection (1).
- (6) For the purposes of section 21F, an association also discriminates against a disabled person if—
- (a) it fails to comply with a duty under section 21H imposed on it in relation to the disabled person; and
 - (b) it cannot show that its failure to comply with that duty is justified.
- (7) Regulations may make provision as to circumstances in which failure to comply with a duty under section 21H is to be taken to be justified for the purposes of subsection (6).]

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Textual Amendments

- F1** Ss. 21F-21J and cross-heading inserted (E.W.S.) (30.6.2005 for ss. 21G, 21 H for certain purposes, 10.10.2005 for s. 21F for certain purposes and 5.12.2005 for all provisions insofar as not already in force) by [Disability Discrimination Act 2005 \(c. 13\)](#), [ss. 12, 20\(3\)-\(6\)](#); [S.I. 2005/1676](#), [art. 2\(2\)\(c\)](#); [S.I. 2005/2774](#), arts. {2(a)}, {3(g)} and the same sections and cross-heading inserted (N.I.) (3.7.2006 for ss. 21G and 21 H for certain purposes, 9.11.2007 for s. 21F for certain purposes and 31.12.2007 for all provisions insofar as not already in force) by [The Disability Discrimination \(Northern Ireland\) Order 2006 \(S.I. 2006/312 \(N.I. 1\)\)](#), arts. 1, [13](#); [S.R. 2006/289](#), [art. 2\(2\)\(b\)](#); [S.R. 2007/466](#), [art. 2\(1\)\(2\)\(g\)](#)

Modifications etc. (not altering text)

- C1** [S. 21G\(3\)\(b\)](#) excluded (E.W.S) (5.12.2006) by [The Disability Discrimination \(Private Clubs etc.\) Regulations \(S.I. 2005/3258\)](#), {reg. 3}

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