

2008 No. 141

DISABLED PERSONS

The Disability Discrimination (Guidance on the Definition of Disability) (Appointed Day) Order (Northern Ireland) 2008

Made - - - -

21st March 2008

The Office of the First Minister and deputy First Minister makes the following Order in exercise of the powers conferred by sections 3(9) and 67(2) and (3)(a) of the Disability Discrimination Act 1995(a), and now vested in it(b).

In accordance with section 3(4) of that Act the Office of the First Minister and deputy First Minister has consulted with such persons as the Office considered appropriate in preparing a draft of the Guidance.

In accordance with section 3(5) of that Act the Office of the First Minister and deputy First Minister has published a draft of the Guidance and has considered such representations that were made to the Office about the draft and has modified the proposals as the Office considered appropriate in the light of those representations.

In accordance with section 3(6) of that Act the Office of the First Minister and deputy First Minister has laid a draft of the Guidance before the Assembly.

In accordance with section 3(8) of that Act no resolution has been made by the Assembly within the statutory period not to approve the draft and the Office of the First Minister and deputy First Minister has issued the Guidance in the form of that draft.

Citation and interpretation

1.—(1) This Order may be cited as the Disability Discrimination (Guidance on the Definition of Disability) (Appointed Day) Order (Northern Ireland) 2008.

(2) In this Order—

“the 1995 Act” means the Disability Discrimination Act 1995.

(3) The Interpretation Act (Northern Ireland) 1954(c) shall apply to this Order as it applies to an Act of the Assembly.

(a) 1995 c.50 as amended by S.I. 2006/ 312 (N.I. 1). Sections 3(9) and 67(2) and 3(a) of the Disability Discrimination Act 1995 are modified in their application to Northern Ireland by paragraphs 2(2) and 46 of Schedule 8
(b) See S.R. 1999 No. 481, Article 4(a) and Schedule 2, Part 1 for transfer of functions from the Department of Economic Development
(c) 1954 c. 33 (N.I.)

Appointed Day

2.—(1) 21st April 2008 is the day appointed for the coming into operation of the Guidance entitled “Guidance on matters to be taken into account in determining questions relating to the definition of disability” laid before the Assembly in draft on 11th December 2007 and issued under section 3(8) of the 1995 Act on 21st March 2008.

(2) Paragraph (1) has effect subject to the provisions of article 3.

Transitional provision

3.—(1) This article applies in relation to any proceedings arising from a complaint (whenever presented) alleging that a person has, before 21st April 2008, committed an act which is unlawful discrimination for the purposes of the 1995 Act or of Part III of the Special Educational Needs and Disability (Northern Ireland) Order 2005(a).

(2) Where this article applies, the Guidance referred to in article 2(1) shall not have effect for the purposes of section 3(3) of the 1995 Act(b).

Sealed with the Official Seal of the Office of the First Minister and deputy First Minister on 21st March 2008.



Gerard Mulligan
A senior officer of the
Office of the First Minister and deputy First Minister

(a) S.I. 2005/1117 (N.I.6)

(b) Section 3(3) was amended by S.I. 2005/1117 (N.I. 6) and paragraphs 1 and 3(5) of Schedule 1 to the Disability Discrimination (Northern Ireland) Order 2006

EXPLANATORY NOTE

(This note is not part of the Order)

This Order appoints 21st April 2008 as the day for the coming into operation of the Guidance entitled “Guidance on matters to be taken into account in determining questions relating to the definition of disability” issued by the Office of the First Minister and deputy First Minister on 21st March 2008 under section 3(8) of the Disability Discrimination Act 1995 (“the 1995 Act”).

The Guidance provides practical guidance on matters to be taken into account when considering whether a person is a disabled person for the purposes of the 1995 Act and replaces an earlier version which was issued by the Department of Economic Development and came into operation on 2nd December 1996 (ISBN No. 0-337-09436-5). The Guidance reflects changes made by the Disability Discrimination (Northern Ireland) Order 2006 (“the 2006 Order”) to the provisions of the 1995 Act governing who is a disabled person for the purposes of the 1995 Act or of Part III of the Special Educational Needs and Disability (Northern Ireland) Order 2005 (“the 2005 Order”).

Article 3 of this Order makes transitional provision in relation to proceedings under the 1995 Act arising from a complaint presented to a tribunal or court concerning an alleged act of discrimination contrary to the 1995 Act or contrary to Part III of the 2005 Order committed before 21st April 2008 which has not been determined by that date. The Guidance is not to have effect for the purposes of section 3(3) of the 1995 Act in relation to such proceedings. The Guidance issued by the Department of Economic Development in 1996 under section 3 of the 1995 Act (ISBN No. 0-337-09436-5) is to continue to have effect in relation to such proceedings. Section 3(3) of the 1995 Act requires a tribunal or court to take into account any guidance which appears to it to be relevant.

A regulatory impact assessment has not been prepared for this Order as it has no direct impact on the costs of business.

However, a regulatory impact assessment of the changes made to the definition of a disabled person discussed in the Guidance and the effect these changes would have on the costs of business was prepared as part of the regulatory impact assessment in relation to the 2006 Order. A copy may be obtained from: Equality, Rights and Social Need Division, Office of the First Minister and deputy First Minister, Room E3.19, Castle Buildings, Stormont, Belfast, BT4 3SR. A copy of the assessment for the 2006 Order has been placed in the library of the Northern Ireland Assembly.

A copy of the Guidance may be obtained from The Stationery Office Limited (mail, telephone, fax and e-mail orders only) PO Box 29, Norwich NR3 1GN (telephone orders 0870 600 5522, fax orders 0870 600 5533, e-mail book.orders@tso.co.uk, textphone 0870 240 3701, online www.tso.co.uk/bookshop) and from The Stationery Office Bookshop, 16 Arthur Street, Belfast BT1 4GD (Telephone 028 9023 8451; Fax 028 9023 5401).