



# Disability Discrimination Act 1995

## 1995 CHAPTER 50

### <sup>F1</sup>[<sup>F2</sup>PART 5A

#### PUBLIC AUTHORITIES]

##### Textual Amendments

- F1** Pt. VA (ss. 49A, 49B) inserted (N.I.) (1.1.2007) by [The Disability Discrimination \(Northern Ireland\) Order 2006 \(S.I. 2006/312 \(N.I. 1\)\)](#), arts. 1, 5; S.R. 2006/470, art. 2
- F2** Pt. 5A (ss. 49A-49F) inserted (E.W.S) (30.6.2005 for s. 49D for certain purposes, 5.12.2005 for s. 49A(1) for certain purposes, and 49B-49F so far as not already in force, and otherwise 4.12.2006) by [Disability Discrimination Act 2005 \(c. 13\)](#), ss. 3, 20(3)-(6); S.I. 2005/1676, art. 2(2)(b); S.I. 2005/2774, arts. 3(b), 4(a) [Editorial note: The E.W.S versions of ss. 49C-49F were inserted along with the Part heading "Pt. 5A Public authorities" and should appear under that heading]

#### <sup>F2</sup>49A **General duty** **E+W+S**

- (1) Every public authority shall in carrying out its functions have due regard to—
- the need to eliminate [<sup>F3</sup>unlawful discrimination and victimisation];
  - the need to eliminate harassment of disabled persons that is related to their disabilities;
  - the need to promote equality of opportunity between disabled persons and other persons;
  - the need to take steps to take account of disabled persons' disabilities, even where that involves treating disabled persons more favourably than other persons;
  - the need to promote positive attitudes towards disabled persons; and
  - the need to encourage participation by disabled persons in public life.
- (2) Subsection (1) is without prejudice to any obligation of a public authority to comply with any [<sup>F4</sup>provision of the Equality Act 2010 ("the 2010 Act"), so far as relating to disability].]

*Status: Point in time view as at 31/12/2007.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995, Part 5A. (See end of Document for details)*

[<sup>F5</sup>(3) In this section—

- (a) “discrimination” means disability discrimination within the meaning of sections 25(2)(a), (b) and (d) of the 2010 Act;
- (b) “disability” and “disabled person” each have the same meaning as in section 6 of the 2010 Act; and
- (c) “victimisation” means victimisation within the meaning of section 27 of that Act where the protected act in question relates to disability.]

#### Textual Amendments

- F3** Words in s. 49A(1)(a) substituted (1.10.2010) by The Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010 (S.I. 2010/2279), arts. 1(2), 16(2)
- F4** Words in s. 49A(2) substituted (1.10.2010) by The Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010 (S.I. 2010/2279), arts. 1(2), 16(3)
- F5** S. 49A(3) inserted (1.10.2010) by The Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010 (S.I. 2010/2279), arts. 1(2), 16(4)

#### [<sup>F1</sup>49A **General duty** **N.I.**

- (1) Every public authority shall in carrying out its functions have due regard to—
  - (a) the need to promote positive attitudes towards disabled persons; and
  - (b) the need to encourage participation by disabled persons in public life.
- (2) Subsection (1) does not apply to—
  - (a) the functions of the Director of Public Prosecutions for Northern Ireland relating to the prosecution of offences; or
  - (b) any act of a description prescribed by regulations.
- (3) Subsection (1) is without prejudice to any obligation of a public authority to comply with any other statutory provision (including any other provision of this Act).
- (4) The Commission shall—
  - (a) keep under review the effectiveness of the duty imposed by this section;
  - (b) offer advice to public authorities and others in connection with that duty.
- (5) Not later than 3 years after the appointed day, the Commission shall prepare and publish a report on the effectiveness of the duty imposed by this section.
- (6) In this section—
 

“the appointed day” means the day appointed under Article 1(2) of the Disability Discrimination (Northern Ireland) Order 2006 for the coming into operation of Article 5 of that Order;

“the Commission” means the Equality Commission for Northern Ireland;

“public authority” has the same meaning as in section 75 of the Northern Ireland Act 1998 (c. 47).]

#### [<sup>F2</sup>49B **Meaning of “public authority” in Part 5A** **E+W+S**

- (1) In this Part “public authority”—

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- (a) includes any person certain of whose functions are functions of a public nature; but
  - (b) does not include—
    - (i) any person mentioned in section 21B(3);
    - (ii) the Scottish Parliament;<sup>F6</sup> . . .
    - (iii) a person, other than the Scottish Parliamentary Corporate Body, exercising functions in connection with proceedings in the Scottish Parliament.
    - [<sup>F7</sup>(iv) the National Assembly for Wales; or
    - (v) a person, other than the National Assembly for Wales Commission, exercising functions in connection with proceedings in the National Assembly for Wales]
- (2) In relation to a particular act, a person is not a public authority by virtue only of subsection (1)(a) if the nature of the act is private.
- (3) Regulations may provide for a person of a prescribed description to be treated as not being a public authority for the purposes of this Part.]

#### Textual Amendments

**F6** Word in s. 49B(1)(b)(ii) omitted by virtue of The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order (S.I. 2007/1388), arts. 1, 3, {Sch. 1 para. 57(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.

**F7** S. 49B(1)(b)(iv)(v) inserted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order (S.I. 2007/1388), arts. 1, 3, {Sch. 1 para. 57(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.

#### [<sup>F1</sup>49B Plan as to duty under section 49A **N.I.**

- (1) A public authority to which this subsection applies shall prepare and submit to the Commission a plan showing how the public authority proposes to fulfil the duty imposed by section 49A in relation to the relevant functions.
- (2) Any other public authority shall prepare and submit to the Commission such a plan if requested to do so by the Commission.
- (3) A public authority—
  - (a) may at any time revise its plan and submit the revised plan to the Commission;
  - (b) shall, if requested to do so by the Commission, revise its plan and submit the revised plan to the Commission.
- (4) A plan (or revised plan) shall—
  - (a) conform to any guidelines as to form or content which are issued by the Commission with the approval of the Office;
  - (b) specify a timetable for measures proposed in the plan;
  - (c) include details of how it will be published.

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(5) Subsection (1) applies to any public authority except one which is notified in writing by the Commission that that subsection does not apply to it.

(6) If a public authority—

- (a) fails to submit a plan under subsection (1) before the end of the period of 6 months beginning with the appointed day or, if later, the establishment of the authority,
- (b) fails to submit a plan under subsection (2) before the end of the period of 6 months beginning with the date of the request under that subsection,
- (c) fails to submit a revised plan under subsection (3)(b) before the end of the period of 3 months beginning with the date of the request under that paragraph, or
- (d) submits to the Commission under paragraph (3)(a) or (b) a revised plan which in the opinion of the Commission fails to comply with subsection (4),

the Commission shall lay before the Assembly a report of that failure containing such comments and other material as appear to the Commission to be appropriate to bring to the attention of the Assembly.

(7) A public authority—

- (a) shall review its current plan under this section—
  - (i) in the case of an authority in relation to which there is a scheme under Schedule 9 to the Northern Ireland Act 1998, at the same time as the authority reviews its current scheme under paragraph 8(3) of that Schedule;
  - (ii) in the case of any other authority, at such times as the Commission may request; and
- (b) inform the Commission of the outcome of the review.

(8) In this section—

“the appointed day”, “the Commission” and “public authority” have the same meanings as in section 49A;

“the relevant functions” means the functions of the public authority or, in the case of a plan submitted in response to a request which specifies particular functions of the public authority, those functions.]

**Status:**

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**Changes to legislation:**

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