



# Disability Discrimination Act 1995

## 1995 CHAPTER 50

### PART II

#### EMPLOYMENT

VALID FROM 03/07/2003

#### *[<sup>F1</sup>Meaning of “discrimination” and “harassment”*

##### **Textual Amendments**

- F1** **Ss. 3A, 3B** and cross-heading inserted (E.W.S.) (3.7.2003 for certain purposes and 1.10.2004 otherwise) by The Disability Discrimination Act 1995 (Amendment) Regulations ([S.I. 2003/1673](#)), regs. 1(2)(3), {4(2)} and said sections and cross-heading inserted (N.I.) (21.2.2004 for certain purposes and 1.10.2004 otherwise) by the Disability Discrimination Act (Amendment) Regulations (Northern Ireland) ([S.R. 2004/55](#)), regs. 1(2)(3), {4(2)}

#### **3A Meaning of “discrimination”**

- (1) For the purposes of this Part, a person discriminates against a disabled person if—
  - (a) for a reason which relates to the disabled person’s disability, he treats him less favourably than he treats or would treat others to whom that reason does not or would not apply, and
  - (b) he cannot show that the treatment in question is justified.
- (2) For the purposes of this Part, a person also discriminates against a disabled person if he fails to comply with a duty to make reasonable adjustments imposed on him in relation to the disabled person.

*Status: Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.*

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

- (3) Treatment is justified for the purposes of subsection (1)(b) if, but only if, the reason for it is both material to the circumstances of the particular case and substantial.
- (4) But treatment of a disabled person cannot be justified under subsection (3) if it amounts to direct discrimination falling within subsection (5).
- (5) A person directly discriminates against a disabled person if, on the ground of the disabled person's disability, he treats the disabled person less favourably than he treats or would treat a person not having that particular disability whose relevant circumstances, including his abilities, are the same as, or not materially different from, those of the disabled person.
- (6) If, in a case falling within subsection (1), a person is under a duty to make reasonable adjustments in relation to a disabled person but fails to comply with that duty, his treatment of that person cannot be justified under subsection (3) unless it would have been justified even if he had complied with that duty.

### **3B Meaning of “harassment”**

- (1) For the purposes of this Part, a person subjects a disabled person to harassment where, for a reason which relates to the disabled person's disability, he engages in unwanted conduct which has the purpose or effect of—
  - (a) violating the disabled person's dignity, or
  - (b) creating an intimidating, hostile, degrading, humiliating or offensive environment for him.
- (2) Conduct shall be regarded as having the effect referred to in paragraph (a) or (b) of subsection (1) only if, having regard to all the circumstances, including in particular the perception of the disabled person, it should reasonably be considered as having that effect.]

### *Discrimination by employers*

#### **4 Discrimination against applicants and employees.**

- (1) It is unlawful for an employer to discriminate against a disabled person—
  - (a) in the arrangements which he makes for the purpose of determining to whom he should offer employment;
  - (b) in the terms on which he offers that person employment; or
  - (c) by refusing to offer, or deliberately not offering, him employment.
- (2) It is unlawful for an employer to discriminate against a disabled person whom he employs—
  - (a) in the terms of employment which he affords him;
  - (b) in the opportunities which he affords him for promotion, a transfer, training or receiving any other benefit;
  - (c) by refusing to afford him, or deliberately not affording him, any such opportunity; or
  - (d) by dismissing him, or subjecting him to any other detriment.

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- (3) Subsection (2) does not apply to benefits of any description if the employer is concerned with the provision (whether or not for payment) of benefits of that description to the public, or to a section of the public which includes the employee in question, unless—
- (a) that provision differs in a material respect from the provision of the benefits by the employer to his employees; or
  - (b) the provision of the benefits to the employee in question is regulated by his contract of employment; or
  - (c) the benefits relate to training.
- (4) In this Part “benefits” includes facilities and services.
- (5) In the case of an act which constitutes discrimination by virtue of section 55, this section also applies to discrimination against a person who is not disabled.
- (6) This section applies only in relation to employment at an establishment in Great Britain.

#### Extent Information

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

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

- C1** S. 4 modified (E.W.) (2.3.1998 subject to art. 1(2) of the amending S.I.) by S.I. 1998/218, arts. 1(2), 3(1), Sch. (with art. 3(2)(b))  
S. 4 modified (1.9.1999) by S.I. 1999/2256, art. 3, Sch.

VALID FROM 03/07/2003

### **[<sup>F2</sup>4A** Employers: duty to make adjustments

- (1) Where—
- (a) a provision, criterion or practice applied by or on behalf of an employer, or
  - (b) any physical feature of premises occupied by the employer,
- places the disabled person concerned at a substantial disadvantage in comparison with persons who are not disabled, it is the duty of the employer to take such steps as it is reasonable, in all the circumstances of the case, for him to have to take in order to prevent the provision, criterion or practice, or feature, having that effect.
- (2) In subsection (1), “the disabled person concerned” means—
- (a) in the case of a provision, criterion or practice for determining to whom employment should be offered, any disabled person who is, or has notified the employer that he may be, an applicant for that employment;
  - (b) in any other case, a disabled person who is—
    - (i) an applicant for the employment concerned, or
    - (ii) an employee of the employer concerned.

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

- (3) Nothing in this section imposes any duty on an employer in relation to a disabled person if the employer does not know, and could not reasonably be expected to know—
- (a) in the case of an applicant or potential applicant, that the disabled person concerned is, or may be, an applicant for the employment; or
  - (b) in any case, that that person has a disability and is likely to be affected in the way mentioned in subsection (1).]

#### Extent Information

- E2** This section extends to England and Wales and Scotland only until 1.10.2010; a separate s. 4A exists for Northern Ireland only from 21.2.2004 .

#### Textual Amendments

- F2** Ss. 4-4F and cross-headings substituted for ss. 4-6 (E.W.S) (3.7.2003 for certain purposes and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), 5

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

- C2** Ss. 4-6 modified (E.) (1.9.2003) by [The Education \(Modification of Enactments Relating to Employment\) \(England\) Order 2003 \(S.I. 2003/1964\)](#), art. 3. {Sch.}
- C3** Ss. 4-6 modified (W.) (12.5.2006) by [The Education \(Modification of Enactments Relating to Employment\) \(Wales\) Order 2006 \(S.I. 2006/1073\)](#), art. 3, **Sch.**

## 5 Meaning of “discrimination”.

- (1) For the purposes of this Part, an employer discriminates against a disabled person if—
- (a) for a reason which relates to the disabled person’s disability, he treats him less favourably than he treats or would treat others to whom that reason does not or would not apply; and
  - (b) he cannot show that the treatment in question is justified.
- (2) For the purposes of this Part, an employer also discriminates against a disabled person if—
- (a) he fails to comply with a section 6 duty imposed on him in relation to the disabled person; and
  - (b) he cannot show that his failure to comply with that duty is justified.
- (3) Subject to subsection (5), for the purposes of subsection (1) treatment is justified if, but only if, the reason for it is both material to the circumstances of the particular case and substantial.
- (4) For the purposes of subsection (2), failure to comply with a section 6 duty is justified if, but only if, the reason for the failure is both material to the circumstances of the particular case and substantial.
- (5) If, in a case falling within subsection (1), the employer is under a section 6 duty in relation to the disabled person but fails without justification to comply with that duty, his treatment of that person cannot be justified under subsection (3) unless it would have been justified even if he had complied with the section 6 duty.

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

- (6) Regulations may make provision, for purposes of this section, as to circumstances in which—
- (a) treatment is to be taken to be justified;
  - (b) failure to comply with a section 6 duty is to be taken to be justified;
  - (c) treatment is to be taken not to be justified;
  - (d) failure to comply with a section 6 duty is to be taken not to be justified.
- (7) Regulations under subsection (6) may, in particular—
- (a) make provision by reference to the cost of affording any benefit; and
  - (b) in relation to benefits under occupational pension schemes, make provision with a view to enabling uniform rates of contributions to be maintained.

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

- C4** S. 5 modified (E.W.) (2.3.1998 subject to art. 1(2) of the amending S.I.) by S.I. 1998/218, arts. 1(2), 3(1), **Sch.** (with art. 3(2)(b))  
S. 5 modified (I.9.1999) by S.I. 1999/2256, art. 3, **Sch.**

#### Commencement Information

- II** S. 5 wholly in force at 2.12.1996; s. 5 not in force at Royal Assent see s. 70(3); s. 5(6)(7) in force (E.W.S.) at 6.6.1996 by S.I. 1996/1474, art. 2(1), **Sch. Pt. I**; s. 5(6)(7) in force (N.I.) at 11.7.1996 by S.R. 1996/280, art. 2(1); s. 5(1)-(5) in force (E.W.S.) at 2.12.1996 by S.I. 1996/1474, art. 2(3), **Sch. Pt. III**; s. 5(1)-(5) in force (N.I.) at 2.12.1996 by S.R. 1996/280, art. 2(2), **Sch. Pt. II**

## 6 Duty of employer to make adjustments.

- (1) Where—
- (a) any arrangements made by or on behalf of an employer, or
  - (b) any physical feature of premises occupied by the employer,
- place the disabled person concerned at a substantial disadvantage in comparison with persons who are not disabled, it is the duty of the employer to take such steps as it is reasonable, in all the circumstances of the case, for him to have to take in order to prevent the arrangements or feature having that effect.
- (2) Subsection (1)(a) applies only in relation to—
- (a) arrangements for determining to whom employment should be offered;
  - (b) any term, condition or arrangements on which employment, promotion, a transfer, training or any other benefit is offered or afforded.
- (3) The following are examples of steps which an employer may have to take in relation to a disabled person in order to comply with subsection (1)—
- (a) making adjustments to premises;
  - (b) allocating some of the disabled person's duties to another person;
  - (c) transferring him to fill an existing vacancy;
  - (d) altering his working hours;
  - (e) assigning him to a different place of work;
  - (f) allowing him to be absent during working hours for rehabilitation, assessment or treatment;
  - (g) giving him, or arranging for him to be given, training;

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- (h) acquiring or modifying equipment;
  - (i) modifying instructions or reference manuals;
  - (j) modifying procedures for testing or assessment;
  - (k) providing a reader or interpreter;
  - (l) providing supervision.
- (4) In determining whether it is reasonable for an employer to have to take a particular step in order to comply with subsection (1), regard shall be had, in particular, to—
- (a) the extent to which taking the step would prevent the effect in question;
  - (b) the extent to which it is practicable for the employer to take the step;
  - (c) the financial and other costs which would be incurred by the employer in taking the step and the extent to which taking it would disrupt any of his activities;
  - (d) the extent of the employer’s financial and other resources;
  - (e) the availability to the employer of financial or other assistance with respect to taking the step.

This subsection is subject to any provision of regulations made under subsection (8).

- (5) In this section, “the disabled person concerned” means—
- (a) in the case of arrangements for determining to whom employment should be offered, any disabled person who is, or has notified the employer that he may be, an applicant for that employment;
  - (b) in any other case, a disabled person who is—
    - (i) an applicant for the employment concerned; or
    - (ii) an employee of the employer concerned.
- (6) Nothing in this section imposes any duty on an employer in relation to a disabled person if the employer does not know, and could not reasonably be expected to know—
- (a) in the case of an applicant or potential applicant, that the disabled person concerned is, or may be, an applicant for the employment; or
  - (b) in any case, that that person has a disability and is likely to be affected in the way mentioned in subsection (1).
- (7) Subject to the provisions of this section, nothing in this Part is to be taken to require an employer to treat a disabled person more favourably than he treats or would treat others.
- (8) Regulations may make provision, for the purposes of subsection (1)—
- (a) as to circumstances in which arrangements are, or a physical feature is, to be taken to have the effect mentioned in that subsection;
  - (b) as to circumstances in which arrangements are not, or a physical feature is not, to be taken to have that effect;
  - (c) as to circumstances in which it is reasonable for an employer to have to take steps of a prescribed description;
  - (d) as to steps which it is always reasonable for an employer to have to take;
  - (e) as to circumstances in which it is not reasonable for an employer to have to take steps of a prescribed description;
  - (f) as to steps which it is never reasonable for an employer to have to take;
  - (g) as to things which are to be treated as physical features;
  - (h) as to things which are not to be treated as such features.

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- (9) Regulations made under subsection (8)(c), (d), (e) or (f) may, in particular, make provision by reference to the cost of taking the steps concerned.
- (10) Regulations may make provision adding to the duty imposed on employers by this section, including provision of a kind which may be made under subsection (8).
- (11) This section does not apply in relation to any benefit under an occupational pension scheme or any other benefit payable in money or money's worth under a scheme or arrangement for the benefit of employees in respect of—
  - (a) termination of service;
  - (b) retirement, old age or death;
  - (c) accident, injury, sickness or invalidity; or
  - (d) any other prescribed matter.
- (12) This section imposes duties only for the purpose of determining whether an employer has discriminated against a disabled person; and accordingly a breach of any such duty is not actionable as such.

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

- C5** S. 6 modified (E.W.) (2.3.1998) by S.I. 1998/218, art. 3, **Sch.** (with art. 1(2))  
S. 6 modified (I.9.1999) by S.I. 1999/2256, art. 3, **Sch.**

#### Commencement Information

- I2** S. 6 wholly in force at 2.12.1996; s. 6 not in force at Royal Assent see s. 70(3); s. 6(8)(9)(10) in force (E.W.S.) at 6.6.1996 by S.I. 1996/1474, art. 2(1), **Sch. Pt. I**; s. 6(8)(9)(10) in force (N.I.) at 11.7.1996 by S.R. 1996/280, art. 2(1), **Sch. Pt. I**; s. 6(1)-(7)(11)(12) in force (E.W.S.) at 2.12.1996 by S.I. 1996/1474, art. 2(3), **Sch. Pt. III**; s. 6(1)-(7)(11)(12) in force (N.I.) at 2.12.1996 by S.R. 1996/280, art. 2(2), **Sch. Pt. II**

## 7 Exemption for small businesses.

- (1) Nothing in this Part applies in relation to an employer who has fewer than [<sup>F3</sup>15] employees.
- (2) The Secretary of State may by order amend subsection (1) by substituting a different number (not greater than 20) for the number for the time being specified there.
- (3) In this section—
 

“anniversary” means the anniversary of the coming into force of this section; and

“review” means a review of the effect of this section.
- (4) Before making any order under subsection (2), the Secretary of State shall conduct a review.
- (5) Unless he has already begun or completed a review under subsection (4), the Secretary of State shall begin to conduct a review immediately after the fourth anniversary.
- (6) Any review shall be completed within nine months.
- (7) In conducting any review, the Secretary of State shall consult—

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- (a) such organisations representing the interests of employers as he considers appropriate; and
  - (b) such organisations representing the interests of disabled persons in employment or seeking employment as he considers appropriate.
- (8) If, on completing a review, the Secretary of State decides to make an order under subsection (2), he shall make such an order to come into force not later than one year after the commencement of the review.
- (9) If, on completing a review, the Secretary of State decides not to make such an order, he shall not later than one year after the commencement of the review lay before Parliament a report—
- (a) summarising the results of the review; and
  - (b) giving the reasons for his decision.
- (10) Any report made by the Secretary of State under subsection (9) shall include a summary of the views expressed to him in his consultations.

#### Extent Information

- E3** 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

- F3** Word in s. 7(1) substituted (1.12.1998) by S.I. 1998/2618, art. 2; S.R. 1998/391, art. 2

VALID FROM 03/07/2003

### *F<sup>4</sup>Contract workers*

#### Textual Amendments

- F4** Ss. 4-4F and cross-headings substituted (E.W.S.) for ss. 4-6 and preceding cross-heading (3.7.2003 for certain purposes and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003](#) (S.I. 2003/1673), regs. 1(2)(3), 5(1)

#### **4B Contract workers**

- (1) It is unlawful for a principal, in relation to contract work, to discriminate against a disabled person who is a contract worker (a “disabled contract worker”)—
- (a) in the terms on which he allows him to do that work;
  - (b) by not allowing him to do it or continue to do it;
  - (c) in the way he affords him access to any benefits or by refusing or deliberately omitting to afford him access to them; or
  - (d) by subjecting him to any other detriment.
- (2) It is also unlawful for a principal, in relation to contract work, to subject a disabled contract worker to harassment.



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

- (3) Subsection (1) does not apply to benefits of any description if the principal is concerned with the provision (whether or not for payment) of benefits of that description to the public, or to a section of the public which includes the contract worker in question, unless that provision differs in a material respect from the provision of the benefits by the principal to contract workers.
- (4) This subsection applies to a disabled contract worker where, by virtue of—
- (a) a provision, criterion or practice applied by or on behalf of all or most of the principals to whom he is or might be supplied, or
  - (b) a physical feature of premises occupied by such persons,
- he is likely, on each occasion when he is supplied to a principal to do contract work, to be placed at a substantial disadvantage in comparison with persons who are not disabled which is the same or similar in each case.
- (5) Where subsection (4) applies to a disabled contract worker, his employer must take such steps as he would have to take under section 4A if the provision, criterion or practice were applied by him or on his behalf or (as the case may be) if the premises were occupied by him.
- (6) Section 4A applies to any principal, in relation to contract work, as if he were, or would be, the employer of the disabled contract worker and as if any contract worker supplied to do work for him were an employee of his.
- (7) However, for the purposes of section 4A as applied by subsection (6), a principal is not required to take a step in relation to a disabled contract worker if under that section the disabled contract worker’s employer is required to take the step in relation to him.
- (8) This section applies only in relation to contract work done at an establishment in Great Britain (the provisions of section 68 about the meaning of “employment at an establishment in Great Britain” applying for the purposes of this subsection with the appropriate modifications).
- (9) In this section—
- “principal” means a person (“A”) who makes work available for doing by individuals who are employed by another person who supplies them under a contract made with A;
- “contract work” means work so made available; and
- “contract worker” means any individual who is supplied to the principal under such a contract.]

#### Extent Information

- E4** This section extends to England, Wales and Scotland only until 1.10.2010; a separate s. 4B exists for Northern Ireland only from 21.2.2004.

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

- C6** Ss. 4-6 modified (E.) (1.9.2003) by [The Education \(Modification of Enactments Relating to Employment\) \(England\) Order 2003 \(S.I. 2003/1964\)](#), art. 3. {Sch.}
- C7** Ss. 4-6 modified (W.) (12.5.2006) by [The Education \(Modification of Enactments Relating to Employment\) \(Wales\) Order \(S.I. 2006/1073\)](#), art. 3. {Sch.}

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

VALID FROM 03/07/2003

## *<sup>F5</sup>Office-holders*

### Textual Amendments

- F5** Ss. 4-4F and cross-headings substituted for ss. 4-6 and preceding cross-heading (E.W.S.) (3.7.2003 for certain purposes and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), **5(1)**

### 4C Office-holders: introductory

- (1) Subject to subsection (5), sections 4D and 4E apply to an office or post if—
  - (a) no relevant provision of this Part applies in relation to an appointment to the office or post; and
  - (b) one or more of the conditions specified in subsection (3) is satisfied.
- (2) The following are relevant provisions of this Part for the purposes of subsection (1) (a): section 4, section 4B, section 6A, section 7A, section 7C and section 14C.
- (3) The conditions specified in this subsection are that—
  - (a) the office or post is one to which persons are appointed to discharge functions personally under the direction of another person, and in respect of which they are entitled to remuneration;
  - (b) the office or post is one to which appointments are made by a Minister of the Crown, a government department, the National Assembly for Wales or any part of the Scottish Administration;
  - (c) the office or post is one to which appointments are made on the recommendation of, or subject to the approval of, a person referred to in paragraph (b).
- (4) For the purposes of subsection (3)(a) the holder of an office or post—
  - (a) is to be regarded as discharging his functions under the direction of another person if that other person is entitled to direct him as to when and where he discharges those functions;
  - (b) is not to be regarded as entitled to remuneration merely because he is entitled to payments—
    - (i) in respect of expenses incurred by him in carrying out the functions of the office or post, or
    - (ii) by way of compensation for the loss of income or benefits he would or might have received from any person had he not been carrying out the functions of the office or post.
- (5) Sections 4D and 4E do not apply to—
  - (a) any office of the House of Commons held by a member of it,
  - (b) a life peerage within the meaning of the Life Peerages Act 1958 <sup>F6</sup>, or any office of the House of Lords held by a member of it,

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- (c) any office mentioned in Schedule 2 (Ministerial offices) to the House of Commons Disqualification Act 1975 <sup>F7</sup>,
- (d) the offices of Leader of the Opposition, Chief Opposition Whip or Assistant Opposition Whip within the meaning of the Ministerial and other Salaries Act 1975 <sup>F8</sup>,
- (e) any office of the Scottish Parliament held by a member of it,
- (f) a member of the Scottish Executive within the meaning of section 44 of the Scotland Act 1998 <sup>F9</sup>, or a junior Scottish Minister within the meaning of section 49 of that Act,
- (g) any office of the National Assembly for Wales held by a member of it,
- (h) in England, any office of a county council, a London borough council, a district council or a parish council held by a member of it,
- (i) in Wales, any office of a county council, a county borough council or a community council held by a member of it,
- (j) in relation to a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 <sup>F10</sup> or a community council established under section 51 of the Local Government (Scotland) Act 1973 <sup>F11</sup>, any office of such a council held by a member of it,
- (k) any office of the Greater London Authority held by a member of it,
- (l) any office of the Common Council of the City of London held by a member of it,
- (m) any office of the Council of the Isles of Scilly held by a member of it, or
- (n) any office of a political party.

#### Extent Information

- E5** This section extends to England, Wales and Scotland only until 1.10.2010; a separate s. 4C exists for Northern Ireland only from 21.2.2004.

#### Textual Amendments

- F6** 1958 c. 21.
- F7** 1975 c. 24. Schedule 2 was amended by S.I. 2002/794, article 5(2), **Schedule 2** and by the Scotland Act 1998 sections 48(6), 125, Schedule 9 and section 87(1).
- F8** 1975 c. 27.
- F9** 1998 c. 46.
- F10** 1994 c. 39.
- F11** 1973 c. 65, amended by the Local Government etc. (Scotland) Act 1994 (c. 39), section 180(2), **Schedule 14**, paragraph 1.

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

- C8** Ss. 4-6 modified (E.) (1.9.2003) by The Education (Modification of Enactments Relating to Employment) (England) Order 2003 (S.I. 2003/1964), **art. 3**. Sch.

## 4D Office-holders: discrimination and harassment

- (1) It is unlawful for a relevant person, in relation to an appointment to an office or post to which this section applies, to discriminate against a disabled person—

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- (a) in the arrangements which he makes for the purpose of determining who should be offered the appointment;
  - (b) in the terms on which he offers him the appointment; or
  - (c) by refusing to offer him the appointment.
- (2) It is unlawful for a relevant person, in relation to an appointment to an office or post to which this section applies and which satisfies the condition set out in section 4C(3)(c), to discriminate against a disabled person—
- (a) in the arrangements which he makes for the purpose of determining who should be recommended or approved in relation to the appointment; or
  - (b) in making or refusing to make a recommendation, or giving or refusing to give an approval, in relation to the appointment.
- (3) It is unlawful for a relevant person, in relation to a disabled person who has been appointed to an office or post to which this section applies, to discriminate against him—
- (a) in the terms of the appointment;
  - (b) in the opportunities which he affords him for promotion, a transfer, training or receiving any other benefit, or by refusing to afford him any such opportunity;
  - (c) by terminating the appointment; or
  - (d) by subjecting him to any other detriment in relation to the appointment.
- (4) It is also unlawful for a relevant person, in relation to an office or post to which this section applies, to subject to harassment a disabled person—
- (a) who has been appointed to the office or post;
  - (b) who is seeking or being considered for appointment to the office or post; or
  - (c) who is seeking or being considered for a recommendation or approval in relation to an appointment to an office or post satisfying the condition set out in section 4C(3)(c).
- (5) Subsection (3) does not apply to benefits of any description if the relevant person is concerned with the provision (for payment or not) of benefits of that description to the public, or a section of the public to which the disabled person belongs, unless—
- (a) that provision differs in a material respect from the provision of the benefits to persons appointed to offices or posts which are the same as, or not materially different from, that to which the disabled person has been appointed;
  - (b) the provision of the benefits to the person appointed is regulated by the terms and conditions of his appointment; or
  - (c) the benefits relate to training.
- (6) In subsection (3)(c) the reference to the termination of the appointment includes a reference—
- (a) to the termination of the appointment by the expiration of any period (including a period expiring by reference to an event or circumstance), not being a termination immediately after which the appointment is renewed on the same terms and conditions; and
  - (b) to the termination of the appointment by any act of the person appointed (including the giving of notice) in circumstances such that he is entitled to terminate the appointment by reason of the conduct of the relevant person.

**Status:** Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.

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

(7) In this section—

- (a) references to making a recommendation include references to making a negative recommendation; and
- (b) references to refusal include references to deliberate omission.

#### Extent Information

**E6** This section extends to England, Wales and Scotland only until 1.10.2010; a separate s. 4D exists for Northern Ireland only from 21.2.2004.

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

- C9** Ss. 4-6 modified (E.) (1.9.2003) by [The Education \(Modification of Enactments Relating to Employment\) \(England\) Order 2003 \(S.I. 2003/1964\)](#), art. 3. {Sch.}
- C10** Ss. 4-6 modified (W.) (12.5.2006) by [The Education \(Modification of Enactments Relating to Employment\) \(Wales\) Order \(S.I. 2006/1073\)](#), art. 3. {Sch.}

## 4E Office-holders: duty to make adjustments

(1) Where—

- (a) a provision, criterion or practice applied by or on behalf of a relevant person, or
- (b) any physical feature of premises—
  - (i) under the control of a relevant person, and
  - (ii) at or from which the functions of an office or post to which this section applies are performed,

places the disabled person concerned at a substantial disadvantage in comparison with persons who are not disabled, it is the duty of the relevant person to take such steps as it is reasonable, in all the circumstances of the case, for him to have to take in order to prevent the provision, criterion or practice, or feature, having that effect.

(2) In this section, “the disabled person concerned” means—

- (a) in the case of a provision, criterion or practice for determining who should be appointed to, or recommended or approved in relation to, an office or post to which this section applies, any disabled person who—
  - (i) is, or has notified the relevant person that he may be, seeking appointment to, or (as the case may be) seeking a recommendation or approval in relation to, that office or post, or
  - (ii) is being considered for appointment to, or (as the case may be) for a recommendation or approval in relation to, that office or post;
- (b) in any other case, a disabled person—
  - (i) who is seeking or being considered for appointment to, or a recommendation or approval in relation to, the office or post concerned, or
  - (ii) who has been appointed to the office or post concerned.

(3) Nothing in this section imposes any duty on the relevant person in relation to a disabled person if the relevant person does not know, and could not reasonably be expected to know—

*Status: Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.*

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

- (a) in the case of a person who is being considered for, or is or may be seeking, appointment to, or a recommendation or approval in relation to, an office or post, that the disabled person concerned—
  - (i) is, or may be, seeking appointment to, or (as the case may be) seeking a recommendation or approval in relation to, that office or post, or
  - (ii) is being considered for appointment to, or (as the case may be) for a recommendation or approval in relation to, that office or post; or
- (b) in any case, that that person has a disability and is likely to be affected in the way mentioned in subsection (1).

#### Extent Information

- E7** This section extends to England, Wales and Scotland only until 1.10.2010; a separate s. 4E exists for Northern Ireland only from 21.2.2004.

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

- C11** Ss. 4-6 modified (E.) (1.9.2003) by [The Education \(Modification of Enactments Relating to Employment\) \(England\) Order 2003 \(S.I. 2003/1964\)](#), [art. 3](#). {Sch.}
- C12** Ss. 4-6 modified (W.) (12.5.2006) by [The Education \(Modification of Enactments Relating to Employment\) \(Wales\) Order \(S.I. 2006/1073\)](#), [art. 3](#), {Sch.}

#### 4F Office-holders: supplementary

- (1) In sections 4C to 4E, appointment to an office or post does not include election to an office or post.
- (2) In sections 4D and 4E, “relevant person” means—
  - (a) in a case relating to an appointment to an office or post, the person with power to make that appointment;
  - (b) in a case relating to the making of a recommendation or the giving of an approval in relation to an appointment, a person or body referred to in section 4C(3)(b) with power to make that recommendation or (as the case may be) to give that approval;
  - (c) in a case relating to a term of an appointment, the person with power to determine that term;
  - (d) in a case relating to a working condition afforded in relation to an appointment—
    - (i) the person with power to determine that working condition; or
    - (ii) where there is no such person, the person with power to make the appointment;
  - (e) in a case relating to the termination of an appointment, the person with power to terminate the appointment;
  - (f) in a case relating to the subjection of a disabled person to any other detriment or to harassment, any person or body falling within one or more of paragraphs (a) to (e) in relation to such cases as are there mentioned.
- (3) In subsection (2)(d), “working condition” includes—

**Status:** Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.

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

- (a) any opportunity for promotion, a transfer, training or receiving any other benefit; and
- (b) any physical feature of premises at or from which the functions of an office or post are performed.]

#### Extent Information

**E8** This section extends to England, Wales and Scotland only until 1.10.2010 ; a separate s. 4F exists for Northern Ireland only from 21.2.2004.

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

**C13** Ss. 4-6 modified (E.) (1.9.2003) by [The Education \(Modification of Enactments Relating to Employment\) \(England\) Order 2003 \(S.I. 2003/1964\)](#), **art. 3**. {Sch.}

**C14** Ss. 4-6 modified (W.) (12.5.2006) by [The Education \(Modification of Enactments Relating to Employment\) \(Wales\) Order \(S.I. 2006/1073\)](#), **art. 3**, {Sch.}

VALID FROM 01/12/2003

### *[<sup>F12</sup>Occupational pension schemes]*

#### Textual Amendments

**F12** Ss. 4G-4K and cross-heading 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)**{3}

#### **4G Occupational pension schemes: non-discrimination rule**

- (1) Every occupational pension scheme shall be taken to include a provision (“the non-discrimination rule”) containing the following requirements—
  - (a) a requirement that the trustees or managers of the scheme refrain from discriminating against a relevant disabled person in carrying out any of their functions in relation to the scheme (including in particular their functions relating to the admission of members to the scheme and the treatment of members of the scheme);
  - (b) a requirement that the trustees or managers of the scheme do not subject a relevant disabled person to harassment in relation to the scheme.
- (2) The other provisions of the scheme are to have effect subject to the non-discrimination rule.
- (3) It is unlawful for the trustees or managers of an occupational pension scheme—
  - (a) to discriminate against a relevant disabled person contrary to requirement (a) of the non-discrimination rule; or
  - (b) to subject a relevant disabled person to harassment contrary to requirement (b) of the non-discrimination rule.

*Status: Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.*

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

- (4) The non-discrimination rule does not apply in relation to rights accrued, or benefits payable, in respect of periods of service prior to the coming into force of this section (but it does apply to communications with members or prospective members of the scheme in relation to such rights or benefits).
- (5) The trustees or managers of an occupational pension scheme may, if—
- (a) they do not (apart from this subsection) have power to make such alterations to the scheme as may be required to secure conformity with the non-discrimination rule, or
  - (b) they have such power but the procedure for doing so—
    - (i) is liable to be unduly complex or protracted, or
    - (ii) involves the obtaining of consents which cannot be obtained, or can only be obtained with undue delay or difficulty,
 by resolution make such alterations to the scheme.
- (6) The alterations referred to in subsection (5) may have effect in relation to a period before the alterations are made (but may not have effect in relation to a period before the coming into force of this section).

#### **Extent Information**

**E9** This section extends to England and Wales and Scotland only; a separate s. 4G exists for Northern Ireland only.

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

**C15** Ss. 4-6 modified (E.) (1.9.2003) by [The Education \(Modification of Enactments Relating to Employment\) \(England\) Order 2003 \(S.I. 2003/1964\)](#), **art. 3**. {Sch.}

### **4H Occupational pension schemes: duty to make adjustments**

- (1) Where—
- (a) a provision, criterion or practice (including a scheme rule) applied by or on behalf of the trustees or managers of an occupational pension scheme, or
  - (b) any physical feature of premises occupied by the trustees or managers,
- places a relevant disabled person at a substantial disadvantage in comparison with persons who are not disabled, it is the duty of the trustees or managers to take such steps as it is reasonable, in all the circumstances of the case, for them to have to take in order to prevent the provision, criterion or practice, or feature, having that effect.
- (2) The making of alterations to scheme rules is (in addition to the examples set out in section 18B(2)) an example of a step which trustees or managers may have to take in order to comply with the duty set out in subsection (1).
- (3) Nothing in subsection (1) imposes any duty on trustees or managers in relation to a disabled person if they do not know, and could not reasonably be expected to know—
- (a) that the disabled person is a relevant disabled person; or
  - (b) that that person has a disability and is likely to be affected in the way mentioned in subsection (1).



**Status:** Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.

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

### Extent Information

**E10** This section extends to England and Wales and Scotland only; a separate s. 4H exists for Northern Ireland only.

### Modifications etc. (not altering text)

**C16** Ss. 4-6 modified (E.) (1.9.2003) by [The Education \(Modification of Enactments Relating to Employment\) \(England\) Order 2003 \(S.I. 2003/1964\)](#), **art. 3**. {Sch.}

## 4I Occupational pension schemes: procedure

(1) Where under section 17A <sup>F13</sup> a relevant disabled person presents a complaint to an employment tribunal that the trustees or managers of an occupational pension scheme have acted in relation to him in a way which is unlawful under this Part, the employer in relation to that scheme shall, for the purposes of the rules governing procedure, be treated as a party and be entitled to appear and be heard in accordance with those rules.

(2) In this section, “employer”, in relation to an occupational pension scheme, has the meaning given by section 124(1) of the Pensions Act 1995 <sup>F14</sup> as at the date of coming into force of this section.

### Extent Information

**E11** This section extended to England, Wales and Scotland only; a separate s. 4I exists for Northern Ireland only.

### Textual Amendments

**F13** The former section 8 of the 1995 Act, moved, renumbered and amended by regulation 9 of the Amendment Regulations.

**F14** 1995 c. 26.

### Modifications etc. (not altering text)

**C17** Ss. 4-6 modified (E.) (1.9.2003) by [The Education \(Modification of Enactments Relating to Employment\) \(England\) Order 2003 \(S.I. 2003/1964\)](#), **art. 3**. {Sch.}

## 4J Occupational pension schemes: remedies

(1) This section applies where—

- (a) under section 17A a relevant disabled person presents to an employment tribunal a complaint that—
  - (i) the trustees or managers of an occupational pension scheme have acted in relation to him in a way which is unlawful under this Part; or
  - (ii) an employer has so acted in relation to him;
- (b) the complaint relates to—

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

- (i) the terms on which persons become members of an occupational pension scheme, or
  - (ii) the terms on which members of the scheme are treated;
  - (c) the disabled person is not a pensioner member of the scheme; and
  - (d) the tribunal finds that the complaint is well-founded.
- (2) The tribunal may, without prejudice to the generality of its power under section 17A(2)(a), make a declaration that the complainant has a right—
- (a) (where subsection (1)(b)(i) applies) to be admitted to the scheme in question; or
  - (b) (where subsection (1)(b)(ii) applies) to membership of the scheme without discrimination.
- (3) A declaration under subsection (2)—
- (a) may be made in respect of such period as the declaration may specify (but may not be made in respect of any period before the coming into force of this section);
  - (b) may make such provision as the tribunal considers appropriate as to the terms upon which, or the capacity in which, the disabled person is to enjoy such admission or membership.
- (4) The tribunal may not award the disabled person any compensation under section 17A(2)(b) (whether in relation to arrears of benefits or otherwise) other than—
- (a) compensation for injury to feelings;
  - (b) compensation pursuant to section 17A(5).

#### **Extent Information**

**E12** This version of this provision extended to England, Wales and Scotland only; a separate version exists for Northern Ireland only .

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

**C18** Ss. 4-6 modified (E.) (1.9.2003) by [The Education \(Modification of Enactments Relating to Employment\) \(England\) Order 2003 \(S.I. 2003/1964\)](#), **art. 3**. {Sch.}

## **4K Occupational pension schemes: supplementary**

- (1) In their application to communications, sections 4G to 4J apply in relation to a disabled person who is—
- (a) entitled to the present payment of dependants' or survivors' benefits under an occupational pension scheme; or
  - (b) a pension credit member of such a scheme,
- as they apply in relation to a disabled person who is a pensioner member of the scheme.
- (2) In sections 4G to 4J and in this section—
- “active member”, “deferred member”, “managers”, “pension credit member”, “pensioner member” and “trustees or managers” have the

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

meanings given by section 124(1) of the Pensions Act 1995 <sup>F15</sup> as at the date of coming into force of this section;

“communications” includes—

- (i) the provision of information, and
- (ii) the operation of a dispute resolution procedure;

“member”, in relation to an occupational pension scheme, means any active, deferred or pensioner member;

“non-discrimination rule” means the rule in section 4G(1);

“relevant disabled person”, in relation to an occupational pension scheme, means a disabled person who is a member or prospective member of the scheme; and

“prospective member” means any person who, under the terms of his contract of employment or the scheme rules or both—

- (i) is able, at his own option, to become a member of the scheme,
- (ii) will become so able if he continues in the same employment for a sufficiently long period,
- (iii) will be admitted to it automatically unless he makes an election not to become a member, or
- (iv) may be admitted to it subject to the consent of his employer.

#### Extent Information

**E13** This section extends to England and Wales and Scotland only; a separate s. 4K exists for Northern Ireland only from 21.2.2004.

#### Textual Amendments

**F15** 1995 c. 26.

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

**C19** Ss. 4-6 modified (E.) (1.9.2003) by [The Education \(Modification of Enactments Relating to Employment\) \(England\) Order 2003 \(S.I. 2003/1964\)](#), **art. 3**. {Sch.}

VALID FROM 03/07/2003

## <sup>F16</sup>Partnerships

#### Textual Amendments

**F16** Ss. 6A-6C and cross-heading inserted (E.W.S.) (3.7.2003 for certain purposes and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), {6}

### 6A Partnerships: discrimination and harassment

*Status: Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.*

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

- (1) It is unlawful for a firm, in relation to a position as partner in the firm, to discriminate against a disabled person—
  - (a) in the arrangements which they make for the purpose of determining who should be offered that position;
  - (b) in the terms on which they offer him that position;
  - (c) by refusing or deliberately omitting to offer him that position; or
  - (d) in a case where the person already holds that position—
    - (i) in the way they afford him access to any benefits or by refusing or deliberately omitting to afford him access to them; or
    - (ii) by expelling him from that position, or subjecting him to any other detriment.
- (2) It is also unlawful for a firm, in relation to a position as partner in the firm, to subject to harassment a disabled person who holds or has applied for that position.
- (3) Subsection (1) does not apply to benefits of any description if the firm are concerned with the provision (whether or not for payment) of benefits of that description to the public, or to a section of the public which includes the partner in question, unless that provision differs in a material respect from the provision of the benefits to other partners.
- (4) The reference in subsection (1)(d)(ii) to the expulsion of a person from a position as partner includes a reference—
  - (a) to the termination of that person’s partnership by the expiration of any period (including a period expiring by reference to an event or circumstance), not being a termination immediately after which the partnership is renewed on the same terms; and
  - (b) to the termination of that person’s partnership by any act of his (including the giving of notice) in circumstances such that he is entitled to terminate it without notice by reason of the conduct of the other partners.

#### **Extent Information**

**E14** This section extends to England and Wales and Scotland only; a separate s. 6A exists for Northern Ireland only from 21.2.2004.

## **6B Partnerships: duty to make adjustments**

- (1) Where—
  - (a) a provision, criterion or practice applied by or on behalf of a firm, or
  - (b) any physical feature of premises occupied by the firm,
 places the disabled person concerned at a substantial disadvantage in comparison with persons who are not disabled, it is the duty of the firm to take such steps as it is reasonable, in all the circumstances of the case, for them to have to take in order to prevent the provision, criterion or practice, or feature, having that effect.
- (2) In this section, “the disabled person concerned” means—

**Status:** Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.

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

- (a) in the case of a provision, criterion or practice for determining to whom the position of partner should be offered, any disabled person who is, or has notified the firm that he may be, a candidate for that position;
  - (b) in any other case, a disabled person who is—
    - (i) a partner, or
    - (ii) a candidate for the position of partner.
- (3) Nothing in this section imposes any duty on a firm in relation to a disabled person if the firm do not know, and could not reasonably be expected to know—
- (a) in the case of a candidate or potential candidate, that the disabled person concerned is, or may be, a candidate for the position of partner; or
  - (b) in any case, that that person has a disability and is likely to be affected in the way mentioned in subsection (1).
- (4) Where a firm are required by this section to take any steps in relation to the disabled person concerned, the cost of taking those steps shall be treated as an expense of the firm; and the extent to which such cost should be borne by that person, where he is or becomes a partner in the firm, shall not exceed such amount as is reasonable, having regard in particular to the proportion in which he is entitled to share in the firm's profits.

#### Extent Information

**E15** This section extends to England and Wales and Scotland only; a separate s. 6B exists for Northern Ireland only from 21.2.2004.

### 6C Partnerships: supplementary

- (1) Sections 6A(1)(a) to (c) and (2) and section 6B apply in relation to persons proposing to form themselves into a partnership as they apply in relation to a firm.
- (2) Sections 6A and 6B apply to a limited liability partnership as they apply to a firm; and, in the application of those sections to a limited liability partnership, references to a partner in a firm are references to a member of the limited liability partnership.
- (3) In the case of a limited partnership, references in sections 6A and 6B to a partner shall be construed as references to a general partner as defined in section 3 of the Limited Partnerships Act 1907<sup>F17</sup>.
- (4) In sections 6A and 6B and in this section, “firm” has the meaning given by section 4 of the Partnership Act 1890<sup>F18</sup>.]

#### Extent Information

**E16** This section extended to England, Wales and Scotland only; a separate s. 6C exists for Northern Ireland only.

#### Textual Amendments

**F17** 1907 c. 24.

*Status: Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.*

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

**F18** 1890 c. 39.

VALID FROM 03/07/2003

*f<sup>19</sup>Barristers and advocates*

**Textual Amendments**

**F19** Ss. 7A-7D and cross-heading inserted (E.W. for ss. 7A, 7B, S. for ss. 7C, 7D) (3.7.2003 for certain purposes and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), 8 - see also s. 70(5A)(5B) of this Act.

**7A Barristers: discrimination and harassment**

- (1) It is unlawful for a barrister or a barrister’s clerk, in relation to any offer of a pupillage or tenancy, to discriminate against a disabled person—
  - (a) in the arrangements which are made for the purpose of determining to whom it should be offered;
  - (b) in respect of any terms on which it is offered; or
  - (c) by refusing, or deliberately omitting, to offer it to him.
- (2) It is unlawful for a barrister or a barrister’s clerk, in relation to a disabled pupil or tenant in the set of chambers in question, to discriminate against him—
  - (a) in respect of any terms applicable to him as a pupil or tenant;
  - (b) in the opportunities for training, or gaining experience, which are afforded or denied to him;
  - (c) in the benefits which are afforded or denied to him;
  - (d) by terminating his pupillage or by subjecting him to any pressure to leave the chambers; or
  - (e) by subjecting him to any other detriment.
- (3) It is unlawful for a barrister or barrister’s clerk, in relation to a pupillage or tenancy, to subject to harassment a disabled person who is, or has applied to be, a pupil or tenant in the set of chambers in question.
- (4) It is also unlawful for any person, in relation to the giving, withholding or acceptance of instructions to a barrister, to discriminate against a disabled person or to subject him to harassment.
- (5) In this section and in section 7B—
 

“barrister’s clerk” includes any person carrying out any of the functions of a barrister’s clerk;

“pupil”, “pupillage” and “set of chambers” have the meanings commonly associated with their use in the context of barristers practising in independent practice; and

“tenancy” and “tenant” have the meanings commonly associated with their use in the context of barristers practising in independent practice, but

*Status: Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.*

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

they also include reference to any barrister permitted to practise from a set of chambers.

#### **Extent Information**

**E17** This section extended to England and Wales only; a separate s. 7A exists for Northern Ireland.

### **7C Advocates: discrimination and harassment**

- (1) It is unlawful for an advocate, in relation to taking any person as his pupil, to discriminate against a disabled person—
  - (a) in the arrangements which he makes for the purpose of determining whom he will take as his pupil;
  - (b) in respect of any terms on which he offers to take the disabled person as his pupil; or
  - (c) by refusing, or deliberately omitting, to take the disabled person as his pupil.
- (2) It is unlawful for an advocate, in relation to a disabled person who is a pupil, to discriminate against him—
  - (a) in respect of any terms applicable to him as a pupil;
  - (b) in the opportunities for training, or gaining experience, which are afforded or denied to him;
  - (c) in the benefits which are afforded or denied to him;
  - (d) by terminating the relationship or by subjecting him to any pressure to leave; or
  - (e) by subjecting him to any other detriment.
- (3) It is unlawful for an advocate, in relation to taking any person as his pupil, to subject to harassment a disabled person who is, or has applied to be taken as, his pupil.
- (4) It is also unlawful for any person, in relation to the giving, withholding or acceptance of instructions to an advocate, to discriminate against a disabled person or to subject him to harassment.
- (5) In this section and section 7D—

“advocate” means a member of the Faculty of Advocates practising as such; and

“pupil” has the meaning commonly associated with its use in the context of a person training to be an advocate.

### **7D Advocates: duty to make adjustments**

- (1) Where—
  - (a) a provision, criterion or practice applied by or on behalf of an advocate, or
  - (b) any physical feature of premises occupied by, and under the control of, an advocate,

*Status: Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.*

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

places the disabled person concerned at a substantial disadvantage in comparison with persons who are not disabled, it is the duty of the advocate to take such steps as it is reasonable, in all the circumstances of the case, for him to have to take in order to prevent the provision, criterion or practice, or feature, having that effect.

- (2) In this section, “the disabled person concerned” means—
- (a) in the case of a provision, criterion or practice for determining whom he will take as his pupil, any disabled person who has applied, or has notified the advocate that he may apply, to be taken as a pupil;
  - (b) in any other case, a disabled person who is—
    - (i) an applicant to be taken as the advocate’s pupil, or
    - (ii) a pupil.
- (3) Nothing in this section imposes any duty on an advocate in relation to a disabled person if he does not know, and could not reasonably be expected to know—
- (a) in the case of an applicant or potential applicant, that the disabled person concerned is, or may be, applying to be taken as his pupil; or
  - (b) in any case, that that person has a disability and is likely to be affected in the way mentioned in subsection (1).]

VALID FROM 21/02/2004

## *[<sup>F20</sup>Barristers*

### **Textual Amendments**

**F20** *Ss. 7A, 7B* and cross-heading inserted (N.I.) (21.2.2004 for certain purposes and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), **8**

### **7B Barristers: duty to make adjustments**

- (1) Where –
- (a) a provision, criterion or practice applied by or on behalf of a barrister, or
  - (b) any physical feature of premises occupied by, and under the control of, a barrister,

places the disabled person concerned at a substantial disadvantage in comparison with persons who are not disabled, it is the duty of the barrister to take such steps as it is reasonable, in all the circumstances of the case, for him to have to take in order to prevent the provision, criterion or practice, or feature, having that effect.

- (2) In this section, “the disabled person concerned” means –
- (a) in the case of a provision, criterion or practice for determining whom he will take as his pupil, any disabled person who has applied, or has notified the barrister that he may apply, to be taken as a pupil;
  - (b) in any other case, a disabled person who is –
    - (i) an applicant to be taken as the barrister’s pupil, or
    - (ii) a pupil.



**Status:** Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.

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

- (3) Nothing in this section imposes any duty on a barrister in relation to a disabled person if he does not know, and could not reasonably be expected to know –
- (a) in the case of an applicant or potential applicant, that the disabled person concerned is, or may be, applying to be taken as his pupil; or
  - (b) in any case, that that person has a disability and is likely to be affected in the way mentioned in subsection (1).]

#### Extent Information

**E18** This section extends to Northern Ireland only; a separate s. 7B for England, Wales and Scotland only repealed (1.10.2010).

#### <sup>F21</sup> Enforcement etc.

#### Textual Amendments

**F21** Cross-heading "Enforcement etc." preceding s. 8 moved (to follow s. 17) (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), 9 and said cross-heading moved (N.I.) (21.2.2004 for certain purposes and 1.10.2004 otherwise) by [The Disability Discrimination Act \(Amendment\) Regulations \(Northern Ireland\) \(S.R. 2004/55\)](#), regs. 1(2)(3), {9}

#### <sup>F22</sup>8 **Enforcement, remedies and procedure.** **E+W+S**

- (1) A complaint by any person that another person—
  - (a) has discriminated against him in a way which is unlawful under this Part, or
  - (b) is, by virtue of section 57 or 58, to be treated as having discriminated against him in such a way,may be presented to an [<sup>F23</sup>employment tribunal].
- (2) Where an [<sup>F23</sup>employment tribunal] finds that a complaint presented to it under this section is well-founded, it shall take such of the following steps as it considers just and equitable—
  - (a) making a declaration as to the rights of the complainant and the respondent in relation to the matters to which the complaint relates;
  - (b) ordering the respondent to pay compensation to the complainant;
  - (c) recommending that the respondent take, within a specified period, action appearing to the tribunal to be reasonable, in all the circumstances of the case, for the purpose of obviating or reducing the adverse effect on the complainant of any matter to which the complaint relates.
- (3) Where a tribunal orders compensation under subsection (2)(b), the amount of the compensation shall be calculated by applying the principles applicable to the calculation of damages in claims in tort or (in Scotland) in reparation for breach of statutory duty.
- (4) For the avoidance of doubt it is hereby declared that compensation in respect of discrimination in a way which is unlawful under this Part may include compensation for injury to feelings whether or not it includes compensation under any other head.

*Status: Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.*

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

- (5) If the respondent to a complaint fails, without reasonable justification, to comply with a recommendation made by an [F23 employment tribunal] under subsection (2)(c) the tribunal may, if it thinks it just and equitable to do so—
- (a) increase the amount of compensation required to be paid to the complainant in respect of the complaint, where an order was made under subsection (2)(b); or
  - (b) make an order under subsection (2)(b).
- (6) Regulations may make provision—
- (a) for enabling a tribunal, where an amount of compensation falls to be awarded under subsection (2)(b), to include in the award interest on that amount; and
  - (b) specifying, for cases where a tribunal decides that an award is to include an amount in respect of interest, the manner in which and the periods and rate by reference to which the interest is to be determined.
- (7) Regulations may modify the operation of any order made under [F24 section 14 of [F25 the Employment Tribunals Act 1996]] (power to make provision as to interest on sums payable in pursuance of [F23 employment tribunal] decisions) to the extent that it relates to an award of compensation under subsection (2)(b).
- (8) Part I of Schedule 3 makes further provision about the enforcement of this Part and about procedure.

#### Extent Information

- E19** 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

- F22** S. 8 moved and renumbered (as s. 17A) (E.W.S.) (3.7.2003 for certain purposes and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), **9(1)** and s. 8 moved and renumbered (as s. 17A) (N.I.) (21.2.2004 for certain purposes and 1.10.2004 otherwise) by [S.R. 2004/55](#), regs. 1(2)(3), **9(1)**
- F23** Words in s. 8(1)(b)(2)(5)(7) substituted (E.W.S.) (1.8.1998) by [1998 c. 8, s. 1\(2\)\(a\)](#) (with s. 16(2)); [S.I. 1998/1658](#), art. 2(1), **Sch. 1**
- F24** Words in s. 8(7) substituted (E.W.S.) (28.8.1996) by [1996 c. 17, ss. 43, 46, Sch. 1 para. 12\(1\)\(2\)](#) (with s. 38)
- F25** Words in s. 8(7) substituted (E.W.S.) (1.8.1998) by [1998 c. 8, s. 1\(2\)\(c\)](#) (with s. 16(2)); [S.I. 1998/1658](#), art. 2(1), **Sch. 1**

#### Commencement Information

- I3** S. 8 wholly in force at 2.12.1996; s. 8 not in force at Royal Assent see s. 70(3); s. 8(6)(7) in force at 6.6.1996 by [S.I. 1996/1474](#), art. 2(1), **Sch. Pt. I**; s. 8(1)-(5)(8) in force at 2.12.1996 by [S.I. 1996/1474](#), art. 2(1), **Sch. Pt. III**

#### <sup>F58</sup>8 Enforcement, remedies and procedure. **N.I.**

- (1) A complaint by any person that another person—
- (a) has discriminated against him in a way which is unlawful under this Part, or
  - (b) is, by virtue of section 57 or 58, to be treated as having discriminated against him in such a way,
- may be presented to an industrial tribunal.

*Status: Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.*

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

- (2) Where an industrial tribunal finds that a complaint presented to it under this section is well-founded, it shall take such of the following steps as it considers just and equitable—
  - (a) making a declaration as to the rights of the complainant and the respondent in relation to the matters to which the complaint relates;
  - (b) ordering the respondent to pay compensation to the complainant;
  - (c) recommending that the respondent take, within a specified period, action appearing to the tribunal to be reasonable, in all the circumstances of the case, for the purpose of obviating or reducing the adverse effect on the complainant of any matter to which the complaint relates.
- (3) Where a tribunal orders compensation under subsection (2)(b), the amount of the compensation shall be calculated by applying the principles applicable to the calculation of damages in claims in tort or (in Scotland) in reparation for breach of statutory duty.
- (4) For the avoidance of doubt it is hereby declared that compensation in respect of discrimination in a way which is unlawful under this Part may include compensation for injury to feelings whether or not it includes compensation under any other head.
- (5) If the respondent to a complaint fails, without reasonable justification, to comply with a recommendation made by an industrial tribunal under subsection (2)(c) the tribunal may, if it thinks it just and equitable to do so—
  - (a) increase the amount of compensation required to be paid to the complainant in respect of the complaint, where an order was made under subsection (2)(b); or
  - (b) make an order under subsection (2)(b).
- (6) Regulations may make provision—
  - (a) for enabling a tribunal, where an amount of compensation falls to be awarded under subsection (2)(b), to include in the award interest on that amount; and
  - (b) specifying, for cases where a tribunal decides that an award is to include an amount in respect of interest, the manner in which and the periods and rate by reference to which the interest is to be determined.
- (7) Regulations may modify the operation of any order made under paragraph 6A of Schedule 9 to the Employment Protection (consolidation) Act 1978 (power to make provision as to interest on sums payable in pursuance of industrial tribunal decisions) to the extent that it relates to an award of compensation under subsection (2)(b).
- (8) Part I of Schedule 3 makes further provision about the enforcement of this Part and about procedure.

#### **Extent Information**

**E29** This version of this provision extends to Northern Ireland only; 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**

**F58** [S. 8](#) moved and renumbered (as s. 17A) (E.W.S.) (3.7.2003 for certain purposes and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), [regs. 1\(2\)\(3\), 9\(1\)](#) and s. 8 moved and renumbered (as s. 17A) (N.I.) (21.2.2004 for certain purposes and 1.10.2004 otherwise) by [S.R. 2004/55](#), [regs. 1\(2\)\(3\), 9\(1\)](#)

*Status: Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.*

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

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

**C28** S. 8: transfer of certain functions (N.I.) (1.12.1999) by S.R. 1999/481, art. 4(b), **Sch. 2 Pt. II**

#### Commencement Information

**I12** S. 8 wholly in force at 2.12.1996; s. 8 not in force at Royal Assent see s. 70(3); s. 8(6)(7) in force at 11.7.1996 by S.R. 1996/280, art. 2(1), **Sch. Pt. I**; s. 8(1)-(5)(8) in force at 2.12.1996 by S.R. 1996/280, art. 2(2), **Sch. Pt. II**

## 9 Validity of certain agreements. **E+W+S**

- (1) Any term in a contract of employment or other agreement is void so far as it purports to—
- require a person to do anything which would contravene any provision of, or made under, this Part;
  - exclude or limit the operation of any provision of this Part; or
  - prevent any person from presenting a complaint to an [<sup>F26</sup>employment tribunal] under this Part.
- (2) Paragraphs (b) and (c) of subsection (1) do not apply to an agreement not to institute proceedings under section 8(1), or to an agreement not to continue such proceedings, if—
- a conciliation officer has acted under [<sup>F27</sup>section 18 of [<sup>F26</sup>the Employment Tribunals Act 1996]] in relation to the matter; or
  - the conditions set out in subsection (3) are satisfied.
- (3) The conditions are that—
- the complainant must have received [<sup>F28</sup>advice from a relevant independent adviser] as to the terms and effect of the proposed agreement (and in particular its effect on his ability to pursue his complaint before an [<sup>F26</sup>employment tribunal]);
  - when the adviser gave the advice there must have been in force a [<sup>F29</sup>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; and
  - the agreement must be in writing, relate to the particular complaint, identify the adviser and state that the conditions are satisfied.
- [<sup>F30</sup>(4) A person is a relevant independent adviser for the purposes of subsection (3)(a)—
- if he is a qualified lawyer,
  - 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,
  - 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, or
  - if he is a person of a description specified in an order made by the Secretary of State.
- [<sup>F30</sup>(4A) But a person is not a relevant independent adviser for the purposes of subsection (3) (a) in relation to the complainant—

**Status:** Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.

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

- (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 subsection (4)(b) or (c), if the trade union or advice centre is the other party or a person who is connected with the other party,
- (c) in the case of a person within subsection (4)(c), if the complainant makes a payment for the advice received from him, or
- (d) in the case of a person of a description specified in an order under subsection (4)(d), if any condition specified in the order in relation to the giving of advice by persons of that description is not satisfied.

<sup>F30</sup>(4B) In subsection (4)(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 <sup>M1</sup>Courts and Legal Services Act 1990), 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.

<sup>F30</sup>(4C) In subsection (4)(b) “independent trade union” has the same meaning as in the <sup>M2</sup>Trade Union and Labour Relations (Consolidation) Act 1992.

<sup>F30</sup>(5) For the purposes of subsection (4A) 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.]

[<sup>F31</sup>(6) An agreement under which the parties agree to submit a dispute to arbitration—

- (a) shall be regarded for the purposes of subsection (2) as being an agreement not to institute, or an agreement not to continue, proceedings if—
  - (i) the dispute is covered by a scheme having effect by virtue of an order under section 212A of the <sup>M3</sup>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 an agreement in any other case.]

#### Extent Information

**E20** 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

**F26** Words in s. 9 substituted (E.W.S.) (1.8.1998) by 1998 c. 8, s. 1(2)(a)(b)(c) (with s. 16(2)); S.I. 1998/1658, art. 2(1), Sch. 1

**F27** Words in s. 9(2)(a) substituted (E.W.S.) (28.8.1996) by 1996 c. 17, ss. 43, 46, Sch. 1 para. 12(1)(3) (with s. 38)

**F28** Words in s. 9(3)(a) substituted (E.W.S.) (1.8.1998) by 1998 c. 8, s. 9(1)(2)(d); S.I. 1998/1658, art. 2(1), Sch. 1

*Status: Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.*

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

- F29** Words in s. 9(3)(b) substituted (E.W.S.) (1.8.1998) by 1998 c. 8, s. 10(1)(2)(d); S.I. 1998/1658, art. 2(1), Sch. 1
- F30** S. 9(4)(4A)(4B)(4C)(5) substituted for s. 9(4)(5) (E.W.S.) (1.8.1998) by 1998 c. 8, s. 15, Sch. 1 para. 11; S.I. 1998/1658, art. 2(1), Sch. 1
- F31** S. 9(6) added (E.W.S.) (1.8.1998) by 1998 c. 8, 8(4); S.I. 1998/1658, art. 2(1), Sch. 1

#### Marginal Citations

- M1** 1990 c. 41.
- M2** 1992 c. 52.
- M3** 1992 c. 52.

## 9 Validity of certain agreements. **N.I.**

- (1) Any term in a contract of employment or other agreement is void so far as it purports to—
- require a person to do anything which would contravene any provision of, or made under, this Part;
  - exclude or limit the operation of any provision of this Part; or
  - prevent any person from presenting a complaint to an industrial tribunal under this Part.
- (2) Paragraphs (b) and (c) of subsection (1) do not apply to an agreement not to institute proceedings under section 8(1), or to an agreement not to continue such proceedings, if—
- a conciliation officer has acted under paragraph 1 of Schedule 3 in relation to the matter; or
  - the conditions set out in subsection (3) are satisfied.
- (3) The conditions are that—
- the complainant must have received [<sup>F59</sup>advice from a relevant independent adviser] as to the terms and effect of the proposed agreement (and in particular its effect on his ability to pursue his complaint before an industrial tribunal);
  - when the adviser gave the advice there must have been in force a [<sup>F60</sup>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; and
  - the agreement must be in writing, relate to the particular complaint, identify the adviser and state that the conditions are satisfied.
- [<sup>F61</sup>(4) A person is a relevant independent adviser for the purposes of subsection (3)(a)—
- if he is a qualified lawyer,
  - 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,
  - 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, or
  - if he is a person of a description specified in an order made by the Department of Economic Development.

*Status: Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.*

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

- (4A) But a person is not a relevant independent adviser for the purposes of subsection (3) (a) 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 subsection (4)(b) or (c), if the trade union or advice centre is the other party or a person who is connected with the other party,
  - (c) in the case of a person within subsection (4)(c), if the complainant makes a payment for the advice received from him, or
  - (d) in the case of a person of a description specified in an order under subsection (4)(d), if any condition specified in the order in relation to the giving of advice by persons of that description is not satisfied.
- (4B) In subsection (4)(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.
- (4C) In subsection (4)(b) “independent trade union” has the same meaning as in the Industrial Relations (Northern Ireland) Order 1992.
- (5) For the purposes of subsection (4A) 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.]
- [<sup>F62</sup>(6) An agreement under which the parties agree to submit a dispute to arbitration—
- (a) shall be regarded for the purposes of subsection (2) as being an agreement not to institute, or an agreement not to continue, proceedings 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, 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 an agreement in any other case.]

#### Extent Information

**E30** This version of this provision extends to Northern Ireland only; in its application to Northern Ireland, this section also has effect subject to the modifications set out in Sch. 8; see s. 70(6). A separate version has been created for England and Wales and Scotland only

#### Textual Amendments

**F59** Words in s. 9(3)(a) substituted (8.8.1998) by S.I. 1998/1265 (N.I. 8), art. 10(2)(c); S.R. 1998/274, art. 2(1), Sch. 1

**F60** Words in s. 9(3)(b) substituted (8.8.1998) by S.I. 1998/1265 (N.I. 8), art. 11(2)(c); S.R. 1998/274, art. 2(1), Sch. 1

**F61** S. 9(4)(4A)(4B)(4C)(5) substituted for s. 9(4)(5) (8.8.1998) by S.I. 1998/1265 (N.I. 8), art. 16, Sch. 1 para. 6; S.R. 1998/274, art. 2(1), Sch. 1

**F62** S. 9(6) added (8.8.1998) by S.I. 1998/1265 (N.I. 8), art. 16, Sch. 1 para. 6; S.R. 1998/274, art. 2(1), Sch. 1

*Status: Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.*

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

## 10 Charities and support for particular groups of persons.

(1) Nothing in this Part—

- (a) affects any charitable instrument which provides for conferring benefits on one or more categories of person determined by reference to any physical or mental capacity; or
- (b) makes unlawful any act done by a charity or recognised body in pursuance of any of its charitable purposes, so far as those purposes are connected with persons so determined.

(2) Nothing in this Part prevents—

- (a) a person who provides supported employment from treating members of a particular group of disabled persons more favourably than other persons in providing such employment; or
- (b) the Secretary of State from agreeing to arrangements for the provision of supported employment which will, or may, have that effect.

(3) In this section—

“charitable instrument” means an enactment or other instrument (whenever taking effect) so far as it relates to charitable purposes;

“charity” has the same meaning as in the <sup>M4</sup>Charities Act 1993;

“recognised body” means a body which is a recognised body for the purposes of Part I of the <sup>M5</sup>Law Reform (Miscellaneous Provisions) (Scotland) Act 1990; and

“supported employment” means facilities provided, or in respect of which payments are made, under section 15 of the <sup>M6</sup>Disabled Persons (Employment) Act 1944.

(4) In the application of this section to England and Wales, “charitable purposes” means purposes which are exclusively charitable according to the law of England and Wales.

(5) In the application of this section to Scotland, “charitable purposes” shall be construed in the same way as if it were contained in the Income Tax Acts.

### Extent Information

**E21** In its application to Northern Ireland, this section has effect subject to the modifications set out in Sch. 8; see s. 70(6)

### Marginal Citations

**M4** 1993 c. 10.

**M5** 1990 c. 40.

**M6** 1944 c. 10.

## <sup>x1</sup>11 Advertisements suggesting that employers will discriminate against disabled persons.

(1) This section applies where—

- (a) a disabled person has applied for employment with an employer;
- (b) the employer has refused to offer, or has deliberately not offered, him the employment;



**Status:** Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.

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- (c) the disabled person has presented a complaint under section 8 against the employer;
  - (d) the employer has advertised the employment (whether before or after the disabled person applied for it); and
  - (e) the advertisement indicated, or might reasonably be understood to have indicated, that any application for the advertised employment would, or might, be determined to any extent by reference to—
    - (i) the successful applicant not having any disability or any category of disability which includes the disabled person’s disability; or
    - (ii) the employer’s reluctance to take any action of a kind mentioned in section 6.
- (2) The tribunal hearing the complaint shall assume, unless the contrary is shown, that the employer’s reason for refusing to offer, or deliberately not offering, the employment to the complainant was related to the complainant’s disability.
- (3) In this section “advertisement” includes every form of advertisement or notice, whether to the public or not.

#### Editorial Information

- X1** The moving of the cross-heading preceding s. 8 to follow s. 17 on 3.7.2003 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of s. 11 which is brought under a different existing cross-heading.

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

- C20** S. 11 modified (E.W.) (2.3.1998) by S.I. 1998/218, art. 3, Sch. (with art. 1(2))  
S. 11 modified (1.9.1999) by S.I. 1999/2256, art. 3, Sch.  
S. 11 modified (E.) (1.9.2003) by The Education (Modification of Enactments Relating to Employment) (England) Order 2003 (S.I. 2003/1964), art. 3, Sch.

### *Discrimination by other persons*

## 12 Discrimination against contract workers.

- (1) It is unlawful for a principal, in relation to contract work, to discriminate against a disabled person—
- (a) in the terms on which he allows him to do that work;
  - (b) by not allowing him to do it or continue to do it;
  - (c) in the way he affords him access to any benefits or by refusing or deliberately omitting to afford him access to them; or
  - (d) by subjecting him to any other detriment.
- (2) Subsection (1) does not apply to benefits of any description if the principal is concerned with the provision (whether or not for payment) of benefits of that description to the public, or to a section of the public which includes the contract worker in question, unless that provision differs in a material respect from the provision of the benefits by the principal to contract workers.
- (3) The provisions of this Part (other than subsections (1) to (3) of section 4) apply to any principal, in relation to contract work, as if he were, or would be, the employer of the

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contract worker and as if any contract worker supplied to do work for him were an employee of his.

- (4) In the case of an act which constitutes discrimination by virtue of section 55, this section also applies to discrimination against a person who is not disabled.
- (5) This section applies only in relation to contract work done at an establishment in Great Britain (the provisions of section 68 about the meaning of “employment at an establishment in Great Britain” applying for the purposes of this subsection with the appropriate modifications).
- (6) In this section—
- “principal” means a person (“A”) who makes work available for doing by individuals who are employed by another person who supplies them under a contract made with A;
- “contract work” means work so made available; and
- “contract worker” means any individual who is supplied to the principal under such a contract.

#### Extent Information

- E22** In its application to Northern Ireland, this section has effect subject to the modifications set out in Sch. 8; see s. 70(6)

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

- C21** S. 12 modified (E.) (1.9.2003) by The Education (Modification of Enactments Relating to Employment) (England) Order (S.I. 2003/1964), art. 3, {Sch.}
- C22** S. 12 modified (E.W.) (2.3.1998) by S.I. 1998/218, art. 3, Sch. (with art. 1(2))
- S. 12 modified (1.9.1999) by S.I. 1999/2256, art. 3, Sch.

#### Commencement Information

- I4** S. 12 wholly in force at 2.12.1996; s. 12 not in force at Royal Assent see s. 70(3); s. 12(3)(6) in force (E.W.S.) at 6.6.1996 by S.I. 1996/1474, art. 2(1), Sch. Pt. I; s. 12(3)(6) in force (N.I.) at 11.7.1996 by S.R. 1996/280, art. 2(1), Sch. Pt. I; s. 12(1)(2)(4)(5) in force (E.W.S.) at 2.12.1996 by S.I. 1996/1474, art. 2(3), Sch. Pt. III; s. 12(1)(2)(4)(5) in force (N.I.) at 2.12.1996 by S.R. 1996/280, art. 2(2), Sch. Pt. II

### 13 Discrimination by trade organisations.

- (1) It is unlawful for a trade organisation to discriminate against a disabled person—
- in the terms on which it is prepared to admit him to membership of the organisation; or
  - by refusing to accept, or deliberately not accepting, his application for membership.
- (2) It is unlawful for a trade organisation, in the case of a disabled person who is a member of the organisation, to discriminate against him—
- in the way it affords him access to any benefits or by refusing or deliberately omitting to afford him access to them;
  - by depriving him of membership, or varying the terms on which he is a member; or
  - by subjecting him to any other detriment.

*Status: Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.*

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

- (3) In the case of an act which constitutes discrimination by virtue of section 55, this section also applies to discrimination against a person who is not disabled.
- (4) In this section “trade organisation” means an organisation of workers, an organisation of employers or any other organisation whose members carry on a particular profession or trade for the purposes of which the organisation exists.

#### **14 Meaning of “discrimination” in relation to trade organisations.**

- (1) For the purposes of this Part, a trade organisation discriminates against a disabled person if—
  - (a) for a reason which relates to the disabled person’s disability, it 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 this Part, a trade organisation also discriminates against a disabled person if—
  - (a) it fails to comply with a section 15 duty imposed on it in relation to the disabled person; and
  - (b) it cannot show that its failure to comply with that duty is justified.
- (3) Subject to subsection (5), for the purposes of subsection (1) treatment is justified if, but only if, the reason for it is both material to the circumstances of the particular case and substantial.
- (4) For the purposes of subsection (2), failure to comply with a section 15 duty is justified if, but only if, the reason for the failure is both material to the circumstances of the particular case and substantial.
- (5) If, in a case falling within subsection (1), the trade organisation is under a section 15 duty in relation to the disabled person concerned but fails without justification to comply with that duty, its treatment of that person cannot be justified under subsection (3) unless the treatment would have been justified even if the organisation had complied with the section 15 duty.
- (6) Regulations may make provision, for purposes of this section, as to circumstances in which—
  - (a) treatment is to be taken to be justified;
  - (b) failure to comply with a section 15 duty is to be taken to be justified;
  - (c) treatment is to be taken not to be justified;
  - (d) failure to comply with a section 15 duty is to be taken not to be justified.

#### **Commencement Information**

- I5** S. 14 wholly in force at 1.10.1999; s. 14 not in force at Royal Assent see s. 70(3); s. 14(6) in force (E.W.S.) at 6.6.1996 by S.I. 1996/1474, art. 2(1), **Sch. Pt. I**; s. 14(6) in force (N.I.) at 11.7.1996 by S.R. 1996/280, art. 2(1), **Sch. Pt. I**; s. 14(1)(3) in force (E.W.S.) at 2.12.1996 by S.I. 1996/1474, art. 2(3), **Sch. Pt. III**; s. 14(1)(3) in force (N.I.) at 2.12.1996 by S.R. 1996/280, art. 2(2), **Sch. Pt. II**; s. 14(2)(4)(5) in force (E.W.S.) at 1.10.1999 by S.I. 1999/1190, art. 5(a); s. 14(2)(4)(5) in force (N.I.) at 1.10.1999 by S.R. 1999/196, art. 4(a)

*Status: Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.*

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

VALID FROM 01/10/1999

**X<sup>2</sup>15 Appeal against refusal of exemption certificate.**

- (1) Where—
- (a) any arrangements made by or on behalf of a trade organisation, or
  - (b) any physical feature of premises occupied by the organisation,
- place the disabled person concerned at a substantial disadvantage in comparison with persons who are not disabled, it is the duty of the organisation to take such steps as it is reasonable, in all the circumstances of the case, for it to have to take in order to prevent the arrangements or feature having that effect.
- (2) Subsection (1)(a) applies only in relation to—
- (a) arrangements for determining who should become or remain a member of the organisation;
  - (b) any term, condition or arrangements on which membership or any benefit is offered or afforded.
- (3) In determining whether it is reasonable for a trade organisation to have to take a particular step in order to comply with subsection (1), regard shall be had, in particular, to—
- (a) the extent to which taking the step would prevent the effect in question;
  - (b) the extent to which it is practicable for the organisation to take the step;
  - (c) the financial and other costs which would be incurred by the organisation in taking the step and the extent to which taking it would disrupt any of its activities;
  - (d) the extent of the organisation’s financial and other resources;
  - (e) the availability to the organisation of financial or other assistance with respect to taking the step.

This subsection is subject to any provision of regulations made under subsection (7).

- (4) In this section “the disabled person concerned” means—
- (a) in the case of arrangements for determining to whom membership should be offered, any disabled person who is, or has notified the organisation that he may be, an applicant for membership;
  - (b) in any other case, a disabled person who is—
    - (i) an applicant for membership; or
    - (ii) a member of the organisation.
- (5) Nothing in this section imposes any duty on an organisation in relation to a disabled person if the organisation does not know, and could not reasonably be expected to know that the disabled person concerned—
- (a) is, or may be, an applicant for membership; or
  - (b) has a disability and is likely to be affected in the way mentioned in subsection (1).
- (6) Subject to the provisions of this section, nothing in this Part is to be taken to require a trade organisation to treat a disabled person more favourably than it treats or would treat others.

**Status:** Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.

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

- (7) Regulations may make provision for the purposes of subsection (1) as to any of the matters mentioned in paragraphs (a) to (h) of section 6(8) (the references in those paragraphs to an employer being read for these purposes as references to a trade organisation).
- (8) Subsection (9) of section 6 applies in relation to such regulations as it applies in relation to regulations made under section 6(8).
- (9) Regulations may make provision adding to the duty imposed on trade organisations by this section, including provision of a kind which may be made under subsection (7).
- (10) This section imposes duties only for the purpose of determining whether a trade organisation has discriminated against a disabled person; and accordingly a breach of any such duty is not actionable as such.

#### Editorial Information

- X2** Ss. 13-14D and cross-headings substituted for ss. 13-15 (3.7.2003 for certain purposes for E.W.S. and 21.2.2004 for certain purposes for N.I. and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), arts. 1(2)(3), **13**; [The Disability Discrimination Act 1995 \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), **13**

#### Commencement Information

- I6** S. 15 not in force at Royal Assent see s. 70(3); s. 15(1)(a)(2)-(10) in force (E.W.S.) at 1.10.1999 by [S.I. 1999/1190](#), **art. 5(b)**; s. 15(1)(a)(2)-(10) in force (N.I.) at 1.10.1999 by [S.R. 1999/196](#), **art. 4(b)**

VALID FROM 03/07/2003

### <sup>F32</sup>Trade and professional bodies

#### Textual Amendments

- F32** Ss. 13-14D and cross-headings substituted for ss. 13-15 (E.W.S.) (3.7.2003 for certain purposes and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), **13**

#### 14A Qualifications bodies: discrimination and harassment

- (1) It is unlawful for a qualifications body to discriminate against a disabled person—
  - (a) in the arrangements which it makes for the purpose of determining upon whom to confer a professional or trade qualification;
  - (b) in the terms on which it is prepared to confer a professional or trade qualification on him;
  - (c) by refusing or deliberately omitting to grant any application by him for such a qualification; or

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

- (d) by withdrawing such a qualification from him or varying the terms on which he holds it.
- (2) It is also unlawful for a qualifications body, in relation to a professional or trade qualification conferred by it, to subject to harassment a disabled person who holds or applies for such a qualification.
- (3) In determining for the purposes of subsection (1) whether the application by a qualifications body of a competence standard to a disabled person constitutes discrimination within the meaning of section 3A, the application of the standard is justified for the purposes of section 3A(1)(b) if, but only if, the qualifications body can show that—
- (a) the standard is, or would be, applied equally to persons who do not have his particular disability; and
  - (b) its application is a proportionate means of achieving a legitimate aim.
- (4) For the purposes of subsection (3)—
- (a) section 3A(2) (and (6)) does not apply; and
  - (b) section 3A(4) has effect as if the reference to section 3A(3) were a reference to subsection (3) of this section.
- (5) In this section and section 14B—
- “qualifications body” means any authority or body which can confer a professional or trade qualification, but it does not include—
- (a) a responsible body (within the meaning of Chapter 1 or 2 of Part 4),
  - (b) a local education authority in England or Wales, or
  - (c) an education authority (within the meaning of section 135(1) of the Education (Scotland) Act 1980);
- “confer” includes renew or extend;
- “professional or trade qualification” means an authorisation, qualification, recognition, registration, enrolment, approval or certification which is needed for, or facilitates engagement in, a particular profession or trade;
- “competence standard” means an academic, medical or other standard applied by or on behalf of a qualifications body for the purpose of determining whether or not a person has a particular level of competence or ability.

#### **Extent Information**

**E23** This section extends to England and Wales and Scotland only; a separate s. 14A exists for Northern Ireland only from 21.2.2004.

### **14B Qualifications bodies: duty to make adjustments**

- (1) Where—
- (a) a provision, criterion or practice, other than a competence standard, applied by or on behalf of a qualifications body; or
  - (b) any physical feature of premises occupied by a qualifications body,

**Status:** Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.

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

places the disabled person concerned at a substantial disadvantage in comparison with persons who are not disabled, it is the duty of the qualifications body to take such steps as it is reasonable, in all the circumstances of the case, for it to have to take in order to prevent the provision, criterion or practice, or feature, having that effect.

- (2) In this section “the disabled person concerned” means—
- (a) in the case of a provision, criterion or practice for determining on whom a professional or trade qualification is to be conferred, any disabled person who is, or has notified the qualifications body that he may be, an applicant for the conferment of that qualification;
  - (b) in any other case, a disabled person who—
    - (i) holds a professional or trade qualification conferred by the qualifications body, or
    - (ii) applies for a professional or trade qualification which it confers.
- (3) Nothing in this section imposes a duty on a qualifications body in relation to a disabled person if the body does not know, and could not reasonably be expected to know—
- (a) in the case of an applicant or potential applicant, that the disabled person concerned is, or may be, an applicant for the conferment of a professional or trade qualification; or
  - (b) in any case, that that person has a disability and is likely to be affected in the way mentioned in subsection (1).

#### **Extent Information**

**E24** This section extends to England and Wales and Scotland only; a separate s. 14B exists for Northern Ireland only from 21.2.2004.

VALID FROM 03/07/2003

### *Practical work experience*

#### **14D Practical work experience: duty to make adjustments**

- (1) Where—
- (a) a provision, criterion or practice applied by or on behalf of a placement provider, or
  - (b) any physical feature of premises occupied by the placement provider,
- places the disabled person concerned at a substantial disadvantage in comparison with persons who are not disabled, it is the duty of the placement provider to take such steps as it is reasonable, in all the circumstances of the case, for him to have to take in order to prevent the provision, criterion or practice, or feature, having that effect.
- (2) In this section, “the disabled person concerned” means—

*Status:* Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.

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

- (a) in the case of a provision, criterion or practice for determining to whom a work placement should be offered, any disabled person who is, or has notified the placement provider that he may be, an applicant for that work placement;
  - (b) in any other case, a disabled person who is—
    - (i) an applicant for the work placement concerned, or
    - (ii) undertaking a work placement with the placement provider.
- (3) Nothing in this section imposes any duty on a placement provider in relation to the disabled person concerned if he does not know, and could not reasonably be expected to know—
- (a) in the case of an applicant or potential applicant, that the disabled person concerned is, or may be, an applicant for the work placement; or
  - (b) in any case, that that person has a disability and is likely to be affected in the way mentioned in subsection (1).]

#### Extent Information

**E25** This section extends to England and Wales and Scotland only; a separate s. 14D exists for Northern Ireland only from 21.2.2004.

VALID FROM 05/12/2005

### *<sup>F33</sup>Relationships between locally-electable authorities and their members*

#### Textual Amendments

**F33** *Ss. 15A-15C* and cross-heading inserted (E.W.S.) (5.12. 2005 so far as the amending provision inserts s. 15A to the extent that it relates to s. 15B, and s. 15B, and 4.12.2006 so far as the amending provision is not already in force) by [Disability Discrimination Act 2005 \(c. 13\)](#), **ss. 1, 20(3)-(6)**; [S.I. 2005/2774](#), **arts. 3(a), 4(a)**

#### **15A Interpretation of sections 15B and 15C**

- (1) Sections 15B and 15C apply to the following authorities—
- (a) the Greater London Authority;
  - (b) a county council (in England or Wales);
  - (c) a county borough council (in Wales);
  - (d) a district council (in England);
  - (e) a London borough council;
  - (f) the Common Council of the City of London;
  - (g) the Council of the Isles of Scilly;
  - (h) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;
  - (i) a parish council (in England); and
  - (j) a community council (in Wales or Scotland).



*Status: Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.*

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

- (2) In relation to a member of an authority to which sections 15B and 15C apply, a reference in those sections to his carrying-out of official business is to his doing of anything—
  - (a) as member of the authority;
  - (b) as member of any body to which he is appointed by, or is appointed following nomination by, the authority or a group of bodies that includes the authority; or
  - (c) as member of any other body if it is a public body.
- (3) In this section and sections 15B and 15C “member”, in relation to the Greater London Authority, means Mayor of London or member of the London Assembly.

### **15B Authorities and their members: discrimination and harassment**

- (1) It is unlawful for an authority to which this section applies to discriminate against a disabled person who is a member of the authority—
  - (a) in the opportunities which it affords the disabled person to receive training, or any other facility, for his carrying-out of official business;
  - (b) by refusing to afford, or deliberately not affording, the disabled person any such opportunities; or
  - (c) by subjecting the disabled person to any other detriment in connection with his carrying-out of official business.
- (2) It is unlawful for an authority to which this section applies to subject a disabled person who is a member of the authority to harassment in connection with his carrying-out of official business.
- (3) A member of an authority to which this section applies is not subjected to a detriment for the purposes of subsection (1)(c) by reason of—
  - (a) his not being appointed or elected to an office of the authority;
  - (b) his not being appointed or elected to, or to an office of, a committee or sub-committee of the authority; or
  - (c) his not being appointed or nominated in exercise of any power of the authority, or of a group of bodies that includes the authority, to appoint, or nominate for appointment, to any body.
- (4) Regulations may make provision as to the circumstances in which treatment is to be taken to be justified, or is to be taken not to be justified, for the purposes of section 3A(1)(b) as it has effect for the interpretation of “discriminate” in subsection (1).
- (5) Regulations under subsection (4) may (in particular) provide for section 3A(3) to apply with prescribed modifications, or not to apply, for those purposes; but treatment of a disabled person cannot be justified under subsection (4) if it amounts to direct discrimination falling within section 3A(5).
- (6) If, in a case falling within section 3A(1) as it has effect for the interpretation of “discriminate” in subsection (1), an authority to which this section applies is under a duty imposed by section 15C in relation to a disabled person but fails to comply with that duty, its treatment of that person cannot be justified under subsection (4) unless it would have been justified even if it had complied with that duty.

*Status: Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.*

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

VALID FROM 04/12/2006

### **15C Authorities and their members: duty to make adjustments**

- (1) Subsection (2) applies where—
- (a) a provision, criterion or practice applied by or on behalf of an authority to which this section applies, or
  - (b) any physical feature of premises occupied by, or under the control of, such an authority,
- places a disabled person who is a member of the authority at a substantial disadvantage, in comparison with members of the authority who are not disabled persons, in connection with his carrying-out of official business.
- (2) It is the duty of the authority to take such steps as it is reasonable, in all the circumstances of the case, for it to have to take in order to prevent the provision, criterion or practice, or feature, having that effect.
- (3) Subsection (2) does not impose any duty on an authority to which this section applies in relation to a member of the authority who is a disabled person if the authority does not know, and could not reasonably be expected to know, that the member—
- (a) has a disability; and
  - (b) is likely to be affected in the way mentioned in subsection (1).
- (4) Regulations may make provision, for purposes of this section—
- (a) as to circumstances in which a provision, criterion or practice, or physical feature, is to be taken to have the effect mentioned in subsection (1);
  - (b) as to circumstances in which a provision, criterion or practice, or physical feature, is to be taken not to have the effect mentioned in subsection (1);
  - (c) as to circumstances in which it is, or as to circumstances in which it is not, reasonable for an authority to have to take steps of a prescribed description;
  - (d) as to steps which it is always, or as to steps which it is never, reasonable for an authority to have to take;
  - (e) as to things which are, or as to things which are not, to be treated as physical features.]

#### *Premises occupied under leases*

### <sup>x3</sup>**16 Alterations to premises occupied under leases.**

- (1) This section applies where—
- (a) an employer or trade organisation (“the occupier”) occupies premises under a lease;
  - (b) but for this section, the occupier would not be entitled to make a particular alteration to the premises; and
  - (c) the alteration is one which the occupier proposes to make in order to comply with a section 6 duty or section 15 duty.

*Status: Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.*

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

(2) Except to the extent to which it expressly so provides, the lease shall have effect by virtue of this subsection as if it provided—

- (a) for the occupier to be entitled to make the alteration with the written consent of the lessor;
- (b) for the occupier to have to make a written application to the lessor for consent if he wishes to make the alteration;
- (c) if such an application is made, for the lessor not to withhold his consent unreasonably; and
- (d) for the lessor to be entitled to make his consent subject to reasonable conditions.

[<sup>F34</sup>(2A) Except to the extent to which it expressly so provides, any superior lease under which the premises are held shall have effect in relation to the lessor and lessee who are parties to that lease as if it provided—

- (i) for the lessee to have to make a written application to the lessor for consent to the alteration;
- (ii) if such an application is made, for the lessor not to withhold his consent unreasonably; and
- (iii) for the lessor to be entitled to make his consent subject to reasonable conditions.]

(3) In this section—

“lease” includes a tenancy, sub-lease or sub-tenancy and an agreement for a lease, tenancy, sub-lease or sub-tenancy; and

“sub-lease” and “sub-tenancy” have such meaning as may be prescribed.

(4) If the terms and conditions of a lease—

- (a) impose conditions which are to apply if the occupier alters the premises, or
- (b) entitle the lessor to impose conditions when consenting to the occupier’s altering the premises,

the occupier is to be treated for the purposes of subsection (1) as not being entitled to make the alteration.

(5) Part I of Schedule 4 supplements the provisions of this section.

#### **Editorial Information**

**X3** The moving and renumbering of s. 16 (as s. 18A) which began on 3.7.2003 for E.W.S. and began on 21.2.2004 for N.I. gives rise to a change in the structure of this legislation on legislation.gov.uk which breaks the continuity of historical versions of s. 16 which is brought under a different existing cross-heading (as s. 18A).

#### **Textual Amendments**

**F34** S. 16(2A) added (7.6.1996) by S.I. 1996/1333, reg. 4(2)

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

**C23** S. 16 modified (1.9.2003) by The Education (Modification of Enactments Relating to Employment) (England) Order (S.I. 2003/1964), art. 3, {Sch.}

**C24** S. 16 modified (E.W.) (2.3.1998) by S.I. 1998/218, arts. 1(2), 3(1), Sch. (with art. 3(2)(b))

S. 16 modified (7.6.1996) by S.I. 1996/1333, reg. 4(a)

S. 16 modified (1.9.1999) by S.I. 1999/2256, art. 3, Sch.

**Status:** Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.

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

### Commencement Information

- I7** S. 16 wholly in force at 2.12.1996; s. 16 not in force at Royal Assent see s. 70(3); s. 16(3)(5) in force for certain purposes (E.W.S.) at 17.5.1996 by S.I. 1996/1336, art. 3(d); s. 16(3)(5) in force for certain purposes (N.I.) at 30.5.1996 by S.R. 1996/219, art. 3(d); s. 16(5) in force insofar as not already in force (E.W.S.) at 6.6.1996 by S.I. 1996/1474, art. 2(1), Sch. Pt. I; s. 16(5) in force (N.I.) insofar as not already in force at 1.7.1996 by S.R. 1996/280, art. 2(1), Sch. Pt. I; s. 16(3) in force (E.W.S.) insofar as not already in force at 2.12.1996 by S.I. 1996/3003, art. 3; s. 16(3) in force insofar as not already in force (N.I.) at 2.12.1996 by S.R. 1996/280, art. 2(2), Sch. Pt. II; s. 16(1)(2)(4) in force (E.W.S.) at 2.12.1996 by S.I. 1996/1474, art. 2(3), Sch. Pt. III; s. 16(1)(2)(4) in force (N.I.) at 2.12.1996 by S.R. 1996/280, art. 2(2), Sch. Pt. II

VALID FROM 03/07/2003

### *f<sup>35</sup> Other unlawful acts*

#### Textual Amendments

- F35** Ss. 16A-16C and cross-heading inserted (E.W.S.) (3.7.2003 for certain purposes and 1.10.2004 otherwise) by The Disability Discrimination Act 1995 (Amendment) Regulations 2003 (S.I. 2003/1673), regs. 1(2)(3), 15(1)

### 16A Relationships which have come to an end

- (1) This section applies where—
  - (a) there has been a relevant relationship between a disabled person and another person (“the relevant person”), and
  - (b) the relationship has come to an end.
- (2) In this section a “relevant relationship” is—
  - (a) a relationship during the course of which an act of discrimination against, or harassment of, one party to the relationship by the other party to it is unlawful under any preceding provision of this Part; or
  - (b) a relationship between a person providing employment services (within the meaning of Part 3) and a person receiving such services.
- (3) It is unlawful for the relevant person—
  - (a) to discriminate against the disabled person by subjecting him to a detriment, or
  - (b) to subject the disabled person to harassment,
 where the discrimination or harassment arises out of and is closely connected to the relevant relationship.
- (4) This subsection applies where—
  - (a) a provision, criterion or practice applied by the relevant person to the disabled person in relation to any matter arising out of the relevant relationship, or
  - (b) a physical feature of premises which are occupied by the relevant person,

*Status: Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.*

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

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

- (5) Where subsection (4) applies, it is the duty of the relevant person to take such steps as it is reasonable, in all the circumstances of the case, for him to have to take in order to prevent the provision, practice or criterion, or feature, having that effect.
- (6) Nothing in subsection (5) imposes any duty on the relevant person if he does not know, and could not reasonably be expected to know, that the disabled person has a disability and is likely to be affected in the way mentioned in that subsection.
- (7) In subsection (2), reference to an act of discrimination or harassment which is unlawful includes, in the case of a relationship which has come to an end before the commencement of this section, reference to such an act which would, after the commencement of this section, be unlawful.

## **16B Discriminatory advertisements**

- (1) It is unlawful for a person, in relation to a relevant appointment or benefit which he intends to make or confer, to publish or cause to be published an advertisement which—
  - (a) invites applications for that appointment or benefit; and
  - (b) indicates, or might reasonably be understood to indicate, that an application will or may be determined to any extent by reference to—
    - (i) the applicant not having any disability, or any particular disability, or
    - (ii) any reluctance of the person determining the application to comply with a duty to make reasonable adjustments or (in relation to employment services) with the duty imposed by section 21(1) as modified by section 21A(6).
- (2) Subsection (1) does not apply where it would not in fact be unlawful under this Part or, to the extent that it relates to the provision of employment services, Part 3 for an application to be determined in the manner indicated (or understood to be indicated) in the advertisement.
- (3) In subsection (1), “relevant appointment or benefit” means—
  - (a) any employment, promotion or transfer of employment;
  - (b) membership of, or a benefit under, an occupational pension scheme;
  - (c) an appointment to any office or post to which section 4D applies;
  - (d) any partnership in a firm (within the meaning of section 6A);
  - (e) any tenancy or pupillage (within the meaning of section 7A or 7C);
  - (f) any membership of a trade organisation (within the meaning of section 13);
  - (g) any professional or trade qualification (within the meaning of section 14A);
  - (h) any work placement (within the meaning of section 14C);
  - (i) any employment services (within the meaning of Part 3).
- (4) In this section, “advertisement” includes every form of advertisement or notice, whether to the public or not.

*Status: Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.*

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

## 16C Instructions and pressure to discriminate

- (1) It is unlawful for a person—
  - (a) who has authority over another person, or
  - (b) in accordance with whose wishes that other person is accustomed to act, to instruct him to do any act which is unlawful under this Part or, to the extent that it relates to the provision of employment services, Part 3, or to procure or attempt to procure the doing by him of any such act.
- (2) It is also unlawful to induce, or attempt to induce, a person to do any act which contravenes this Part or, to the extent that it relates to the provision of employment services, Part 3 by—
  - (a) providing or offering to provide him with any benefit, or
  - (b) subjecting or threatening to subject him to any detriment.
- (3) An attempted inducement is not prevented from falling within subsection (2) because it is not made directly to the person in question, if it is made in such a way that he is likely to hear of it.]

### *Occupational pension schemes and insurance services*

## 17 Occupational pension schemes.

- (1) Every occupational pension scheme shall be taken to include a provision (“a non-discrimination rule”)—
  - (a) relating to the terms on which—
    - (i) persons become members of the scheme; and
    - (ii) members of the scheme are treated; and
  - (b) requiring the trustees or managers of the scheme to refrain from any act or omission which, if done in relation to a person by an employer, would amount to unlawful discrimination against that person for the purposes of this Part.
- (2) The other provisions of the scheme are to have effect subject to the non-discrimination rule.
- (3) Without prejudice to section 67, regulations under this Part may—
  - (a) with respect to trustees or managers of occupational pension schemes make different provision from that made with respect to employers; or
  - (b) make provision modifying the application to such trustees or managers of any regulations made under this Part, or of any provisions of this Part so far as they apply to employers.
- (4) In determining, for the purposes of this section, whether an act or omission would amount to unlawful discrimination if done by an employer, any provision made under subsection (3) shall be applied as if it applied in relation to the notional employer.

### Commencement Information

- 18** S. 17 wholly in force at 2.12.1996; s. 17 not in force at Royal Assent see s. 70(3); s. 17(3) in force (E.W.S.) at 6.6.1996 by S.I. 1996/1474, art. 2(1), Sch. Pt. I; s. 17(3) in force (N.I.) at 10.7.1996 by

**Status:** Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.

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

S.R. 1996/280, art. 2(1), **Sch. Pt. I**; s. 17(1)(2)(4) in force (E.W.S.) at 2.12.1996 by S.I. 1996/1474, art. 2(3), **Sch. Pt. III**; s. 17(1)(2)(4) in force (N.I.) at 2.12.1996 by S.R. 1996/280, art. 2(2), **Sch. Pt. II**

## 18 Insurance services

- (1) This section applies where a provider of insurance services (“the insurer”) enters into arrangements with an employer under which the employer’s employees, or a class of his employees—
  - (a) receive insurance services provided by the insurer; or
  - (b) are given an opportunity to receive such services.
- (2) The insurer is to be taken, for the purposes of this Part, to discriminate unlawfully against a disabled person who is a relevant employee if he acts in relation to that employee in a way which would be unlawful discrimination for the purposes of Part III if—
  - (a) he were providing the service in question to members of the public; and
  - (b) the employee was provided with, or was trying to secure the provision of, that service as a member of the public.
- (3) In this section—
 

“insurance services” means services of a prescribed description for the provision of benefits in respect of—

  - (a) termination of service;
  - (b) retirement, old age or death;
  - (c) accident, injury, sickness or invalidity; or
  - (d) any other prescribed matter; and

“relevant employee” means—

  - (a) in the case of an arrangement which applies to employees of the employer in question, an employee of his;
  - (b) in the case of an arrangement which applies to a class of employees of the employer, an employee who is in that class.
- (4) For the purposes of the definition of “relevant employee” in subsection (3), “employee”, in relation to an employer, includes a person who has applied for, or is contemplating applying for, employment by that employer or (as the case may be) employment by him in the class in question.

### Modifications etc. (not altering text)

**C25** S. 18(3) applied (N.I.) (14.12.1999) by S.R. 1999/440, **reg. 2**

### Commencement Information

**I9** S. 18 wholly in force at 2.12.1996; s. 18 not in force at Royal Assent see s. 70(3); s. 18(3)(4) in force (E.W.S.) at 6.6.1996 by S.I. 1996/1474, art. 2(1), **Sch. Pt. I**; s. 18(3)(4) in force (N.I.) at 10.7.1996 by S.R. 1996/280, art. 2(1), **Sch. Pt. I**; s. 18(1)(2) in force (E.W.S.) at 2.12.1996 by S.I. 1996/1474, art. 2(3), **Sch. Pt. III**; s. 18(1)(2) in force (N.I.) at 2.12.1996 by S.R. 1996/280, art. 2(2), **Sch. Pt. II**

*Status: Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.*

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

VALID FROM 03/07/2003

[<sup>F36</sup>Enforcement etc.]

#### Textual Amendments

**F36** Cross-heading preceding s. 8 moved (3.7.2003 for E.W.S. for certain purposes and 21.2.2004 for N.I. and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), **9(1)**; [The Disability Discrimination Act 1995 \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), **9(1)**

#### [<sup>F37</sup>17A Enforcement, remedies and procedure. **E+W+S**

- (1) A complaint by any person that another person—
- (a) has discriminated against him [<sup>F38</sup>, or subjected him to harassment,] in a way which is unlawful under this Part, or
  - (b) is, by virtue of section 57 or 58, to be treated as having [<sup>F39</sup>done so], may be presented to an [<sup>F40</sup>employment tribunal]].

[<sup>F41</sup>(1A) Subsection (1) does not apply to a complaint under section 14A(1) or (2) of an act in respect of which an appeal, or proceedings in the nature of an appeal, may be brought under any enactment.

(1B) In subsection (1A), “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.

(1C) Where, on the hearing of a complaint under subsection (1), the complainant proves facts from which the tribunal could, apart from this subsection, conclude in the absence of an adequate explanation that the respondent has acted in a way which is unlawful under this Part, the tribunal shall uphold the complaint unless the respondent proves that he did not so act.]

(2) Where an [<sup>F42</sup>employment tribunal] finds that a complaint presented to it under this section is well-founded, it shall take such of the following steps as it considers just and equitable—

- (a) making a declaration as to the rights of the complainant and the respondent in relation to the matters to which the complaint relates;
- (b) ordering the respondent to pay compensation to the complainant;
- (c) recommending that the respondent take, within a specified period, action appearing to the tribunal to be reasonable, in all the circumstances of the case, for the purpose of obviating or reducing the adverse effect on the complainant of any matter to which the complaint relates.

(3) Where a tribunal orders compensation under subsection (2)(b), the amount of the compensation shall be calculated by applying the principles applicable to the calculation of damages in claims in tort or (in Scotland) in reparation for breach of statutory duty.

(4) For the avoidance of doubt it is hereby declared that compensation in respect of discrimination in a way which is unlawful under this Part may include compensation for injury to feelings whether or not it includes compensation under any other head.



**Status:** Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.

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

- (5) If the respondent to a complaint fails, without reasonable justification, to comply with a recommendation made by an [<sup>F43</sup>employment tribunal] under subsection (2) (c) the tribunal may, if it thinks it just and equitable to do so—
- (a) increase the amount of compensation required to be paid to the complainant in respect of the complaint, where an order was made under subsection (2) (b); or
  - (b) make an order under subsection (2)(b).
- (6) Regulations may make provision—
- (a) for enabling a tribunal, where an amount of compensation falls to be awarded under subsection (2)(b), to include in the award interest on that amount; and
  - (b) specifying, for cases where a tribunal decides that an award is to include an amount in respect of interest, the manner in which and the periods and rate by reference to which the interest is to be determined.
- (7) Regulations may modify the operation of any order made under [<sup>F44</sup>section 14 of [<sup>F45</sup>the Employment Tribunals Act 1996]] (power to make provision as to interest on sums payable in pursuance of [<sup>F46</sup>employment tribunal] decisions) to the extent that it relates to an award of compensation under subsection (2)(b).
- (8) Part I of Schedule 3 makes further provision about the enforcement of this Part and about procedure.

#### Extent Information

- E26** This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only (from 21.2.2004)

#### Textual Amendments

- F37** S. 8 moved and renumbered (as s. 17A) (E.W.S.) (3.7.2003 for certain purposes and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), **9(1)**
- F38** Words in s. 17A(1)(a) inserted (E.W.S.) (3.7.2003 for certain purposes and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), **9(2)(a)**
- F39** Words in s. 17A(1)(b) substituted (E.W.S.) (3.7.2003 for certain purposes and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), **9(2)(b)**
- F40** Words in s. 8(1)(b)(2)(5)(7) substituted (E.W.S.) (1.8.1998) by [1998 c. 8, s. 1\(2\)\(a\)](#) (with s. 16(2)); [S.I. 1998/1658](#), art. 2(1), **Sch. 1**
- F41** S. 17A(1A)-(1C) inserted (E.W.S.) (3.7.2003 for certain purposes and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), **9(2)(c)**
- F42** Words in s. 8(1)(b)(2)(5)(7) substituted (E.W.S.) (1.8.1998) by [1998 c. 8, s. 1\(2\)\(a\)](#) (with s. 16(2)); [S.I. 1998/1658](#), art. 2(1), **Sch. 1**
- F43** Words in s. 8(1)(b)(2)(5)(7) substituted (E.W.S.) (1.8.1998) by [1998 c. 8, s. 1\(2\)\(a\)](#) (with s. 16(2)); [S.I. 1998/1658](#), art. 2(1), **Sch. 1**
- F44** Words in s. 8(7) substituted (E.W.S.) (28.8.1996) by [1996 c. 17, ss. 43, 46, Sch. 1 para. 12\(1\)\(2\)](#) (with s. 38)
- F45** Words in s. 8(7) substituted (E.W.S.) (1.8.1998) by [1998 c. 8, s. 1\(2\)\(c\)](#) (with s. 16(2)); [S.I. 1998/1658](#), art. 2(1), **Sch. 1**

*Status: Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.*

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

**F46** Words in s. 8(1)(b)(2)(5)(7) substituted (E.W.S.) (1.8.1998) by 1998 c. 8, s. 1(2)(a) (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**

#### **Commencement Information**

**I10** S. 8 (now s. 17A) wholly in force at 2.12.1996; s. 8 not in force at Royal Assent see s. 70(3); s. 8(6)(7) in force at 6.6.1996 by S.I. 1996/1474, art. 2(1), **Sch. Pt. I**; s. 8(1)-(5)(8) in force at 2.12.1996 by S.I. 1996/1474, art. 2(1), **Sch. Pt. III**

#### **[<sup>F63</sup>17A Enforcement, remedies and procedure. N.I.]**

(1) A complaint by any person that another person—

(a) has discriminated against him [<sup>F64</sup>, or subjected him to harassment,] in a way which is unlawful under this Part, or

(b) is, by virtue of section 57 or 58, to be treated as having [<sup>F65</sup>done so],

may be presented to an industrial tribunal.

[ Subsection (1) does not apply to a complaint under section 14A(1) or (2) about an <sup>F66</sup>(1A) act in respect of which an appeal, or proceedings in the nature of an appeal, may be brought under any enactment.

(1B) Where, on the hearing of a complaint under subsection (1), the complainant proves facts from which the tribunal could, apart from this subsection, conclude in the absence of an adequate explanation that the respondent has acted in a way which is unlawful under this Part, the tribunal shall uphold the complaint unless the respondent proves that he did not so act.]

(2) Where an industrial tribunal finds that a complaint presented to it under this section is well-founded, it shall take such of the following steps as it considers just and equitable—

(a) making a declaration as to the rights of the complainant and the respondent in relation to the matters to which the complaint relates;

(b) ordering the respondent to pay compensation to the complainant;

(c) recommending that the respondent take, within a specified period, action appearing to the tribunal to be reasonable, in all the circumstances of the case, for the purpose of obviating or reducing the adverse effect on the complainant of any matter to which the complaint relates.

[<sup>F67</sup>(3) Where a tribunal orders compensation under subsection (2)(b), the amount of the compensation shall be calculated by applying the principles applicable to the calculation of damages in claims in tort for breach of statutory duty.]

(4) For the avoidance of doubt it is hereby declared that compensation in respect of discrimination in a way which is unlawful under this Part may include compensation for injury to feelings whether or not it includes compensation under any other head.

(5) If the respondent to a complaint fails, without reasonable justification, to comply with a recommendation made by an industrial tribunal under subsection (2)(c) the tribunal may, if it thinks it just and equitable to do so—

(a) increase the amount of compensation required to be paid to the complainant in respect of the complaint, where an order was made under subsection (2) (b); or

(b) make an order under subsection (2)(b).

**Status:** Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.

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

- (6) Regulations may make provision—
- (a) for enabling a tribunal, where an amount of compensation falls to be awarded under subsection (2)(b), to include in the award interest on that amount; and
  - (b) specifying, for cases where a tribunal decides that an award is to include an amount in respect of interest, the manner in which and the periods and rate by reference to which the interest is to be determined.

[<sup>F68</sup>(7) Regulations may modify the operation of any order made under Article 16 of the Industrial Tribunals (Northern Ireland) Order 1996 <sup>F69</sup> (power to make provision as to interest on sums payable in pursuance of industrial tribunal decisions) to the extent that it relates to an award of compensation under subsection (2)(b).]

- (8) Part I of Schedule 3 makes further provision about the enforcement of this Part and about procedure.]

#### Extent Information

**E31** This version of this provision extends to Northern Ireland only; in its application to Northern Ireland, this section has effect subject to the modifications set out in Sch. 8 para. 5; see s. 70(6). A separate version has been created for England and Wales and Scotland only

#### Textual Amendments

- F63** S. 8 moved and renumbered (as s. 17A) (N.I.) (21.2.2004 for certain purposes and 1.10.2004 otherwise) by S.R. 2004/55, regs. 1(2)(3), **9(1)**
- F64** Words in s. 17A(1)(a) inserted (N.I.) (21.2.2004 for certain purposes and 1.10.2004 otherwise) by the Disability Discrimination Act (Amendment) Regulations (Northern Ireland) 2004 (S.R. 2004/55), regs. 1(2)(3), **9(2)(a)**
- F65** Words in s. 17A(1)(b) substituted (N.I.) (21.2.2004 for specified purposes and 1.10.2004 otherwise) by the Disability Discrimination Act (Amendment) Regulations (Northern Ireland) 2004 (S.R. 2004/55), regs. 1(2)(3), **9(2)(b)**
- F66** S. 17A(1A)(1B) inserted (N.I.) (21.2.2004 for certain purposes and 1.10.2004 otherwise) by the Disability Discrimination Act (Amendment) Regulations (Northern Ireland) 2004 (S.R. 2004/55), regs. 1(2)(3), **9(2)(c)**
- F67** S. 17A(3) substituted (N.I.) (21.2.2004 for certain purposes and 1.10.2004 otherwise) by the Disability Discrimination Act (Amendment) Regulations (Northern Ireland) 2004 (S.R. 2004/55), regs. 1(2)(3), **9(2)(d)**
- F68** S. 17A(7) substituted (N.I.) (21.2.2004 for certain purposes and 1.10.2004 otherwise) by the Disability Discrimination Act (Amendment) Regulations (Northern Ireland) 2004 (S.R. 2004/55), regs. 1(2)(3), **9(2)(e)**
- F69** S.I. 1996/1921 (N.I. 18)

#### Commencement Information

**I10** S. 8 (now s. 17A) wholly in force at 2.12.1996; s. 8 not in force at Royal Assent see s. 70(3); s. 8(6)(7) in force at 6.6.1996 by S.I. 1996/1474, art. 2(1), **Sch. Pt. I**; s. 8(1)-(5)(8) in force at 2.12.1996 by S.I. 1996/1474, art. 2(1), **Sch. Pt. III**

[<sup>F47</sup>**17B Enforcement of sections 16B and 16C**

*Status: Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.*

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

- (1) Only the Disability Rights Commission may bring proceedings in respect of a contravention of section 16B (discriminatory advertisements) or section 16C (instructions and pressure to discriminate).
- (2) The Commission shall bring any such proceedings in accordance with subsection (3) or (4).
- (3) The Commission may present to an employment tribunal a complaint that a person has done an act which is unlawful under section 16B or 16C; and if the tribunal finds that the complaint is well-founded it shall make a declaration to that effect.
- (4) Where—
  - (a) a tribunal has made a finding pursuant to subsection (3) that a person has done an act which is unlawful under section 16B or 16C,
  - (b) that finding has become final, and
  - (c) it appears to the Commission that, unless restrained, he is likely to do a further act which is unlawful under that section,
 the Commission may apply to a county court for an injunction, or (in Scotland) to a sheriff court for an interdict, restraining him from doing such an act; and the court, if satisfied that the application is well-founded, may grant the injunction or interdict in the terms applied for or in more limited terms.
- (5) A finding of a tribunal under subsection (3) in respect of any act shall, if it has become final, be treated as conclusive by a county court or sheriff court upon an application under subsection (4).
- (6) A finding of a tribunal becomes final for the purposes of this section when an appeal against it is dismissed, withdrawn or abandoned or when the time for appealing expires without an appeal having been brought.
- (7) An employment tribunal shall not consider a complaint under subsection (3) unless it is presented before the end of the period of six months beginning when the act to which it relates was done; and a county court or sheriff court shall not consider an application under subsection (4) unless it is made before the end of the period of five years so beginning.
- (8) A court or tribunal may consider any such complaint or application which is out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.
- (9) The provisions of paragraph 3(3) and (4) of Schedule 3 apply for the purposes of subsection (7) as they apply for the purposes of paragraph 3(1) of that Schedule.]

#### Textual Amendments

- F47** Ss. 17B, 17C inserted (E.W.S.) (3.7.2003 for certain purposes and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), 16(1)

#### [<sup>F47</sup>17C **Validity of contracts, collective agreements and rules of undertakings**

Schedule 3A shall have effect.]

**Status:** Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.

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

### Textual Amendments

- F47** Ss. 17B, 17C inserted (E.W.S.) (3.7.2003 for certain purposes and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), 16(1)

VALID FROM 03/07/2003

### [<sup>F48</sup>Supplementary and general]

### Textual Amendments

- F48** Cross-heading "Supplementary and General" inserted (3.7.2003 for E.W.S. for certain purposes and 21.2.2004 for N.I. for certain purposes, and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), 17(1); [The Disability Discrimination Act 1995 \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), {17(1)}

### [<sup>F49</sup>18A Alterations to premises occupied under leases.

- (1) This section applies where—
- (a) [<sup>F50</sup>a person to whom a duty to make reasonable adjustments applies] (“the occupier”) occupies premises under a lease;
  - (b) but for this section, the occupier would not be entitled to make a particular alteration to the premises; and
  - (c) the alteration is one which the occupier proposes to make in order to comply with [<sup>F51</sup>that duty].
- (2) Except to the extent to which it expressly so provides, the lease shall have effect by virtue of this subsection as if it provided—
- (a) for the occupier to be entitled to make the alteration with the written consent of the lessor;
  - (b) for the occupier to have to make a written application to the lessor for consent if he wishes to make the alteration;
  - (c) if such an application is made, for the lessor not to withhold his consent unreasonably; and
  - (d) for the lessor to be entitled to make his consent subject to reasonable conditions.

[ Except to the extent to which it expressly so provides, any superior lease under which [<sup>F52</sup>(2A) the premises are held shall have effect in relation to the lessor and lessee who are parties to that lease as if it provided—

- (i) for the lessee to have to make a written application to the lessor for consent to the alteration;
- (ii) if such an application is made, for the lessor not to withhold his consent unreasonably; and

*Status: Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.*

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

(iii) for the lessor to be entitled to make his consent subject to reasonable conditions.]]

(3) In this section—

“lease” includes a tenancy, sub-lease or sub-tenancy and an agreement for a lease, tenancy, sub-lease or sub-tenancy; and

“sub-lease” and “sub-tenancy” have such meaning as may be prescribed.

(4) If the terms and conditions of a lease—

(a) impose conditions which are to apply if the occupier alters the premises, or

(b) entitle the lessor to impose conditions when consenting to the occupier’s altering the premises,

the occupier is to be treated for the purposes of subsection (1) as not being entitled to make the alteration.

(5) Part I of Schedule 4 supplements the provisions of this section.

#### Textual Amendments

**F49** S. 16 moved and renumbered (as s. 18A) (3.7.2003 for E.W.S. for certain purposes and 21.2.2004 for N.I. for certain purposes, and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003](#) (S.I. 2003/1673), arts. 1(2)(3), **14(2)**; S.R. 2004/55, regs. 1(2)(3), **14(2)**

**F50** Words in s. 18A(1)(a) substituted (E.W.S.) (3.7.2003 for certain purposes) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003](#) (S.I. 2003/1673), regs. 1(2)(3), **14(3)(a)**

**F51** Words in s. 18A(1)(c) substituted (E.W.S.) (3.7.2003 for certain purposes) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003](#) (S.I. 2003/1673), regs. 1(2)(3), **14(3)(a)**

**F52** S. 16(2A) added (7.6.1996) by S.I. 1996/1333, **reg. 4(2)**

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

**C26** S. 16 modified (E.W.) (2.3.1998) by S.I. 1998/218, arts. 1(2), 3(1), **Sch.** (with art. 3(2)(b))  
S. 16 modified (7.6.1996) by S.I. 1996/1333, **reg. 4(a)**

S. 16 modified (1.9.1999) by S.I. 1999/2256, art. 3, **Sch.**

**C27** Ss. 16 modified (1.9.2003) by The Education (Modification of Enactments Relating to Employment) (England) Order (S.I. 2003/1964), art. 3, {Sch.}

#### Commencement Information

**I11** S. 16 wholly in force at 2.12.1996; s. 16 not in force at Royal Assent see s. 70(3); s. 16(3)(5) in force for certain purposes (E.W.S.) at 17.5.1996 by S.I. 1996/1336, **art. 3(d)**; s. 16(3)(5) in force for certain purposes (N.I.) at 30.5.1996 by S.R. 1996/219, **art. 3(d)**; s. 16(5) in force insofar as not already in force (E.W.S.) at 6.6.1996 by S.I. 1996/1474, art. 2(1), **Sch. Pt. I**; s. 16(5) in force (N.I.) insofar as not already in force at 1.7.1996 by S.R. 1996/280, art. 2(1), **Sch. Pt. I**; s. 16(3) in force (E.W.S.) insofar as not already in force at 2.12.1996 by S.I. 1996/3003, **art. 3**; s. 16(3) in force insofar as not already in force (N.I.) at 2.12.1996 by S.R. 1996/280, art. 2(2), **Sch. Pt. II**; s. 16(1)(2)(4) in force (E.W.S.) at 2.12.1996 by S.I. 1996/1474, art. 2(3), **Sch. Pt. III**; s. 16(1)(2)(4) in force (N.I.) at 2.12.1996 by S.R. 1996/280, art. 2(2), **Sch. Pt. II**

[<sup>F70</sup>18A Alterations to premises occupied under leases. **U.K.**

(1) This section applies where—

**Status:** Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.

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

- (a) [<sup>F71</sup>a person to whom a duty to make reasonable adjustments applies] (“the occupier”) occupies premises under a lease;
  - (b) but for this section, the occupier would not be entitled to make a particular alteration to the premises; and
  - (c) the alteration is one which the occupier proposes to make in order to comply with [<sup>F72</sup>that duty].
- (2) Except to the extent to which it expressly so provides, the lease shall have effect by virtue of this subsection as if it provided—
- (a) for the occupier to be entitled to make the alteration with the written consent of the lessor;
  - (b) for the occupier to have to make a written application to the lessor for consent if he wishes to make the alteration;
  - (c) if such an application is made, for the lessor not to withhold his consent unreasonably; and
  - (d) for the lessor to be entitled to make his consent subject to reasonable conditions.
- [ Except to the extent to which it expressly so provides, any superior lease under which
- <sup>F52</sup>(2A) the premises are held shall have effect in relation to the lessor and lessee who are parties to that lease as if it provided—
- (i) for the lessee to have to make a written application to the lessor for consent to the alteration;
  - (ii) if such an application is made, for the lessor not to withhold his consent unreasonably; and
  - (iii) for the lessor to be entitled to make his consent subject to reasonable conditions.]]
- (3) In this section—
- “lease” includes a tenancy, sub-lease or sub-tenancy and an agreement for a lease, tenancy, sub-lease or sub-tenancy; and
- “sub-lease” and “sub-tenancy” have such meaning as may be prescribed.
- (4) If the terms and conditions of a lease—
- (a) impose conditions which are to apply if the occupier alters the premises, or
  - (b) entitle the lessor to impose conditions when consenting to the occupier’s altering the premises,
- the occupier is to be treated for the purposes of subsection (1) as not being entitled to make the alteration.
- (5) Part I of Schedule 4 supplements the provisions of this section.

#### Textual Amendments

**F52** S. 16(2A) added (7.6.1996) by S.I. 1996/1333, reg. 4(2)

**F70** S. 16 moved and renumbered (as s. 18A) (3.7.2003 for E.W.S. for certain purposes and 21.2.2004 for N.I. for certain purposes, and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003](#) (S.I. 2003/1673), arts. 1(2)(3), **14(2)**; S.R. 2004/55, regs. 1(2)(3), **14(2)**

**F71** Words in s. 18A(1)(a) substituted (3.7.2003 for E.W.S. for certain purposes and 21.2.2004 for N.I. for certain purposes, and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003](#) (S.I. 2003/1673), arts. 1(2)(3), **14(3)(a)**; The Disability

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Discrimination Act 1995 (Amendment) Regulations (Northern Ireland) (S.R. 2004/55), regs. 1(2)(3), {14(3)(a)}

- F72** Words in s. 18A(1)(c) substituted (3.7.2003 for E.W.S. for certain purposes and 21.2.2004 for N.I. for certain purposes, and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), arts. 1(2)(3), **14(3)(b)**; [The Disability Discrimination Act 1995 \(Amendment\) Regulations \(Northern Ireland\) \(S.R. 2004/55\)](#), regs. 1(2)(3), {14(3)(b)}

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

- C26** [S. 16](#) modified (E.W.) (2.3.1998) by [S.I. 1998/218](#), arts. 1(2), 3(1), **Sch.** (with art. 3(2)(b))  
[S. 16](#) modified (7.6.1996) by [S.I. 1996/1333](#), **reg. 4(a)**  
[S. 16](#) modified (1.9.1999) by [S.I. 1999/2256](#), art. 3, **Sch.**
- C27** [Ss. 16](#) modified (1.9.2003) by [The Education \(Modification of Enactments Relating to Employment\) \(England\) Order \(S.I. 2003/1964\)](#), art. 3, {Sch.}
- C29** [S. 18A](#) modified (N.I.) (1.10.2004) by [The Disability Discrimination \(Employment Field\) \(Leasehold Premises\) Regulations \(Northern Ireland\) \(S.R. 2004/374\)](#), **regs. 4-9**
- C30** [S. 18A](#) modified (E.W.S.) (1.10.2004) by [The Disability Discrimination \(Employment Field\) \(Leasehold Premises\) Regulations \(S.I. 2004/153\)](#), {regs. 4-9}
- C31** [S. 16](#) modified (W.) (12.5.2006) by [The Education \(Modification of Enactments Relating to Employment\) \(Wales\) Order \(S.I. 2006/1073\)](#), art. 3, {Sch.}

#### Commencement Information

- II1** [S. 16](#) wholly in force at 2.12.1996; [s. 16](#) not in force at Royal Assent see [s. 70\(3\)](#); [s. 16\(3\)\(5\)](#) in force for certain purposes (E.W.S.) at 17.5.1996 by [S.I. 1996/1336](#), **art. 3(d)**; [s. 16\(3\)\(5\)](#) in force for certain purposes (N.I.) at 30.5.1996 by [S.R. 1996/219](#), **art. 3(d)**; [s. 16\(5\)](#) in force insofar as not already in force (E.W.S.) at 6.6.1996 by [S.I. 1996/1474](#), art. 2(1), **Sch. Pt. I**; [s. 16\(5\)](#) in force (N.I.) insofar as not already in force at 1.7.1996 by [S.R. 1996/280](#), art. 2(1), **Sch. Pt. I**; [s. 16\(3\)](#) in force (E.W.S.) insofar as not already in force at 2.12.1996 by [S.I. 1996/3003](#), **art. 3**; [s. 16\(3\)](#) in force insofar as not already in force (N.I.) at 2.12.1996 by [S.R. 1996/280](#), art. 2(2), **Sch. Pt. II**; [s. 16\(1\)\(2\)\(4\)](#) in force (E.W.S.) at 2.12.1996 by [S.I. 1996/1474](#), art. 2(3), **Sch. Pt. III**; [s. 16\(1\)\(2\)\(4\)](#) in force (N.I.) at 2.12.1996 by [S.R. 1996/280](#), art. 2(2), **Sch. Pt. II**

### <sup>F53</sup>18B Reasonable adjustments: supplementary

- (1) In determining whether it is reasonable for a person to have to take a particular step in order to comply with a duty to make reasonable adjustments, regard shall be had, in particular, to—
- (a) the extent to which taking the step would prevent the effect in relation to which the duty is imposed;
  - (b) the extent to which it is practicable for him to take the step;
  - (c) the financial and other costs which would be incurred by him in taking the step and the extent to which taking it would disrupt any of his activities;
  - (d) the extent of his financial and other resources;
  - (e) the availability to him of financial or other assistance with respect to taking the step;
  - (f) the nature of his activities and the size of his undertaking;
  - (g) where the step would be taken in relation to a private household, the extent to which taking it would—
    - (i) disrupt that household, or



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(ii) disturb any person residing there.

- (2) The following are examples of steps which a person may need to take in relation to a disabled person in order to comply with a duty to make reasonable adjustments—
- (a) making adjustments to premises;
  - (b) allocating some of the disabled person’s duties to another person;
  - (c) transferring him to fill an existing vacancy;
  - (d) altering his hours of working or training;
  - (e) assigning him to a different place of work or training;
  - (f) allowing him to be absent during working or training hours for rehabilitation, assessment or treatment;
  - (g) giving, or arranging for, training or mentoring (whether for the disabled person or any other person);
  - (h) acquiring or modifying equipment;
  - (i) modifying instructions or reference manuals;
  - (j) modifying procedures for testing or assessment;
  - (k) providing a reader or interpreter;
  - (l) providing supervision or other support.
- (3) For the purposes of a duty to make reasonable adjustments, where under any binding obligation a person is required to obtain the consent of another person to any alteration of the premises occupied by him—
- (a) it is always reasonable for him to have to take steps to obtain that consent; and
  - (b) it is never reasonable for him to have to make that alteration before that consent is obtained.
- (4) The steps referred to in subsection (3)(a) shall not be taken to include an application to a court or tribunal.
- (5) In subsection (3), “binding obligation” means a legally binding obligation (not contained in a lease (within the meaning of section 18A(3)) in relation to the premises, whether arising from an agreement or otherwise.
- (6) A provision of this Part imposing a duty to make reasonable adjustments applies only for the purpose of determining whether a person has discriminated against a disabled person; and accordingly a breach of any such duty is not actionable as such.]

#### Textual Amendments

**F53** S. 18B inserted (3.7.2003 for E.W.S. for certain purposes and 21.2.2004 for N.I. for certain purposes and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), **17(2)**; [The Disability Discrimination Act 1995 \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), **17(2)**

#### [<sup>F54</sup>18C Charities and support for particular groups of persons.

- (1) Nothing in this Part—
- (a) affects any charitable instrument which provides for conferring benefits on one or more categories of person determined by reference to any physical or mental capacity; or

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- (b) makes unlawful any act done by a charity or recognised body in pursuance of any of its charitable purposes, so far as those purposes are connected with persons so determined.
- (2) Nothing in this Part prevents—
- (a) a person who provides supported employment from treating members of a particular group of disabled persons more favourably than other persons in providing such employment; or
- (b) the Secretary of State from agreeing to arrangements for the provision of supported employment which will, or may, have that effect.
- (3) In this section—
- “charitable instrument” means an enactment or other instrument (whenever taking effect) so far as it relates to charitable purposes;
- “charity” has the same meaning as in the <sup>M7</sup>Charities Act 1993;
- “recognised body” means a body which is a recognised body for the purposes of Part I of the <sup>M8</sup>Law Reform (Miscellaneous Provisions) (Scotland) Act 1990; and
- “supported employment” means facilities provided, or in respect of which payments are made, under section 15 of the <sup>M9</sup>Disabled Persons (Employment) Act 1944.
- (4) In the application of this section to England and Wales, “charitable purposes” means purposes which are exclusively charitable according to the law of England and Wales.
- (5) In the application of this section to Scotland, “charitable purposes” shall be construed in the same way as if it were contained in the Income Tax Acts.]

#### Extent Information

**E27** This section extends to England and Wales and Scotland only; a separate s. 18C exists for Northern Ireland only from 21.2.2004.

#### Textual Amendments

**F54** S. 10 moved and renumbered (as s. 18C) (E.W.S.) (3.7.2003 for certain purposes and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), arts. 1(2)(3), **11**

#### Marginal Citations

**M7** 1993 c. 10.

**M8** 1990 c. 40.

**M9** 1944 c. 10.

### <sup>F55</sup> 18D Interpretation of Part 2

- (1) Subject to any duty to make reasonable adjustments, nothing in this Part is to be taken to require a person to treat a disabled person more favourably than he treats or would treat others.
- (2) In this Part—

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“benefits” includes facilities and services;  
“detriment”, except in section 16C(2)(b), does not include conduct of the nature referred to in section 3B (harassment);  
“discriminate”, “discrimination” and other related expressions are to be construed in accordance with section 3A;  
“duty to make reasonable adjustments” means a duty imposed by or under section 4A, 4B(5) or (6), 4E, 6B, 7B, 7D, 14, 14B, 14D or 16A(5);  
“employer” includes a person who has no employees but is seeking to employ another person;  
“harassment” is to be construed in accordance with section 3B;  
“physical feature”, in relation to any premises, includes any of the following (whether permanent or temporary)—  
(a) any feature arising from the design or construction of a building on the premises,  
(b) any feature on the premises of any approach to, exit from or access to such a building,  
(c) any fixtures, fittings, furnishings, furniture, equipment or material in or on the premises,  
(d) any other physical element or quality of any land comprised in the premises;  
“provision, criterion or practice” includes any arrangements.]

#### Extent Information

**E28** This version of this provision extends to England and Wales and Scotland only; a separate s. 18D exists for Northern Ireland only from 21.2.2004

#### Textual Amendments

**F55** S. 18D inserted (E.W.S) (3.7.2003 for certain purposes and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), **18**

VALID FROM 04/12/2006

#### [<sup>F57</sup>18E [<sup>F56</sup>Premises provided otherwise than in course of a Part 2 relationship]

- (1) This Part does not apply in relation to the provision, otherwise than in the course of a Part 2 relationship, of premises by the regulated party to the other party.
- (2) For the purposes of subsection (1)—
  - (a) “Part 2 relationship” means a relationship during the course of which an act of discrimination against, or harassment of, one party to the relationship by the other party to it is unlawful under sections 4 to 15C; and
  - (b) in relation to a Part 2 relationship, “regulated party” means the party whose acts of discrimination, or harassment, are made unlawful by sections 4 to 15C.]

*Status: Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.*

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

### Textual Amendments

- F56** Cross-heading "Supplementary and General" inserted (3.7.2003 for E.W.S. for certain purposes and 21.2.2004 for N.I. for certain purposes, and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), **17(1)**; [The Disability Discrimination Act 1995 \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), {17(1)}
- F57** S. 18E inserted (E.W.S.) (4.12.2006) by [Disability Discrimination Act 2005 \(c. 13\)](#), ss. 19(1), 20(3)-(6), **Sch. 1 para. 12**; S.I. 2005/2774, **art. 4(f)** and same section inserted (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(1), **Sch. 1 para. 11**; S.R. 2007/466, **art. 2(2)(I)**

**Status:**

Point in time view as at 01/07/1999. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

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