



# Disability Discrimination Act 1995

## 1995 CHAPTER 50

### PART II

#### [<sup>F1</sup>THE EMPLOYMENT FIELD]

#### *[<sup>F1</sup>Office-holders*

#### Textual Amendments

- F1** 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;

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- (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>F2</sup>, or any office of the House of Lords held by a member of it,
- (c) any office mentioned in Schedule 2 (Ministerial offices) to the House of Commons Disqualification Act 1975 <sup>F3</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>F4</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>F5</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>F6</sup> or a community council established under section 51 of the Local Government (Scotland) Act 1973 <sup>F7</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**

**E1** 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.

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#### Textual Amendments

- F2** 1958 c. 21.
- F3** 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).
- F4** 1975 c. 27.
- F5** 1998 c. 46.
- F6** 1994 c. 39.
- F7** 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)

- C1** 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—
- in the arrangements which he makes for the purpose of determining who should be offered the appointment;
  - in the terms on which he offers him the appointment; or
  - 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—
- in the arrangements which he makes for the purpose of determining who should be recommended or approved in relation to the appointment; or
  - 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—
- in the terms of the appointment;
  - 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;
  - by terminating the appointment; or
  - 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—
- who has been appointed to the office or post;
  - who is seeking or being considered for appointment to the office or post; or
  - 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).

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- (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.
- (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

**E2** 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)

**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 \(S.I. 2006/1073\)](#), 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

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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—
- (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**

- E3** 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)**

- C4** 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.}
- C5** 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—

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- (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—
- (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**

**E4** 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)**

**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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