



Disability Discrimination Act 1995

1995 CHAPTER 50

PART II

EMPLOYMENT

[^{F1}Enforcement etc.]

VALID FROM 03/07/2003

[^{F2}17A Enforcement, remedies and procedure. E+W+S

- (1) A complaint by any person that another person—
- has discriminated against him [^{F3}, or subjected him to harassment,] in a way which is unlawful under this Part, or
 - is, by virtue of section 57 or 58, to be treated as having [^{F4}done so], may be presented to an [^{F5}employment tribunal]].

[^{F6}(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 [^{F7}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—

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Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995, Section 17A. (See end of Document for details)

- (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 [^{F8}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 [^{F9}section 14 of [^{F10}the Employment Tribunals Act 1996]] (power to make provision as to interest on sums payable in pursuance of [^{F11}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

- E1** 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

- F2** 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)**
- F3** 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)**

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Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995, Section 17A. (See end of Document for details)

- F4** 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)**
- F5** 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**
- F6** 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)**
- F7** 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**
- F8** 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**
- F9** 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)
- F10** 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**
- F11** 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

- II** 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**

^{F12}17A Enforcement, remedies and procedure. **N.I.**

- (1) A complaint by any person that another person—
- has discriminated against him ^{F13}, or subjected him to harassment,] in a way which is unlawful under this Part, or
 - is, by virtue of section 57 or 58, to be treated as having ^{F14}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 ^{F15}(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—
- making a declaration as to the rights of the complainant and the respondent in relation to the matters to which the complaint relates;
 - ordering the respondent to pay compensation to the complainant;
 - 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.

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Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995, Section 17A. (See end of Document for details)

- [^{F16}(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).
- (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.
- [^{F17}(7) Regulations may modify the operation of any order made under Article 16 of the Industrial Tribunals (Northern Ireland) Order 1996 ^{F18} (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

- E2** 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

- F12** [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)**
- F13** 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)**
- F14** 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)**
- F15** [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)**
- F16** [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)**

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F17 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)**

F18 S.I. 1996/1921 (N.I. 18)

Commencement Information

I1 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**

Status:

Point in time view as at 16/07/2001. This version of this provision is not valid for this point in time.

Changes to legislation:

There are currently no known outstanding effects for the Disability Discrimination Act 1995, Section 17A.