



Disability Discrimination Act 1995

1995 CHAPTER 50

PART I

DISABILITY

3 Guidance. **E+W+S**

[^{F1}(A1) The Secretary of State may issue guidance about matters to be taken into account in determining whether a person is a disabled person.]

(1) [^{F2}Without prejudice to the generality of subsection (A1),]the Secretary of State may [^{F2}, in particular,] issue guidance about the matters to be taken into account in determining—

- (a) whether an impairment has a substantial adverse effect on a person's ability to carry out normal day-to-day activities; or
- (b) whether such an impairment has a long-term effect.

(2) [^{F3}Without prejudice to the generality of subsection (A1), guidance about the matters mentioned in subsection (1)] may, among other things, give examples of—

- (a) effects which it would be reasonable, in relation to particular activities, to regard for purposes of this Act as substantial adverse effects;
- (b) effects which it would not be reasonable, in relation to particular activities, to regard for such purposes as substantial adverse effects;
- (c) substantial adverse effects which it would be reasonable to regard, for such purposes, as long-term;
- (d) substantial adverse effects which it would not be reasonable to regard, for such purposes, as long-term.

(3) [^{F4}An adjudicating body] determining, for any purpose of this Act, whether [^{F5}a person is a disabled person], shall take into account any guidance which appears to it to be relevant.

[^{F6}(3A) “Adjudicating body” means—

- (a) a court;

Status: Point in time view as at 31/10/2007. There are multiple versions of this provision on screen.

These apply to different geographical extents. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995, Section 3. (See end of Document for details)

- (b) a tribunal; and
 - (c) any other person who, or body which, may decide a claim under Part 4.]
- (4) In preparing a draft of any guidance, the Secretary of State shall consult such persons as he considers appropriate.
 - (5) Where the Secretary of State proposes to issue any guidance, he shall publish a draft of it, consider any representations that are made to him about the draft and, if he thinks it appropriate, modify his proposals in the light of any of those representations.
 - (6) If the Secretary of State decides to proceed with any proposed guidance, he shall lay a draft of it before each House of Parliament.
 - (7) If, within the 40-day period, either House resolves not to approve the draft, the Secretary of State shall take no further steps in relation to the proposed guidance.
 - (8) If no such resolution is made within the 40-day period, the Secretary of State shall issue the guidance in the form of his draft.
 - (9) The guidance shall come into force on such date as the Secretary of State may appoint by order.
 - (10) Subsection (7) does not prevent a new draft of the proposed guidance from being laid before Parliament.
 - (11) The Secretary of State may—
 - (a) from time to time revise the whole or part of any guidance and re-issue it;
 - (b) by order revoke any guidance.
 - (12) In this section—

“40-day period”, in relation to the draft of any proposed guidance, means—

 - (a) if the draft is laid before one House on a day later than the day on which it is laid before the other House, the period of 40 days beginning with the later of the two days, and
 - (b) in any other case, the period of 40 days beginning with the day on which the draft is laid before each House,

no account being taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than 4 days; and

“guidance” means guidance issued by the Secretary of State under this section and includes guidance which has been revised and re-issued.

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.

Textual Amendments

- F1** S. 3(A1) inserted (E.W.S.) (30.6.2005) by [Disability Discrimination Act 2005 \(c. 13\)](#), ss. 19(1), 20(3)-(6), [Sch. 1 para. 3\(2\)](#); S.I. 2005/1676, [art. 2\(1\)\(c\)](#)
- F2** Words in s. 3(1) inserted (E.W.S.) (30.6.2005) by [Disability Discrimination Act 2005 \(c. 13\)](#), ss. 19(1), 20(3)-(6), [Sch. 1 para. 3\(3\)](#); S.I. 2005/1676, [art. 2\(1\)\(c\)](#)

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- F3** Words in s. 3(2) substituted (E.W.S.) (30.6.2005) by Disability Discrimination Act 2005 (c. 13), ss. 19(1), 20(3)-(6), **Sch. 1 para. 3(4)**; S.I. 2005/1676, **art. 2(1)(c)**
- F4** S. 3(3): words substituted for words "A tribunal or court" (E.W.S.) (1.9.2002) by 2001 c. 10, **s. 38(3)** (with s. 43(13)); S.I. 2002/2217, art. 3, **Sch. 1 Pt. 1**
- F5** Words in s. 3(3) substituted (E.W.S.) (5.12.2005) by Disability Discrimination Act 2005 (c. 13), ss. 19(1), 20(3)-(6), **Sch. 1 para. 3(5)**; S.I. 2005/2774, **art. 3(j)**
- F6** S. 3(3A) inserted (E.W.S.) (1.9.2002) by 2001 c. 10, **s. 38(4)** (with s. 43(13)); S.I. 2002/2217, art. 3, **Sch. 1 Pt. 1**

Commencement Information

- I1** S. 3 wholly in force at 30.5.1996; s. 3 not in force at Royal Assent see. s. 70(3); s. 3 in force (E.W.S.) at 17.5.1996 by S.I. 1996/1336, **art. 3(c)**; s. 3 in force (N.I.) at 30.5.1996 by S.R. 1996/219, **art. 3(c)**

3 Guidance. **N.I.**

[^{F7}(A1) The Office may issue guidance about matters to be taken into account in determining whether a person is a disabled person.]

(1) [^{F8}Without prejudice to the generality of subsection (A1), the Office may, in particular,] issue guidance about the matters to be taken into account in determining—

- (a) whether an impairment has a substantial adverse effect on a person's ability to carry out normal day-to-day activities; or
- (b) whether such an impairment has a long-term effect.

(2) [^{F9}Without prejudice to the generality of subsection (A1), guidance about the matters mentioned in subsection (1)] may, among other things, give examples of—

- (a) effects which it would be reasonable, in relation to particular activities, to regard for purposes of this Act as substantial adverse effects;
- (b) effects which it would not be reasonable, in relation to particular activities, to regard for such purposes as substantial adverse effects;
- (c) substantial adverse effects which it would be reasonable to regard, for such purposes, as long-term;
- (d) substantial adverse effects which it would not be reasonable to regard, for such purposes, as long-term.

(3) A tribunal or court determining, for any purpose of this Act [^{F10}or Part III of the 2005 Order], whether [^{F11}a person is a disabled person], shall take into account any guidance which appears to it to be relevant.

[^{F12}(4) In preparing a draft of any guidance, the Department shall consult such persons as it considers appropriate.

(5) Where the Department proposes to issue any guidance, the Department shall publish a draft of it, consider any representations that are made to the Department about the draft and, if the Department thinks it appropriate, modify its proposals in the light of any of those representations.

(6) If the Department decides to proceed with any proposed guidance, the Department shall lay a draft of it before the Assembly.

(7) If, within the statutory period, the Assembly resolves not to approve the draft, the Department shall take no further steps in relation to the proposed guidance.

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- (8) If no such resolution is made within the statutory period, the Department shall issue the guidance in the form of its draft.
- (9) The guidance shall come into force on such date as the Department may by order appoint.
- (10) Subsection (7) does not prevent a new draft of the proposed guidance being laid before the Assembly.
- (11) The Department may—
- (a) from time to time revise the whole or any part of any guidance and re-issue it ;
 - (b) by order revoke any guidance.
- (12) In this section—
- “the Department” means the Department of Economic Development;
- “guidance” means guidance issued by the Department under this section and includes guidance which has been revised and re-issued;
- “statutory period” has the meaning assigned to it by section 41(2) of the Interpretation Act (Northern Ireland) 1954.]

Extent Information

- E2** This version of this provision extends to Northern Ireland only as it has effect by virtue of s. 70(6), Sch. 8 paras. 1, 2 and any subsequent amendments; a separate version has been created for England and Wales and Scotland only

Textual Amendments

- F7** S. 3(A1) inserted (N.I.) (3.7.2006) by [The Disability Discrimination \(Northern Ireland\) Order 2006 \(S.I. 2006/312 \(N.I. 1\)\)](#), arts. 1, 19(1), **Sch. 1 para. 3(2)**; S.R. 2006/289, **art. 2(1)(b)**
- F8** Words in s. 3(1) substituted (N.I.) (3.7.2006) by [The Disability Discrimination \(Northern Ireland\) Order 2006 \(S.I. 2006/312 \(N.I. 1\)\)](#), arts. 1, 19(1), **Sch. 1 para. 3(3)**; S.R. 2006/289, **art. 2(1)(b)**
- F9** Words in s. 3(2) substituted (N.I.) (3.7.2006) by [The Disability Discrimination \(Northern Ireland\) Order 2006 \(S.I. 2006/312 \(N.I. 1\)\)](#), arts. 1, 19(1), **Sch. 1 para. 3(4)**; S.R. 2006/289, **art. 2(1)(b)**
- F10** Words in s. 3(3) inserted (N.I.) (1.9.2005 for certain purposes, otherwise 16.1.2007) by [The Special Educational Needs and Disability \(Northern Ireland\) Order \(S.I. 2005/1117 \(N.I. 6\)\)](#), arts. 1(2)(d) (3)(b), {48(4)}; S.R. 2005/336, **art. 2**, Sch. (as amended (16.1.2007) by S.R. 2007/25, **art. 2**); S.R. 2005/337, **art. 2**, Sch.
- F11** Words in s. 3(3) substituted (N.I.) (31.10.2007) by [The Disability Discrimination \(Northern Ireland\) Order 2006 \(S.I. 2006/312 \(N.I. 1\)\)](#), arts. 1, 19(1), **Sch. 1 para. 3(5)**; S.R. 2007/430, **art. 2(c)**
- F12** S. 3(4)-(12) substituted (N.I.) by virtue of s. 70(6), Sch. 8 para. 2(2) of this Act

Commencement Information

- I1** S. 3 wholly in force at 30.5.1996; s. 3 not in force at Royal Assent see. s. 70(3); s. 3 in force (E.W.S.) at 17.5.1996 by [S.I. 1996/1336, art. 3\(c\)](#); s. 3 in force (N.I.) at 30.5.1996 by [S.R. 1996/219, art. 3\(c\)](#)

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Changes to legislation:

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