



Disability Discrimination Act 1995

1995 CHAPTER 50

PART II

EMPLOYMENT

^{F1} Enforcement etc.

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—
 - (a) require a person to do anything which would contravene any provision of, or made under, this Part;
 - (b) exclude or limit the operation of any provision of this Part; or
 - (c) 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) a conciliation officer has acted under [^{F2}section 18 of [^{F3}the Employment Tribunals Act 1996]] in relation to the matter; or
 - (b) the conditions set out in subsection (3) are satisfied.
- (3) The conditions are that—
 - (a) the complainant must have received [^{F4}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);
 - (b) when the adviser gave the advice there must have been in force a [^{F5}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

Status: Point in time view as at 01/08/1998. 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 This version of this provision has been superseded.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 9. (See end of Document for details)

- (c) the agreement must be in writing, relate to the particular complaint, identify the adviser and state that the conditions are satisfied.

- [^{F6}(4) A person is a relevant independent adviser for the purposes of subsection (3)(a)—
- (a) if he is a qualified lawyer,
 - (b) 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,
 - (c) 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
 - (d) if he is a person of a description specified in an order made by the Secretary of State.

- ^{F6}(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.

- ^{F6}(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 ^{M1}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.

- ^{F6}(4C) In subsection (4)(b) “independent trade union” has the same meaning as in the ^{M2}Trade Union and Labour Relations (Consolidation) Act 1992.

- ^{F6}(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.]

- [^{F7}(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 ^{M3}Trade Union and Labour Relations (Consolidation) Act 1992, and
 - (ii) the agreement is to submit it to arbitration in accordance with the scheme, but

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- (b) shall be regarded as neither being nor including such an agreement in any other case.]

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

- F2** 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)
- F3** Words in s. 9(2)(a) 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**
- F4** 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**
- F5** 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**
- F6** 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**
- F7** S. 9(6) added (E.W.S.) (1.8.1998) by 1998 c. 8, s. 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 independent legal advice from a qualified lawyer 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 policy of insurance covering the risk of a claim by the complainant in respect of loss arising in consequence of the advice; and

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- (c) the agreement must be in writing, relate to the particular complaint, identify the adviser and state that the conditions are satisfied.

- (4) In this section—

“independent”, in relation to legal advice to the complainant, means that it is given by a lawyer who is not acting for the other party or for a person who is connected with that other party; and

“qualified lawyer” means—

- (a) as respects proceedings in England and Wales, a barrister (whether in practice as such or employed to give legal advice) or a solicitor of the Supreme Court who holds a practising certificate; and
- (b) as respects proceedings in Scotland, an advocate (whether in practice as such or employed to give legal advice) or a solicitor who holds a practising certificate.

- (5) For the purposes of subsection (4), any two persons are to be treated as connected if—

- (a) one is a company of which the other (directly or indirectly) has control, or
- (b) both are companies of which a third person (directly or indirectly) has control.

Extent Information

- E2** 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

Status:

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Changes to legislation:

There are currently no known outstanding effects for the Disability Discrimination Act 1995, Section 9.