



# Disability Discrimination Act 1995

## 1995 CHAPTER 50

### PART II

#### EMPLOYMENT

##### *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 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.

### **13 Discrimination by trade organisations**

(1) It is unlawful for a trade organisation to discriminate against a disabled person—

- (a) in the terms on which it is prepared to admit him to membership of the organisation; or
- (b) 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—

- (a) in the way it affords him access to any benefits or by refusing or deliberately omitting to afford him access to them;
- (b) by depriving him of membership, or varying the terms on which he is a member; or
- (c) by subjecting him to any other detriment.

(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.

## **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;

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*Status: This is the original version (as it was originally enacted).*

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- (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.
- (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.