



Disability Discrimination Act 1995

1995 CHAPTER 50

PART VIII

MISCELLANEOUS

60 Appointment by Secretary of State of advisers

- (1) The Secretary of State may appoint such persons as he thinks fit to advise or assist him in connection with matters relating to the employment of disabled persons and persons who have had a disability.
- (2) Persons may be appointed by the Secretary of State to act generally or in relation to a particular area or locality.
- (3) The Secretary of State may pay to any person appointed under this section such allowances and compensation for loss of earnings as he considers appropriate.
- (4) The approval of the Treasury is required for any payment under this section.
- (5) In subsection (1) “employment” includes self-employment.
- (6) The Secretary of State may by order—
 - (a) provide for section 17 of, and Schedule 2 to, the Disabled Persons (Employment) Act 1944 (national advisory council and district advisory committees) to cease to have effect—
 - (i) so far as concerns the national advisory council; or
 - (ii) so far as concerns district advisory committees; or
 - (b) repeal that section and Schedule.
- (7) At any time before the coming into force of an order under paragraph (b) of subsection (6), section 17 of the Act of 1944 shall have effect as if in subsection (1), after “disabled persons” in each case there were inserted “, and persons who have had a disability,” and as if at the end of the section there were added—
 - “(3) For the purposes of this section—

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- (a) a person is a disabled person if he is a disabled person for the purposes of the Disability Discrimination Act 1995; and
 - (b) “disability” has the same meaning as in that Act.”
- (8) At any time before the coming into force of an order under paragraph (a)(i) or (b) of subsection (6), section 16 of the Chronically Sick and Disabled Persons Act 1970 (which extends the functions of the national advisory council) shall have effect as if after “disabled persons” in each case there were inserted “, and persons who have had a disability,” and as if at the end of the section there were added—

“(2) For the purposes of this section—

- (a) a person is a disabled person if he is a disabled person for the purposes of the Disability Discrimination Act 1995; and
- (b) “disability” has the same meaning as in that Act.”

61 Amendment of Disabled Persons (Employment) Act 1944

- (1) Section 15 of the Disabled Persons (Employment) Act 1944 (which gives the Secretary of State power to make arrangements for the provision of supported employment) is amended as set out in subsections (2) to (5).
- (2) In subsection (1)—
- (a) for “persons registered as handicapped by disablement” substitute “disabled persons”;
 - (b) for “their disablement” substitute “their disability”; and
 - (c) for “are not subject to disablement” substitute “do not have a disability”.
- (3) In subsection (2), for the words from “any of one or more companies” to “so required and prohibited” substitute “any company, association or body”.
- (4) After subsection (2) insert—
- “(2A) The only kind of company which the Minister himself may form in exercising his powers under this section is a company which is—
- (a) required by its constitution to apply its profits, if any, or other income in promoting its objects; and
 - (b) prohibited by its constitution from paying any dividend to its members.”
- (5) After subsection (5) insert—
- “(5A) For the purposes of this section—
- (a) a person is a disabled person if he is a disabled person for the purposes of the Disability Discrimination Act 1995; and
 - (b) “disability” has the same meaning as in that Act.”
- (6) The provisions of section 16 (preference to be given under section 15 of that Act to ex-service men and women) shall become subsection (1) of that section and at the end insert—

“and whose disability is due to that service.

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- (2) For the purposes of subsection (1) of this section, a disabled person's disability shall be treated as due to service of a particular kind only in such circumstances as may be prescribed."
- (7) The following provisions of the Act of 1944 shall cease to have effect—
- (a) section 1 (definition of "disabled person");
 - (b) sections 6 to 8 (the register of disabled persons);
 - (c) sections 9 to 11 (obligations on employers with substantial staffs to employ a quota of registered persons);
 - (d) section 12 (the designated employment scheme for persons registered as handicapped by disablement);
 - (e) section 13 (interpretation of provisions repealed by this Act);
 - (f) section 14 (records to be kept by employers);
 - (g) section 19 (proceedings in relation to offences); and
 - (h) section 21 (application as respects place of employment, and nationality).
- (8) Any provision of subordinate legislation in which "disabled person" is defined by reference to the Act of 1944 shall be construed as if that expression had the same meaning as in this Act.
- (9) Subsection (8) does not prevent the further amendment of any such provision by subordinate legislation.

62 Restriction of publicity: industrial tribunals

- (1) This section applies to proceedings on a complaint under section 8 in which evidence of a personal nature is likely to be heard by the industrial tribunal hearing the complaint.
- (2) The power of the Secretary of State to make regulations with respect to the procedure of industrial tribunals includes power to make provision in relation to proceedings to which this section applies for—
- (a) enabling an industrial tribunal, on the application of the complainant or of its own motion, to make a restricted reporting order having effect (if not revoked earlier) until the promulgation of the tribunal's decision; and
 - (b) where a restricted reporting order is made in relation to a complaint which is being dealt with by the tribunal together with any other proceedings, enabling the tribunal to direct that the order is to apply also in relation to those other proceedings or such part of them as the tribunal may direct.
- (3) If any identifying matter is published or included in a relevant programme in contravention of a restricted reporting order—
- (a) in the case of publication in a newspaper or periodical, any proprietor, any editor and any publisher of the newspaper or periodical,
 - (b) in the case of publication in any other form, the person publishing the matter, and
 - (c) in the case of matter included in a relevant programme—
 - (i) any body corporate engaged in providing the service in which the programme is included, and
 - (ii) any person having functions in relation to the programme corresponding to those of an editor of a newspaper,

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shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

- (4) Where a person is charged with an offence under subsection (3), it is a defence to prove that at the time of the alleged offence—
- (a) he was not aware, and
 - (b) he neither suspected nor had reason to suspect,
- that the publication or programme in question was of, or included, the matter in question.
- (5) Where an offence under subsection (3) committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
- (a) a director, manager, secretary or other similar officer of the body corporate, or
 - (b) a person purporting to act in any such capacity,
- he as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.
- (6) In relation to a body corporate whose affairs are managed by its members “director”, in subsection (5), means a member of the body corporate.
- (7) In this section—
- “evidence of a personal nature” means any evidence of a medical, or other intimate, nature which might reasonably be assumed to be likely to cause significant embarrassment to the complainant if reported;
- “identifying matter” means any matter likely to lead members of the public to identify the complainant or such other persons (if any) as may be named in the order;
- “promulgation” has such meaning as may be prescribed by the regulations;
- “relevant programme” means a programme included in a programme service, within the meaning of the Broadcasting Act 1990;
- “restricted reporting order” means an order—
- (a) made in exercise of the power conferred by regulations made by virtue of this section; and
 - (b) prohibiting the publication in Great Britain of identifying matter in a written publication available to the public or its inclusion in a relevant programme for reception in Great Britain; and
- “written publication” includes a film, a soundtrack and any other record in permanent form but does not include an indictment or other document prepared for use in particular legal proceedings.

63 Restriction of publicity: Employment Appeal Tribunal

- (1) This section applies to proceedings—
- (a) on an appeal against a decision of an industrial tribunal to make, or not to make, a restricted reporting order, or
 - (b) on an appeal against any interlocutory decision of an industrial tribunal in proceedings in which the industrial tribunal has made a restricted reporting order which it has not revoked.

- (2) The power of the Lord Chancellor to make rules with respect to the procedure of the Employment Appeal Tribunal includes power to make provision in relation to proceedings to which this section applies for—
- (a) enabling the Tribunal, on the application of the complainant or of its own motion, to make a restricted reporting order having effect (if not revoked earlier) until the promulgation of the Tribunal’s decision; and
 - (b) where a restricted reporting order is made in relation to an appeal which is being dealt with by the Tribunal together with any other proceedings, enabling the Tribunal to direct that the order is to apply also in relation to those other proceedings or such part of them as the Tribunal may direct.
- (3) Subsections (3) to (6) of section 62 apply in relation to a restricted reporting order made by the Tribunal as they apply in relation to one made by an industrial tribunal.
- (4) In subsection (1), “restricted reporting order” means an order which is a restricted reporting order for the purposes of section 62.
- (5) In subsection (2), “restricted reporting order” means an order—
- (a) made in exercise of the power conferred by rules made by virtue of this section; and
 - (b) prohibiting the publication in Great Britain of identifying matter in a written publication available to the public or its inclusion in a relevant programme for reception in Great Britain.
- (6) In this section—
- “complainant” means the person who made the complaint to which the proceedings before the Tribunal relate;
 - “identifying matter”, “written publication” and “relevant programme” have the same meaning as in section 62; and
 - “promulgation” has such meaning as may be prescribed by the rules.

64 Application to Crown etc

- (1) This Act applies—
- (a) to an act done by or for purposes of a Minister of the Crown or government department, or
 - (b) to an act done on behalf of the Crown by a statutory body, or a person holding a statutory office,
- as it applies to an act done by a private person.
- (2) Subject to subsection (5), Part II applies to service—
- (a) for purposes of a Minister of the Crown or government department, other than service of a person holding a statutory office, or
 - (b) on behalf of the Crown for purposes of a person holding a statutory office or purposes of a statutory body,
- as it applies to employment by a private person.
- (3) The provisions of Parts II to IV of the 1947 Act apply to proceedings against the Crown under this Act as they apply to Crown proceedings in England and Wales; but section 20 of that Act (removal of proceedings from county court to High Court) does not apply.

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- (4) The provisions of Part V of the 1947 Act apply to proceedings against the Crown under this Act as they apply to proceedings in Scotland which by virtue of that Part are treated as civil proceedings by or against the Crown; but the proviso to section 44 of that Act (removal of proceedings from the sheriff court to the Court of Session) does not apply.
- (5) Part II does not apply to service—
- (a) as a member of the Ministry of Defence Police, the British Transport Police, the Royal Parks Constabulary or the United Kingdom Atomic Energy Authority Constabulary;
 - (b) as a prison officer; or
 - (c) for purposes of a Minister of the Crown or government department having functions with respect to defence as a person who is or may be required by his terms of service to engage in fire fighting.
- (6) Part II does not apply to service as a member of a fire brigade who is or may be required by his terms of service to engage in fire fighting.
- (7) It is hereby declared (for the avoidance of doubt) that Part II does not apply to service in any of the naval, military or air forces of the Crown.
- (8) In this section—
- “the 1947 Act” means the Crown Proceedings Act 1947;
- “British Transport Police” means the constables appointed, or deemed to have been appointed, under section 53 of the British Transport Commission Act 1949;
- “Crown proceedings” means proceedings which, by virtue of section 23 of the 1947 Act, are treated for the purposes of Part II of that Act as civil proceedings by or against the Crown;
- “fire brigade” means a fire brigade maintained in pursuance of the Fire Services Act 1947;
- “Ministry of Defence Police” means the force established under section 1 of the Ministry of Defence Police Act 1987;
- “prison officer” means a person who is a prison officer within the meaning of section 127 of the Criminal Justice and Public Order Act 1994, apart from those who are custody officers within the meaning of Part I of that Act;
- “Royal Parks Constabulary” means the park constables appointed under the Parks Regulation Act 1872;
- “service for purposes of a Minister of the Crown or government department” does not include service in any office for the time being mentioned in Schedule 2 (Ministerial offices) to the House of Commons Disqualification Act 1975;
- “statutory body” means a body set up by or under an enactment;
- “statutory office” means an office so set up; and
- “United Kingdom Atomic Energy Authority Constabulary” means the special constables appointed under section 3 of the Special Constables Act 1923 on the nomination of the United Kingdom Atomic Energy Authority.

65 Application to Parliament

- (1) This Act applies to an act done by or for purposes of the House of Lords or the House of Commons as it applies to an act done by a private person.
- (2) For the purposes of the application of Part II in relation to the House of Commons, the Corporate Officer of that House shall be treated as the employer of a person who is (or would be) a relevant member of the House of Commons staff for the purposes of section 139 of the Employment Protection (Consolidation) Act 1978.
- (3) Except as provided in subsection (4), for the purposes of the application of sections 19 to 21, the provider of services is—
 - (a) as respects the House of Lords, the Corporate Officer of that House; and
 - (b) as respects the House of Commons, the Corporate Officer of that House.
- (4) Where the service in question is access to and use of any place in the Palace of Westminster which members of the public are permitted to enter, the Corporate Officers of both Houses jointly are the provider of that service.
- (5) Nothing in any rule of law or the law or practice of Parliament prevents proceedings being instituted before an industrial tribunal under Part II or before any court under Part III.

66 Government appointments outside Part II

- (1) Subject to regulations under subsection (3), this section applies to any appointment made by a Minister of the Crown or government department to an office or post where Part II does not apply in relation to the appointment.
- (2) In making the appointment, and in making arrangements for determining to whom the office or post should be offered, the Minister of the Crown or government department shall not act in a way which would contravene Part II if he or the department were the employer for the purposes of this Act.
- (3) Regulations may provide for this section not to apply to such appointments as may be prescribed.

67 Regulations and orders

- (1) Any power under this Act to make regulations or orders shall be exercisable by statutory instrument.
- (2) Any such power may be exercised to make different provision for different cases, including different provision for different areas or localities.
- (3) Any such power includes power—
 - (a) to make such incidental, supplemental, consequential or transitional provision as appears to the Secretary of State to be expedient; and
 - (b) to provide for a person to exercise a discretion in dealing with any matter.
- (4) No order shall be made under section 50(3) unless a draft of the statutory instrument containing the order has been laid before Parliament and approved by a resolution of each House.

- (5) Any other statutory instrument made under this Act, other than one made under section 3(9), 52(8), 54(6) or 70(3), shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) Subsection (1) does not require an order under section 43 which applies only to a specified vehicle, or to vehicles of a specified person, to be made by statutory instrument but such an order shall be as capable of being amended or revoked as an order which is made by statutory instrument.
- (7) Nothing in section 34(4), 40(6) or 46(5) affects the powers conferred by subsections (2) and (3).

68 Interpretation

(1) In this Act—

“accessibility certificate” means a certificate issued under section 41(1)(a);

“act” includes a deliberate omission;

“approval certificate” means a certificate issued under section 42(4);

“benefits”, in Part II, has the meaning given in section 4(4);

“conciliation officer” means a person designated under section 211 of the Trade Union and Labour Relations (Consolidation) Act 1992;

“employment” means, subject to any prescribed provision, employment under a contract of service or of apprenticeship or a contract personally to do any work, and related expressions are to be construed accordingly;

“employment at an establishment in Great Britain” is to be construed in accordance with subsections (2) to (5);

“enactment” includes subordinate legislation and any Order in Council;

“licensing authority” means—

(a) in relation to the area to which the Metropolitan Public Carriage Act 1869 applies, the Secretary of State or the holder of any office for the time being designated by the Secretary of State; or

(b) in relation to any other area in England and Wales, the authority responsible for licensing taxis in that area;

“mental impairment” does not have the same meaning as in the Mental Health Act 1983 or the Mental Health (Scotland) Act 1984 but the fact that an impairment would be a mental impairment for the purposes of either of those Acts does not prevent it from being a mental impairment for the purposes of this Act;

“Minister of the Crown” includes the Treasury;

“occupational pension scheme” has the same meaning as in the Pension Schemes Act 1993;

“premises” includes land of any description;

“prescribed” means prescribed by regulations;

“profession” includes any vocation or occupation;

“provider of services” has the meaning given in section 19(2)(b);

“public service vehicle” and “regulated public service vehicle” have the meaning given in section 40;

“PSV accessibility regulations” means regulations made under section 40(1);

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“rail vehicle” and “regulated rail vehicle” have the meaning given in section 46;

“rail vehicle accessibility regulations” means regulations made under section 46(1);

“regulations” means regulations made by the Secretary of State;

“section 6 duty” means any duty imposed by or under section 6;

“section 15 duty” means any duty imposed by or under section 15;

“section 21 duty” means any duty imposed by or under section 21;

“subordinate legislation” has the same meaning as in section 21 of the Interpretation Act 1978;

“taxi” and “regulated taxi” have the meaning given in section 32;

“taxi accessibility regulations” means regulations made under section 32(1);

“trade” includes any business;

“trade organisation” has the meaning given in section 13;

“vehicle examiner” means an examiner appointed under section 66A of the Road Traffic Act 1988.

- (2) Where an employee does his work wholly or mainly outside Great Britain, his employment is not to be treated as being work at an establishment in Great Britain even if he does some of his work at such an establishment.
- (3) Except in prescribed cases, employment on board a ship, aircraft or hovercraft is to be regarded as not being employment at an establishment in Great Britain.
- (4) Employment of a prescribed kind, or in prescribed circumstances, is to be regarded as not being employment at an establishment in Great Britain.
- (5) Where work is not done at an establishment it shall be treated as done—
 - (a) at the establishment from which it is done; or
 - (b) where it is not done from any establishment, at the establishment with which it has the closest connection.

69 Financial provisions

There shall be paid out of money provided by Parliament—

- (a) any expenditure incurred by a Minister of the Crown under this Act;
- (b) any increase attributable to this Act in the sums payable out of money so provided under or by virtue of any other enactment.

70 Short title, commencement, extent etc

- (1) This Act may be cited as the Disability Discrimination Act 1995.
- (2) This section (apart from subsections (4), (5) and (7)) comes into force on the passing of this Act.
- (3) The other provisions of this Act come into force on such day as the Secretary of State may by order appoint and different days may be appointed for different purposes.
- (4) Schedule 6 makes consequential amendments.

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- (5) The repeals set out in Schedule 7 shall have effect.
- (6) This Act extends to Northern Ireland, but in their application to Northern Ireland the provisions of this Act mentioned in Schedule 8 shall have effect subject to the modifications set out in that Schedule.
- (7) In Part II of Schedule 1 to the House of Commons Disqualification Act 1975 and in Part II of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies whose members are disqualified) in each case insert at the appropriate places—
- “The National Disability Council.”
- “The Northern Ireland Disability Council.”
- (8) Consultations which are required by any provision of this Act to be held by the Secretary of State may be held by him before the coming into force of that provision.