



# Disability Discrimination Act 1995

## 1995 CHAPTER 50

### PART III

#### DISCRIMINATION IN OTHER AREAS

##### *Goods, facilities and services*

#### **19 Discrimination in relation to goods, facilities and services**

- (1) It is unlawful for a provider of services to discriminate against a disabled person—
  - (a) in refusing to provide, or deliberately not providing, to the disabled person any service which he provides, or is prepared to provide, to members of the public;
  - (b) in failing to comply with any duty imposed on him by section 21 in circumstances in which the effect of that failure is to make it impossible or unreasonably difficult for the disabled person to make use of any such service;
  - (c) in the standard of service which he provides to the disabled person or the manner in which he provides it to him; or
  - (d) in the terms on which he provides a service to the disabled person.
- (2) For the purposes of this section and sections 20 and 21—
  - (a) the provision of services includes the provision of any goods or facilities;
  - (b) a person is “a provider of services” if he is concerned with the provision, in the United Kingdom, of services to the public or to a section of the public; and
  - (c) it is irrelevant whether a service is provided on payment or without payment.
- (3) The following are examples of services to which this section and sections 20 and 21 apply—
  - (a) access to and use of any place which members of the public are permitted to enter;
  - (b) access to and use of means of communication;
  - (c) access to and use of information services;

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- (d) accommodation in a hotel, boarding house or other similar establishment;
  - (e) facilities by way of banking or insurance or for grants, loans, credit or finance;
  - (f) facilities for entertainment, recreation or refreshment;
  - (g) facilities provided by employment agencies or under section 2 of the Employment and Training Act 1973;
  - (h) the services of any profession or trade, or any local or other public authority.
- (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) Except in such circumstances as may be prescribed, this section and sections 20 and 21 do not apply to—
- (a) education which is funded, or secured, by a relevant body or provided at—
    - (i) an establishment which is funded by such a body or by a Minister of the Crown; or
    - (ii) any other establishment which is a school as defined in section 14(5) of the Further and Higher Education Act 1992 or section 135(1) of the Education (Scotland) Act 1980;
  - (b) any service so far as it consists of the use of any means of transport; or
  - (c) such other services as may be prescribed.
- (6) In subsection (5) “relevant body” means—
- (a) a local education authority in England and Wales;
  - (b) an education authority in Scotland;
  - (c) the Funding Agency for Schools;
  - (d) the Schools Funding Council for Wales;
  - (e) the Further Education Funding Council for England;
  - (f) the Further Education Funding Council for Wales;
  - (g) the Higher Education Funding Council for England;
  - (h) the Scottish Higher Education Funding Council;
  - (i) the Higher Education Funding Council for Wales;
  - (j) the Teacher Training Agency;
  - (k) a voluntary organisation; or
  - (l) a body of a prescribed kind.

## **20 Meaning of “discrimination”**

- (1) For the purposes of section 19, a provider of services discriminates against a disabled person if—
- (a) for a reason which relates to the disabled person’s disability, he treats him less favourably than he treats or would treat others to whom that reason does not or would not apply; and
  - (b) he cannot show that the treatment in question is justified.
- (2) For the purposes of section 19, a provider of services also discriminates against a disabled person if—
- (a) he fails to comply with a section 21 duty imposed on him in relation to the disabled person; and
  - (b) he cannot show that his failure to comply with that duty is justified.

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- (3) For the purposes of this section, treatment is justified only if—
- (a) in the opinion of the provider of services, one or more of the conditions mentioned in subsection (4) are satisfied; and
  - (b) it is reasonable, in all the circumstances of the case, for him to hold that opinion.
- (4) The conditions are that—
- (a) in any case, the treatment is necessary in order not to endanger the health or safety of any person (which may include that of the disabled person);
  - (b) in any case, the disabled person is incapable of entering into an enforceable agreement, or of giving an informed consent, and for that reason the treatment is reasonable in that case;
  - (c) in a case falling within section 19(1)(a), the treatment is necessary because the provider of services would otherwise be unable to provide the service to members of the public;
  - (d) in a case falling within section 19(1)(c) or (d), the treatment is necessary in order for the provider of services to be able to provide the service to the disabled person or to other members of the public;
  - (e) in a case falling within section 19(1)(d), the difference in the terms on which the service is provided to the disabled person and those on which it is provided to other members of the public reflects the greater cost to the provider of services in providing the service to the disabled person.
- (5) Any increase in the cost of providing a service to a disabled person which results from compliance by a provider of services with a section 21 duty shall be disregarded for the purposes of subsection (4)(e).
- (6) Regulations may make provision, for purposes of this section, as to circumstances in which—
- (a) it is reasonable for a provider of services to hold the opinion mentioned in subsection (3)(a);
  - (b) it is not reasonable for a provider of services to hold that opinion.
- (7) Regulations may make provision for subsection (4)(b) not to apply in prescribed circumstances where—
- (a) a person is acting for a disabled person under a power of attorney;
  - (b) functions conferred by or under Part VII of the Mental Health Act 1983 are exercisable in relation to a disabled person's property or affairs; or
  - (c) powers are exercisable in Scotland in relation to a disabled person's property or affairs in consequence of the appointment of a curator bonis, tutor or judicial factor.
- (8) Regulations may make provision, for purposes of this section, as to circumstances (other than those mentioned in subsection (4)) in which treatment is to be taken to be justified.
- (9) In subsections (3), (4) and (8) “treatment” includes failure to comply with a section 21 duty.

## **21 Duty of providers of services to make adjustments**

- (1) Where a provider of services has a practice, policy or procedure which makes it impossible or unreasonably difficult for disabled persons to make use of a service which he provides, or is prepared to provide, to other members of the public, it is his duty to take such steps as it is reasonable, in all the circumstances of the case, for him to have to take in order to change that practice, policy or procedure so that it no longer has that effect.
- (2) Where a physical feature (for example, one arising from the design or construction of a building or the approach or access to premises) makes it impossible or unreasonably difficult for disabled persons to make use of such a service, it is the duty of the provider of that service to take such steps as it is reasonable, in all the circumstances of the case, for him to have to take in order to—
  - (a) remove the feature;
  - (b) alter it so that it no longer has that effect;
  - (c) provide a reasonable means of avoiding the feature; or
  - (d) provide a reasonable alternative method of making the service in question available to disabled persons.
- (3) Regulations may prescribe—
  - (a) matters which are to be taken into account in determining whether any provision of a kind mentioned in subsection (2)(c) or (d) is reasonable; and
  - (b) categories of providers of services to whom subsection (2) does not apply.
- (4) Where an auxiliary aid or service (for example, the provision of information on audio tape or of a sign language interpreter) would—
  - (a) enable disabled persons to make use of a service which a provider of services provides, or is prepared to provide, to members of the public, or
  - (b) facilitate the use by disabled persons of such a service,it is the duty of the provider of that service to take such steps as it is reasonable, in all the circumstances of the case, for him to have to take in order to provide that auxiliary aid or service.
- (5) Regulations may make provision, for the purposes of this section—
  - (a) as to circumstances in which it is reasonable for a provider of services to have to take steps of a prescribed description;
  - (b) as to circumstances in which it is not reasonable for a provider of services to have to take steps of a prescribed description;
  - (c) as to what is to be included within the meaning of “practice, policy or procedure”;
  - (d) as to what is not to be included within the meaning of that expression;
  - (e) as to things which are to be treated as physical features;
  - (f) as to things which are not to be treated as such features;
  - (g) as to things which are to be treated as auxiliary aids or services;
  - (h) as to things which are not to be treated as auxiliary aids or services.
- (6) Nothing in this section requires a provider of services to take any steps which would fundamentally alter the nature of the service in question or the nature of his trade, profession or business.

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- (7) Nothing in this section requires a provider of services to take any steps which would cause him to incur expenditure exceeding the prescribed maximum.
- (8) Regulations under subsection (7) may provide for the prescribed maximum to be calculated by reference to—
  - (a) aggregate amounts of expenditure incurred in relation to different cases;
  - (b) prescribed periods;
  - (c) services of a prescribed description;
  - (d) premises of a prescribed description; or
  - (e) such other criteria as may be prescribed.
- (9) Regulations may provide, for the purposes of subsection (7), for expenditure incurred by one provider of services to be treated as incurred by another.
- (10) This section imposes duties only for the purpose of determining whether a provider of services has discriminated against a disabled person; and accordingly a breach of any such duty is not actionable as such.

### *Premises*

## **22 Discrimination in relation to premises**

- (1) It is unlawful for a person with power to dispose of any premises to discriminate against a disabled person—
  - (a) in the terms on which he offers to dispose of those premises to the disabled person;
  - (b) by refusing to dispose of those premises to the disabled person; or
  - (c) in his treatment of the disabled person in relation to any list of persons in need of premises of that description.
- (2) Subsection (1) does not apply to a person who owns an estate or interest in the premises and wholly occupies them unless, for the purpose of disposing of the premises, he—
  - (a) uses the services of an estate agent, or
  - (b) publishes an advertisement or causes an advertisement to be published.
- (3) It is unlawful for a person managing any premises to discriminate against a disabled person occupying those premises—
  - (a) in the way he permits the disabled person to make use of any benefits or facilities;
  - (b) by refusing or deliberately omitting to permit the disabled person to make use of any benefits or facilities; or
  - (c) by evicting the disabled person, or subjecting him to any other detriment.
- (4) It is unlawful for any person whose licence or consent is required for the disposal of any premises comprised in, or (in Scotland) the subject of, a tenancy to discriminate against a disabled person by withholding his licence or consent for the disposal of the premises to the disabled person.
- (5) Subsection (4) applies to tenancies created before as well as after the passing of this Act.
- (6) In this section—

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“advertisement” includes every form of advertisement or notice, whether to the public or not;

“dispose”, in relation to premises, includes granting a right to occupy the premises, and, in relation to premises comprised in, or (in Scotland) the subject of, a tenancy, includes—

- (a) assigning the tenancy, and
- (b) sub-letting or parting with possession of the premises or any part of the premises;

and “disposal” shall be construed accordingly;

“estate agent” means a person who, by way of profession or trade, provides services for the purpose of finding premises for persons seeking to acquire them or assisting in the disposal of premises; and

“tenancy” means a tenancy created—

- (a) by a lease or sub-lease,
- (b) by an agreement for a lease or sub-lease,
- (c) by a tenancy agreement, or
- (d) in pursuance of any enactment.

- (7) 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.
- (8) This section applies only in relation to premises in the United Kingdom.

## **23 Exemption for small dwellings**

- (1) Where the conditions mentioned in subsection (2) are satisfied, subsection (1), (3) or (as the case may be) (4) of section 22 does not apply.
- (2) The conditions are that—
  - (a) the relevant occupier resides, and intends to continue to reside, on the premises;
  - (b) the relevant occupier shares accommodation on the premises with persons who reside on the premises and are not members of his household;
  - (c) the shared accommodation is not storage accommodation or a means of access; and
  - (d) the premises are small premises.
- (3) For the purposes of this section, premises are “small premises” if they fall within subsection (4) or (5).
- (4) Premises fall within this subsection if—
  - (a) only the relevant occupier and members of his household reside in the accommodation occupied by him;
  - (b) the premises comprise, in addition to the accommodation occupied by the relevant occupier, residential accommodation for at least one other household;
  - (c) the residential accommodation for each other household is let, or available for letting, on a separate tenancy or similar agreement; and
  - (d) there are not normally more than two such other households.

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- (5) Premises fall within this subsection if there is not normally residential accommodation on the premises for more than six persons in addition to the relevant occupier and any members of his household.
- (6) For the purposes of this section “the relevant occupier” means—
- (a) in a case falling within section 22(1), the person with power to dispose of the premises, or a near relative of his;
  - (b) in a case falling within section 22(4), the person whose licence or consent is required for the disposal of the premises, or a near relative of his.
- (7) For the purposes of this section—
- “near relative” means a person’s spouse, partner, parent, child, grandparent, grandchild, or brother or sister (whether of full or half blood or by affinity); and
  - “partner” means the other member of a couple consisting of a man and a woman who are not married to each other but are living together as husband and wife.

## **24 Meaning of “discrimination”**

- (1) For the purposes of section 22, a person (“A”) discriminates against a disabled person if—
- (a) for a reason which relates to the disabled person’s disability, he treats him less favourably than he treats or would treat others to whom that reason does not or would not apply; and
  - (b) he cannot show that the treatment in question is justified.
- (2) For the purposes of this section, treatment is justified only if—
- (a) in A’s opinion, one or more of the conditions mentioned in subsection (3) are satisfied; and
  - (b) it is reasonable, in all the circumstances of the case, for him to hold that opinion.
- (3) The conditions are that—
- (a) in any case, the treatment is necessary in order not to endanger the health or safety of any person (which may include that of the disabled person);
  - (b) in any case, the disabled person is incapable of entering into an enforceable agreement, or of giving an informed consent, and for that reason the treatment is reasonable in that case;
  - (c) in a case falling within section 22(3)(a), the treatment is necessary in order for the disabled person or the occupiers of other premises forming part of the building to make use of the benefit or facility;
  - (d) in a case falling within section 22(3)(b), the treatment is necessary in order for the occupiers of other premises forming part of the building to make use of the benefit or facility.
- (4) Regulations may make provision, for purposes of this section, as to circumstances in which—
- (a) it is reasonable for a person to hold the opinion mentioned in subsection 2(a);
  - (b) it is not reasonable for a person to hold that opinion.

- (5) Regulations may make provision, for purposes of this section, as to circumstances (other than those mentioned in subsection (3)) in which treatment is to be taken to be justified.

*Enforcement, etc.*

**25 Enforcement, remedies and procedure**

- (1) A claim by any person that another person—
- (a) has discriminated against him in a way which is unlawful under this Part; or
  - (b) is by virtue of section 57 or 58 to be treated as having discriminated against him in such a way,
- may be made the subject of civil proceedings in the same way as any other claim in tort or (in Scotland) in reparation for breach of statutory duty.
- (2) For the avoidance of doubt it is hereby declared that damages in respect of discrimination in a way which is unlawful under this Part may include compensation for injury to feelings whether or not they include compensation under any other head.
- (3) Proceedings in England and Wales shall be brought only in a county court.
- (4) Proceedings in Scotland shall be brought only in a sheriff court.
- (5) The remedies available in such proceedings are those which are available in the High Court or (as the case may be) the Court of Session.
- (6) Part II of Schedule 3 makes further provision about the enforcement of this Part and about procedure.

**26 Validity and revision of certain agreements**

- (1) Any term in a contract for the provision of goods, facilities or services or in any 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 making a claim under this Part.
- (2) Paragraphs (b) and (c) of subsection (1) do not apply to an agreement settling a claim to which section 25 applies.
- (3) On the application of any person interested in an agreement to which subsection (1) applies, a county court or a sheriff court may make such order as it thinks just for modifying the agreement to take account of the effect of subsection (1).
- (4) No such order shall be made unless all persons affected have been—
- (a) given notice of the application; and
  - (b) afforded an opportunity to make representations to the court.
- (5) Subsection (4) applies subject to any rules of court providing for that notice to be dispensed with.



- (6) An order under subsection (3) may include provision as respects any period before the making of the order.

## **27 Alterations to premises occupied under leases**

- (1) This section applies where—
- (a) a provider of services (“the occupier”) occupies premises under a lease;
  - (b) but for this section, he would not be entitled to make a particular alteration to the premises; and
  - (c) the alteration is one which the occupier proposes to make in order to comply with a section 21 duty.
- (2) Except to the extent to which it expressly so provides, the lease shall have effect by virtue of this subsection as if it provided—
- (a) for the occupier to be entitled to make the alteration with the written consent of the lessor;
  - (b) for the occupier to have to make a written application to the lessor for consent if he wishes to make the alteration;
  - (c) if such an application is made, for the lessor not to withhold his consent unreasonably; and
  - (d) for the lessor to be entitled to make his consent subject to reasonable conditions.
- (3) In this section—
- “lease” includes a tenancy, sub-lease or sub-tenancy and an agreement for a lease, tenancy, sub-lease or sub-tenancy; and
- “sub-lease” and “sub-tenancy” have such meaning as may be prescribed.
- (4) If the terms and conditions of a lease—
- (a) impose conditions which are to apply if the occupier alters the premises, or
  - (b) entitle the lessor to impose conditions when consenting to the occupier’s altering the premises,
- the occupier is to be treated for the purposes of subsection (1) as not being entitled to make the alteration.
- (5) Part II of Schedule 4 supplements the provisions of this section.

## **28 Advice and assistance**

- (1) The Secretary of State may make arrangements for the provision of advice and assistance to persons with a view to promoting the settlement of disputes arising under this Part otherwise than by recourse to the courts.
- (2) Any person appointed by the Secretary of State in connection with arrangements made under subsection (1) shall have such duties as the Secretary of State may direct.
- (3) The Secretary of State may pay to any person so appointed such allowances and compensation for loss of earnings as he considers appropriate.
- (4) The Secretary of State may make such payments, by way of grants, in respect of expenditure incurred, or to be incurred, by any person exercising functions in

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accordance with arrangements made by the Secretary of State under this section as he considers appropriate.

(5) The approval of the Treasury is required for any payment under subsection (3) or (4).