



# Disability Discrimination Act 1995

## 1995 CHAPTER 50

### PART IV

#### EDUCATION

#### [<sup>F1</sup>CHAPTER 1

#### SCHOOLS]

#### *[<sup>F1</sup>Residual duty of education authorities]*

#### Textual Amendments

- F1** Pt. IV Ch. 1: Cross-heading and ss. 28F, 28G inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 16 (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. 1

#### [<sup>F2</sup>28F Duty of education authorities not to discriminate

- (1) This section applies to—
- (a) the functions of a [<sup>F3</sup>local authority] under the Education Acts; and
  - (b) the functions of an education authority under—
    - (i) the Education (Scotland) Act 1980;
    - (ii) the Education (Scotland) Act 1996; <sup>F4</sup> . . .
    - (iii) the Standards in Scotland's Schools etc. Act 2000<sup>F5</sup>; and
    - (iv) the Education (Additional Support for Learning) (Scotland) Act 2004<sup>F6</sup>.
- (2) But it does not apply to any prescribed function.
- (3) In discharging a function to which this section applies, it is unlawful for the authority to discriminate against—

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*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995, Cross Heading: Residual duty of education authorities. (See end of Document for details)*

- (a) a disabled pupil; or
  - (b) a disabled person who may be admitted to a school as a pupil.
- (4) But an act done in the discharge of a function to which this section applies is unlawful as a result of subsection (3) only if no other provision of this Chapter makes that act unlawful.
- (5) 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.
- [<sup>F7</sup>(6) In this section and section 28G, “local authority” has the meaning given by section 579(1) of the Education Act 1996.]
- (7) “The Education Acts” has the meaning given in section 578 of the Education Act 1996.
- (8) In this section and section 28G, “education authority” has the meaning given in section 135(1) of the Education (Scotland) Act 1980.]

#### Textual Amendments

- F2** S. 28F inserted (E.W.S) (1.9.2002) by 2001 c. 10, s. 16 (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. 1
- F3** Words in s. 28F(1)(a) substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, Sch. 2 para. 40(5)(a)
- F4** Word preceding s. 28F(1)(b)(iii) omitted (30.6.2005) by virtue of The Education (Additional Support for Learning) (Scotland) Act 2004 (Consequential Modifications) Order (S.I. 2005/1791), {art. 2(a)}
- F5** S. 28F(1)(b)(iv) and preceding word inserted (30.6.2005) by The Education (Additional Support for Learning) (Scotland) Act 2004 (Consequential Modifications) Order (S.I. 2005/1791), {art. 2(b)}
- F6** 2004 asp 4.
- F7** S. 28F(6) substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, Sch. 2 para. 40(5)(b)

#### [<sup>F8</sup>28G Residual duty: supplementary provisions

- (1) Section 28B applies for the purposes of section 28F as it applies for the purposes of section 28A with the following modifications—
- (a) references to a responsible body are to be read as references to an authority; and
  - (b) references to section 28C are to be read as references to subsections (2) to (4).
- (2) Each authority must take such steps as it is reasonable for it to have to take to ensure that, in discharging any function to which section 28F applies—
- (a) disabled persons who may be admitted to a school as pupils are not placed at a substantial disadvantage in comparison with persons who are not disabled; and
  - (b) disabled pupils are not placed at a substantial disadvantage in comparison with pupils who are not disabled.
- (3) That does not require the authority to—
- (a) remove or alter a physical feature; or
  - (b) provide auxiliary aids or services.

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- (4) This section imposes duties only for the purpose of determining whether an authority has discriminated against a disabled person; and accordingly a breach of any such duty is not actionable as such.
- (5) A reference in sections 28I, 28K(1), 28M(6) and 28P to a responsible body is to be read as including a reference to a [<sup>F9</sup>local authority] in relation to a function to which section 28F applies.
- (6) A reference in section 28N and 28P to a responsible body is to be read as including a reference to an education authority in relation to a function to which section 28F applies.
- (7) “Authority” means—
- (a) in relation to England and Wales, a [<sup>F9</sup>local authority]; and
  - (b) in relation to Scotland, an education authority.]

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#### **Textual Amendments**

- F8** S. 28G inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 16 (with s. 43(13)); S.I. 2002/2217, art. 3, **Sch. 1 Pt. 1**
- F9** Words in s. 28G(5)(7)(a) substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 40(6)**

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