



# Disability Discrimination Act 1995

## 1995 CHAPTER 50

### PART III

#### DISCRIMINATION IN OTHER AREAS

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

#### **20 Meaning of “discrimination”**

- [<sup>F1</sup>(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.
- (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);

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- (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 [<sup>F2</sup>the Mental Capacity Act 2005] are exercisable in relation to a disabled person's property or affairs; or
  - [<sup>F3</sup>(c) powers are exercisable in relation to a disabled person's property or affairs in consequence of the appointment, under the law of Scotland, of a guardian, 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.]

#### Extent Information

- E1** Following the repeal of this Act for E.W.S. by the Equality Act 2010, this section now extends to N.I. only. It is subject to the variations for N.I. set out in Sch. 8 of the Act.

#### Textual Amendments

- F1** Act repealed (E.W.S.) (1.10.2010 (except for the repeal of ss. 49A-49D) and 5.4.2011 in so far as not already in force) by [Equality Act 2010 \(c. 15\)](#), 216(3), Sch. 27 Pt. 1 (as substituted (1.10.2010) by [S.I. 2010/2279](#), [Sch. 2](#)) (with ss. 6(4), 205, and with amendments and savings in the said [S.I. 2010/2279](#), [art. 16](#)); [S.I. 2010/2317](#), [art. 2\(15\)\(f\)](#) (with arts. 4-25, Schs. 1-16); [S.I. 2011/1066](#), [art. 2\(h\)](#)
- F2** Words in [s. 20\(7\)\(b\)](#) substituted (1.10.2007) by [Mental Capacity Act 2005 \(c. 9\)](#), ss. 67(1), 68(1), Sch. 6 {para. 41} (with ss. 27, 28, 29, 62); [S.I. 2007/1897](#), [art. 2\(1\)\(d\)](#)

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- F3** S. 20(7)(c) substituted (E.W.S.) (30.6.2005) by Disability Discrimination Act 2005 (c. 13), ss. 19(1), 20(3)-(6), **Sch. 1 para. 14**; S.I. 2005/1676, **art. 2(1)(c)**

**Modifications etc. (not altering text)**

- C1** S. 20(4)(b) excluded (4.12.2006) by The Disability Discrimination (Service Providers and Public Authorities Carrying Out Functions) Regulations 2005 (S.I. 2005/2901), **reg. 3**
- C2** S. 20(4)(b) excluded (N.I.) (31.12.2007) by The Disability Discrimination (Service Providers and Public Authorities Carrying Out Functions) Regulations (Northern Ireland) 2007 (S.R. 2007/473), **reg. 3**

**Commencement Information**

- II** S. 20 wholly in force at 1.10.1999; s. 20 not in force at Royal Assent see s. 70(3); s. 20(6)(7)(8) in force (E.W.S.) at 6.6.1996 by S.I. 1996/1474, art. 2(1), **Sch. Pt. I**; s. 20(6)(7)(8) in force (N.I.) at 11.7.1996 by S.R. 1996/280, art. 2(1), **Sch. Pt. I**; s. 20(1)(3)(4) in force (E.W.S.) at 2.12.1996 by S.I. 1996/1474, art. 2(3), **Sch. Pt. III**; s. 20(1)(3)(4) in force (N.I.) at 2.12.1996 by S.R. 1996/280, art. 2(2), **Sch. Pt. II**; s. 20(2)(5)(9) in force (E.W.S.) at 1.10.1999 by S.I. 1999/1190, **art. 5(d)(e)(f)**; s. 20(2)(5)(9) in force (N.I.) at 1.10.1999 by S.R. 1999/196, **art. 4(d)-(f)**

**Changes to legislation:**

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