

**2004 No. 2302**

**DISABLED PERSONS**

**The Disability Discrimination Codes of Practice (Employment and Occupation, and Trade Organisations and Qualifications Bodies) Appointed Day Order 2004**

*Made* - - - - *2nd September 2004*

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by sections 53A(6)(a) and 67(2) and (3)(a) of the Disability Discrimination Act 1995(a), and of all other powers enabling him in that behalf, hereby makes the following Order:—

**Citation and interpretation**

1.—(1) This Order may be cited as the Disability Discrimination Codes of Practice (Employment and Occupation, and Trade Organisations and Qualifications Bodies) Appointed Day Order 2004.

(2) In this Order, “the 1995 Act” means the Disability Discrimination Act 1995.

**Appointed Day**

2.—(1) 1<sup>st</sup> October 2004 is the day appointed for the coming into effect of the following Codes of Practice (which were issued by the Disability Rights Commission on 30<sup>th</sup> July 2004 under section 53A of the 1995 Act, having been laid in draft before Parliament on 20<sup>th</sup> May 2004)—

- (a) the Disability Discrimination Act 1995 Code of Practice on Employment and Occupation (ISBN No. 0-11-703419-3); and
- (b) the Disability Discrimination Act 1995 Code of Practice for Trade Organisations and Qualifications Bodies (ISBN No. 0-11-703418-5).

(2) Paragraph (1) has effect subject to the provisions of article 3.

**Transitional provision**

3.—(1) This article applies where a court or tribunal is hearing any proceedings arising from a complaint (whenever presented) alleging that a person has, before 1<sup>st</sup> October 2004, committed an act which is unlawful discrimination for the purposes of any provision of Part 2 of the 1995 Act.

(2) Where this article applies, a Code of Practice referred to in article 2(1)(a) or (b) of this Order shall not have effect for the purposes of section 53A(8A) of the 1995 Act save to the extent referred to in paragraph (3).

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(a) 1995 c. 50. Section 53A was inserted by section 9 of the Disability Rights Commission Act 1999 (c. 17) and amended by section 36 of the Special Educational Needs and Disability Act 2001 (c.10). It is further amended by regulation 20 of the Disability Discrimination Act 1995 (Amendment) Regulations 2003 (S.I. 2003/1673).

(3) Where the proceedings arise from a complaint presented to a tribunal before, but not determined by, 1<sup>st</sup> October 2004, a Code referred to in that article shall have effect for those purposes to the extent that the Code deals with section 17A(1C) of the 1995 Act<sup>(a)</sup>.

2nd September 2004

Andrew Smith  
Secretary of State,  
Department for Work and Pensions

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order appoints 1st October 2004 as the day for the coming into effect of the Disability Discrimination Act 1995 Code of Practice on Employment and Occupation, and the Disability Discrimination Act 1995 Code of Practice for Trade Organisations and Qualifications Bodies issued by the Disability Rights Commission on 30<sup>th</sup> July 2004 under section 53A of the Disability Discrimination Act 1995.

The Code of Practice on Employment and Occupation provides practical guidance on how to avoid committing acts which are unlawful under, and other matters relating to the operation of, Part 2 of the 1995 Act, as it has effect from 1<sup>st</sup> October 2004 following amendments made by S.I. 2003/1673 and S.I. 2003/2770, to the extent that Part 2 relates to employment, contract workers, office-holders, occupational pensions, partnerships, barristers and advocates, and practical work-experience. The Code also deals with discrimination in the provision of employment services (which are covered by Part 3 of the 1995 Act).

The Code of Practice for Trade Organisations and Qualifications Boards provides practical guidance on how to avoid committing acts which are unlawful under, and other matters relating to the operation of, Part 2 of the 1995 Act to the extent that it relates to trade organisations and qualifications bodies.

Article 3 of this Order makes transitional provision in relation to proceedings under Part 2 of the 1995 Act arising from events taking place before 1<sup>st</sup> October 2004 which have not been determined by that date. The new Codes of Practice are not to have effect for the purposes of section 53(8A) of the 1995 Act in relation to such proceedings except (in a case where they arise from a complaint presented to an employment tribunal before that date) so far as the Codes deal with section 17A(1C) of the Act. That subsection, which comes into force 1<sup>st</sup> October 2004, provides in certain circumstances for the shifting of the burden of proof to the respondent in an employment tribunal case. (Section 53A(8A) of the 1995 Act requires a tribunal to take into account a provision of a code of practice which appears to the tribunal to be relevant.)

A regulatory impact assessment of the duties dealt with in the new codes and the effect they would have on the cost of business is available from The Department for Work and Pensions, RIA Unit, 3<sup>rd</sup> Floor, Adelphi, 1-11 John Adam Street, London WC2N 6HT, or available, free of charge, on the following website: [www.disability.gov.uk](http://www.disability.gov.uk).

(Link: [http://www.disability.gov.uk/campaigns/equality\\_diversity/01-RIA.htm](http://www.disability.gov.uk/campaigns/equality_diversity/01-RIA.htm).)

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<sup>(a)</sup> Section 17A(1C) is inserted by regulation 9 of S.I. 2003/1673 with effect from 1<sup>st</sup> October 2004. (That regulation also renumbers section 8 of the 1995 Act as section 17A.) Regulation 2(1) of the same S.I. makes transitional provision with regard to section 17A(1C) of the Act in relation to a complaint presented to an employment tribunal before, but not determined by, 1<sup>st</sup> October 2004.

The new codes may be obtained from The Stationery Office Limited (mail, telephone and fax orders only) PO Box 29, Norwich NR3 1GN (phone orders 0870 600 5522, fax orders 0870 600 5533), Email: [book.orders@tso.co.uk](mailto:book.orders@tso.co.uk) , Website: [www.tso.co.uk](http://www.tso.co.uk).

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