



Disability Discrimination Act 1995

1995 CHAPTER 50

PART II

[^{F1}THE EMPLOYMENT FIELD][^{F2} AND DISTRICT
COUNCILS][^{F3} AND MEMBERS OF LOCALLY-ELECTABLE AUTHORITIES]

[^{F4} Enforcement etc.]

Textual Amendments

- F4** Cross-heading preceding s. 8 moved (3.7.2003 for E.W.S. for certain purposes and 21.2.2004 for N.I. and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), **9(1)**; [The Disability Discrimination Act 1995 \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), **9(1)**

[^{F5}17A Enforcement, remedies and procedure.

[^{F6}(1) A complaint by any person that another person—

- (a) has discriminated against him [^{F7}, or subjected him to harassment,] in a way which is unlawful under this Part, or
 - (b) is, by virtue of section 57 or 58, to be treated as having [^{F8}done so],
- may be presented to an industrial tribunal.

[^{F9}(1A) Subsection (1) does not apply to a complaint under section 14A(1) or (2) about an act in respect of which an appeal, or proceedings in the nature of an appeal, may be brought under any enactment.

(1B) Where, on the hearing of a complaint under subsection (1), the complainant proves facts from which the tribunal could, apart from this subsection, conclude in the absence of an adequate explanation that the respondent has acted in a way which is unlawful under this Part, the tribunal shall uphold the complaint unless the respondent proves that he did not so act.]

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

- (2) Where an industrial tribunal finds that a complaint presented to it under this section is well-founded, it shall take such of the following steps as it considers just and equitable—
- (a) making a declaration as to the rights of the complainant and the respondent in relation to the matters to which the complaint relates;
 - (b) ordering the respondent to pay compensation to the complainant;
 - (c) recommending that the respondent take, within a specified period, action appearing to the tribunal to be reasonable, in all the circumstances of the case, for the purpose of obviating or reducing the adverse effect on the complainant of any matter to which the complaint relates.
- [^{F10}(3) Where a tribunal orders compensation under subsection (2)(b), the amount of the compensation shall be calculated by applying the principles applicable to the calculation of damages in claims in tort for breach of statutory duty.]
- (4) For the avoidance of doubt it is hereby declared that compensation in respect of discrimination in a way which is unlawful under this Part may include compensation for injury to feelings whether or not it includes compensation under any other head.
- (5) If the respondent to a complaint fails, without reasonable justification, to comply with a recommendation made by an industrial tribunal under subsection (2)(c) the tribunal may, if it thinks it just and equitable to do so—
- (a) increase the amount of compensation required to be paid to the complainant in respect of the complaint, where an order was made under subsection (2)(b); or
 - (b) make an order under subsection (2)(b).
- (6) Regulations may make provision—
- (a) for enabling a tribunal, where an amount of compensation falls to be awarded under subsection (2)(b), to include in the award interest on that amount; and
 - (b) specifying, for cases where a tribunal decides that an award is to include an amount in respect of interest, the manner in which and the periods and rate by reference to which the interest is to be determined.
- [^{F11}(7) Regulations may modify the operation of any order made under Article 16 of the Industrial Tribunals (Northern Ireland) Order 1996 ^{F12} (power to make provision as to interest on sums payable in pursuance of industrial tribunal decisions) to the extent that it relates to an award of compensation under subsection (2)(b).]
- (8) Part I of Schedule 3 makes further provision about the enforcement of this Part and about procedure.]]

Extent Information

E1 E Note: Following the repeal of this Act for E.W.S. by the Equality Act 2010, this section now extends to N.I. only. Prior to that repeal, different versions of this section had been created for N.I. and E.W.S. respectively to reflect the different amendment history for each jurisdiction. This version is based on the N.I. version as it stood at the date of the repeal. It does not reflect the history of E.W.S. effects prior to the 2010 repeal, which can be found in earlier versions.

Textual Amendments

F5 S. 8 moved and renumbered (as s. 17A) (N.I.) (21.2.2004 for certain purposes and 1.10.2004 otherwise) by S.R. 2004/55, regs. 1(2)(3), 9(1)

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

- F6** 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\(h\)](#)
- F7** Words in s. 17A(1)(a) inserted (N.I.) (21.2.2004 for certain purposes and 1.10.2004 otherwise) by the [Disability Discrimination Act \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), [9\(2\)\(a\)](#)
- F8** Words in s. 17A(1)(b) substituted (N.I.) (21.2.2004 for specified purposes and 1.10.2004 otherwise) by the [Disability Discrimination Act \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), [9\(2\)\(b\)](#)
- F9** S. 17A(1A)(1B) inserted (N.I.) (21.2.2004 for certain purposes and 1.10.2004 otherwise) by the [Disability Discrimination Act \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), [9\(2\)\(c\)](#)
- F10** S. 17A(3) substituted (N.I.) (21.2.2004 for certain purposes and 1.10.2004 otherwise) by the [Disability Discrimination Act \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), [9\(2\)\(d\)](#)
- F11** S. 17A(7) substituted (N.I.) (21.2.2004 for certain purposes and 1.10.2004 otherwise) by the [Disability Discrimination Act \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), [9\(2\)\(e\)](#)
- F12** [S.I. 1996/1921 \(N.I. 18\)](#)

Commencement Information

- II** S. 8 (now s. 17A) wholly in force at 2.12.1996; s. 8 not in force at Royal Assent see s. 70(3); s. 8(6)(7) in force at 6.6.1996 by [S.I. 1996/1474, art. 2\(1\), Sch. Pt. I](#); s. 8(1)-(5)(8) in force at 2.12.1996 by [S.I. 1996/1474, art. 2\(1\), Sch. Pt. III](#)

[^{F13}17B Enforcement of sections [^{F14}16B(1)] and 16C **E+W+S**

^{F15}

Textual Amendments

- F13** Ss. 17B, 17C inserted (E.W.S.) (3.7.2003 for certain purposes and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), [16\(1\)](#)
- F14** Word in s. 17B substituted (E.W.S.) (5.12.2005) by [Disability Discrimination Act 2005 \(c. 13\)](#), ss. 19(1), 20(3)-(6), [Sch. 1 para. 10\(1\)\(2\)](#); [S.I. 2005/2774, art. 3\(j\)](#)
- F15** S. 17B repealed (E.W.S.) (1.10.2007) by [Equality Act 2006 \(c. 3\)](#), ss. 40, 91, 93, Sch. 3 para. 44, [Sch. 4](#); [S.I. 2007/2603, art. 2](#)

[^{F17}17B Enforcement of sections [^{F18}16B(1)] and 16C **N.I.**

- (1) Only the Commission may bring proceedings in respect of a contravention of section [^{F18}16B(1)] (discriminatory advertisements) or section 16C (instructions and pressure to discriminate).
- (2) The Commission shall bring any such proceedings in accordance with subsection (3) or (4).
- (3) The Commission may present to an industrial tribunal a complaint that a person has done an act which is unlawful under section [^{F18}16B(1)] or 16C; and if the tribunal finds that the complaint is well-founded it shall make a declaration to that effect.

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

- (4) Where –
- (a) a tribunal has made a finding pursuant to subsection (3) that a person has done an act which is unlawful under section [F18 16B(1)] or 16C,
 - (b) that finding has become final, and
 - (c) it appears to the Commission that, unless restrained, he is likely to do a further act which is unlawful under [F19 section 16B(1) or (as the case may be) section 16C],
- the Commission may apply to a county court for an injunction restraining him from doing such an act; and the court, if satisfied that the application is well-founded, may grant the injunction in the terms applied for or in more limited terms.
- (5) A finding of a tribunal under subsection (3) in respect of any act shall, if it has become final, be treated as conclusive by a county court upon an application under subsection (4).
 - (6) A finding of a tribunal becomes final for the purposes of this section when an appeal against it is dismissed, withdrawn or abandoned or when the time for appealing expires without an appeal having been brought.
 - (7) An industrial tribunal shall not consider a complaint under subsection (3) unless it is presented before the end of the period of six months beginning when the act to which it relates was done; and a county court shall not consider an application under subsection (4) unless it is made before the end of the period of five years so beginning.
 - (8) A court or tribunal may consider any such complaint or application which is out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.
 - (9) The provisions of paragraph 3(3) and (4) of Schedule 3 apply for the purposes of subsection (7) as they apply for the purposes of paragraph 3(1) of that Schedule.
 - (10) In this section “the Commission” means the Equality Commission for Northern Ireland.]

Extent Information

- E3** This section extends to Northern Ireland only; a separate s. 17B for England, Wales and Scotland only repealed (1.10.2010).

Textual Amendments

- F17** Ss. 17B, 17C inserted (N.I.) (21.2.2004 for certain purposes and 1.10.2004 otherwise) by the [Disability Discrimination Act \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), **16(1)**
- F18** Word in s. 17B(1)(3)(4)(a) and heading substituted (N.I.) (31.12.2007) by The Disability Discrimination (Northern Ireland) Order (S.I. 2006/312 (N.I. 1)), arts. 1, 19(1), {Sch. 1 para. 9(2)}; S.R. 2007/466, **art. 2(2)(I)**
- F19** Words in s. 17B(4)(c) substituted (N.I.) (31.12.2007) by [The Disability Discrimination \(Northern Ireland\) Order 2006 \(S.I. 2006/312 \(N.I. 1\)\)](#), arts. 1, 19(1), **Sch. 1 para. 9(3)**; S.R. 2007/466, **art. 2(2)(I)**

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

[^{F13}**17C** **Validity of contracts, collective agreements and rules of undertakings** **E+W+S**

^{F16}]

Extent Information

E2 This section extended to England, Wales and Scotland only; a separate s. 17C exists for Northern Ireland only.

Textual Amendments

F13 **Ss. 17B, 17C** inserted (E.W.S.) (3.7.2003 for certain purposes and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), **16(1)**

F16 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)**

[^{F17}**17C** **Validity of contracts, collective agreements and rules of undertakings** **N.I.**

Schedule 3A shall have effect.]

Extent Information

E4 This section extends to Northern Ireland only; a separate s. 17C for England, Wales and Scotland only repealed (1.10.2010).

Textual Amendments

F17 **Ss. 17B, 17C** inserted (N.I.) (21.2.2004 for certain purposes and 1.10.2004 otherwise) by the [Disability Discrimination Act \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), **16(1)**

Changes to legislation:

There are currently no known outstanding effects for the Disability Discrimination Act 1995,
Cross Heading: Enforcement etc..