STATUTORY INSTRUMENTS

2005 No. 1117

The Special Educational Needs and Disability (Northern Ireland) Order 2005

PART III

DISABILITY DISCRIMINATION IN EDUCATION

CHAPTER I

SCHOOLS

Residual duty of boards

Duty of boards not to discriminate

19.—(1) This Article applies to the functions of a board under—

(a) the 1986 Order (except Article 37 and Part VII);

(b) the Education Reform (Northern Ireland) Order 1989 (NI 20);

(c) the Education and Libraries (Northern Ireland) Order 1993 (NI 12);

(d) the 1996 Order;

(e) the Education (Northern Ireland) Order 1997 (NI 5);

(f) the Education (Northern Ireland) Order 1998 (NI 13);

(g) the Education and Libraries (Northern Ireland) Order 2003 (NI 12).

(2) But it does not apply to any prescribed function.

(3) In discharging a function to which this Article applies, it is unlawful for a board to discriminate against—

(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 Article applies is unlawful as a result of paragraph (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 Article 43, this Article also applies to discrimination against a person who is not disabled.

Residual duty: supplementary provisions

20.—(1) Article 15 applies for the purposes of Article 19 as it applies for the purposes of Article 14 with the following modifications—

(a) references to a responsible body are to be read as references to a board; and

(b) references to Article 16 are to be read as references to paragraphs (2) to (4).

(2) Each board shall take such steps as it is reasonable for it to have to take to ensure that, in discharging any function to which Article 19 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 a board to—

(a) remove or alter a physical feature; or

(b) provide auxiliary aids or services.

(4) This Article imposes duties only for the purpose of determining whether a board has discriminated against a disabled person; and accordingly a breach of any such duty is not actionable as such.

(5) A reference in Article 22, 25(3) or 26 to a responsible body is to be read as including a reference to a board in relation to a function to which Article 19 applies.