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STATUTORY RULES OF NORTHERN IRELAND

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**2004 No. 55**

The Disability Discrimination Act 1995  
(Amendment) Regulations (Northern Ireland) 2004

PART II

AMENDMENTS TO THE ACT

**Meaning of “discrimination” and “harassment”**

4.—(1) In the heading to Part II of the Act, for “EMPLOYMENT” substitute “THE EMPLOYMENT FIELD”.

(2) After that heading, and before section 4, insert the following sections –

*“Meaning of “discrimination” and “harassment”*

**Meaning of “discrimination”**

3A.—(1) For the purposes of this Part, a person 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 this Part, a person also discriminates against a disabled person if he fails to comply with a duty to make reasonable adjustments imposed on him in relation to the disabled person.

(3) Treatment is justified for the purposes of subsection (1)(b) if, but only if, the reason for it is both material to the circumstances of the particular case and substantial.

(4) But treatment of a disabled person cannot be justified under subsection (3) if it amounts to direct discrimination falling within subsection (5).

(5) A person directly discriminates against a disabled person if, on the ground of the disabled person’s disability, he treats the disabled person less favourably than he treats or would treat a person not having that particular disability whose relevant circumstances, including his abilities, are the same as, or not materially different from, those of the disabled person.

(6) If, in a case falling within subsection (1), a person is under a duty to make reasonable adjustments in relation to a disabled person but fails to comply with that duty, his treatment of that person cannot be justified under subsection (3) unless it would have been justified even if he had complied with that duty.

**Meaning of “harassment”**

**3B.—**(1) For the purposes of this Part, a person subjects a disabled person to harassment where, for a reason which relates to the disabled person’s disability, he engages in unwanted conduct which has the purpose or effect of –

- (a) violating the disabled person’s dignity, or
- (b) creating an intimidating, hostile, degrading, humiliating or offensive environment for him.

(2) Conduct shall be regarded as having the effect referred to in paragraph (a) or (b) of subsection (1) only if, having regard to all the circumstances, including in particular the perception of the disabled person, it should reasonably be considered as having that effect.”.