

2005 No. 293

DISABLED PERSONS

**The Disability Discrimination Codes of Practice
(Employment and Occupation, and Trade Organisations and
Qualifications Bodies) (Appointed Day) Order
(Northern Ireland) 2005**

Made - - - - - *10th June 2005*

The Office of the First Minister and deputy First Minister, in exercise of the powers conferred on it by section 54A(6)(a) and 67(2) and (3)(a) of the Disability Discrimination Act 1995(a) and now vested in it(b) and of every other power enabling it 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 (Northern Ireland) 2005.

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

(3) The Interpretation Act (Northern Ireland) 1954(c) shall apply to this Order as it applies to an Act of the Assembly.

Codes of Practice

2.—(1) 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(d) issued by the Commission under section 54A of the Disability Discrimination Act 1995 on 8th June 2005 shall come into effect on 13th June 2005.

(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 1st October 2004, committed an act which is unlawful discrimination for the purposes of any provision of Part II of the 1995 Act.

(a) 1995 c. 50; section 54A was inserted by Article 11 of the Equality (Disability, etc) (Northern Ireland) Order 2000 (S.I. 2000/1110 (N.I. 2)) and amended by regulation 20 of the Disability Discrimination Act 1995 (Amendment) Regulations 2004 (S.R. 2004 No. 55). Section 67(3) is modified in its application to Northern Ireland by paragraph 46 of Schedule 8
(b) See S.R. 1999 No. 481; Article 4(a) and Schedule 2, Part I and Article 8(a) and Schedule 6, Part I for transfer of functions
(c) 1954 c. 33 (N.I.)
(d) A draft of which was submitted to and approved by the Office of the First Minister and deputy First Minister in accordance with section 54A(4) of the Disability Discrimination Act 1995

(2) Where this Article applies, a Code of Practice referred to in Article 2(1) of this Order shall not have effect for the purposes of section 54A(8) of the 1995 Act save to the extent referred to in paragraph (3).

(3) Where the proceedings arise from a complaint presented to a tribunal before, but not determined by, 1st October 2004, a Code referred to in Article 2(1) shall have effect for the purposes of section 54A(8) of the 1995 Act to the extent that the Code deals with a matter to which section 17A(1B) of the 1995 Act applies(a).

Sealed with the Official Seal of the Office of the First Minister and deputy First Minister on 10th June 2005.

(L.S.)

Gerard Mulligan

A senior officer of the Office of the First Minister and deputy First Minister

(a) Section 17A(1B) is inserted by regulation 9 of S.R. 2004 No. 55 with effect from 1st October 2004. (That regulation also renumbers section 8 of the 1995 Act as section 17A.) Regulation 2(1) of the same S.R. makes transitional provision with regard to section 17A(1B) of the Act in relation to a complaint presented to an industrial tribunal before, but not determined by, 1st October 2004

EXPLANATORY NOTE

(This note is not part of the Order.)

Under Article 54A of the Disability Discrimination Act 1995, the Equality Commission for Northern Ireland may prepare and issue codes of practice giving practical guidance –

- (a) to employers, service providers or other persons to whom provisions of Part II or Part III of that Act apply on how to avoid acts which are unlawful under those Parts or any other matter relating to the operation of those provisions in relation to them; or
- (b) to any person on any other matter, with a view to –
 - (i) promoting the equalisation of opportunities for disabled persons and persons who have had a disability, or
 - (ii) encouraging good practice relating to the treatment of such persons,

in any field of activity regulated by any provision of Part II or Part III of that Act. Part II of the Act relates to discrimination in the field of employment while Part III of the Act relates to discrimination in other areas such as goods, facilities, services and premises.

Under this provision, the Commission has issued two Codes of Practice –

- (a) the Disability Discrimination Act 1995 Code of Practice on Employment and Occupation; and
- (b) the Disability Discrimination Act 1995 Code of Practice for Trade Organisations and Qualifications Bodies.

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 II of the 1995 Act, as it has effect from 1st October 2004 following amendments made by S.R. 2004 No. 55, to the extent that Part II relates to employment, contract workers, office-holders, occupational pensions, partnerships, barristers and practical work-experience. The Code also deals with discrimination in the provision of employment services (which are covered by Part III of the 1995 Act).

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

This Order appoints 13th June 2005 as the date on which these Codes shall come into effect. Failure to observe any provision of these Codes of Practice does not itself make a person liable to any proceedings but any provision of a code which appears to a tribunal or court to be relevant to any question arising in any proceedings must be taken into account in determining that question.

Article 3 of this Order makes transitional provision in relation to proceedings under Part II of the 1995 Act arising from events taking place before 1st 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 54A(8) of the 1995 Act in relation to such proceedings except (in a case where they arise from a complaint presented to an industrial tribunal before that date) so far as the Codes deal with section 17A(1B) of the Act. That subsection, which came into operation on 1st October 2004, provides in certain circumstances for the shifting of the burden of proof to the respondent in an industrial tribunal case. (Section 54A(8) 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.)

The new Codes may be obtained from the Equality Commission for Northern Ireland, Disability Unit, Equality House, 7-9 Shaftesbury Square, Belfast, BT2 7DP (Telephone 028 9050 0600, Textphone 028 9050 0589, e-mail: information@equalityni.org and from the Commission's website at www.equalityni.org).

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 Office of the First Minister and deputy First Minister on the following website address: www.ofmdfmni.gov.uk/equalityofopportunity/ria.pdf or from the Office of the First Minister and deputy First Minister, Equality and Social Need Division, Room E3.19, Castle Buildings, Stormont Estate, Belfast, BT4 3SR (Telephone 028 9052 3149 or Textphone 028 9052 2526).

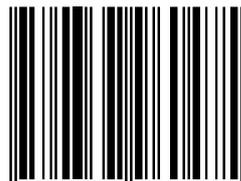
© Crown Copyright 2005

Published and printed in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office being the Government Printer for Northern Ireland and the Officer appointed to print the Acts of the Northern Ireland Assembly

Dd. N2185. C2. 6/05. Gp. 130. 14567.

£3.00

ISBN 0-337-96047-X



9 780337 960475