

Status: Point in time view as at 30/06/2006.

Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995, Part 1A. (See end of Document for details)

SCHEDULES

[^{F1}SCHEDULE 4C

MODIFICATIONS OF CHAPTER 2 OF PART 4

Textual Amendments

- F1** Sch. 4C substituted (30.6.2006 for certain purposes and otherwise 1.9.2006) by [The Disability Discrimination Act 1995 \(Amendment\) \(Further and Higher Education\) Regulations 2006 \(S.I. 2006/1721\)](#), regs. 1(2)(3), **21**

PART 1A

MODIFICATIONS FOR ENGLAND AND WALES – FURTHER EDUCATION PROVIDED BY SCHOOLS, ETC]

6 The following is substituted for section 28R—

“28R 28R Further education provided by schools and recreational or training facilities provided by local education authorities

- (1) Subsections (2) and (3) apply in relation to any course of further education provided by the governing body of a maintained school under section 80 of the School Standards and Framework Act 1998.
- (2) It is unlawful for the governing body to discriminate against a disabled person—
 - (a) in the arrangements they make for determining who should be enrolled on the course;
 - (b) in the terms on which they offer to enrol him on the course; or
 - (c) by refusing or deliberately omitting to accept an application for his enrolment on the course.
- (3) It is unlawful for the governing body to discriminate against a disabled person who has enrolled on the course in the services which they provide or offer to provide.
- (4) “Services“, in relation to a course, means services of any description which are provided wholly or mainly for persons enrolled on the course.
- (5) It is unlawful for a local education authority to discriminate against a disabled person in the terms on which they provide or offer to provide recreational or training facilities.
- (6) In this Chapter—

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“Responsible body” means—

- (a) the governing body of a maintained school, in relation to a course of further education provided under section 80 of the School Standards and Framework Act 1998, and
- (b) a local education authority in relation to recreational or training facilities;

“Further education”, in relation to a course provided under section 80 of the School Standards and Framework Act 1998, means education of a kind mentioned in subsection (1) of that section;

“Local education authority” has the meaning given in section 12 of the Education Act 1996;

“Governing Body” and “maintained school” have the same meaning as in Chapter 1;

“Recreational or training facilities” means any facilities secured by a local education authority under subsection (1), or provided by it under subsection (1A), of section 508 of the Education Act 1996 (recreation and social and physical training).”.

- 7 In section 28S (meaning of “discrimination”), the following subsection is substituted for subsection (2) —

“(2) For the purposes of section 28R, a responsible body also discriminates against a disabled person if—

- (a) it fails, to his detriment, to comply with section 28T; and
- (b) it cannot show that its failure to comply is justified.”.

- 8 In section 28S, the following subsections are substituted for subsections (5) to (11) —

“(5) Subsections (6) to (9) apply in determining whether for the purposes of this section—

- (a) less favourable treatment of a person, or
- (b) failure to comply with section 28T,

is justified.

(6) Less favourable treatment of a person is justified if it is necessary in order to maintain —

- (a) academic standards; or
- (b) standards of any other prescribed kind.

(7) Less favourable treatment is also justified if —

- (a) it is of a prescribed kind;
- (b) it occurs in prescribed circumstances; or
- (c) it is of a prescribed kind and occurs in prescribed circumstances.

(8) Otherwise less favourable treatment, or a failure to comply with section 28T, is justified only if the reason for it is both material to the circumstances of the particular case and substantial.

(9) If, in a case falling within subsection (1)–

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- (a) the responsible body is under a duty imposed by section 28T in relation to the disabled person, but
- (b) fails without justification to comply with that duty,
- its treatment of that person cannot be justified under subsection (8) unless that treatment would have been justified even if it had complied with that duty.”.
- 9 Subsections (1A) to (1D) of section 28T (responsible bodies' duties to make adjustments) are omitted and the following subsection is substituted for subsection (1) of that section—
- “(1) Each responsible body must take such steps as it is reasonable for it to have to take to ensure that—
- (a) in relation to its arrangements for enrolling persons on a course of further education provided by it, and
- (b) in relation to services provided or offered by it,
- disabled persons are not placed at a substantial disadvantage in comparison with persons who are not disabled.”.
- 10 In subsections (2) and (4) of section 28T, for “any of subsections (1) to (1D)” there is substituted “subsection (1).
- 11 In section 28W(1)(a) for “by an educational institution” there is substituted “ by a responsible body wholly or partly for the purpose of its functions ”.
- 12 Sections 28SA, 28UA, 28UB, 28UC, 28V(1A) and 31A are omitted.

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