

Status: Point in time view as at 30/06/2006.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 2A. (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 2A

MODIFICATIONS FOR SCOTLAND – RECREATIONAL OR TRAINING FACILITIES]

- 18 The following is substituted for section 28R—

“28R Recreational or training facilities provided by education authorities

(1) It is unlawful for an education authority to discriminate against a disabled person in the terms on which they provide, or offer to provide, recreational or training facilities.

(2) In this Chapter —

“Responsible body” means an education authority;

“Education authority” has the meaning given in section 135(1) of the Education (Scotland) Act 1980.”.

- 19 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.”.

- 20 In section 28S (Meaning of “discrimination”), the following subsections are substituted for subsections (5) to (11)—

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- “(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)—
- (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.”.

21 Subsections (1A) to (1D) of section 28T 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, in relation to services provided or offered by it for any recreational or training facilities, disabled persons are not placed at a substantial disadvantage in comparison with persons who are not disabled.”.

22 In subsections (2) and (4) of section 28T, for “any of subsections (1) to (1D)” there is substituted “subsection (1)”.

23 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”.

24 Sections 28SA, 28UA, 28UB, 28UC, 28V(1A) and 31A are omitted.

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