



Disability Discrimination Act 1995

1995 CHAPTER 50

PART IV

EDUCATION

[^{F1}CHAPTER 1

SCHOOLS]

^{F1} Duties of responsible bodies

VALID FROM 01/09/2002

[^{F1}28B Meaning of “discrimination”

- (1) For the purposes of section 28A, a responsible body discriminates against a disabled person if—
 - (a) for a reason which relates to his disability, it treats him less favourably than it treats or would treat others to whom that reason does not or would not apply; and
 - (b) it cannot show that the treatment in question is justified.
- (2) For the purposes of section 28A, a responsible body also discriminates against a disabled person if—
 - (a) it fails, to his detriment, to comply with section 28C; and
 - (b) it cannot show that its failure to comply is justified.
- (3) In relation to a failure to take a particular step, a responsible body does not discriminate against a person if it shows—
 - (a) that, at the time in question, it did not know and could not reasonably have been expected to know, that he was disabled; and

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Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995, Section 28B. (See end of Document for details)

- (b) that its failure to take the step was attributable to that lack of knowledge.
- (4) The taking of a particular step by a responsible body in relation to a person does not amount to less favourable treatment if it shows that at the time in question it did not know, and could not reasonably have been expected to know, that he was disabled.
- (5) Subsections (6) to (8) apply in determining whether, for the purposes of this section—
- (a) less favourable treatment of a person, or
 - (b) failure to comply with section 28C,
- is justified.
- (6) Less favourable treatment of a person is justified if it is the result of a permitted form of selection.
- (7) Otherwise, less favourable treatment, or a failure to comply with section 28C, is justified only if the reason for it is both material to the circumstances of the particular case and substantial.
- (8) If, in a case falling within subsection (1)—
- (a) the responsible body is under a duty imposed by section 28C in relation to the disabled person, but
 - (b) it fails without justification to comply with that duty,
- its treatment of that person cannot be justified under subsection (7) unless that treatment would have been justified even if it had complied with that duty.]

Textual Amendments

- F1** S. 28B inserted (E.W.S.) (1.9.2002) by 2001 c. 10, s. 12 (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. 1

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