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STATUTORY INSTRUMENTS

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**2003 No. 1673**

The Disability Discrimination Act  
1995 (Amendment) Regulations 2003

PART 2

AMENDMENTS TO THE 1995 ACT

**Amendments to Part 3**

**19. —**

(1) After section 21 insert the following section—

**“Employment services**

**21A**

(1) In this Part, “employment services” means—

- (a) vocational guidance;
- (b) vocational training; or
- (c) services to assist a person to obtain or retain employment, or to establish himself as self-employed.

(2) It is unlawful for a provider of employment services, in relation to such services, to subject to harassment a disabled person—

- (a) to whom he is providing such services, or
- (b) who has requested him to provide such services;

and section 3B (meaning of “harassment”) applies for the purposes of this subsection as it applies for the purposes of Part 2.

(3) In their application to employment services, the preceding provisions of this Part have effect as follows.

(4) Section 19 has effect as if—

- (a) after subsection (1)(a), there were inserted the following paragraph—

“(aa) in failing to comply with a duty imposed on him by subsection (1) of section 21 in circumstances in which the effect of that failure is to place the disabled person at a substantial disadvantage in comparison with persons who are not disabled in relation to the provision of the service;”;

- (b) in subsection (1)(b), for “section 21” there were substituted “subsection (2) or (4) of section 21”;
- (c) in subsection (2), for “sections 20 and 21” there were substituted “sections 20, 21 and 21A”.

- (5) Section 20 has effect as if—
- (a) after subsection (1), there were inserted the following subsection—

“(1A) For the purposes of section 19, a provider of services also discriminates against a disabled person if he fails to comply with a duty imposed on him by subsection (1) of section 21 in relation to the disabled person.”;
  - (b) in subsection (2)(a), for “a section 21 duty imposed” there were substituted “a duty imposed by subsection (2) or (4) of section 21”;
  - (c) after subsection (3), there were inserted the following subsection—

“(3A) But treatment of a disabled person cannot be justified under subsection (3) if it amounts to direct discrimination falling within section 3A(5).”.
- (6) Section 21 has effect as if—
- (a) in subsection (1), for “makes it impossible or unreasonably difficult for disabled persons to make use of” there were substituted “places disabled persons at a substantial disadvantage in comparison with persons who are not disabled in relation to the provision of”;
  - (b) after subsection (1), there were inserted the following subsection—

“(1A) In subsection (1), “practice, policy or procedure” includes a provision or criterion.”.
- (2) In section 25 (enforcement), at the end add the following subsections—
- “(7) Subsection (1) does not apply in relation to a claim by a person that another person—
    - (a) has discriminated against him or subjected him to harassment in relation to the provision of employment services in a way which is unlawful under this Part; or
    - (b) is by virtue of section 57 or 58 to be treated as having discriminated against him or subjected him to harassment in such a way.
  - (8) A claim of the kind referred to in subsection (7) may be presented as a complaint to an employment tribunal.
  - (9) Section 17A(1A) to (7) and paragraphs 3 and 4 of Schedule 3 apply in relation to a complaint under subsection (8) as if it were a complaint under section 17A(1) (and paragraphs 6 to 8 of Schedule 3 do not apply in relation to such a complaint).”.
- (3) In section 26 (validity and revision of certain agreements), after subsection (1) insert—
- “(1A) Subsection (1) does not apply to any term in a contract, or other agreement, for the provision of employment services.”.