



# Disability Discrimination Act 1995

## 1995 CHAPTER 50

### PART VII

#### SUPPLEMENTAL

#### **53 Codes of practice prepared by the Secretary of State**

- (1) The Secretary of State may issue codes of practice containing such practical guidance as he considers appropriate with a view to—
  - (a) eliminating discrimination in the field of employment against disabled persons and persons who have had a disability; or
  - (b) encouraging good practice in relation to the employment of disabled persons and persons who have had a disability.
- (2) The Secretary of State may from time to time revise the whole or any part of a code and re-issue it.
- (3) Without prejudice to subsection (1), a code may include practical guidance as to—
  - (a) the circumstances in which it would be reasonable, having regard in particular to the costs involved, for a person to be expected to make adjustments in favour of a disabled person or a person who has had a disability; or
  - (b) what steps it is reasonably practicable for employers to take for the purpose of preventing their employees from doing, in the course of their employment, anything which is made unlawful by this Act.
- (4) A failure on the part of any person to observe any provision of a code does not of itself make that person liable to any proceedings.
- (5) A code is admissible in evidence in any proceedings under this Act before an industrial tribunal, a county court or a sheriff court.
- (6) If any provision of a code appears to a tribunal or court to be relevant to any question arising in any proceedings under this Act, it shall be taken into account in determining that question.

- (7) In this section and section 54 “code” means a code issued by the Secretary of State under this section and includes a code which has been revised and re-issued.
- (8) In subsection (1)(a), “discrimination in the field of employment” includes discrimination of a kind mentioned in section 12 or 13.
- (9) In subsections (1)(b) and (3), “employment” includes contract work (as defined by section 12(6)).

#### **54 Further provision about codes issued under section 53**

- (1) In preparing a draft of any code under section 53, the Secretary of State shall consult such organisations representing the interests of employers or of disabled persons in, or seeking, employment as he considers appropriate.
- (2) Where the Secretary of State proposes to issue a code, he shall publish a draft of it, consider any representations that are made to him about the draft and, if he thinks it appropriate, modify his proposals in the light of any of those representations.
- (3) If the Secretary of State decides to proceed with a proposed code, he shall lay a draft of it before each House of Parliament.
- (4) If, within the 40-day period, either House resolves not to approve the draft, the Secretary of State shall take no further steps in relation to the proposed code.
- (5) If no such resolution is made within the 40-day period, the Secretary of State shall issue the code in the form of his draft.
- (6) The code shall come into force on such date as the Secretary of State may appoint by order.
- (7) Subsection (4) does not prevent a new draft of the proposed code from being laid before Parliament.
- (8) The Secretary of State may by order revoke a code.
- (9) In this section “40-day period”, in relation to the draft of a proposed code, means—
  - (a) if the draft is laid before one House on a day later than the day on which it is laid before the other House, the period of 40 days beginning with the later of the two days, and
  - (b) in any other case, the period of 40 days beginning with the day on which the draft is laid before each House,
 no account being taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

#### **55 Victimisation**

- (1) For the purposes of Part II or Part III, a person (“A”) discriminates against another person (“B”) if—
  - (a) he treats B less favourably than he treats or would treat other persons whose circumstances are the same as B’s; and
  - (b) he does so for a reason mentioned in subsection (2).
- (2) The reasons are that—

- (a) B has—
    - (i) brought proceedings against A or any other person under this Act; or
    - (ii) given evidence or information in connection with such proceedings brought by any person; or
    - (iii) otherwise done anything under this Act in relation to A or any other person; or
    - (iv) alleged that A or any other person has (whether or not the allegation so states) contravened this Act; or
  - (b) A believes or suspects that B has done or intends to do any of those things.
- (3) Where B is a disabled person, or a person who has had a disability, the disability in question shall be disregarded in comparing his circumstances with those of any other person for the purposes of subsection (1)(a).
- (4) Subsection (1) does not apply to treatment of a person because of an allegation made by him if the allegation was false and not made in good faith.

## **56 Help for persons suffering discrimination**

- (1) For the purposes of this section—
- (a) a person who considers that he may have been discriminated against, in contravention of any provision of Part II, is referred to as “the complainant”; and
  - (b) a person against whom the complainant may decide to make, or has made, a complaint under Part II is referred to as “the respondent”.
- (2) The Secretary of State shall, with a view to helping the complainant to decide whether to make a complaint against the respondent and, if he does so, to formulate and present his case in the most effective manner, by order prescribe—
- (a) forms by which the complainant may question the respondent on his reasons for doing any relevant act, or on any other matter which is or may be relevant; and
  - (b) forms by which the respondent may if he so wishes reply to any questions.
- (3) Where the complainant questions the respondent in accordance with forms prescribed by an order under subsection (2)—
- (a) the question, and any reply by the respondent (whether in accordance with such an order or not), shall be admissible as evidence in any proceedings under Part II;
  - (b) if it appears to the tribunal in any such proceedings—
    - (i) that the respondent deliberately, and without reasonable excuse, omitted to reply within a reasonable period, or
    - (ii) that the respondent’s reply is evasive or equivocal,it may draw any inference which it considers it just and equitable to draw, including an inference that the respondent has contravened a provision of Part II.
- (4) The Secretary of State may by order prescribe—
- (a) the period within which questions must be duly served in order to be admissible under subsection (3)(a); and

(b) the manner in which a question, and any reply by the respondent, may be duly served.

(5) This section is without prejudice to any other enactment or rule of law regulating interlocutory and preliminary matters in proceedings before an industrial tribunal, and has effect subject to any enactment or rule of law regulating the admissibility of evidence in such proceedings.

## **57 Aiding unlawful acts**

(1) A person who knowingly aids another person to do an act made unlawful by this Act is to be treated for the purposes of this Act as himself doing the same kind of unlawful act.

(2) For the purposes of subsection (1), an employee or agent for whose act the employer or principal is liable under section 58 (or would be so liable but for section 58(5)) shall be taken to have aided the employer or principal to do the act.

(3) For the purposes of this section, a person does not knowingly aid another to do an unlawful act if—

- (a) he acts in reliance on a statement made to him by that other person that, because of any provision of this Act, the act would not be unlawful; and
- (b) it is reasonable for him to rely on the statement.

(4) A person who knowingly or recklessly makes such a statement which is false or misleading in a material respect is guilty of an offence.

(5) Any person guilty of an offence under subsection (4) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

## **58 Liability of employers and principals**

(1) Anything done by a person in the course of his employment shall be treated for the purposes of this Act as also done by his employer, whether or not it was done with the employer's knowledge or approval.

(2) Anything done by a person as agent for another person with the authority of that other person shall be treated for the purposes of this Act as also done by that other person.

(3) Subsection (2) applies whether the authority was—

- (a) express or implied; or
- (b) given before or after the act in question was done.

(4) Subsections (1) and (2) do not apply in relation to an offence under section 57(4).

(5) In proceedings under this Act against any person in respect of an act alleged to have been done by an employee of his, it shall be a defence for that person to prove that he took such steps as were reasonably practicable to prevent the employee from—

- (a) doing that act; or
- (b) doing, in the course of his employment, acts of that description.

## **59 Statutory authority and national security etc**

(1) Nothing in this Act makes unlawful any act done—

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*Status: This is the original version (as it was originally enacted).*

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- (a) in pursuance of any enactment; or
  - (b) in pursuance of any instrument made by a Minister of the Crown under any enactment; or
  - (c) to comply with any condition or requirement imposed by a Minister of the Crown (whether before or after the passing of this Act) by virtue of any enactment.
- (2) In subsection (1) “enactment” includes one passed or made after the date on which this Act is passed and “instrument” includes one made after that date.
- (3) Nothing in this Act makes unlawful any act done for the purpose of safeguarding national security.