



Disability Discrimination Act 1995

1995 CHAPTER 50

[^{F1}PART 5A

PUBLIC AUTHORITIES

Textual Amendments

F1 Pt. 5A (ss. 49A-49F) inserted (E.W.S) (30.6.2005 for s. 49D for certain purposes, 5.12.2005 for s. 49A(1) for certain purposes, and 49B-49F so far as not already in force, and otherwise 4.12.2006) by Disability Discrimination Act 2005 (c. 13), ss. 3, 20(3)-(6); S.I. 2005/1676, art. 2(2)(b); S.I. 2005/2774, arts. 3(b), 4(a)

[^{F1}49A General duty **E+W+S**

- (1) Every public authority shall in carrying out its functions have due regard to—
- the need to eliminate [^{F2}unlawful discrimination and victimisation];
 - the need to eliminate harassment of disabled persons that is related to their disabilities;
 - the need to promote equality of opportunity between disabled persons and other persons;
 - the need to take steps to take account of disabled persons' disabilities, even where that involves treating disabled persons more favourably than other persons;
 - the need to promote positive attitudes towards disabled persons; and
 - the need to encourage participation by disabled persons in public life.
- (2) Subsection (1) is without prejudice to any obligation of a public authority to comply with any [^{F3} provision of the Equality Act 2010 (“the 2010 Act”), so far as relating to disability].]

[^{F4}(3) In this section—

- “discrimination” means disability discrimination within the meaning of sections 25(2)(a), (b) and (d) of the 2010 Act;

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- (b) “disability” and “disabled person” each have the same meaning as in section 6 of the 2010 Act; and
- (c) “victimisation” means victimisation within the meaning of section 27 of that Act where the protected act in question relates to disability.]

Textual Amendments

- F2** Words in s. 49A(1)(a) substituted (1.10.2010) by [The Equality Act 2010 \(Consequential Amendments, Saving and Supplementary Provisions\) Order 2010 \(S.I. 2010/2279\)](#), [arts. 1\(2\)](#), 16(2)
- F3** Words in s. 49A(2) substituted (1.10.2010) by [The Equality Act 2010 \(Consequential Amendments, Saving and Supplementary Provisions\) Order 2010 \(S.I. 2010/2279\)](#), [arts. 1\(2\)](#), 16(3)
- F4** S. 49A(3) inserted (1.10.2010) by [The Equality Act 2010 \(Consequential Amendments, Saving and Supplementary Provisions\) Order 2010 \(S.I. 2010/2279\)](#), [arts. 1\(2\)](#), 16(4)

[^{F15}49A General duty **N.I.**

- (1) Every public authority shall in carrying out its functions have due regard to—
 - (a) the need to promote positive attitudes towards disabled persons; and
 - (b) the need to encourage participation by disabled persons in public life.
- (2) Subsection (1) does not apply to—
 - (a) the functions of the Director of Public Prosecutions for Northern Ireland relating to the prosecution of offences; or
 - (b) any act of a description prescribed by regulations.
- (3) Subsection (1) is without prejudice to any obligation of a public authority to comply with any other statutory provision (including any other provision of this Act).
- (4) The Commission shall—
 - (a) keep under review the effectiveness of the duty imposed by this section;
 - (b) offer advice to public authorities and others in connection with that duty.
- (5) Not later than 3 years after the appointed day, the Commission shall prepare and publish a report on the effectiveness of the duty imposed by this section.
- (6) In this section—
 - “the appointed day” means the day appointed under Article 1(2) of the Disability Discrimination (Northern Ireland) Order 2006 for the coming into operation of Article 5 of that Order;
 - “the Commission” means the Equality Commission for Northern Ireland;
 - “public authority” has the same meaning as in section 75 of the Northern Ireland Act 1998 (c. 47).]

Textual Amendments

- F15** Pt. VA (ss. 49A, 49B) inserted (N.I.) (1.1.2007) by [The Disability Discrimination \(Northern Ireland\) Order 2006 \(S.I. 2006/312 \(N.I. 1\)\)](#), [arts. 1, 5](#); S.R. 2006/470, [art. 2](#)

[^{F1}49B Meaning of “public authority” in Part 5A **E+W+S**

- (1) In this Part “public authority”—

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- (a) includes any person certain of whose functions are functions of a public nature; but
 - (b) does not include—
 - (i) any person mentioned in section 21B(3);
 - (ii) the Scottish Parliament;^{F5} . . .
 - (iii) a person, other than the Scottish Parliamentary Corporate Body, exercising functions in connection with proceedings in the Scottish Parliament.
 - [^{F6}(iv) the National Assembly for Wales; or
 - (v) a person, other than the National Assembly for Wales Commission, exercising functions in connection with proceedings in the National Assembly for Wales]
- (2) In relation to a particular act, a person is not a public authority by virtue only of subsection (1)(a) if the nature of the act is private.
- (3) Regulations may provide for a person of a prescribed description to be treated as not being a public authority for the purposes of this Part.]

Textual Amendments

- F5** Word in s. 49B(1)(b)(ii) omitted by virtue of The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order (S.I. 2007/1388), arts. 1, 3, {Sch. 1 para. 57(a)}, the amending provision coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see s. 161(5) of the Government of Wales Act 2006.
- F6** S. 49B(1)(b)(iv)(v) inserted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order (S.I. 2007/1388), arts. 1, 3, {Sch. 1 para. 57(b)}, the amending provision coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see s. 161(5) of the Government of Wales Act 2006.

[^{F15}49B Plan as to duty under section 49A **N.I.**

- (1) A public authority to which this subsection applies shall prepare and submit to the Commission a plan showing how the public authority proposes to fulfil the duty imposed by section 49A in relation to the relevant functions.
- (2) Any other public authority shall prepare and submit to the Commission such a plan if requested to do so by the Commission.
- (3) A public authority—
 - (a) may at any time revise its plan and submit the revised plan to the Commission;
 - (b) shall, if requested to do so by the Commission, revise its plan and submit the revised plan to the Commission.
- (4) A plan (or revised plan) shall—
 - (a) conform to any guidelines as to form or content which are issued by the Commission with the approval of the Office;
 - (b) specify a timetable for measures proposed in the plan;
 - (c) include details of how it will be published.

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- (5) Subsection (1) applies to any public authority except one which is notified in writing by the Commission that that subsection does not apply to it.
- (6) If a public authority—
- (a) fails to submit a plan under subsection (1) before the end of the period of 6 months beginning with the appointed day or, if later, the establishment of the authority,
 - (b) fails to submit a plan under subsection (2) before the end of the period of 6 months beginning with the date of the request under that subsection,
 - (c) fails to submit a revised plan under subsection (3)(b) before the end of the period of 3 months beginning with the date of the request under that paragraph, or
 - (d) submits to the Commission under paragraph (3)(a) or (b) a revised plan which in the opinion of the Commission fails to comply with subsection (4),
- the Commission shall lay before the Assembly a report of that failure containing such comments and other material as appear to the Commission to be appropriate to bring to the attention of the Assembly.
- (7) A public authority—
- (a) shall review its current plan under this section—
 - (i) in the case of an authority in relation to which there is a scheme under Schedule 9 to the Northern Ireland Act 1998, at the same time as the authority reviews its current scheme under paragraph 8(3) of that Schedule;
 - (ii) in the case of any other authority, at such times as the Commission may request; and
 - (b) inform the Commission of the outcome of the review.
- (8) In this section—
- “the appointed day”, “the Commission” and “public authority” have the same meanings as in section 49A;
- “the relevant functions” means the functions of the public authority or, in the case of a plan submitted in response to a request which specifies particular functions of the public authority, those functions.]

Textual Amendments

F15 Pt. VA (ss. 49A, 49B) inserted (N.I.) (1.1.2007) by [The Disability Discrimination \(Northern Ireland\) Order 2006 \(S.I. 2006/312 \(N.I. 1\)\)](#), arts. 1, 5; S.R. 2006/470, [art. 2](#)

49C Exceptions from section 49A(1)

- (1) Section 49A(1) does not apply to—
- (a) a judicial act (whether done by a court, tribunal or other person); or
 - (b) an act done on the instructions, or on behalf, of a person acting in a judicial capacity.
- (2) Section 49A(1) does not apply to any act of, or relating to, making or approving an Act of Parliament, an Act of the Scottish Parliament [^{F7}, a Measure or Act of the National Assembly for Wales] or an Order in Council.

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- (3) Section 49A(1)(c) and (d) do not apply to—
- (a) an act done in connection with recruitment to any of the naval, military or air forces of the Crown; or
 - (b) an act done in relation to a person in connection with service by him as a member of any of those forces.
- (4) Regulations may provide for [^{F8}one or more specified paragraphs of section 49A(1)] not to apply to an act of a prescribed description.

Textual Amendments

- F7** Words in s. 49C(2) inserted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order (S.I. 2007/1388), arts. 1, 3, {Sch. 1 para. 58}, the amending provision coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see s. 161(5) of the Government of Wales Act 2006.
- F8** Words in s. 49C(4) substituted (18.4.2006) by Equality Act 2006 (c. 3), ss. 88, 93 (with s. 92); S.I. 2006/1082, art. 2(j)

49D Power to impose specific duties

- (1) The Secretary of State may by regulations impose on a public authority, other than a relevant Scottish authority or a cross-border authority, such duties as the Secretary of State considers appropriate for the purpose of ensuring the better performance by that authority of its duty under section 49A(1).
- (2) The Secretary of State may by regulations impose on a cross-border authority such duties as the Secretary of State considers appropriate for the purpose of ensuring the better performance by that authority of its duty under section 49A(1) so far as relating to such of its functions as are not Scottish functions.
- (3) The Scottish Ministers may by regulations impose on a relevant Scottish authority such duties as the Scottish Ministers consider appropriate for the purpose of ensuring the better performance by that authority of its duty under section 49A(1).
- (4) The Scottish Ministers may by regulations impose on a cross-border authority such duties as the Scottish Ministers consider appropriate for the purpose of ensuring the better performance by that authority of its duty under section 49A(1) so far as relating to its Scottish functions.
- (5) Before making regulations under any of subsections (1) to (4), the person making the regulations shall consult the [^{F9}Commission for Equality and Human Rights].
- (6) Before making regulations under subsection (1) or (2) in relation to functions exercisable in relation to Wales by a public authority that is not a relevant Welsh authority, the Secretary of State shall consult the [^{F10}Welsh Ministers].
- (7) The Secretary of State shall not make regulations under subsection (1) or (2) in relation to a relevant Welsh authority except with the consent of the [^{F11}Welsh Ministers].
- (8) Before making regulations under subsection (2), the Secretary of State shall consult the Scottish Ministers.

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(9) Before making regulations under subsection (4), the Scottish Ministers shall consult the Secretary of State.

(10) In this section—

“relevant Scottish authority” means—

- (a) a member of the Scottish executive or a junior Scottish Minister;
- (b) the Registrar General of Births, Deaths and Marriages for Scotland, the Keeper of the Registers of Scotland or the Keeper of the Records of Scotland;
- (c) any office of a description specified in an Order in Council under section 126(8)(b) of the Scotland Act 1998 (other non-ministerial office in the Scottish Administration); or
- (d) a public body, public office or holder of a public office—
 - (i) which (or who) is not a cross-border authority or the Scottish Parliamentary Corporate Body;
 - (ii) whose functions are exercisable only in or as regards Scotland; and
 - (iii) some at least of whose functions do not (within the meaning of the Scotland Act 1998) relate to reserved matters;

“cross-border authority” means a cross-border public authority within the meaning given by section 88(5) of the Scotland Act 1998;

“Scottish functions” means functions which are exercisable in or as regards Scotland and which do not (within the meaning of the Scotland Act 1998) relate to reserved matters;

“relevant Welsh authority” means—

- (a) [^{F12}the National Assembly for Wales Commission;
- (aa) the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government; or]
- (b) a public authority whose functions are exercisable only in relation to Wales.

Textual Amendments

- F9** Words in s. 49D(5) substituted (1.10.2007) by [Equality Act 2006 \(c. 3\)](#), ss. 40, 93, [Sch. 3 para. 48](#) (with s. 92); [S.I. 2007/2603](#), [art. 2\(d\)](#) (subject to [art. 3](#))
- F10** Words in s. 49D(6) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order ([S.I. 2007/1388](#)), arts. 1, 3, {Sch. 1 para. 59(2)}, the amending provision coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see [ss. 46, 161\(5\)](#) of the [Government of Wales Act 2006 \(c. 32\)](#)
- F11** Words in s. 49D(7) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order ([S.I. 2007/1388](#)), arts. 1, 3, {Sch. 1 para. 59(3)}, the amending provision coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see [ss. 46, 161\(5\)](#) of the [Government of Wales Act 2006 \(c. 32\)](#)
- F12** [S. 49D\(10\)](#): words in the definition of "relevant Welsh authority" substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order ([S.I. 2007/1388](#)), arts. 1, 3, Sch. 1 para. {59(4)}, the amending provision coming into force immediately after the end of

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"the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007)
- see [ss. 46, 161\(5\)](#) of the [Government of Wales Act 2006 \(c. 32\)](#)

49E Duties under section 49D: compliance notices

F13

Textual Amendments

F13 S. 49E repealed (1.10.2007) by [Equality Act 2006 \(c. 3\)](#), ss. 40, 91, 93, [Sch. 3 para. 49](#), [Sch. 4](#) (with s. 92); S.I. 2007/2603, [art. 2\(d\)](#) (subject to art. 3)

49F Enforcement of compliance notices

F14]

Textual Amendments

F14 S. 49F repealed (1.10.2007) by [Equality Act 2006 \(c. 3\)](#), ss. 40, 91, 93, [Sch. 3 para. 49](#), [Sch. 4](#) (with s. 92); S.I. 2007/2603, [art. 2\(d\)](#) (subject to art. 3)

Status:

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