



Disability Discrimination Act 1995

1995 CHAPTER 50

PART II

EMPLOYMENT

VALID FROM 03/07/2003

[^{F1}Enforcement etc.]

Textual Amendments

- F1** Cross-heading preceding s. 8 moved (3.7.2003 for E.W.S. for certain purposes and 21.2.2004 for N.I. and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), **9(1)**; [The Disability Discrimination Act 1995 \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), **9(1)**

[^{F2}17A Enforcement, remedies and procedure. E+W+S

- (1) A complaint by any person that another person—
- (a) has discriminated against him [^{F3}, or subjected him to harassment,] in a way which is unlawful under this Part, or
 - (b) is, by virtue of section 57 or 58, to be treated as having [^{F4}done so],
- may be presented to an [^{F5}employment tribunal]].

[^{F6}(1A) Subsection (1) does not apply to a complaint under section 14A(1) or (2) of an act in respect of which an appeal, or proceedings in the nature of an appeal, may be brought under any enactment.

(1B) In subsection (1A), “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.

Status: Point in time view as at 01/08/1998. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995, Cross Heading: Enforcement etc.. (See end of Document for details)

- (1C) Where, on the hearing of a complaint under subsection (1), the complainant proves facts from which the tribunal could, apart from this subsection, conclude in the absence of an adequate explanation that the respondent has acted in a way which is unlawful under this Part, the tribunal shall uphold the complaint unless the respondent proves that he did not so act.]
- (2) Where an [^{F7}employment tribunal] finds that a complaint presented to it under this section is well-founded, it shall take such of the following steps as it considers just and equitable—
- (a) making a declaration as to the rights of the complainant and the respondent in relation to the matters to which the complaint relates;
 - (b) ordering the respondent to pay compensation to the complainant;
 - (c) recommending that the respondent take, within a specified period, action appearing to the tribunal to be reasonable, in all the circumstances of the case, for the purpose of obviating or reducing the adverse effect on the complainant of any matter to which the complaint relates.
- (3) Where a tribunal orders compensation under subsection (2)(b), the amount of the compensation shall be calculated by applying the principles applicable to the calculation of damages in claims in tort or (in Scotland) in reparation for breach of statutory duty.
- (4) For the avoidance of doubt it is hereby declared that compensation in respect of discrimination in a way which is unlawful under this Part may include compensation for injury to feelings whether or not it includes compensation under any other head.
- (5) If the respondent to a complaint fails, without reasonable justification, to comply with a recommendation made by an [^{F8}employment tribunal] under subsection (2)(c) the tribunal may, if it thinks it just and equitable to do so—
- (a) increase the amount of compensation required to be paid to the complainant in respect of the complaint, where an order was made under subsection (2)(b); or
 - (b) make an order under subsection (2)(b).
- (6) Regulations may make provision—
- (a) for enabling a tribunal, where an amount of compensation falls to be awarded under subsection (2)(b), to include in the award interest on that amount; and
 - (b) specifying, for cases where a tribunal decides that an award is to include an amount in respect of interest, the manner in which and the periods and rate by reference to which the interest is to be determined.
- (7) Regulations may modify the operation of any order made under [^{F9}section 14 of [^{F10}the Employment Tribunals Act 1996]] (power to make provision as to interest on sums payable in pursuance of [^{F11}employment tribunal] decisions) to the extent that it relates to an award of compensation under subsection (2)(b).
- (8) Part I of Schedule 3 makes further provision about the enforcement of this Part and about procedure.

Extent Information

E1 This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only (from 21.2.2004)

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Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995, Cross Heading: Enforcement etc.. (See end of Document for details)

Textual Amendments

- F2** S. 8 moved and renumbered (as s. 17A) (E.W.S.) (3.7.2003 for certain purposes and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), **9(1)**
- F3** Words in s. 17A(1)(a) inserted (E.W.S.) (3.7.2003 for certain purposes and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), **9(2)(a)**
- F4** Words in s. 17A(1)(b) substituted (E.W.S.) (3.7.2003 for certain purposes and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), **9(2)(b)**
- F5** Words in s. 8(1)(b)(2)(5)(7) substituted (E.W.S.) (1.8.1998) by 1998 c. 8, s. **1(2)(a)** (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**
- F6** S. 17A(1A)-(1C) inserted (E.W.S.) (3.7.2003 for certain purposes and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), **9(2)(c)**
- F7** Words in s. 8(1)(b)(2)(5)(7) substituted (E.W.S.) (1.8.1998) by 1998 c. 8, s. **1(2)(a)** (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**
- F8** Words in s. 8(1)(b)(2)(5)(7) substituted (E.W.S.) (1.8.1998) by 1998 c. 8, s. **1(2)(a)** (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**
- F9** Words in s. 8(7) substituted (E.W.S.) (28.8.1996) by 1996 c. 17, ss. 43, 46, **Sch. 1 para. 12(1)(2)** (with s. 38)
- F10** Words in s. 8(7) substituted (E.W.S.) (1.8.1998) by 1998 c. 8, s. **1(2)(c)** (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**
- F11** Words in s. 8(1)(b)(2)(5)(7) substituted (E.W.S.) (1.8.1998) by 1998 c. 8, s. **1(2)(a)** (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**

Commencement Information

- I1** S. 8 (now s. 17A) wholly in force at 2.12.1996; s. 8 not in force at Royal Assent see s. 70(3); s. 8(6)(7) in force at 6.6.1996 by S.I. 1996/1474, art. 2(1), **Sch. Pt. I**; s. 8(1)-(5)(8) in force at 2.12.1996 by S.I. 1996/1474, art. 2(1), **Sch. Pt. III**

[^{F13}17A Enforcement, remedies and procedure. **N.I.**

- (1) A complaint by any person that another person—
- has discriminated against him [^{F14}, or subjected him to harassment,] in a way which is unlawful under this Part, or
 - is, by virtue of section 57 or 58, to be treated as having [^{F15}done so],
- may be presented to an industrial tribunal.

[Subsection (1) does not apply to a complaint under section 14A(1) or (2) about an ^{F16}(1A) act in respect of which an appeal, or proceedings in the nature of an appeal, may be brought under any enactment.

- (1B) Where, on the hearing of a complaint under subsection (1), the complainant proves facts from which the tribunal could, apart from this subsection, conclude in the absence of an adequate explanation that the respondent has acted in a way which is unlawful under this Part, the tribunal shall uphold the complaint unless the respondent proves that he did not so act.]
- (2) Where an industrial tribunal finds that a complaint presented to it under this section is well-founded, it shall take such of the following steps as it considers just and equitable—

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- (a) making a declaration as to the rights of the complainant and the respondent in relation to the matters to which the complaint relates;
 - (b) ordering the respondent to pay compensation to the complainant;
 - (c) recommending that the respondent take, within a specified period, action appearing to the tribunal to be reasonable, in all the circumstances of the case, for the purpose of obviating or reducing the adverse effect on the complainant of any matter to which the complaint relates.
- [^{F17}(3) Where a tribunal orders compensation under subsection (2)(b), the amount of the compensation shall be calculated by applying the principles applicable to the calculation of damages in claims in tort for breach of statutory duty.]
- (4) For the avoidance of doubt it is hereby declared that compensation in respect of discrimination in a way which is unlawful under this Part may include compensation for injury to feelings whether or not it includes compensation under any other head.
 - (5) If the respondent to a complaint fails, without reasonable justification, to comply with a recommendation made by an industrial tribunal under subsection (2)(c) the tribunal may, if it thinks it just and equitable to do so—
 - (a) increase the amount of compensation required to be paid to the complainant in respect of the complaint, where an order was made under subsection (2)(b); or
 - (b) make an order under subsection (2)(b).
 - (6) Regulations may make provision—
 - (a) for enabling a tribunal, where an amount of compensation falls to be awarded under subsection (2)(b), to include in the award interest on that amount; and
 - (b) specifying, for cases where a tribunal decides that an award is to include an amount in respect of interest, the manner in which and the periods and rate by reference to which the interest is to be determined.
- [^{F18}(7) Regulations may modify the operation of any order made under Article 16 of the Industrial Tribunals (Northern Ireland) Order 1996 ^{F19} (power to make provision as to interest on sums payable in pursuance of industrial tribunal decisions) to the extent that it relates to an award of compensation under subsection (2)(b).]
- (8) Part I of Schedule 3 makes further provision about the enforcement of this Part and about procedure.]

Extent Information

- E2** This version of this provision extends to Northern Ireland only; in its application to Northern Ireland, this section has effect subject to the modifications set out in Sch. 8 para. 5; see [s. 70\(6\)](#). A separate version has been created for England and Wales and Scotland only

Textual Amendments

- F13** [S. 8](#) moved and renumbered (as [s. 17A](#)) (N.I.) (21.2.2004 for certain purposes and 1.10.2004 otherwise) by [S.R. 2004/55, regs. 1\(2\)\(3\), 9\(1\)](#)
- F14** Words in [s. 17A\(1\)\(a\)](#) inserted (N.I.) (21.2.2004 for certain purposes and 1.10.2004 otherwise) by the [Disability Discrimination Act \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\), regs. 1\(2\)\(3\), 9\(2\)\(a\)](#)

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- F15** Words in s. 17A(1)(b) substituted (N.I.) (21.2.2004 for specified purposes and 1.10.2004 otherwise) by the Disability Discrimination Act (Amendment) Regulations (Northern Ireland) 2004 (S.R. 2004/55), regs. 1(2)(3), **9(2)(b)**
- F16** S. 17A(1A)(1B) inserted (N.I.) (21.2.2004 for certain purposes and 1.10.2004 otherwise) by the Disability Discrimination Act (Amendment) Regulations (Northern Ireland) 2004 (S.R. 2004/55), regs. 1(2)(3), **9(2)(c)**
- F17** S. 17A(3) substituted (N.I.) (21.2.2004 for certain purposes and 1.10.2004 otherwise) by the Disability Discrimination Act (Amendment) Regulations (Northern Ireland) 2004 (S.R. 2004/55), regs. 1(2)(3), **9(2)(d)**
- F18** S. 17A(7) substituted (N.I.) (21.2.2004 for certain purposes and 1.10.2004 otherwise) by the Disability Discrimination Act (Amendment) Regulations (Northern Ireland) 2004 (S.R. 2004/55), regs. 1(2)(3), **9(2)(e)**
- F19** S.I. 1996/1921 (N.I. 18)

Commencement Information

- II** S. 8 (now s. 17A) wholly in force at 2.12.1996; s. 8 not in force at Royal Assent see s. 70(3); s. 8(6)(7) in force at 6.6.1996 by S.I. 1996/1474, art. 2(1), **Sch. Pt. I**; s. 8(1)-(5)(8) in force at 2.12.1996 by S.I. 1996/1474, art. 2(1), **Sch. Pt. III**

^{F12}**17B Enforcement of sections 16B and 16C**

- (1) Only the Disability Rights Commission may bring proceedings in respect of a contravention of section 16B (discriminatory advertisements) or section 16C (instructions and pressure to discriminate).
- (2) The Commission shall bring any such proceedings in accordance with subsection (3) or (4).
- (3) The Commission may present to an employment tribunal a complaint that a person has done an act which is unlawful under section 16B or 16C; and if the tribunal finds that the complaint is well-founded it shall make a declaration to that effect.
- (4) Where—
 - (a) a tribunal has made a finding pursuant to subsection (3) that a person has done an act which is unlawful under section 16B or 16C,
 - (b) that finding has become final, and
 - (c) it appears to the Commission that, unless restrained, he is likely to do a further act which is unlawful under that section,the Commission may apply to a county court for an injunction, or (in Scotland) to a sheriff court for an interdict, restraining him from doing such an act; and the court, if satisfied that the application is well-founded, may grant the injunction or interdict in the terms applied for or in more limited terms.
- (5) A finding of a tribunal under subsection (3) in respect of any act shall, if it has become final, be treated as conclusive by a county court or sheriff court upon an application under subsection (4).
- (6) A finding of a tribunal becomes final for the purposes of this section when an appeal against it is dismissed, withdrawn or abandoned or when the time for appealing expires without an appeal having been brought.

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- (7) An employment tribunal shall not consider a complaint under subsection (3) unless it is presented before the end of the period of six months beginning when the act to which it relates was done; and a county court or sheriff court shall not consider an application under subsection (4) unless it is made before the end of the period of five years so beginning.
- (8) A court or tribunal may consider any such complaint or application which is out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.
- (9) The provisions of paragraph 3(3) and (4) of Schedule 3 apply for the purposes of subsection (7) as they apply for the purposes of paragraph 3(1) of that Schedule.]

Textual Amendments

F12 Ss. 17B, 17C inserted (E.W.S.) (3.7.2003 for certain purposes and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), 16(1)

[^{F12}**17C** **Validity of contracts, collective agreements and rules of undertakings**

Schedule 3A shall have effect.]

Textual Amendments

F12 Ss. 17B, 17C inserted (E.W.S.) (3.7.2003 for certain purposes and 1.10.2004 otherwise) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), 16(1)

Status:

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