



Disability Discrimination Act 1995

1995 CHAPTER 50

PART IV

EDUCATION

[^{F1}CHAPTER 2

FURTHER AND HIGHER EDUCATION]

[^{F1}Enforcement, etc.]

Textual Amendments

- F1** Pt. IV Ch. 2: Cross-heading and s. 28V inserted (1.9.2002) by 2001 c. 10, s. 30 (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. 1

[^{F2}28V Enforcement, remedies and procedure

- (1) A claim by a person—
- that a responsible body has discriminated against him [^{F3}, or subjected him to harassment,] in a way which is unlawful under this Chapter,
 - that a responsible body is by virtue of section 57 or 58 to be treated as having [^{F4}done so], or
 - that a person is by virtue of section 57 to be treated as having [^{F4}done so],
- may be made the subject of civil proceedings in the same way as any other claim in tort or (in Scotland) in reparation for breach of statutory duty.

[Where—

- ^{F5}(1A) (a) a claim is brought under subsection (1), and
- the claimant (or pursuer, in Scotland) proves facts from which the court could, apart from this subsection, conclude in the absence of an adequate explanation

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that the defendant (or defender, in Scotland) has acted in a way which is unlawful under this Chapter,

the court shall uphold the claim unless the defendant (or defender, in Scotland) proves that he did not so act.]

- (2) For the avoidance of doubt it is hereby declared that damages in respect of discrimination in a way which is unlawful under this Chapter may include compensation for injury to feelings whether or not they include compensation under any other head.
- (3) Proceedings in England and Wales may be brought only in a county court.
- (4) Proceedings in Scotland may be brought only in a sheriff court.
- (5) The remedies available in such proceedings are those which are available in the High Court or (as the case may be) the Court of Session.
- (6) The fact that a person who brings proceedings under this Part against a responsible body may also be entitled to bring proceedings against that body under Part 2 is not to affect the proceedings under this Part.
- (7) Part 4 of Schedule 3 makes further provision about the enforcement of this Part and about procedure.]

Textual Amendments

- F2** S. 28V inserted (1.9.2002) by 2001 c. 10, s. 30 (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. 1
- F3** Words in s. 28V(1)(a) inserted (30.6.2006 for certain purposes and otherwise 1.9.2006) by The Disability Discrimination Act 1995 (Amendment) (Further and Higher Education) Regulations 2006 (S.I. 2006/1721), regs. 1, 15(2)(a)
- F4** Words in s. 28V(1)(b)(c) substituted (30.6.2006 for certain purposes and otherwise 1.9.2006) by The Disability Discrimination Act 1995 (Amendment) (Further and Higher Education) Regulations 2006 (S.I. 2006/1721), regs. 1, 15(2)(b)
- F5** S. 28V(1A) inserted (30.6.2006 for certain purposes and otherwise 1.9.2006) by The Disability Discrimination Act 1995 (Amendment) (Further and Higher Education) Regulations 2006 (S.I. 2006/1721), regs. 1, 15(3) (with reg. 3)

[^{F6}28W Occupation of premises by educational institutions

- (1) This section applies if—
 - (a) premises are occupied by an educational institution under a lease;
 - (b) but for this section, the responsible body would not be entitled to make a particular alteration to the premises; and
 - (c) the alteration is one which the responsible body proposes to make in order to comply with section 28T [^{F7}or section 28UA(5)].
- (2) Except to the extent to which it expressly so provides, the lease has effect, as a result of this subsection, as if it provided—
 - (a) for the responsible body to be entitled to make the alteration with the written consent of the lessor;
 - (b) for the responsible body to have to make a written application to the lessor for consent if it wishes to make the alteration;

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- (c) if such an application is made, for the lessor not to withhold his consent unreasonably; and
 - (d) for the lessor to be entitled to make his consent subject to reasonable conditions.
- (3) In this section—
- “lease” includes a tenancy, sub-lease or sub-tenancy and an agreement for a lease, tenancy, sub-lease or sub-tenancy; and
 - “sub-lease” and “sub-tenancy” have such meaning as may be prescribed.
- (4) If the terms and conditions of a lease—
- (a) impose conditions which are to apply if the responsible body alters the premises, or
 - (b) entitle the lessor to impose conditions when consenting to the responsible body’s altering the premises,
- the responsible body is to be treated for the purposes of subsection (1) as not being entitled to make the alteration.
- (5) Part 3 of Schedule 4 supplements the provisions of this section.]

Textual Amendments

- F6** S. 28W inserted (E.W.S.) (30.5.2002) by 2001 c. 10, s. 31 (with s. 43(13)); S.I. 2002/1649, art. 3
- F7** Words in s. 28W(1)(c) inserted (30.6.2006 for certain purposes and otherwise 1.9.2006) by The Disability Discrimination Act 1995 (Amendment) (Further and Higher Education) Regulations 2006 (S.I. 2006/1721), regs. 1, 16

Modifications etc. (not altering text)

- C1** S. 28W modified (28.6.2002) by S.I. 2002/1458, reg. 7 (which Regulations were revoked (1.5.2005) by S.I. 2005/1070, reg. 8)
- C2** S. 28W modified (1.5.2005) by The Disability Discrimination (Educational Institutions) (Alteration of Leasehold Premises) Regulations 2005 (S.I. 2005/1070), reg. 7

[^{F8}28X Validity and revision of agreements

Section 28P applies for the purposes of this Chapter as it applies for the purposes of Chapter 1, but with the substitution, for paragraphs (a) and (b) of subsection (2), of “under section 28V”.]

Textual Amendments

- F8** S. 28X inserted (1.9.2002) by 2001 c. 10, s. 32 (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. 1

29 Education of disabled persons.

^{F9}

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Extent Information

- E1** In the application of the Act to Northern Ireland, this section is omitted; see [s. 70\(6\)](#), [Sch. 8 paras. 1, 15](#)
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Textual Amendments

- F9** [S. 29](#) repealed (E.W.S.) (1.9.2002) by [2001 c. 10, s. 40\(1\)](#), [Sch. 9](#) (with [s. 43\(13\)](#)); [S.I. 2002/2217, art. 3](#), [Sch. 1 Pt. 1](#)

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