

*Status: Point in time view as at 27/01/2020.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995, Part I. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 3

#### SECTIONS [F117A(8)] AND 25(6)[F1, 31ADA] ENFORCEMENT AND PROCEDURE

##### Extent Information

- E1** In its application to Northern Ireland, this Schedule has effect subject to the modifications set out in Sch. 8; see s. 70(6)

##### Textual Amendments

- F1** Sch. 3: word in side note substituted (E.W.S.) (3.7.2003 for certain purposes and otherwise 1.10.2004) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), **29(2)(a)** and same word substituted (N.I.) (21.2.2004 for certain purposes and otherwise 1.10.2004) by the [Disability Discrimination Act \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), **28(2)(a)**
- F1** Sch. 3: word in sidenote inserted (E.W.S.) (1.9.2007) by [The Disability Discrimination Act 1995 \(Amendment etc.\) \(General Qualifications Bodies\) \(Alteration of Premises and Enforcement\) Regulations \(S.I. 2007/2405\)](#), regs. 1(2), 4(2)

### PART I

#### EMPLOYMENT

##### *Conciliation*

F11 .....

##### Textual Amendments

- F1** Sch. 3 para. 1 repealed (E.W.S.)(22.8.1996) by [1996 c. 17, ss. 45, 46, Sch. 3 Pt. I](#) (with s. 38) and (N.I.) (24.9.1996) by [S.I. 1996/1921 \(N.I.18\)](#), art. 28, **Sch. 3** (with Sch. 2)

##### *Restriction on proceedings for breach of Part II*

- <sup>2</sup> [F2][F3(1) Except as provided by Part 2, no civil or criminal proceedings may be brought against any person in respect of an act merely because the act is unlawful under that Part.]
- (2) Sub-paragraph (1) does not prevent the making of an application for judicial review [F4 or the investigation or determination of any matter in accordance with Part 10 (investigations) of the Pension Schemes Act 1993 F5 by the Pensions Ombudsman”][F6 or the investigation or determination of any matter in accordance

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with the Part X (investigations: the Pensions Ombudsman) of the Pension Schemes (Northern Ireland) Act 1993<sup>F7</sup> by the Pensions Ombudsman].

[<sup>F8</sup>(3) Sub-paragraph (1) does not prevent the bringing of proceedings in respect of an offence under section 16B(2B).]

#### Extent Information

**E1** Following the repeal of this Act for E.W.S. by the Equality Act 2010, this section now extends to Northern Ireland only.

#### Textual Amendments

- F2** Act repealed (E.W.S.) (1.10.2010 (except for the repeal of ss. 49A-49D) and 5.4.2011 in so far as not already in force) by [Equality Act 2010 \(c. 15\)](#), 216(3), Sch. 27 Pt. 1 (as substituted (1.10.2010) by [S.I. 2010/2279](#), [Sch. 2](#)) (with ss. 6(4), 205, and with amendments and savings in the said [S.I. 2010/2279](#), [art. 16](#)); [S.I. 2010/2317](#), [art. 2\(15\)\(f\)](#) (with arts. 4-25, Schs. 1-16); [S.I. 2011/1066](#), [art. 2\(h\)](#)
- F3** [Sch. 3 para. 2\(1\)](#) substituted (E.W.S.) (3.7.2003 for certain purposes and otherwise 1.10.2004) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), [29\(2\)\(b\)](#) and said words substituted (N.I.) (21.2.2004 for certain purposes and otherwise 1.10.2004) by the [Disability Discrimination Act \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), [28\(2\)\(b\)](#)
- F4** Words in [Sch. 3 para. 2\(2\)](#) inserted (E.W.S.) (1.12.2003 for certain purposes, otherwise 1.10.2004) by [The Disability Discrimination Act 1995 \(Pensions\) Regulations 2003 \(S.I. 2003/2770\)](#), regs. 1(2)(3), [4\(5\)](#)
- F5** 1993 c. 48.
- F6** Words in [Sch. 3 para. 2\(2\)](#) added (N.I.) (21.2.2004 for certain purposes and otherwise 1.10.2004) by the [Disability Discrimination Act \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), [28\(2\)\(c\)](#)
- F7** 1993 c. 49; Part X was amended by Articles 152 to 156 of the [Pensions \(Northern Ireland\) Order 1995 \(S.I. 1995/3213 \(N.I. 22\)\)](#), [paragraph 70](#) of Schedule 5 to the [Bank of England Act 1998 \(c. 11\)](#) and sections 49 and 50 of, and Schedule 9 to, the [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4 \(N.I.\)\)](#)
- F8** [Sch. 3 para. 2\(3\)](#) inserted (E.W.S.) (5.12.2005) by [Disability Discrimination Act 2005 \(c. 13\)](#), ss. 19(1), 20(3)-(6), [Sch. 1 para. 38\(2\)](#); [S.I. 2005/2774](#), [art. 3\(j\)](#) and said sub-paragraph inserted (N.I.) (9.11.2007) by [The Disability Discrimination \(Northern Ireland\) Order 2006 \(S.I. 2006/312 \(N.I. 1\)\)](#), arts. 1, 19, [Sch. 1 para. 29\(2\)](#); [S.R. 2007/466](#), [art. 2\(2\)\(l\)](#)

#### *Period within which proceedings must be brought*

3

[<sup>F9</sup>(1) An [<sup>F10</sup>employment tribunal] shall not consider a complaint under [<sup>F11</sup>section 17A or 25(8)] unless it is presented before the end of the period of three months beginning when the act complained of was done.

[<sup>F12</sup>(1A) Article 249B of the Employment Rights (Northern Ireland) Order 1996 (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of sub-paragraph (1)(a).

(1B) Sub-paragraphs (1) and (1A) shall be treated as provisions of the Employment Rights (Northern Ireland) Order 1996 for the purposes of Article 249B of that Order.]

(2) A tribunal may consider any such complaint which is out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.

(3) For the purposes of sub-paragraph (1)—

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- (a) where an unlawful act <sup>F13</sup> . . . is attributable to a term in a contract, that act is to be treated as extending throughout the duration of the contract;
  - (b) any act extending over a period shall be treated as done at the end of that period; and
  - (c) a deliberate omission shall be treated as done when the person in question decided upon it.
- (4) In the absence of evidence establishing the contrary, a person shall be taken for the purposes of this paragraph to decide upon an omission—
- (a) when he does an act inconsistent with doing the omitted act; or
  - (b) if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the omitted act if it was to be done.]

#### Extent Information

- E2** Following the repeal of this Act for E.W.S. by the Equality Act 2010, this provision now extends to N.I. only.

#### Textual Amendments

- F9** Act repealed (E.W.S.) (1.10.2010 (except for the repeal of ss. 49A-49D) and 5.4.2011 in so far as not already in force) by [Equality Act 2010 \(c. 15\)](#), 216(3), Sch. 27 Pt. 1 (as substituted (1.10.2010) by [S.I. 2010/2279](#), [Sch. 2](#)) (with ss. 6(4), 205, and with amendments and savings in the said [S.I. 2010/2279](#), [art. 16](#)); [S.I. 2010/2317](#), [art. 2\(15\)\(f\)](#) (with arts. 4-25, Schs. 1-16); [S.I. 2011/1066](#), [art. 2\(h\)](#)
- F10** Words in Sch. 3 para. 3 substituted (1.8.1998) by [1998 c. 8, s. 1\(2\)](#) (with s. 16(2))
- F11** Words in Sch. 3 para. 3(1) substituted (E.W.S.) (3.7.2003 for certain purposes, otherwise 1.10.2004) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), [regs. 1\(2\)\(3\), 29\(2\)\(c\)](#) and said words substituted (N.I.) (21.2.2004 for certain purposes, otherwise 1.10.2004) by the [Disability Discrimination Act \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), [regs. 1\(2\)\(3\), 28\(2\)\(d\)](#)
- F12** Sch. 3 para. 3(1A)(1B) inserted (27.1.2020) by [Employment Act \(Northern Ireland\) 2016 \(c. 15\)](#), s. 29(2), [Sch. 2 para. 11](#); [S.R. 2020/1](#), [art. 2\(n\)](#)
- F13** Words in Sch. 3 para. 3(3)(a) omitted (E.W.S.) (3.7.2003 for certain purposes, otherwise 1.10.2004) by virtue of [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), [regs. 1\(2\)\(3\), 29\(2\)\(d\)](#) and said words omitted (N.I.) (21.2.2004 for certain purposes, otherwise 1.10.2004) by virtue of the [Disability Discrimination Act \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), [regs. 1\(2\)\(3\), 28\(2\)\(e\)](#)

#### Evidence

- 4 <sup>F14</sup>(1) In any proceedings under [<sup>F15</sup>section 17A or 25(8)], a certificate signed by or on behalf of a Minister of the Crown and certifying—
- (a) that any conditions or requirements specified in the certificate were imposed by a Minister of the Crown and were in operation at a time or throughout a time so specified, <sup>F16</sup> . . .
  - <sup>F16</sup>(b) . . . . .
- shall be conclusive evidence of the matters certified.

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- [<sup>F17</sup>(1A) In any proceedings under section 17A or 25(8), a certificate signed by or on behalf of the Scottish Ministers and certifying that any conditions or requirements specified in the certificate—
- (a) were imposed by a member of the Scottish Executive, and
  - (b) were in operation at a time or throughout a time so specified,
- shall be conclusive evidence of the matters certified.
- (1B) In any proceedings under section 17A or 25(8), a certificate signed by or on behalf of the [<sup>F18</sup>Welsh Ministers] and certifying that any conditions or requirements specified in the certificate—
- (a) were imposed by the [<sup>F19</sup>National Assembly for Wales constituted by the Government of Wales Act 1998, the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government], and
  - (b) were in operation at a time or throughout a time so specified,
- shall be conclusive evidence of the matters certified.]
- (2) A document purporting to be such a certificate [<sup>F20</sup>as is mentioned in subparagraph (1), (1A) or (1B)] shall be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.]

#### Extent Information

- E3** Following the repeal of this Act for E.W.S. by the Equality Act 2010, this provision now extends to N.I. only and also has effect subject to the modifications for Northern Ireland set out in Sch. 8 para. 50(2); see s. 70(6)

#### Textual Amendments

- F14** Act repealed (E.W.S.) (1.10.2010 (except for the repeal of ss. 49A-49D) and 5.4.2011 in so far as not already in force) by [Equality Act 2010 \(c. 15\)](#), 216(3), Sch. 27 Pt. 1 (as substituted (1.10.2010) by [S.I. 2010/2279](#), [Sch. 2](#)) (with ss. 6(4), 205, and with amendments and savings in the said [S.I. 2010/2279](#), [art. 16](#)); [S.I. 2010/2317](#), [art. 2\(15\)\(f\)](#) (with [arts. 4-25](#), [Schs. 1-16](#)); [S.I. 2011/1066](#), [art. 2\(h\)](#)
- F15** Words in [Sch. 3 para. 4\(1\)](#) substituted (E.W.S.) (3.7.2003, otherwise 1.10.2004) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), [regs. 1\(2\)\(3\)](#), [29\(2\)\(e\)](#) and said words substituted (N.I.) (21.2.2004 for certain purposes and 1.10.2004 insofar as not yet in force) by the [Disability Discrimination Act \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), [regs. 1\(2\)\(3\)](#), [28\(2\)\(f\)](#)
- F16** [Sch. 3 para. 4\(1\)\(b\)](#) and preceding word repealed (16.7.2001) by [1999 c. 26](#), [ss. 41, 44](#), [Sch. 8 para. 7](#), [Sch. 9\(12\)](#); [S.I. 2001/1187](#), [art. 3](#), [Sch.](#) (as amended by [S.I. 2001/1461](#), [art. 2](#))
- F17** [Sch. 3 para. 4\(1A\)\(1B\)](#) inserted (E.W.S.) (30.6.2005) by [Disability Discrimination Act 2005 \(c. 13\)](#), [ss. 19\(1\)](#), [20\(3\)-\(6\)](#), [Sch. 1 para. 38\(3\)](#); [S.I. 2005/1676](#), [art. 2\(1\)\(c\)](#)
- F18** Words in [Sch. 3 para. 4\(1B\)](#) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order ([S.I. 2007/1388](#)), [arts. 1, 3](#), {[Sch. 1 para. 63\(2\)\(a\)](#)}, 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.
- F19** Words in [Sch. 3 para. 4\(1B\)\(a\)](#) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order ([S.I. 2007/1388](#)), [arts. 1, 3](#), {[Sch. 1 para. 63\(2\)\(b\)](#)}, 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.

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**F20** Words in Sch. 3 para. 4(2) inserted (E.W.S.) (30.6.2005) by Disability Discrimination Act 2005 (c. 13), ss. 19(1), 20(3)-(6), Sch. 1 para. 38(4); S.I. 2005/1676, art. 2(1)(c)

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