



# Disability Discrimination Act 1995

## 1995 CHAPTER 50

### PART IV

#### EDUCATION

#### [<sup>F1</sup>CHAPTER 2

#### FURTHER AND HIGHER EDUCATION]

#### *[<sup>F1</sup>Duties of responsible bodies]*

#### [<sup>F1</sup>28S Meaning of “discrimination”

- (1) For the purposes of section 28R, a responsible body discriminates against a disabled person if—
  - (a) for a reason which relates to his disability, it treats him less favourably than it treats or would treat others to whom that reason does not or would not apply; and
  - (b) it cannot show that the treatment in question is justified.
- (2) For the purposes of section 28R, a responsible body also discriminates against a disabled person if—
  - (a) it fails, to his detriment, to comply with section 28T; and
  - (b) it cannot show that its failure to comply is justified.
- (3) In relation to a failure to take a particular step, a responsible body does not discriminate against a person if it shows—
  - (a) that, at the time in question, it did not know and could not reasonably have been expected to know, that he was disabled; and
  - (b) that its failure to take the step was attributable to that lack of knowledge.

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*Status: Point in time view as at 01/09/2002. This version of this provision has been superseded.*

**Changes to legislation:** *There are currently no known outstanding effects for the Disability Discrimination Act 1995, Section 28S. (See end of Document for details)*

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- (4) The taking of a particular step by a responsible body in relation to a person does not amount to less favourable treatment if it shows that at the time in question it did not know, and could not reasonably have been expected to know, that he was disabled.
- (5) Subsections (6) to (9) apply in determining whether, for the purposes of this section—
- (a) less favourable treatment of a person, or
  - (b) failure to comply with section 28T,
- is justified.
- (6) Less favourable treatment of a person is justified if it is necessary in order to maintain—
- (a) academic standards; or
  - (b) standards of any other prescribed kind.
- (7) Less favourable treatment is also justified if—
- (a) it is of a prescribed kind;
  - (b) it occurs in prescribed circumstances; or
  - (c) it is of a prescribed kind and it occurs in prescribed circumstances.
- (8) Otherwise less favourable treatment, or a failure to comply with section 28T, is justified only if the reason for it is both material to the circumstances of the particular case and substantial.
- (9) If, in a case falling within subsection (1)—
- (a) the responsible body is under a duty imposed by section 28T in relation to the disabled person, but
  - (b) fails without justification to comply with that duty,
- its treatment of that person cannot be justified under subsection (8) unless that treatment would have been justified even if it had complied with that duty.]

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**Textual Amendments**

**F1** S. 28S inserted (1.9.2002) by 2001 c. 10, s. 27 (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. 1

**Status:**

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**Changes to legislation:**

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