



# Disability Discrimination Act 1995

## 1995 CHAPTER 50

### PART VIII

#### MISCELLANEOUS

#### 68 Interpretation. **E+W+S**

(1) In this Act—

“accessibility certificate” means a certificate issued under section 41(1)(a);

“act” includes a deliberate omission;

“approval certificate” means a certificate issued under section 42(4);

[<sup>F1</sup>“benefits”, in Part II, has the meaning given in section 4(4);]

“conciliation officer” means a person designated under section 211 of the <sup>M1</sup>Trade Union and Labour Relations (Consolidation) Act 1992;

“employment” means, subject to any prescribed provision, employment under a contract of service or of apprenticeship or a contract personally to do any work, and related expressions are to be construed accordingly;

[<sup>F2</sup>“employment at an establishment in Great Britain” is to be construed in accordance with subsections (2) to (4A)]

“enactment” includes subordinate legislation and any Order in Council [<sup>F3</sup>, and (except in section 56(5)) includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament];

[<sup>F4</sup>“Great Britain” includes such of the territorial waters of the United Kingdom as are adjacent to Great Britain]

“licensing authority [<sup>F5</sup>, except in section 37A,] means—

(a) in relation to the area to which the <sup>M2</sup>Metropolitan Public Carriage Act 1869 applies, the Secretary of State or the holder of any office for the time being designated by the Secretary of State; or

(b) in relation to any other area in England and Wales, the authority responsible for licensing taxis in that area;

“mental impairment” does not have the same meaning as in the <sup>M3</sup>Mental Health Act 1983 or the <sup>M4</sup>Mental Health (Scotland) Act 1984 but the fact that

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These apply to different geographical extents. This version of this provision has been superseded.

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an impairment would be a mental impairment for the purposes of either of those Acts does not prevent it from being a mental impairment for the purposes of this Act;

[<sup>F6</sup>“Minister of the Crown” includes the Treasury and the Defence Council]

“occupational pension scheme” has the same meaning as in the <sup>M5</sup>Pension Schemes Act 1993;

“premises” includes land of any description;

“prescribed” means prescribed by regulations;

“profession” includes any vocation or occupation;

“provider of services” has the meaning given in section 19(2)(b);

“public service vehicle” and “regulated public service vehicle” have the meaning given in section 40;

“PSV accessibility regulations” means regulations made under section 40(1);

“rail vehicle” and “regulated rail vehicle” have the meaning given in section 46;

“rail vehicle accessibility regulations” means regulations made under section 46(1);

“regulations” means regulations made by the Secretary of State;

[<sup>F1</sup>“section 6 duty” means any duty imposed by or under section 6;]

[<sup>F1</sup>“section 15 duty” means any duty imposed by or under section 15;]

“section 21 duty” means any duty imposed by or under section 21;

“subordinate legislation” has the same meaning as in section 21 of the <sup>M6</sup>Interpretation Act 1978;

“taxi” and “regulated taxi” have the meaning given in section 32;

“taxi accessibility regulations” means regulations made under section 32(1);

“trade” includes any business;

“trade organisation” has the meaning given in section 13;

“vehicle examiner” means an examiner appointed under section 66A of the <sup>M7</sup>Road Traffic Act 1988.

[<sup>F7</sup>(2) Employment (including employment on board a ship to which subsection (2B) applies or on an aircraft or hovercraft to which subsection (2C) applies) is to be regarded as being employment at an establishment in Great Britain if the employee—

- (a) does his work wholly or partly in Great Britain; or
- (b) does his work wholly outside Great Britain and subsection (2A) applies.

(2A) This subsection applies if—

- (a) the employer has a place of business at an establishment in Great Britain;
- (b) the work is for the purposes of the business carried on at the establishment; and
- (c) the employee is ordinarily resident in Great Britain—
  - (i) at the time when he applies for or is offered the employment, or
  - (ii) at any time during the course of the employment.

(2B) This subsection applies to a ship if—

- (a) it is registered at a port of registry in Great Britain; or
- (b) it belongs to or is possessed by Her Majesty in right of the Government of the United Kingdom.

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- (2C) This subsection applies to an aircraft or hovercraft if—
- (a) it is—
    - (i) registered in the United Kingdom, and
    - (ii) operated by a person who has his principal place of business, or is ordinarily resident, in Great Britain; or
  - (b) it belongs to or is possessed by Her Majesty in right of the Government of the United Kingdom.
- (2D) The following are not to be regarded as being employment at an establishment in Great Britain—
- (a) employment on board a ship to which subsection (2B) does not apply;
  - (b) employment on an aircraft or hovercraft to which subsection (2C) does not apply.]
- (4) Employment of a prescribed kind, or in prescribed circumstances, is to be regarded as not being employment at an establishment in Great Britain.
- [<sup>F8</sup>(4A) For the purposes of determining if employment concerned with the exploration of the sea bed or sub-soil or the exploitation of their natural resources is outside Great Britain, subsections (2)(a) and (b), (2A) and (2C) of this section each have effect as if “Great Britain” had the same meaning as that given to the last reference to Great Britain in section 10(1) of the Sex Discrimination Act 1975 <sup>F9</sup> by section 10(5) of that Act read with the Sex Discrimination and Equal Pay (Offshore Employment) Order 1987 <sup>F10</sup>.]
- (5) [<sup>F11</sup>Where work is not done at an establishment it shall be treated as done—
- (a) at the establishment from which it is done; or
  - (b) where it is not done from any establishment, at the establishment with which it has the closest connection.]

#### 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.

#### Textual Amendments

- F1** S. 68(1): definition of "benefits", "section 6 duty" and "section 15 duty" omitted (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), **27(a)(i)**
- F2** S. 68(1): definition of "employment at an establishment in Great Britain" 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), **27(a)(ii)**
- F3** S. 68(1): Words in the definition of “enactment” inserted (27.7.2000) by [S.I. 2000/2040](#), arts. 1(1), 2(1), **Sch. Pt. I para. 18** (with saving in art. 3)
- F4** S. 68(1): definition of "Great Britain" inserted (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), **27(a)(iii)**
- F5** S. 68(1): Words in the definition of "licensing authority" inserted (31.12.2003 for E.W. for specified purposes and 31.3.2004 for E.W. for all other purposes) by [2002 c. 37](#), ss. 5, 6(2); [S.I. 2003/3123](#), **art. 2**
- F6** S. 68(1): definition of "Minister of the Crown" 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), **27(a)(iv)**

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**Changes to legislation:** There are currently no known outstanding effects for the Disability Discrimination Act 1995, Section 68. (See end of Document for details)

- F7** S. 68(2)-(2D) substituted (E.W.S.) for s. 68(2)(3) (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), [27\(b\)](#)
- F8** S. 68(4A) inserted (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), [27\(c\)](#)
- F9** 1975 c. 65. Section 10(1) was amended by the Equal Opportunities (Employment Legislation) (Territorial Limits) Regulations 1999, S.I. 1999/3163, [reg. 2\(1\)](#), (2).
- F10** S.I. 1987/930.
- F11** S. 68(5) omitted (E.W.S.) (3.7.2003 for certain purposes and otherwise 1.10.2004) by virtue of [The Disability Discrimination Act 1995 \(Amendment\) Regulations 2003 \(S.I. 2003/1673\)](#), regs. 1(2)(3), [27\(d\)](#)

#### Commencement Information

- I1** S. 68 wholly in force at 2.12.1996; s. 68 not in force at Royal Assent see [s. 70\(3\)](#); [s. 68\(1\)](#) in force (E.W.S.) at 17.5.1996 by [S.I. 1996/1336](#), [art. 3\(j\)](#); [s. 68\(1\)](#) in force (N.I.) at 30.5.1996 by [S.R. 1996/219](#), [art. 3\(i\)](#); [s. 68\(2\)-\(5\)](#) in force (E.W.S.) at 2.12.1996 by [S.I. 1996/1474](#), [art. 2\(3\)](#), [Sch. Pt. III](#); [s. 68\(2\)-\(5\)](#) in force (N.I.) at 2.12.1996 by [S.R. 1996/280](#), [art. 2\(2\)](#), [Sch. Pt. II](#)

#### Marginal Citations

- M1** 1992 c. 52.
- M2** 1869 c. 115.
- M3** 1983 c. 20.
- M4** 1984 c. 36.
- M5** 1993 c. 48.
- M6** 1978 c. 30.
- M7** 1988 c. 52.

## 68 Interpretation. **N.I.**

[<sup>F12</sup>(1) In this Act—

“accessibility certificate” means a certificate issued under section 41(1)(a);

“act” includes a deliberate omission;

“the Agency” means the Labour Relations Agency;

“approval certificate” means a certificate issued under section 42(4);

“the Assembly” means the Northern Ireland Assembly;

[<sup>F13</sup>“benefits”, in Part II, has the meaning given in section 4(4);]

“the Department of Economic Development” means the Department of Economic Development in Northern Ireland;

“the Department of the Environment” means the Department of the Environment for Northern Ireland;

“the Department of Health and Social Services” means the Department of Health and Social Services for Northern Ireland;

“employment” means, subject to any prescribed provision, employment under a contract of service or of apprenticeship or a contract personally to do work and related expressions are to be construed accordingly;

[<sup>F14</sup>“employment at an establishment in Northern Ireland” is to be construed in accordance with subsections (2) to (4)]

“enactment” means any statutory provision within the meaning of section 1(f) of the Interpretation Act (Northern Ireland) 1954 [<sup>F15</sup>, and (except

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in section 56(5)) includes an enactment comprised in, or an instrument made under, an Act of the Scottish Parliament];

“government department” means a Northern Ireland department or a department of the Government of the United Kingdom;

[<sup>F16</sup>“Minister of the Crown” includes the Treasury and the Defence Council]

“Northern Ireland department” includes (except in sections 51 and 52) the head of a Northern Ireland department;

“occupational pension scheme” has the same meaning as in the Pension Schemes (Northern Ireland) Act 1993;

“premises”, includes land of any description;

“prescribed” means prescribed by regulations;

“profession” includes any vocation or occupation;

“provider of services” has the meaning given in section 19(2)(b);

“public service vehicle” and “regulated public service vehicle” have the meaning given in section 40;

“PSV accessibility regulations” means regulations made under section 40(1);

“rail vehicle” and “regulated rail vehicle” have the meaning given in section 46;

“rail vehicle accessibility regulations” means regulations made under section 46(1);

“regulations” means—

(a) [<sup>F17</sup>in section 17A, regulations made by the Department for Employment and Learning;]

(b) in Part V of this Act, regulations made by the Department of the Environment;

(c) [<sup>F18</sup>in any other provision of this Act, regulations made by the Office of the First Minister and deputy First Minister:]

[<sup>F13</sup>“section 6 duty” means any duty imposed by or under section 6;]

[<sup>F13</sup>“section 15 duty” means any duty imposed by or under section 15;]

“section 21 duty” means any duty imposed by or under section 21;

“taxi” and “regulated taxi” have the meaning given in section 32;

“taxi accessibility regulations” means regulations made under section 32(1);

“trade” includes any business;

“trade organisation” has the meaning given in section 13;

“vehicle examiner” means an officer of the Department of the Environment authorised by that Department for the purposes of sections 41 and 42.]

[<sup>F19</sup>(2) Employment (including employment on board a ship to which subsection (2B) applies or on an aircraft or hovercraft to which subsection (2C) applies) is to be regarded as being employment at an establishment in Northern Ireland if the employee –

(a) does his work wholly or partly in Northern Ireland; or,

(b) does his work wholly outside Northern Ireland and subsection (2A) applies.

(2A) This subsection applies if –

(a) the employer has a place of business at an establishment in Northern Ireland;

(b) the work is for the purposes of the business carried on at the establishment; and

(c) the employee is ordinarily resident in Northern Ireland –

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- (i) at the time when he applies for or is offered the employment, or
- (ii) at any time during the course of the employment.

(2B) This subsection applies to a ship if –

- (a) it is registered at a port of registry in Northern Ireland; or
- (b) it belongs to or is possessed by Her Majesty in right of the Government of the United Kingdom.

(2C) This subsection applies to an aircraft or hovercraft if –

- (a) it is –
  - (i) registered in the United Kingdom, and
  - (ii) operated by a person who has his principal place of business, or is ordinarily resident, in Northern Ireland; or
- (b) it belongs to or is possessed by Her Majesty in right of the Government of the United Kingdom.

(2D) The following are not to be regarded as being employment at an establishment in Northern Ireland –

- (a) employment on board a ship to which subsection (2B) does not apply;
- (b) employment on an aircraft or hovercraft to which subsection (2C) does not apply.]

(4) Employment of a prescribed kind, or in prescribed circumstances, is to be regarded as not being employment at an establishment in [<sup>F20</sup>Northern Ireland].

(5) [<sup>F21</sup>Where work is not done at an establishment it shall be treated as done—

- (a) at the establishment from which it is done; or
- (b) where it is not done from any establishment, at the establishment with which it has the closest connection.]

#### Extent Information

- E2** This version of this provision extends to Northern Ireland only as it has effect by virtue of s. 70(6), Sch. 8 paras. 1, 47 and any subsequent amendments; a separate version has been created for England and Wales and Scotland only

#### Textual Amendments

- F12** S. 68(1) substituted (N.I.) by virtue of s. 70(6), Sch. 8 paras. 1, 47(1) of this Act.
- F13** S. 68(1): definition of "benefits", "section 6 duty" and "section 15 duty" omitted (N.I.) (21.2.2004 for certain purposes and otherwise 1.10.2004) by virtue of [The Disability Discrimination Act 1995 \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), **27(a)(i)**
- F14** S. 68(1): definition of "employment at an establishment in Northern Ireland" substituted (N.I.) (21.2.2004 for certain purposes and otherwise 1.10.2004) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), **27(a)(ii)**
- F15** S. 68(1): words in the definition of "enactment" inserted (27.7.2000) by S.I. 2000/2040, arts. 1(1), 2(1), **Sch. Pt. I para. 18** (with saving in art. 3)
- F16** S. 68(1): definition of "Minister of the Crown" substituted (N.I.) (21.2.2004 for certain purposes and otherwise 1.10.2004) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), **27(a)(iii)**
- F17** S. 68(1): para. (a) in definition of "regulations" substituted (N.I.) (21.2.2004 for certain purposes and otherwise 1.10.2004) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), **27(a)(iv)(aa)**

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- F18** S. 68(1): para. (c) in definition of "regulations" substituted (N.I.) (21.2.2004 for certain purposes and otherwise 1.10.2004) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), **27(a)(iv)(bb)**
- F19** S. 68(2)-(2D) substituted for s. 68(2)(3) (N.I.) (21.2.2004 for certain purposes and otherwise 1.10.2004) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), **27(b)**
- F20** Words in s. 68(2) substituted (N.I.) by virtue of s. 70(6), Sch. 8 paras. 1, 47(1) of this Act.
- F21** S. 68(5) omitted (N.I.) (21.2.2004 for certain purposes and otherwise 1.10.2004) by [The Disability Discrimination Act 1995 \(Amendment\) Regulations \(Northern Ireland\) 2004 \(S.R. 2004/55\)](#), regs. 1(2)(3), **27(c)**

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#### **Commencement Information**

- I2** S. 68 wholly in force at 2.12.1996; s. 68 not in force at Royal Assent see s. 70(3); s. 68(1) in force (E.W.S.) at 17.5.1996 by [S.I. 1996/1336](#), **art. 3(j)**; s. 68(1) in force (N.I.) at 30.5.1996 by [S.R. 1996/219](#), **art. 3(i)**; s. 68(2)-(5) in force (E.W.S.) at 2.12.1996 by [S.I. 1996/1474](#), art. 2(3), **Sch. Pt. III**; s. 68(2)-(5) in force (N.I.) at 2.12.1996 by [S.R. 1996/280](#), art. 2(2), **Sch. Pt. II**

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