

## **DISABILITY DISCRIMINATION ACT 2005**

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### **EXPLANATORY NOTES**

#### **COMMENTARY ON SECTIONS**

##### ***Section 11: Group insurance***

120. **Section 11(1)** repeals the provisions concerning group insurance schemes presently contained in Part 2 of the DDA, section 18. That section applies where a provider of insurance services (for example, a medical expenses insurer) enters into arrangements with an employer under which the employer's employees receive services provided by that insurer. The effect of section 18 is that an act of discrimination by such an insurer against a disabled employee is treated as discrimination falling within Part 2 of the DDA, where the act would be unlawful under Part 3 of the DDA if the service concerned were to be provided to the employee as a member of the public. (Sections 19 to 21 of Part 3 make it unlawful for a service provider to discriminate in certain circumstances as regards the provision of goods, facilities or services to the public or a section of the public.) The practical effect of section 18 is that cases to which it applies are dealt with by the employment tribunal.
121. It is considered that section 18 is unnecessary and confusing. Following the repeal of the section, it will be clear that a person who provides group insurance services to employees of particular employers would be regarded as a "provider of services"<sup>1</sup> for the purposes of sections 19 to 21, and consequently liable for an act of discrimination contrary to section 19(1) which they may commit against disabled persons employed by those employers. (An act of discrimination by an employer in relation to a group insurance scheme, e.g. refusing for discriminatory reasons to permit a disabled employee to have access to the scheme, will fall within Part 2 of the DDA, sections 4 and 4A – as substituted by the Amendment Regulations.)
122. **Section 11(2)** inserts a new subsection (6A) into section 25 (enforcement, remedies and procedure) of the DDA. This new subsection ensures that claims of discrimination against an insurer concerning the provision of group insurance services are not subject to the Part 3 procedures and remedies set out in section 25 of the DDA – under which a victim of discrimination may bring proceedings in the county court or sheriff court claiming damages, an injunction or other relief. The provision should be read with paragraph 21 of Schedule 1, which amends section 25(8) to ensure that employment tribunals will have jurisdiction to consider such claims.
123. Subsection (3) inserts a definition of group insurance arrangements into section 68(1) (interpretation) of the DDA. This goes a little wider than the definition currently in section 18(3) in that it covers all types of group insurance schemes, not just those relating to: termination of service; retirement, old age or death; or accident, injury, sickness or invalidity.

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<sup>1</sup> A person is "a provider of services" for the purposes of sections 19 to 21 if he is concerned with the provision, in the United Kingdom, of services to the public or a section of the public: see section 19(2)(b).