

DISABILITY DISCRIMINATION ACT 2005

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 8: Enforcement and penalties

New section 47J: Penalties under sections 47D to 47H: amount, due date and recovery

102. This section sets out the detail in terms of amount, due date and recovery with regard to penalties imposed under sections 47D to 47H. It stipulates that the maximum penalty cannot exceed the amount prescribed in regulations and that it also cannot exceed 10% of the turnover of the operator subject to the penalty. “Turnover”, for the purposes of subsection (2), must be determined in accordance with provisions set out in regulations. Subsection (5) enables the Secretary of State to start court proceedings to recover any penalty payable to him.
103. Subsection (8) requires the Secretary of State to issue a code of practice setting out matters that will be considered in determining the level of a penalty. For example, the code could specify a sliding scale of penalty levels so that a first ‘offence’ warranted a lower penalty. The Secretary of State is required to take account of the code when imposing a penalty under these provisions, as is a court in considering an appeal against the penalty under sections 47L: see section 47L(3). Before issuing either the first or a revised code, the Secretary of State must lay a draft before Parliament.