



# Disabled Persons (Employment) Act 1944

## 1944 CHAPTER 10

*Provisions for enabling registered disabled persons to obtain employment or to undertake work on their own account*

### **6 Register of disabled persons**

- (1) The Minister shall establish and maintain a register of disabled persons (in this Act referred to as " the register ").
- (2) The register shall be kept in such form, and entries therein, and alterations and removals of entries therein and therefrom, shall be made in such manner, as the Minister may determine.
- (3) A person whose name is for the time being in the register is in this Act referred to as a " person registered as handicapped by disablement ".
- (4) The Minister may make regulations prescribing the manner in which the fact that a person's name is for the time being in the register may be proved, including, without prejudice to the generality of this power, regulations as to the issue of certificates for that purpose and as to the custody, use and delivery up thereof.

### **7 Entry of names of disabled persons in the register**

- (1) The Minister may make regulations prescribing matters which are to constitute conditions of, or disqualifications from, the entry in the register of the names of any persons, either generally or in particular circumstances.

The matters which may be prescribed under this subsection shall be such as must in the opinion of the Minister be so prescribed in order to secure that the fact that a person's name is in the register will afford reasonable assurance of his being a person capable of entering into and keeping employment, or of undertaking work on his own account, under the conditions under which in accordance with the provisions of this Act employment may be offered to him or such work may be available for him, and the said matters shall, without prejudice to the generality of this provision, include—

- (a) the fact that a person is under a prescribed age;

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- (b) unreasonable refusal or failure to attend a vocational training or industrial rehabilitation course;
  - (c) except in the case of a person who has served whole-time in the armed forces of the Crown, in the merchant navy or the mercantile marine, or in any of the capacities mentioned in the First Schedule to this Act, the fact that a person is not ordinarily resident in Great Britain;
  - (d) habitual bad character.
- (2) A person who desires his name to be entered in the register shall make application to the Minister in that behalf in the prescribed manner, and, on an application in that behalf being duly made,—
- (a) if the Minister is satisfied that the applicant is a disabled person and that his disablement is likely to continue for six months or more from the time of the entry of his name in the register, that any prescribed condition as to the entry of names in the register applicable to him is satisfied and that he is not subject to any prescribed disqualification in that behalf, his name shall be entered in the register;
  - (b) in any other case, the Minister shall refer the application to a district advisory committee for their recommendations on the issue as to which he is not satisfied and after considering their recommendations shall determine it, and if he determines it in favour of the applicant his name shall be entered in the register:

Provided that a person being a 1914-18 disablement pensioner shall be treated for the purposes of this subsection as a disabled person and as one whose disablement is likely to continue for six months or more from the time of the entry of his name in the register, and the name of such a person may be entered in the register without his making any application in that behalf.

- (3) In this Act the expression " 1914-18 disablement pensioner " means a person in receipt of, or entitled to receive,—
- (a) under any Royal Warrant, Order in Council, Order or Scheme administered by the Minister of Pensions and relating to the retired pay or pensions of officers, seamen, marines, soldiers or airmen or other persons disabled within the meaning of that Warrant or other instrument in consequence of any war carried on as mentioned in section two of the War Pensions Act, 1920, retired pay or a pension in respect of his disablement within the meaning of that instrument, or an allowance granted to him in lieu of such retired pay or of such a pension by reason of his undergoing any special course of medical treatment or undergoing treatment in an institution or receiving training in a technical institution or otherwise; or
  - (b) under any government war obligation within the meaning of the Government War Obligations Acts, 1914 to 1919, any payment for compensation in respect of his having been injured on any merchant ship or fishing vessel.
- (4) If any question arises in giving effect to the provisions of this Act whether a person is in receipt of, or entitled to receive, as aforesaid any such retired pay, pension or allowance, as is mentioned in paragraph (a) of the last preceding subsection, or any such payment for compensation as is mentioned in paragraph (b) thereof, the Minister shall cause the question to be referred for determination, if it arises under the said paragraph (a), by the Minister of Pensions, or, if it arises under the said paragraph (b), by the Minister of War Transport, and his determination shall be conclusive for the purposes of those provisions.

## **8 Duration of registration, and subsequent applications for registration**

(1) Subject to the provisions of the two next succeeding subsections, when the name of a person has been entered in the register it shall be retained therein—

(a) in the case of any person other than a 1914-18 disablement pensioner, until the expiration of such period as may be specified by the Minister at the time of the entry as the time for which his name is to be retained therein without further application (or until his death during that period),

(b) in the case of such a pensioner, so long as he continues to be such, and no longer.

(2) The Minister may make regulations prescribing matters which are to constitute conditions of, or disqualifications from, the retention in the register of the names of any persons, either generally or in particular circumstances.

The provisions of subsection (1) of the last preceding section as to the matters which may be prescribed thereunder shall have effect as respects the matters which may be prescribed under this subsection.

(3) If at any time whilst the name of any person is retained in the register the Minister is satisfied, after referring the matter to a district advisory committee for their recommendations and considering their recommendations, that any prescribed condition as to the retention of names in the register applicable to that person is not satisfied or that he is subject to any prescribed disqualification in that behalf, his name shall be removed from the register.

(4) The Minister may by regulations make provision—

(a) for authorising the making of applications under the last preceding-section by persons whose names are for the time being in the register, but the period of whose registration is due shortly to expire; and

(b) for the temporary retention in the register of the names of persons who, having been 1914-18 disablement pensioners, cease to be such, with a view to enabling any such person to make, if he so desires, an application as mentioned in the preceding paragraph;

and any entry to be made in the register pursuant to an application authorised under this subsection shall be made when the Minister's determination on the application is given, in substitution (if the applicant's name then remains in the register) for the existing entry.

(5) The Minister shall not be required to entertain an application under the last preceding section by a person whose name is not for the time being in the register by reason of any determination of the Minister under that section, or under subsection (3) of this section, unless he satisfies the Minister that circumstances relevant to that determination have changed since it was made.

## **9 Obligations as to employment of quota of registered persons in substantial staffs**

(1) It shall be the duty of a person who has a substantial number of employees to give employment to persons registered as handicapped by disablement to the number that is his quota as ascertained in accordance with the next succeeding section, and, where he is not already doing so at times when vacancies occur, to allocate vacancies for that purpose; and the said duty shall be enforceable to the extent and in manner hereinafter in this section provided in the case of a person to whom this section applies, that is

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to say, a person who for the time being has, or in accordance with his normal practice and apart from transitory circumstances would have, in his employment persons to the number of not less than twenty (or such lower number as may be specified by an order made by the Minister for the time being in force).

- (2) Subject to the provisions of the two next succeeding subsections, a person to whom this section applies shall not at any time take, or offer to take, into his employment any person other than a person registered as handicapped by disablement, if immediately after the taking in of that person the number of persons so registered in the employment of the person to whom this section applies (excluding persons employed by him in an employment of a class then designated under section twelve of this Act) would be less than his quota.
- (3) Subsection (2) of this section shall not apply to a person's taking, or offering to take, into his employment at any time a person whom apart from that subsection it would have been his duty to take into his employment at that time either—
  - (a) by virtue of any Act, whether passed before or after the passing of this Act; or
  - (b) by virtue of an agreement to reinstate him in his employment entered into before the date appointed for the coming into operation of subsection (2) of this section.
- (4) Subsection (2) of this section shall not apply to a person's taking, or offering to take, into his employment any person in accordance with a permit issued by the Minister under the subsequent provisions of this Act in that behalf.
- (5) A person to whom this section applies who for the time being has in his employment a person registered as handicapped by disablement shall not, unless he has reasonable cause for doing so, discontinue the employment of that person, if immediately after the discontinuance the number of persons so registered in the employment of the person to whom this section applies (excluding persons employed by him in an employment of a class then designated under section twelve of this Act) would be less than his quota:  
  
Provided that this subsection shall not have effect if immediately after the discontinuance the employer would no longer be a person to whom this section applies.
- (6) Any person who contravenes subsection (2) or subsection (5) of this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.
- (7) A prosecution for a contravention of subsection (5) of this section shall not be instituted against any person unless—
  - (a) the matter has been referred to a district advisory committee;
  - (b) the committee, before considering the matter, has notified that person so as to give him an opportunity of making within a period not shorter than seven days from the sending or giving of the notification to him such representations to the committee as he may desire, either orally or in writing as he may desire; and
  - (c) the committee has made a report to the Minister.

On any such prosecution it shall not be necessary to prove compliance with the preceding provisions of this subsection unless the defendant so requires, and, if he so requires, a certificate purporting to be signed by or on behalf of the chairman of a district advisory committee that the matter in question has been referred to the committee under this subsection and that a notification and report has been made by

them as therein provided shall be sufficient evidence of the facts stated therein until the contrary is shown.

## **10 Determination of employers' quotas**

- (1) The quota at any time of a person to whom section nine of this Act applies shall be a number ascertained in accordance with the provisions of this section.
- (2) There shall be—
  - (a) a standard percentage; and
  - (b) a special percentage, either greater or smaller than the standard percentage, for employment in any trade or industry, or in any branch or part of any trade or industry, or for employment with any class of employer, being employment to which it appears to the Minister that a percentage other than the standard percentage ought to be assigned on the ground of its having distinctive characteristics as respects its suitability for disabled persons.
- (3) The standard percentage and any special percentage shall be such as may be specified by order made by the Minister, after consultation with such organisations representing employers and workers respectively, or both employers and workers, as he thinks fit, and an order assigning a special percentage shall contain such provisions as may appear to the Minister to be requisite for more particularly defining for the purposes of this section the trade or industry, branch or part of a trade or industry, or class of employer, to employment in which or with whom the percentage is assigned.
- (4) The quota at any time of a person to whom section nine of this Act applies shall be the number ascertained by applying to the number of all the persons then in his employment (excluding persons employed by him in an employment of a class then designated under section twelve of this Act)—
  - (a) so far as they consist of persons employed by him in an employment other than one to which a special percentage is then assigned, the standard percentage; and
  - (b) so far as they consist of persons employed by him in an employment to which a special percentage is then assigned, that percentage:

Provided that if the number so ascertained includes or consists of a fraction less than one half the fraction shall be disregarded, and if the number so ascertained includes or consists of a fraction being one half or more the quota shall be the nearest higher whole number.

- (5) On an application in that behalf being made in the prescribed manner by any person to whom section nine of this Act applies representing that his quota, if ascertained in accordance with the last preceding subsection, or with that subsection together with any direction for the time being in force under this subsection, would be too great having regard to the particular circumstances in which all or any of the persons employed by him are employed, the Minister, if he is satisfied, after referring the application to a district advisory committee for their recommendations and considering their recommendations, that the representation is well founded, may direct that, during any such period ending not later than twelve months from the date of the direction as may be therein specified, the standard percentage, or any special percentage, or both, shall be reduced as specified in the direction for the purposes of the operation of the last preceding subsection in relation to the applicant.

- (6) The Minister shall, on an application in that behalf being made in the prescribed manner by any person to whom section nine of this Act applies and on his giving to the Minister all such information relevant to the application as he may require, determine what percentage of the number of all the persons in the employment of the applicant (excluding persons employed by him in an employment of a class for the time being designated under section twelve of this Act) his quota, as ascertained in accordance with the preceding provisions of this section, is likely to represent over any period ending not later than twelve months from the date of the determination, and shall furnish the applicant with a certificate stating that percentage and the period as respects which the determination was made, and the applicant shall be deemed to have in his employment at any time during the period stated in the certificate persons registered as handicapped by disablement to the number of his quota if the number of such persons then in his employment (excluding as aforesaid) reaches the percentage stated in the certificate of the number of all the persons then in his employment (excluding as aforesaid).

## **11 Permits for employment of persons not registered where quota condition not satisfied**

- (1) On an application in that behalf being made in the prescribed manner by any person to whom section nine of this Act applies, the Minister may grant a permit for the purposes of subsection (4) of that section if it appears to him to be expedient so to do having regard to the nature of the work for which the applicant desires to take a person or persons into his employment and the qualifications and the suitability for the work of any person or persons registered as handicapped by disablement who may be available therefor, or if he is satisfied that there is no such person or an insufficient number of such persons available therefor.
- (2) A permit may be granted either unconditionally or subject to any conditions relating to the employment of the person or persons to whom the permit relates, and may be granted as respects the employment either of one or more persons specified or described therein or of a specified number of persons.
- (3) If on an application being made as aforesaid the Minister is not satisfied that the case is one in which any permit, or such a permit as is applied for, ought to be granted, or is of opinion that conditions to which the applicant objects ought to be attached to a grant, then, if the applicant so requests, the Minister shall refer the application to a district advisory committee for their recommendations and shall determine what permit (if any) ought to be granted, and subject to what conditions (if any), only after considering the recommendations of the committee.

## **12 Appropriation of vacancies in certain employments to registered persons only**

- (1) The Minister may, after consultation with such organisations representing employers and workers respectively, or both employers and workers, as he thinks fit, by order designate classes of employment as classes to which this section is to apply, being such classes of employment as appear to him to afford specially suitable opportunities for the employment of disabled persons.
- (2) Subject as mentioned in the next succeeding subsection no person shall take, or offer to take, into his employment in an employment of a class to which this section applies any person other than a person registered as handicapped by disablement, or cause or

permit a person in his employment other than a person registered as handicapped by disablement to take up with him employment of a class to which this section applies.

- (3) The provisions as to taking a person into employment in pursuance of a statutory or contractual obligation, and as to permits, of subsections (3) and (4) of section nine, and of section eleven, of this Act shall have effect in relation to the last preceding subsection as they have effect in relation to subsection (2) of section nine of this Act.
- (4) Any person who contravenes subsection (2) of this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

### **13 Provisions for interpretation, and c. of preceding sections**

- (1) In this Act references to employment shall be construed as references to any relationship, whether entered into for business or other purposes, the legal character of which is that of master and servant, or is that of master and apprentice or a relationship similar to that of master and apprentice.
- (2) In this Act references to taking into employment shall be construed—
  - (a) as including references to the engagement by an employer of a person previously in his employment, but not if the new period of employment begins immediately on the ending of an earlier period or after an interval attributable to the employed person's illness or being on holiday or to other temporary causes;
  - (b) as not including any reference to the taking into his employment, by a person taking over a business or establishment at any time in succession to, or jointly with, another person who was carrying it on immediately before that time, of a person employed in that business or establishment immediately before that time.
- (3) With respect to part-time employment, or to employment part-time with one employer and part-time with another or with the same employer part-time in one class of employment and part-time in another, the Minister may make regulations prescribing the extent and manner to and in which such employment is to be regarded for the purposes of this Act.
- (4) Where a person who is a trustee or is acting in any other fiduciary capacity has employees the expenses (if any) of whose employment are or would be chargeable in his accounts in that capacity, he shall be treated for the purposes of the provisions of this Act relating to the duty of employers to give employment to persons registered as handicapped by disablement as one person in relation to that capacity and a different person in relation to any other capacity.
- (5) The fact that the making, termination or variation of a contract involves a contravention of any of the provisions of this Act relating to the duty of employers to give employment to persons registered as handicapped by disablement, or of the last preceding section, shall not affect the operation in law of the contract, or of its termination or variation, as the case may be.
- (6) Where a person registered as handicapped by disablement ceases to be so registered at a time when he is in employment with any employer, and for any period thereafter continues, either without any interval or with such interval only as is mentioned in paragraph (a) of subsection (2) of this section, in employment with that employer, or

with a person taking over in succession (whether directly or indirectly) to, or jointly with, that employer a business or establishment in which the person who was so registered was employed at that time, he shall, for the purposes of the application of this Act during that period to that employer or to any person taking over as aforesaid, be treated as if he had continued to be a person so registered.

#### **14 Records to be kept by employers**

- (1) Every person to whom section nine of this Act applies shall record particulars showing the number of persons employed by him, the number of persons registered as handicapped by disablement employed by him, and the names of such persons respectively, and particulars of all other matters which may be relevant for showing compliance on his part with the provisions of subsections (2) and (5) of that section, being particulars giving all such information, and recorded in such form, as may be requisite for that purpose.
- (2) Every person who employs any person or persons in employment of a class designated under section twelve of this Act shall record particulars showing his or their name or names, and particulars of all other matters which may be relevant for showing compliance on his part with the provisions of subsection (2) of that section, being particulars giving all such information, and recorded in such form, as may be requisite for that purpose.
- (3) The Minister may make regulations as to the matters of which particulars ought to be recorded under this section, the nature of the particulars proper to be recorded, and the form appropriate for the recording thereof, and records conforming in any respect with regulations so made shall be treated as sufficient in that respect for the purposes of this section.
- (4) A person as respects whose employees records of such particulars as are mentioned in subsection (1) or (2) of this section are made shall preserve them for such period as may be prescribed, and shall on being required so to do by a person authorised by the Minister in that behalf produce them for his inspection.
- (5) On a prosecution for an offence under subsection (2) or (5) of section nine of this Act, or for an offence under subsection (2) of section twelve of this Act, a record of such particulars as are mentioned in subsection (1) or (2), as the case may be, of this section made by or on behalf of a person by whom the offence is alleged to have been committed shall be sufficient evidence, until the contrary is shown, of the facts stated therein.
- (6) If any person contravenes or fails to comply with any of the provisions applicable to him of subsection (1), (2) or (4) of this section, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding twenty pounds, and if a failure to produce records in respect of which a person has been convicted under this subsection is continued after conviction, he shall, unless he proves that the failure is due to his not having made or not having preserved the required records, be guilty of a further offence and liable on summary conviction to a fine not exceeding five pounds for each day on which the failure is so continued.
- (7) If any person includes, or causes or knowingly allows to be included, in a record of such particulars as are mentioned in subsection (1) or (2) of this section, any particulars which he knows to be false in a material respect, or for purposes connected with this Act produces or furnishes, or causes or knowingly allows to be produced or furnished, any record or information which he knows to be false in a material respect, he shall be



guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

**15 Provision for registered persons who are seriously disabled of employment, or work on their own account, under special conditions**

- (1) Facilities may be provided as specified in this section for enabling persons registered as handicapped by disablement who by reason of the nature or severity of their disablement are unlikely either at any time or until after the lapse of a prolonged period to be able otherwise to obtain employment, or to undertake work on their own account (whether because employment or such work would not be available to them or because they would be unlikely to be able to compete therein on terms comparable as respects earnings and security with those enjoyed by persons engaged therein who are not subject to disablement), to obtain employment or to undertake such work under special conditions, and for the training of such persons for the employment or work in question.
- (2) The nature of the facilities to be provided under this section shall be such as the Minister may determine, and the Minister may with the approval of the Treasury make arrangements for the provision thereof by any of one or more companies which may be formed for that purpose and incorporated under the Companies Act, 1929, at his instance, being a company required by its constitution to apply its profits, if any, or other income in promoting its objects and prohibited thereby from paying any dividend to its members, or by any association or body, being an association or body so required and prohibited, which appears to the Minister to be able and willing to provide the requisite facilities in an efficient and proper manner.
- (3) The objects of any company to be formed for the purposes of this section may include all such objects as appear to the Minister to be requisite for enabling it to act effectively for those purposes, and any such company shall be constituted so as to enable all or any of its operations to be controlled by the Minister or persons acting on his behalf as may appear to the Minister to be requisite.
- (4) The Minister, or with his authorisation any such company association or body as aforesaid providing facilities under this section, may defray or contribute towards expenses incurred by persons for whom facilities are provided under this section in travelling to and from the place where they are employed or work or where training is provided, and may make payments to or in respect of such persons, up to such amounts as the Minister may with the approval of the Treasury determine and in such manner as he may determine.
- (5) Payments may be made by the Minister—
  - (a) in respect of the expenses of the formation and incorporation of any such company as aforesaid,
  - (b) to any such company association or body as aforesaid in respect of expenses incurred by them in providing facilities under this section, or of expenses incurred by them under the last preceding subsection, and
  - (c) to any local authority in respect of expenses incurred by them under any enactment conferring powers on them in that behalf in providing under arrangements made between the Minister and the authority facilities approved by him for any of the purposes mentioned in subsection (1) of this section, in defraying or contributing towards expenses incurred by persons for whom

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such facilities are so provided in travelling as mentioned in the last preceding subsection, or in making payments to or in respect of such persons, up to such amounts as the Minister may with the approval of the Treasury determine.

- (6) Expenses incurred by the Minister under this section shall be defrayed out of moneys provided by Parliament.