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STATUTORY INSTRUMENTS

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**2006 No. 312 (N.I. 1)**

**NORTHERN IRELAND**

**The Disability Discrimination (Northern Ireland) Order 2006**

*Made - - - - 14th February 2006*

*Coming into operation in accordance with Article 1(2)*

At the Court at Buckingham Palace, the 14th day of February 2006

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order in Council has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1(1) of the Schedule to the Northern Ireland Act 2000 (c. 1) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

**Annotations:**

**Modifications etc. (not altering text)**

- C1** [Order](#): transfer of functions (8.5.2016) by [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), art. 1(2), [Sch. 1 Pt. 2](#) (with art. 9(2))

*Introductory*

**Citation and commencement**

1.—(1) This Order may be cited as the Disability Discrimination (Northern Ireland) Order 2006.

(2) This Order (except this Article and Article 2) shall come into operation on such day or days as the Office may by order appoint.

(3) An order under paragraph (2) may contain such transitional or saving provisions as the Office thinks necessary or expedient.

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**Status:** This version of this Order contains provisions that are prospective.  
**Changes to legislation:** There are currently no known outstanding effects for the The Disability Discrimination (Northern Ireland) Order 2006. (See end of Document for details)

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**Annotations:**

**Subordinate Legislation Made**

- P1** Art. 1(2) power partly exercised: 3.7.2006 appointed for specified provisions by {S.R. 2006/289}, art. 2; 1.1.2007 appointed for specified provision by {S.R. 2006/470}, art. 2; 31.10.2007 appointed for specified provisions by {S.R. 2007/430}, art. 2; different dates appointed for specified provisions by {S.R. 2007/466}, art. 2

**Interpretation**

2.—(1) The Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.

(2) In this Order—

“the Office” means the Office of the First Minister and deputy First Minister;

“the 1995 Act” means the Disability Discrimination Act 1995 (c. 50).

*Public authorities*

**District councils**

3. In the 1995 Act, after section 14D insert—

*“Relationships between district councils and their members*

**Interpretation of sections 15B and 15C**

**15A.**—(1) In sections 15B and 15C “council” means a district council.

(2) In relation to a member of a council, a reference in those sections to his carrying-out of official business is to his doing of anything—

- (a) as member of the council;
- (b) as member of any body to which he is appointed by, or is appointed following nomination by, the council or a group of bodies that includes the council; or
- (c) as member of any other body if it is a public body.

**Councils and their members: discrimination and harassment**

**15B.**—(1) It is unlawful for a council to discriminate against a disabled person who is a member of the council—

- (a) in the opportunities which it affords the disabled person to receive training, or any other facility, for his carrying-out of official business;
- (b) by refusing to afford, or deliberately not affording, the disabled person any such opportunities; or
- (c) by subjecting the disabled person to any other detriment in connection with his carrying-out of official business.

(2) It is unlawful for a council to subject a disabled person who is a member of the council to harassment in connection with his carrying-out of official business.

(3) A member of a council is not subjected to a detriment for the purposes of subsection (1)(c) by reason of—

- (a) his not being appointed or elected to an office of the council;

- (b) his not being appointed or elected to, or to an office of, a committee or sub-committee of the council; or
  - (c) his not being appointed or nominated in exercise of any power of the council, or of a group of bodies that includes the council, to appoint, or nominate for appointment, to any body.
- (4) Regulations may make provision as to the circumstances in which treatment is to be taken to be justified, or is to be taken not to be justified, for the purposes of section 3A(1)(b) as it has effect for the interpretation of “discriminate” in subsection (1).
- (5) Regulations under subsection (4) may (in particular) provide for section 3A(3) to apply with prescribed modifications, or not to apply, for those purposes; but treatment of a disabled person cannot be justified under subsection (4) if it amounts to direct discrimination falling within section 3A(5).
- (6) If, in a case falling within section 3A(1) as it has effect for the interpretation of “discriminate” in subsection (1), a council is under a duty imposed by section 15C in relation to a disabled person but fails to comply with that duty, its treatment of that person cannot be justified under subsection (4) unless it would have been justified even if it had complied with that duty.

#### **Councils and their members: duty to make adjustments**

**15C.—**(1) Subsection (2) applies where—

- (a) a provision, criterion or practice applied by or on behalf of a council, or
- (b) any physical feature of premises occupied by, or under the control of, a council, places a disabled person who is a member of the council at a substantial disadvantage, in comparison with members of the council who are not disabled persons, in connection with his carrying-out of official business.

(2) It is the duty of the council to take such steps as it is reasonable, in all the circumstances of the case, for it to have to take in order to prevent the provision, criterion or practice, or feature, having that effect.

(3) Subsection (2) does not impose any duty on a council in relation to a member of the council who is a disabled person if the council does not know, and could not reasonably be expected to know, that the member—

- (a) has a disability; and
- (b) is likely to be affected in the way mentioned in subsection (1).

(4) Regulations may make provision, for purposes of this section—

- (a) as to circumstances in which a provision, criterion or practice, or physical feature, is to be taken to have the effect mentioned in subsection (1);
- (b) as to circumstances in which a provision, criterion or practice, or physical feature, is to be taken not to have the effect mentioned in subsection (1);
- (c) as to circumstances in which it is, or as to circumstances in which it is not, reasonable for a council to have to take steps of a prescribed description;
- (d) as to steps which it is always, or as to steps which it is never, reasonable for a council to have to take;
- (e) as to things which are, or as to things which are not, to be treated as physical features.”.

## Discrimination by public authorities

4. In the 1995 Act, after section 21A insert—

### *“Public authorities*

#### **Discrimination by public authorities**

**21B.**—(1) It is unlawful for a public authority to discriminate against a disabled person in carrying out its functions.

(2) In this section, and sections 21D and 21E, “public authority”—

- (a) includes any person certain of whose functions are functions of a public nature; but
- (b) does not include any person mentioned in subsection (3).

(3) The persons are—

- (a) either House of Parliament;
- (b) a person exercising functions in connection with proceedings in Parliament;
- (c) the Assembly;
- (d) a person exercising functions in connection with proceedings in the Assembly;
- (e) the Security Service;
- (f) the Secret Intelligence Service;
- (g) the Government Communications Headquarters; and
- (h) a unit, or part of a unit, of any of the naval, military or air forces of the Crown which is for the time being required by the Secretary of State to assist the Government Communications Headquarters in carrying out its functions.

(4) In relation to a particular act, a person is not a public authority by virtue only of subsection (2)(a) if the nature of the act is private.

(5) Regulations may provide for a person of a prescribed description to be treated as not being a public authority for the purposes of this section and sections 21D and 21E.

(6) In the case of an act which constitutes discrimination by virtue of section 55, subsection (1) also applies to discrimination against a person who is not disabled.

(7) Subsection (1)—

- (a) does not apply to anything which is unlawful under any provision of this Act other than subsection (1) or under any provision of the 2005 Order;
- (b) does not, subject to subsections (8) and (9), apply to anything which would be unlawful under any such provision but for the operation of any provision in or made under this Act or that Order.

(8) Subsection (1) does apply in relation to a public authority's function of appointing a person to, and in relation to a public authority's functions with respect to a person as the holder of, an office or post if—

- (a) none of the conditions specified in section 4C(3) is satisfied in relation to the office or post; and
- (b) sections 4D and 4E would apply in relation to an appointment to the office or post if any of those conditions was satisfied.

(9) Subsection (1) does apply in relation to a public authority's functions with respect to a person as candidate or prospective candidate for election to, and in relation to a public authority's functions with respect to a person as elected holder of, an office or post if—

- (a) the office or post is not membership of a House of Parliament, the Assembly or a district council;
- (b) none of the conditions specified in section 4C(3) is satisfied in relation to the office or post; and
- (c) sections 4D and 4E would apply in relation to an appointment to the office or post if—
  - (i) any of those conditions was satisfied, and
  - (ii) section 4F(1) (but not section 4C(5)) was omitted.

(10) Subsections (8) and (9)—

- (a) shall not be taken to prejudice the generality of subsection (1); but
- (b) are subject to section 21C(5).

#### **Exceptions from section 21B(1)**

**21C.**—(1) Section 21B(1) does not apply to—

- (a) a judicial act (whether done by a court, tribunal or other person); or
- (b) an act done on the instructions, or on behalf, of a person acting in a judicial capacity.

(2) Section 21B(1) does not apply to any act of, or relating to, making, confirming or approving an enactment.

(3) Section 21B(1) does not apply to any act of, or relating to, imposing conditions or requirements of a kind falling within section 59(1)(c).

(4) Section 21B(1) does not apply to—

- (a) a decision not to institute criminal proceedings;
- (b) where such a decision is made, an act done for the purpose of enabling the decision to be made;
- (c) a decision not to continue criminal proceedings; or
- (d) where such a decision is made—
  - (i) an act done for the purpose of enabling the decision to be made; or
  - (ii) an act done for the purpose of securing that the proceedings are not continued.

(5) Section 21B(1) does not apply to an act of a prescribed description.

#### **Meaning of “discrimination” in section 21B**

**21D.**—(1) For the purposes of section 21B(1), a public authority discriminates against a disabled person if—

- (a) for a reason which relates to the disabled person's 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 under subsection (3), (5) or (7)(c).