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STATUTORY RULES OF NORTHERN IRELAND

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**2004 No. 55**

**The Disability Discrimination Act 1995  
(Amendment) Regulations (Northern Ireland) 2004**

**PART II**

**AMENDMENTS TO THE ACT**

**Trade and professional bodies; qualifications bodies; practical work experience**

**13.** For sections 13 to 15, substitute the following sections –

*“Trade and professional bodies*

**13 Trade organisations: discrimination and harassment**

- (1) It is unlawful for a trade organisation to discriminate against a disabled person –
- (a) in the arrangements which it makes for the purpose of determining who should be offered membership of the organisation;
  - (b) in the terms on which it is prepared to admit him to membership of the organisation; or
  - (c) by refusing to accept, or deliberately not accepting, his application for membership.
- (2) It is unlawful for a trade organisation, in the case of a disabled person who is a member of the organisation, to discriminate against him –
- (a) in the way it affords him access to any benefits or by refusing or deliberately omitting to afford him access to them;
  - (b) by depriving him of membership, or varying the terms on which he is a member; or
  - (c) by subjecting him to any other detriment.
- (3) It is also unlawful for a trade organisation, in relation to membership of that organisation, to subject to harassment a disabled person who –
- (a) is a member of the organisation; or
  - (b) has applied for membership of the organisation.
- (4) In this section and section 14 “trade organisation” means –
- (a) an organisation of workers;
  - (b) an organisation of employers; or
  - (c) any other organisation whose members carry on a particular profession or trade for the purposes of which the organisation exists.

#### **14 Trade organisations: duty to make adjustments**

(1) Where –

- (a) a provision, criterion or practice applied by or on behalf of a trade organisation, or
- (b) any physical feature of premises occupied by the organisation,

places the disabled person concerned at a substantial disadvantage in comparison with persons who are not disabled, it is the duty of the organisation 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.

(2) In this section “the disabled person concerned” means –

- (a) in the case of a provision, criterion or practice for determining to whom membership should be offered, any disabled person who is, or has notified the organisation that he may be, an applicant for membership;
- (b) in any other case, a disabled person who is –
  - (i) a member of the organisation; or
  - (ii) an applicant for membership of the organisation.

(3) Nothing in this section imposes any duty on an organisation in relation to a disabled person if the organisation does not know, and could not reasonably be expected to know –

- (a) in the case of an applicant or potential applicant, that the disabled person concerned is, or may be, an applicant for membership of the organisation; or
- (b) in any case, that that person has a disability and is likely to be affected in the way mentioned in subsection (1).

#### **14A Qualifications bodies: discrimination and harassment**

(1) It is unlawful for a qualifications body to discriminate against a disabled person –

- (a) in the arrangements which it makes for the purpose of determining upon whom to confer a professional or trade qualification;
- (b) in the terms on which it is prepared to confer a professional or trade qualification on him;
- (c) by refusing or deliberately omitting to grant any application by him for such a qualification; or
- (d) by withdrawing such a qualification from him or varying the terms on which he holds it.

(2) It is also unlawful for a qualifications body, in relation to a professional or trade qualification conferred by it, to subject to harassment a disabled person who holds or applies for such a qualification.

(3) In determining for the purposes of subsection (1) whether the application by a qualifications body of a competence standard to a disabled person constitutes discrimination within the meaning of section 3A, the application of the standard is justified for the purposes of section 3A(1)(b) if, but only if, the qualifications body can show that –

- (a) the standard is, or would be, applied equally to persons who do not have his particular disability; and
- (b) its application is a proportionate means of achieving a legitimate aim.

(4) For the purposes of subsection (3) –

- (a) section 3A(2) (and (6)) does not apply; and

(b) section 3A(4) has effect as if the reference to section 3A(3) were a reference to subsection (3) of this section.

(5) In this section and section 14B –

“qualifications body” means any authority or body which can confer a professional or trade qualification, but it does not include –

- (a) a board;
- (b) the Board of Governors of a grant-aided school;
- (c) the proprietor of an independent school;
- (d) the Council for Catholic Maintained Schools;
- (e) the governing body of a university;
- (f) the governing body of an institution of further education;
- (g) the managers of a college of education;
- (h) the governing body of the College of Agriculture, Food and Rural Enterprise;

“confer” includes renew or extend;

“professional or trade qualification” means an authorisation, qualification, recognition, registration, enrolment, approval or certification which is needed for, or facilitates engagement in, a particular profession or trade;

“competence standard” means an academic, medical or other standard applied by or on behalf of a qualifications body for the purpose of determining whether or not a person has a particular level of competence or ability.

(6) Words and expressions used in the definition of “qualifications body” in subsection (5) to which a meaning is assigned by Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986(1) have the same meaning as in that Order.

#### **14B Qualifications bodies: duty to make adjustments**

(1) Where –

- (a) a provision, criterion or practice, other than a competence standard, applied by or on behalf of a qualifications body; or
- (b) any physical feature of premises occupied by a qualifications body,

places the disabled person concerned at a substantial disadvantage in comparison with persons who are not disabled, it is the duty of the qualifications body 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.

(2) In this section “the disabled person concerned” means –

- (a) in the case of a provision, criterion or practice for determining on whom a professional or trade qualification is to be conferred, any disabled person who is, or has notified the qualifications body that he may be, an applicant for the conferment of that qualification;
- (b) in any other case, a disabled person who –
  - (i) holds a professional or trade qualification conferred by the qualifications body, or
  - (ii) applies for a professional or trade qualification which it confers.

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(1) Relevant amending Orders are S.I. 1989/2406 (N.I. 20), S.I. 1993/2810 (N.I. 12), S.I. 1996/274 (N.I. 1) and S.I. 1997/1772 (N.I. 15)

- (3) Nothing in this section imposes a duty on a qualifications body in relation to a disabled person if the body does not know, and could not reasonably be expected to know –
- (a) in the case of an applicant or potential applicant, that the disabled person concerned is, or may be, an applicant for the conferment of a professional or trade qualification; or
  - (b) in any case, that that person has a disability and is likely to be affected in the way mentioned in subsection (1).

#### *Practical work experience*

#### **14C Practical work experience: discrimination and harassment**

- (1) It is unlawful, in the case of a disabled person seeking or undertaking a work placement, for a placement provider to discriminate against him –
- (a) in the arrangements which he makes for the purpose of determining who should be offered a work placement;
  - (b) in the terms on which he affords him access to any work placement or any facilities concerned with such a placement;
  - (c) by refusing or deliberately omitting to afford him such access;
  - (d) by terminating the placement; or
  - (e) by subjecting him to any other detriment in relation to the placement.
- (2) It is also unlawful for a placement provider, in relation to a work placement, to subject to harassment –
- (a) a disabled person to whom he is providing a placement; or
  - (b) a disabled person who has applied to him for a placement.
- (3) This section and section 14D do not apply to –
- (a) anything made unlawful by section 4 or any provision of Part III; or
  - (b) anything which would be unlawful under that section or any such provision but for the operation of any other provision of this Act.
- (4) In this section and section 14D –
- “work placement” means practical work experience undertaken for a limited period for the purposes of a person’s vocational training;
  - “placement provider” means any person who provides a work placement to a person whom he does not employ.
- (5) This section and section 14D do not apply to a work placement undertaken in any of the naval, military and air forces of the Crown.

#### **14D Practical work experience: duty to make adjustments**

- (1) Where –
- (a) a provision, criterion or practice applied by or on behalf of a placement provider, or
  - (b) any physical feature of premises occupied by the placement provider,
- places the disabled person concerned at a substantial disadvantage in comparison with persons who are not disabled, it is the duty of the placement provider to take such steps as it

is reasonable, in all the circumstances of the case, for him to have to take in order to prevent the provision, criterion or practice, or feature, having that effect.

(2) In this section, “the disabled person concerned” means –

- (a) in the case of a provision, criterion or practice for determining to whom a work placement should be offered, any disabled person who is, or has notified the placement provider that he may be, an applicant for that work placement;
- (b) in any other case, a disabled person who is –
  - (i) an applicant for the work placement concerned, or
  - (ii) undertaking a work placement with the placement provider.

(3) Nothing in this section imposes any duty on a placement provider in relation to the disabled person concerned if he does not know, and could not reasonably be expected to know –

- (a) in the case of an applicant or potential applicant, that the disabled person concerned is, or may be, an applicant for the work placement; or
- (b) in any case, that that person has a disability and is likely to be affected in the way mentioned in subsection (1).”.