

DISABILITY DISCRIMINATION ACT 2005

EXPLANATORY NOTES

SUMMARY

13. The 2005 Act's measures:

Public authorities

- i) **Section 1**: bring councillors, and members of the Greater London Authority, within the scope of the DDA;
- ii) **Section 2**: ensure that, with some exceptions, functions of public authorities not already covered by the DDA are brought within its scope (so that it would be unlawful for a public authority, without justification, to discriminate against a disabled person when exercising its functions);
- iii) **Section 3**: introduce a new duty on public authorities requiring them, when exercising their functions, to have due regard to the need to eliminate harassment of and unlawful discrimination against disabled persons, to promote positive attitudes towards disabled persons, to encourage participation by disabled persons in public life, and to promote equality of opportunity between disabled persons and other persons;
- iv) **Section 4**: amend section 64A of the DDA so as to clarify who the correct defendant is in the case of a claim of discrimination being made against a police officer under Part 3 of the DDA and authorise payment of compensation from the police fund in relation to such a claim;

Transport

- v) **Section 5**: provide that the current exemption from section 19 to 21 of the DDA (which deal with the provision of goods, facilities and services to the public) for transport services extends only to transport vehicles themselves, and create a power to enable that exemption to be lifted for different vehicles at different times and to differing extents;
- vi) **Section 6**: amend the definition of 'rail vehicle' in Part 5 of the DDA to enable rail vehicle accessibility regulations to be applied to all rail vehicles, enable the regulations to be applied to the refurbishment of rail vehicles, clarify and extend the current power to grant exemptions from the requirements, change the exemption process and include a requirement for the Secretary of State to produce an annual report on the making of exemptions;
- vii) **Section 7**: introduce new provisions requiring rail vehicle accessibility compliance certificates to be obtained for prescribed rail vehicles;
- viii) **Section 8**: replace the existing criminal offence for use of a rail vehicle which does not conform with rail vehicle accessibility regulations with a civil enforcement system, and set out the procedure for imposing civil penalties, including a right of appeal to a court;

*These notes refer to the Disability Discrimination Act
2005 (c.13) which received Royal Assent on 7 April 2005*

- ix) **Section 9:** amend the Chronically Sick and Disabled Persons Act 1970 so as to provide for the recognition in England and Wales of disabled persons' parking badges issued outside Great Britain;

Other matters

- x) **Section 10:** amend the DDA's new provision on discriminatory advertisements (section 16B, as inserted by the Amendment Regulations) so as to impose liability on a third party who publishes a discriminatory advertisement (for example, a newspaper) as well as the person placing the advertisement;
- xi) **Section 11:** amend the DDA in respect of group insurance arrangements;
- xii) **Section 12:** bring within the scope of Part 3 of the DDA private clubs with 25 or more members;
- xiii) **Section 13:** impose a duty to provide reasonable adjustments on landlords and others who manage rented premises;
- xiv) **Section 14:** confer a power to modify or end the current small dwellings exemption in section 23 and new sections 24B and 24H (as inserted by section 13 of the 2005 Act) of the DDA;
- xv) **Section 15:** make it unlawful for general qualifications bodies to discriminate against disabled persons in relation to the award of prescribed qualifications;
- xvi) **Section 16:** make provision for cases where a tenant seeks consent to make an improvement to a let dwelling house to facilitate the enjoyment of the premises by a disabled occupier (which could include himself), including provision for the Disability Rights Commission to make available a conciliation service, to provide assistance in legal proceedings in any dispute arising on the landlord's withholding of his consent and to issue codes of practice on consent to such improvements;
- xvii) **Section 17:** extend section 56 of the DDA so as to provide a procedure for questions and replies, not only for claims under Part 2 of the DDA but also for claims under Part 3 of the DDA;
- xviii) **Section 18:** amend the definition of disability in respect of people with mental illnesses; deem people with HIV infection, multiple sclerosis, or cancer to be disabled for the purposes of the DDA; and clarify that there is no implied limitation to the scope of the regulation-making power which enables people to be deemed to be disabled;

Supplementary

- xix) **Sections 19 and 20:** deal with minor and consequential amendments and repeals, the short title, extent and commencement;
- xx) **Schedule 1:** make minor and consequential amendments to the DDA and other enactments;
- xxi) **Schedule 2:** provide for the repeal of provisions contained in the DDA and other enactments.