
STATUTORY INSTRUMENTS

2003 No. 1673

**The Disability Discrimination Act
1995 (Amendment) Regulations 2003**

PART 2

AMENDMENTS TO THE 1995 ACT

Barristers and advocates

8. After section 7, insert the following sections—

“Barristers and advocates

Barristers: discrimination and harassment

7A

(1) It is unlawful for a barrister or a barrister’s clerk, in relation to any offer of a pupillage or tenancy, to discriminate against a disabled person—

- (a) in the arrangements which are made for the purpose of determining to whom it should be offered;
- (b) in respect of any terms on which it is offered; or
- (c) by refusing, or deliberately omitting, to offer it to him.

(2) It is unlawful for a barrister or a barrister’s clerk, in relation to a disabled pupil or tenant in the set of chambers in question, to discriminate against him—

- (a) in respect of any terms applicable to him as a pupil or tenant;
- (b) in the opportunities for training, or gaining experience, which are afforded or denied to him;
- (c) in the benefits which are afforded or denied to him;
- (d) by terminating his pupillage or by subjecting him to any pressure to leave the chambers; or
- (e) by subjecting him to any other detriment.

(3) It is unlawful for a barrister or barrister’s clerk, in relation to a pupillage or tenancy, to subject to harassment a disabled person who is, or has applied to be, a pupil or tenant in the set of chambers in question.

(4) It is also unlawful for any person, in relation to the giving, withholding or acceptance of instructions to a barrister, to discriminate against a disabled person or to subject him to harassment.

(5) In this section and in section 7B—

“barrister’s clerk” includes any person carrying out any of the functions of a barrister’s clerk;

“pupil”, “pupillage” and “set of chambers” have the meanings commonly associated with their use in the context of barristers practising in independent practice; and

“tenancy” and “tenant” have the meanings commonly associated with their use in the context of barristers practising in independent practice, but they also include reference to any barrister permitted to practise from a set of chambers.

Barristers: duty to make adjustments

7B

(1) Where—

(a) a provision, criterion or practice applied by or on behalf of a barrister or barrister’s clerk, or

(b) any physical feature of premises occupied by a barrister or a barrister’s clerk,

places the disabled person concerned at a substantial disadvantage in comparison with persons who are not disabled, it is the duty of the barrister or barrister’s clerk 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 a case where subsection (1) applies in relation to two or more barristers in a set of chambers, the duty in that subsection is a duty on each of them to take such steps as it is reasonable, in all of the circumstances of the case, for him to have to take.

(3) In this section, “the disabled person concerned” means—

(a) in the case of a provision, criterion or practice for determining to whom a pupillage or tenancy should be offered, any disabled person who is, or has notified the barrister or the barrister’s clerk concerned that he may be, an applicant for a pupillage or tenancy;

(b) in any other case, a disabled person who is—

(i) a tenant;

(ii) a pupil; or

(iii) an applicant for a pupillage or tenancy.

(4) Nothing in this section imposes any duty on a barrister or a barrister’s clerk in relation to a disabled person 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 a pupillage or tenancy; or

(b) in any case, that that person has a disability and is likely to be affected in the way mentioned in subsection (1).

Advocates: discrimination and harassment

7C

(1) It is unlawful for an advocate, in relation to taking any person as his pupil, to discriminate against a disabled person—

(a) in the arrangements which he makes for the purpose of determining whom he will take as his pupil;

(b) in respect of any terms on which he offers to take the disabled person as his pupil; or

- (c) by refusing, or deliberately omitting, to take the disabled person as his pupil.
- (2) It is unlawful for an advocate, in relation to a disabled person who is a pupil, to discriminate against him—
 - (a) in respect of any terms applicable to him as a pupil;
 - (b) in the opportunities for training, or gaining experience, which are afforded or denied to him;
 - (c) in the benefits which are afforded or denied to him;
 - (d) by terminating the relationship or by subjecting him to any pressure to leave; or
 - (e) by subjecting him to any other detriment.
- (3) It is unlawful for an advocate, in relation to taking any person as his pupil, to subject to harassment a disabled person who is, or has applied to be taken as, his pupil.
- (4) It is also unlawful for any person, in relation to the giving, withholding or acceptance of instructions to an advocate, to discriminate against a disabled person or to subject him to harassment.
- (5) In this section and section 7D—
 - “advocate” means a member of the Faculty of Advocates practising as such; and
 - “pupil” has the meaning commonly associated with its use in the context of a person training to be an advocate.

Advocates: duty to make adjustments

7D

- (1) Where—
 - (a) a provision, criterion or practice applied by or on behalf of an advocate, or
 - (b) any physical feature of premises occupied by, and under the control of, an advocate,places the disabled person concerned at a substantial disadvantage in comparison with persons who are not disabled, it is the duty of the advocate 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 whom he will take as his pupil, any disabled person who has applied, or has notified the advocate that he may apply, to be taken as a pupil;
 - (b) in any other case, a disabled person who is—
 - (i) an applicant to be taken as the advocate’s pupil, or
 - (ii) a pupil.
- (3) Nothing in this section imposes any duty on an advocate in relation to a disabled person 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, applying to be taken as his pupil; or
 - (b) in any case, that that person has a disability and is likely to be affected in the way mentioned in subsection (1).”