

2006 No. 1005

DISABLED PERSONS

The Disability Discrimination (Guidance on the Definition of Disability) Appointed Day Order 2006

Made - - - - *30th March 2006*

The Secretary of State for Work and Pensions makes the following Order in exercise of the powers conferred by sections 3(9) and 67(2) and (3)(a) of the Disability Discrimination Act 1995(a).

In accordance with section 3(4) of that Act he has consulted such persons as he considered appropriate in preparing a draft of the Guidance.

In accordance with section 3(5) of that Act he has published a draft of the Guidance and has considered such representations that were made to him about the draft and has modified his proposals as he considered appropriate in the light of those representations.

In accordance with section 3(6) of that Act he has laid a draft of the Guidance before both Houses of Parliament.

In accordance with section 3(8) of that Act neither House has resolved not to approve the draft within a period of 40 days beginning with the day on which it was laid and he has issued the Guidance in the form of that draft.

Citation and interpretation

1.—(1) This Order may be cited as the Disability Discrimination (Guidance on the Definition of Disability) Appointed Day Order 2006.

(2) In this Order—

“Guidance” means the guidance on matters to be taken into account in determining questions relating to the definition of disability;

“the 1995 Act” means the Disability Discrimination Act 1995.

Appointed Day

2.—(1) 1st May 2006 is the day appointed for the coming into force of the Guidance laid before Parliament in draft on 7th February 2006 and issued under section 3(8) of the 1995 Act on 29th March 2006.

(a) 1995 c.50. Section 67(3) was amended by paragraphs 1 and 33(3) of Schedule 1 to the Disability Discrimination Act 2005 (c.13).

(2) Paragraph (1) has effect subject to the provisions of article 3.

Transitional provision

3.—(1) This article applies in relation to any proceedings arising from a complaint (whenever presented) alleging that a person has, before 1st May 2006, committed an act which is unlawful discrimination for the purposes of the 1995 Act.

(2) Where this article applies, the Guidance referred to in article 2(1) of this Order shall not have effect for the purposes of section 3(3) of the 1995 Act^(a).

Signed by authority of the Secretary of State for Work and Pensions.

Anne C McGuire
Parliamentary Under-Secretary of State,
Department for Work and Pensions

30th March 2006

(a) Section 3(3) was amended by paragraphs 1 and 3(5) of Schedule 1 to the Disability Discrimination Act 2005.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order appoints 1st May 2006 as the day for the coming into force of the Guidance on matters to be taken into account in determining questions relating to the definition of disability issued by the Secretary of State on 29th March 2006 under section 3(8) of the Disability Discrimination Act 1995 (“the 1995 Act”).

The Guidance provides practical guidance on matters to be taken into account when considering whether a person is a disabled person for the purposes of the 1995 Act and replaces an earlier version which was issued by the Secretary of State for Education and Employment on 25th July 1996. The Guidance reflects changes made by the Disability Discrimination Act 2005 to the provisions of the 1995 Act governing who is a disabled person for the purposes of the 1995 Act. These changes came into force on 5th December 2005.

Article 3 of this Order makes transitional provision in relation to proceedings under the 1995 Act arising from a complaint presented to an adjudicating body concerning an alleged act of discrimination contrary to the 1995 Act committed before 1st May 2006 which have not been determined by that date. The Guidance is not to have effect for the purposes of section 3(3) of the 1995 Act in relation to such proceedings. The Guidance issued by the Secretary of State for Education and Employment on 25th July 1996 under section 3 of the 1995 Act (ISBN 0-11-270955-9) is to continue to have effect in relation to such proceedings. Section 3(3) of the 1995 Act requires an adjudicating body to take into account any guidance which appears to it to be relevant.

A regulatory impact assessment has not been prepared for this Order as it has no direct impact on the costs of business, charities and the voluntary sector.

However, a regulatory impact assessment of the changes made to the definition of a disabled person discussed in the Guidance and the effect these changes would have on the costs of business was prepared as part of the regulatory impact assessment in relation to the Disability Discrimination Act 2005. A copy of the regulatory impact assessment for the Disability Discrimination Act 2005 has been placed in the Library of each House of Parliament. A copy is available from Disability Rights Division, Department for Work and Pensions, Level 6, The Adelphi, 1-11 John Adam Street, London WC2N 6HT.

A copy of the Guidance may be obtained from The Stationery Office Limited (mail, telephone, fax and e-mail orders only) PO Box 29, Norwich NR3 1GN (telephone orders 0870 600 5522, fax orders 0870 600 5533, e-mail book.orders@tso.co.uk, textphone 0870 240 3701, internet <http://www.tso.co.uk/bookshop>) and from The Stationery Office Bookshops or can be downloaded free of charge from the Disability Rights Commission website: www.drc-gb.org.

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