
STATUTORY INSTRUMENTS

2006 No. 1721

**The Disability Discrimination Act 1995 (Amendment)
(Further and Higher Education) Regulations 2006**

PART 8

Transitory Provisions

23.—(1) This regulation applies if section 25 of the Equality Act 2006 does not come into force on or before 1st September 2006.

(2) Until that section comes into force, the 1995 Act is to have effect—

- (a) with the omission of section 28UB(4) (as inserted by regulation 13) and section 28UC(4) (as inserted by regulation 14), and
- (b) as if after section 28V there were inserted—

“Enforcement of section 28UB and 28UC

28VA.—(1) This section applies to an act which is unlawful under section 28UB or 28UC.

(2) Legal proceedings in relation to an act to which this section applies may only be brought by the Commission in accordance with this section.

(3) Where the Commission thinks that a person has done an act to which this section applies the Commission may apply to a county court (in England and Wales) or the sheriff (in Scotland).

(4) On an application under subsection (3) in respect of an alleged act to which this section applies, the court or sheriff shall determine whether the allegation is correct.

(5) The Commission may apply to a county court (in England and Wales) for an injunction restraining a person from doing an act to which this section applies where —

- (a) either —
 - (i) a court has determined under subsection (4) that the person has done an act to which this section applies, or
 - (ii) the Commission thinks that the person has done an act to which this section applies, and
- (b) the Commission thinks that if unrestrained the person is likely to do another act to which this section applies.

(6) The Commission may apply to the sheriff (in Scotland) for an interdict prohibiting a person from doing an act to which this section applies where —

- (a) either —
 - (i) the sheriff has determined under subsection (4) that the person has done an act to which this section applies, or

- (ii) the Commission thinks that the person has done an act to which this section applies, and
 - (b) the Commission thinks that without an interdict the person is likely to do another act to which this section applies.
- (7) Subsection (1) does not apply to an act which constitutes an offence.
- (8) In this section “the Commission” means the Disability Rights Commission.
- 28VB.** Enforcement of sections 28UB and 28UC: supplemental matters
- (1) An application under section 28VA(3) may be presented or made only—
 - (a) within the period of six months beginning with the date (or last date) on which the alleged unlawful act occurred, or
 - (b) with the permission of the court or sheriff.
- (2) A determination under section 28VA(4) shall not be relied upon by a county court or sheriff in proceedings under section 28VA(5) or (6) while an appeal against the determination—
 - (a) is pending, or
 - (b) may be brought (disregarding the possibility of an appeal out of time with permission).
- (3) An application under section 28VA(5) or (6) may be made only—
 - (a) within the period of five years beginning with the date (or last date) on which the unlawful act referred to in that subsection occurred, or
 - (b) with the permission of the court or sheriff.”.