

## **The Disability Discrimination Act**

### **DEFINITION OF DISABILITY**

DL60

From October 1996

This booklet gives general guidance only and should not be treated as a complete and authoritative statement of the law.

Issued on behalf of the Minister for Disabled People.  
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### **Contents**

1. What the Act means by disability
2. Particular cases or conditions
3. Other booklets about the Disability Discrimination Act 1995

## 1. What the Act means by disability

This booklet outlines what the Act and related regulations mean by the term "disability". The Act covers disabled people and people who have had a disability in the past.

Disability is defined as:

A physical or mental impairment which has a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities.

Explanations of:

### 1.1 impairment

The definition covers physical and mental impairments. These include:

- ? physical impairments affecting the senses, such as sight and hearing
- ? mental impairments including learning disabilities and mental illness (if it is recognised by a respected body of medical opinion)

### 1.2 substantial

For an effect to be substantial, it must be more than minor.

Examples

The following are examples that are likely to be considered substantial:

- ? inability to see moving traffic clearly enough to cross a road safely
- ? inability to turn taps or knobs
- ? inability to remember and relay a simple message correctly

### 1.3 long-term

These are effects that:

- ? have lasted at least 12 months

or

- ? are likely to last at least 12 months

or

- ? are likely to last for the rest of the life of the person affected

Long-term effects include those which are likely to recur. For example, an effect will be considered to be long-term if it is likely both to recur, and to do so at least once beyond the 12-month period following the first occurrence.

## 1.4 day-to-day activities

Day-to-day activities are normal activities carried out by most people on a regular basis, and must involve one of the following broad categories:

- ? mobility - moving from place to place
- ? manual dexterity - for example, use of the hands
- ? physical co-ordination
- ? continence
- ? the ability to lift, carry or move ordinary objects
- ? speech, hearing or eyesight
- ? memory, or ability to concentrate, learn or understand
- ? being able to recognise physical danger

The Government has issued guidance, under the Act, about whether an impairment has a substantial or long-term effect. This guidance does not in itself impose legal obligations on an employer or service provider, but a tribunal or court must when considering a complaint about discrimination take into account any of the guidance which appears to be relevant.

## **2. Particular cases or conditions**

### **Severe disfigurements**

The Act's definition treats severe disfigurements as disabilities, although they have no effect on a person's ability to carry out normal day-to-day activities.

If, however, the disfigurement consists of a tattoo which has not been removed, non-medical body piercing, or an object attached through such a piercing, regulations have the effect of ensuring that this would not be treated as a disability.

### **Impairments helped by treatment or artificial aids**

Medication or equipment (such as an artificial limb) which helps an impairment, is not taken into account when considering whether an impairment has a substantial effect.

For example, a person who wears a hearing aid to improve their hearing is considered to have the hearing loss that would exist without the use of the aid. An exception is when people wear glasses or contact lenses - it is the effect on the person's vision, while wearing their glasses or contact lenses, that is considered.

If, however, the treatment is likely to cure the impairment, this should be taken into account in assessing whether the impairment is long-term.

### **Progressive conditions**

The Act covers progressive conditions where impairments are likely to become substantial. Examples of progressive conditions include:

- ? cancer
- ? HIV infection
- ? multiple sclerosis
- ? muscular dystrophy

The Act covers people with these conditions from the moment that there is a noticeable effect on normal day-to-day activities, however slight.

For example, a person with multiple sclerosis would be covered from the time they first developed symptoms that affect their ability to carry out normal day-to-day activities. They would not be covered just because the illness had been diagnosed.

### **Genetic predispositions**

The Act does not cover people with a gene that causes a disability unless they develop the disability. For example, people with the gene that causes Huntington's chorea are not covered if they do not have the condition. People are covered as soon as the first effects on normal day-to-day activities appear.

### **Past disabilities**

The definition covers people who have had a disability in the past. If a person once had a disability which is covered by the Act, they are still protected if they have recovered. This applies even if they recovered before the Act came into force.

### **Registered disabled people**

Any person registered as a disabled person under the Disabled Persons (Employment) Act 1944, or the Disabled Persons (Employment) Act (Northern Ireland) 1945, on both:

- ? 12 January 1995 when the legislation was first introduced into Parliament
- ? and the date when the employment rights start is covered by the Act for three years

is to be treated as having a disability, for the purposes of the Act, for three years from the latter date. They do not have to prove they meet the new definition of disability for this three year period.

### **Babies and children under the age of six**

It may be difficult to see the effects of an impairment on a baby or young child and thus determine if he or she is disabled. However, a young child with an impairment will be treated as disabled under the Act if someone over the age of six with such an impairment would normally be covered by the Act.

### **Impairments which are excluded**

The following conditions are not to be treated as impairments for the purposes of the Act:

- ? Addiction to or dependency on alcohol, nicotine or any other substance (unless the addiction resulted from the substance being medically prescribed);
- ? Seasonal allergic rhinitis (e.g. hayfever) except where it aggravates the effect of another condition;
- ? a tendency to set fires;
- ? a tendency to steal;
- ? a tendency to physical or sexual abuse of others;
- ? exhibitionism;
- ? voyeurism.

### **3. Other booklets about the Disability Discrimination Act 1995**

The following free booklets provide related information about the Act:

DL 70 - The Disability Discrimination Act - Employment - outlines the responsibilities the Act places on employers when employing disabled people

DL 80 - The Disability Discrimination Act - Access to Goods, Facilities and Services - outlines the new duties placed on service providers when offering services to disabled people

DL 90 - The Disability Discrimination Act - Letting or Selling Land or Property - outlines how the Act affects people when letting or selling land or property to disabled people

DL 100 - The Disability Discrimination Act - Education - explains the requirements of schools, colleges and universities to provide more information about how they will provide educational facilities for disabled pupils and students

DL 110 - The Disability Discrimination Act - Public Transport Vehicles - outlines the new powers the Act gives the Government to make new taxis, buses, coaches and trains more accessible and safer for disabled people

DL 120 - The Disability Discrimination Act - the National Disability Council and the Northern Ireland Disability Council - outlines the role and responsibilities of the new Council and its counterpart in Northern Ireland

DL 130 - A pull-out timetable with the expected implementation dates of each of the Act's main stages

#### **How to order copies**

These booklets can be ordered by calling 08457 622 633 (local rate) or 08457 622 644 (textphone).

Calls are charged at local British Telecom rates.

The booklets are also available in braille and audio cassette.

The following priced statutory publications are available from HMSO:

Disability Discrimination Act 1995: Guidance on matters to be taken into account in determining questions relating to the definition of disability. (ISBN 0-11-270955-9) £7.50.

Disability Discrimination Act 1995: Code of Practice for the elimination of discrimination in the field of employment against disabled persons or persons who have had a disability. (ISBN 0-11-270954-0) £9.95.

Disability Discrimination Act 1995: Code of Practice - Rights of Access. Goods, Facilities, Services and Premises. (ISBN 0-11-762432-2) £6.00.

Copies can be obtained from:

**HMSO Publications Centre  
PO Box 276, London SW8 5DT  
Telephone orders 0171 873 9090  
General enquiries 0171 873 0011  
Fax orders 0171 873 8200  
or from HMSO bookshops.**

Braille, audio-cassette and Welsh versions can be obtained from HMSO Bookshops.

Separate Codes of Practice are published in Northern Ireland.