

Draft Disability Discrimination (Northern Ireland) Order

Executive Summary



Office of the
**First Minister and
Deputy First Minister**

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EXECUTIVE SUMMARY

Introduction

1. Since 1995, the Disability Discrimination Act has steered significant change in UK society and granted many long overdue civil rights to disabled people. Nevertheless, the Government has since recognised that there were many areas in which rights could be further improved. To report on how best to secure improvements and extra rights, the Government set up the Disability Rights Task Force (DRTF) in 1997 which brought groups from all sectors of society together to consider the state of disability rights law in the UK.

Disability Rights Task Force Recommendations

2. In December 1999, the Task Force published “From Exclusion to Inclusion” which contained 156 recommendations for Government action across a number of areas: defining disability; education; employment; access to goods, facilities, services and premises; travel; the environment and housing; participation in public life; local government; and health and social services.
3. Importantly, one of the Task Force’s earliest proposals addressed the need for an enforcement body responsible for

ensuring compliance with disability rights legislation. In Great Britain this led to the establishment of the Disability Rights Commission. In Northern Ireland the Equality Commission's role was enhanced in order to allow it to perform this role in relation to disability.

NI Executive Response to DRTF Recommendations

4. In September 2001, the Northern Ireland Executive produced its own response to the recommendations, entitled "Improving Civil Rights for Disabled People - NI Executive Response to the Disability Rights Task Force". This outlined comprehensive proposals to improve the protection afforded by the DDA.

The EU Employment Framework Directive and the Employment Provisions of the DFTR Recommendations

5. The significance of the Task Force's final report was further underlined by European legislative commitments which included the requirement on member states to implement the EU Employment Framework Directive¹. Several of the DRTF recommendations on employment anticipated the Directive's requirements and these have now been met by the Disability Discrimination Act 1995 (Amendment) Regulations (Northern

¹ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

Ireland) 2004 ('the Amendment Regulations')² which came into force on 1st October 2004. These include:

- ending the small employer exemption in the DDA;
- ending the exclusion of a number of occupations from the scope of the DDA (including police, prison officers and barristers).

6. It should be noted that the Amendment Regulations went further than the Task Force recommendations in a number of aspects. For example, the Regulations outlaw harassment of disabled people, bring practical work experience placements within the scope of the DDA and ensure that discrimination motivated by prejudice can never be justified.

Education Provisions of the DRTF Recommendations

7. The DRTF's recommendations on civil rights in education are being taken forward in Northern Ireland by the Special Educational Needs and Disability Order in Council which has been consulted on and is expected to be made in 2005.

² The Disability Discrimination Act 1995 (Amendment) Regulations (Northern Ireland) 2004, were made on 20th February 2004 under section 2(2) of the European Communities Act 1972 and came into operation on 1st October 2004.

Draft Disability Discrimination Order in Council

8. Further work has been ongoing to build on the significant steps already taken. On 3rd December 2003, a draft Disability Discrimination Bill was published in GB, intended to introduce further measures proposed in “Towards Inclusion” and close gaps in the coverage of the DDA.
9. In March 2004, it was announced that separate disability legislation similar to the draft GB Disability Bill would be taken forward in Northern Ireland. Work on preparing the necessary legislation, in the form of a Disability Discrimination Order in Council, began immediately to ensure that people with disabilities in Northern Ireland could enjoy the same legal protection as their counterparts in GB.

Summary of provisions in draft Order in Council

10. The measures contained in the draft Disability Order in Council will create new or improved civil rights for around 330,000 disabled people in Northern Ireland³. They will also address a number of enhancements to the DDA, many of which were identified by the DRTF. In addition they will implement some of the recommendations made by the

³ 2001 census figure for those stating a limiting long-term illness, which covers any long-term illness, health problem or disability which limits daily activities or work

Equality Commission for Northern Ireland in its own review of the Disability Discrimination Act in Northern Ireland⁴.

11. The measures which appear in the draft Disability Order in Council will make a wide range of amendments to the DDA in Northern Ireland. They would introduce significant improvements in a number of areas by:
 - a. making it unlawful for district councils to discriminate against disabled local councillors;
 - b. ensuring that, with some exceptions, those functions of public authorities not already covered by the Act are brought into its scope;
 - c. clarifying who the correct defendant is in the case of a claim of discrimination being made against a police officer;
 - d. clarifying the exemption of transport services from Part III of the DDA and introducing a regulation making power to enable such services to be brought within the scope of the DDA;
 - e. providing for amendments to enable an 'end date' to be introduced after which rail vehicles which do not comply with the Rail Vehicle Accessibility

⁴ "Enabled? Review of the Disability Discrimination Act in Northern Ireland"

Regulations (Northern Ireland) cannot be used. The changes also require existing trains going through significant refurbishment to be upgraded to compatibility either in part or in total. This will be supported by the setting up of a certification and civil enforcement regime and changes to the exemption process;

- f. making third party publishers (e.g. newspapers) liable for publishing discriminatory advertisements;
- g. amending the way the DDA applies to group insurance to clarify the responsibilities of those concerned with its provisions;
- h. bringing membership of larger private clubs (i.e. those with 25 or more members) within scope of Part III of the DDA;
- i. extending to those who let or manage rented premises the duty of reasonable adjustment, apart from in respect of physical features;
- j. providing a power to rationalise or end the small dwellings exemption;
- k. introducing into Part III of the DDA a questionnaire procedure similar to that in Part II of the Act;

- I. extending the definition of disability to include people with cancer, multiple sclerosis and HIV; and
- m. removing the requirement that people with a mental illness must show that it is a “clinically well recognised” illness before it counts as a mental impairment.

Conclusion

- 12. This is an important piece of legislation for disabled people, bringing about major reforms while building on the wide range of civil rights measures we have already introduced. The measures we have put in place since the formation of the DRTF in 1997 are helping to ensure that disabled people have the opportunity to participate in the workplace, in society and in the economy along with everyone else.
- 13. The measures proposed in the draft Order in Council will make a significant contribution to the major programme of legislative reform in the area of disability that has been ongoing since 1995.

How to respond to consultation on draft Order

- 14. The Office of the First Minister and Deputy First Minister is seeking views on the wording and effect of the draft Order in Council before it enters its parliamentary stages. If you wish to comment on the draft Order, you may do so by completing the consultation questionnaire which can be found in the

consultation pack. **The period of consultation on the draft Order will end on 28 March 2005.**

15. Responses can be returned by post, fax or e-mail to the address below. Remember, if you want your comments and views to be considered, we need to receive them by Monday 28 March 2005.

16. If this document is not in a format that meets your requirements, please contact us at the following address:

Disability Order in Council Team
Office of the First Minister and Deputy First Minister
Room E3.13
Castle Buildings, Stormont Estate
BELFAST,
BT4 3SR

Tel: 02890-523153

Fax: 02890-523272

Textphone: 02890-522526

Alison.Barnett@ofmdfmni.gov.uk

**Disability Order in Council Team
Office of the First Minister and
Deputy First Minister
Rm E3.13
Castle Buildings
Stormont Estate
Belfast
BT4 3SR**

**Tel: 028 9052 3153
Textphone: 028 9052 2526
Fax: 028 9052 3272
Email:
alison.barnett@ofmdfmni.gov.uk**