

EXPLANATORY MEMORANDUM TO

The Disability Discrimination Codes of Practice (Employment and Trade Organisations) Revocation Order 2004 No.2300

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This Order revokes the Code of Practice (for the elimination of discrimination in the field of employment against disabled persons and persons who have had a disability) and the Code of Practice on Duties of Trade Organisations to their Disabled Members and Applicants¹. Those Codes give practical guidance on the operation of Part 2 of the Disability Discrimination Act 1995 ("DDA") which outlaws discrimination against disabled persons by employers and trade organisations.

3. Matters of special interest to the Select Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 The Codes were issued by the Secretary of State under section 53 of the DDA and are now being revoked by virtue of section 54(8). Replacement Codes² have been prepared by the Disability Rights Commission ("DRC") under section 53A³ of the DDA and were issued on 30th July 2004. The new codes take account of the DDA as amended by the Disability Discrimination Act 1995 (Amendment) Regulations 2003⁴ and the Disability Discrimination Act 1995 (Pensions) Regulations 2003⁵ with effect from 1 October 2004. Those Regulations make changes to the provisions of Parts 2 and 3 of the DDA dealing with employment, occupation and associated services, in implementing (in Great Britain) provisions of Council Directive

¹ Brought into force by (respectively) the Disability Discrimination (Guidance and Code of Practice) (Appointed Day) Order 1996, S.I. 1996/1996 (C.52), with effect from 2 December 1996 and the Disability Discrimination Code of Practice (Trade Organisations) Order 1999, S.I. 1999/2638, with effect from 1 October 1999.

² The replacement codes were submitted to the Select Committee for consideration and cleared by the Committee on 15 June 2004. An explanatory memorandum was provided to accompany the draft codes.

³ Section 53A of the DDA was inserted by the Disability Rights Commission Act 1999 (c. 17), and amended by subsequent legislation.

⁴ S.I. 2003/1673.

⁵ S.I. 2003/2770.

2000/78/EC⁶ establishing a general framework for equal treatment in employment and occupation, so far as it relates to disability discrimination.

4.2 Article 3 of the order includes transitional provisions: the Codes of Practice referred to in article 2 of the order are to continue to have effect for the purposes of section 53(5) and (6) of the DDA in relation to employment tribunal proceedings arising from an act of unlawful discrimination alleged to have taken place before the 1st October 2004..

5. Extent

5.1 This instrument applies to Great Britain.

6. European Convention of Human Rights

6.1 Not applicable.

7. Policy Background

7.1 The DDA outlaws disability discrimination in various fields. Part 2 of the DDA deals with disability discrimination in employment and occupation and section 21A deals with discrimination in the provision of employment services. Codes of Practices issued under the DDA seek to offer practical guidance to everyone in helping them understand what are their rights and responsibilities under the Act.

7.2 No consultation was appropriate in relation to this revocation Order.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument.

9. Contact

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⁶ OJ No. L 303, 2.12.2000, p.16.