

Provisions of the Disability Discrimination Act 2005

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THE DEFINITION OF DISABILITY

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| <p>IMPLEMENTATION DATE 5 DECEMBER 2005</p> |
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Note

The Disability Discrimination Act 2005 builds on and extends earlier disability discrimination legislation, principally the Disability Discrimination Act 1995. In this fact sheet, the earlier Act is referred to as the 'DDA', and the later Act as 'the DDA 2005'.

Background

Currently the DDA defines a person as having a disability for the purposes of the DDA where they have a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities.

The DDA also allows this basic definition to be modified for people who have mental impairments and progressive conditions, so that it sets out when people are to be treated as disabled. The DDA 2005 changes some of these things.

The new provisions

The DDA 2005 will extend coverage of the DDA in the following ways:

- It removes the requirement in the DDA that a mental illness must be 'clinically well recognised' before it can count as an impairment for the purposes of the DDA. The Government has decided that this stipulation is no longer required. People with a mental illness will still need to show that their impairment has a long term and substantial adverse effect on their ability to carry out normal day-to-day activities. By removing the 'clinically well-recognised' requirement, the Government has also brought DDA coverage for people with mental illnesses into line with coverage for all other mental and physical impairments.
- People with HIV, cancer and multiple sclerosis (MS) will be deemed to be covered by the DDA effectively from the point of diagnosis, rather than from the point when the condition has some adverse effect on their ability to carry out normal day-to-day activities. Extending the coverage of the DDA in this way will mean that the protection of the DDA will be afforded to another 250,000 disabled consumers.

What these provisions mean for employers

These provisions mean, for example, that it will be unlawful for an employer to discriminate against a job applicant or employee who has one of these conditions.

As under the existing employment duties, employers will have to consider what reasonable adjustments to their employment conditions and recruitment policies and

procedures they may need to make for people who they know, or could be reasonably expected to know, have one of these conditions.

What these provisions mean for providers of goods, services, facilities and premises

It will be unlawful for service providers to refuse to serve, or to provide service on worse terms to, a person who has one of these conditions, or to fail to make a reasonable adjustment for such a person if they have one of these conditions.

FURTHER INFORMATION

Directgov

The 'Disabled People' section of the Government website, Directgov, contains a variety of information for those with an interest in disability issues. From this site you can read more about the DDA and the DDA 2005, including some more information about the definition of disability, and there are links to the full texts of the DDA and the DDA 2005.

www.direct.gov.uk/disability

Advice and Guidance

The Government published statutory guidance in 1996, primarily to assist adjudicating bodies like courts and tribunals in deciding whether a person is a disabled person for the purposes of the DDA. This guidance has been updated to take account of the provisions described in this leaflet. A draft of the revised "Guidance on matters to be taken into account in determining questions relating to the definition of disability" was laid before Parliament on 7 February 2006 and was formally issued by the Secretary of State for Work and Pensions on 29 March 2006. It will come into force on 1 May 2006.

You can read the 1996 guidance, the revised guidance, and the Disability Rights Commission's Codes of Practice on the DDA at:

http://www.drc-gb.org/the_law/legislation_codes_regulation/guidance.aspx

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