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151.3

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Federal Act on the Elimination of Discrimination against People with Disabilities

(Disability Discrimination Act, DDA)

of 13 December 2002 (Status as of 1 January 2017)

The Federal Assembly of the Swiss Confederation,

on the basis of Articles 8 paragraph 4, 87, 92 paragraph 1 and 112 paragraph 6 of the Federal Constitution¹, and having considered the Dispatch of the Federal Council dated 11 December 2000²,

decrees:

Section 1 General Provisions

Art. 1 Purpose

¹ The Act has the purpose of preventing, reducing or eliminating discrimination against people with disabilities.

² It lays down general conditions that make it easier for people with disabilities to participate in society and in particular to cultivate social contacts independently, and to have access to basic and advanced education and training and to employment.¹

¹ Amended by Annex No 3 of the FA of 20 June 2014 on Continuing Education and Training, in force since 1 Jan. 2017 (AS 2016 689; BBl 2013 3729).

Art. 2 Definitions

¹ In this Act, a *person with a disability* is a person who, due to a physical, mental or psychological impairment which is likely to be permanent, finds it difficult or is unable to carry out everyday tasks, cultivate social contacts, move around, obtain an education or training, or work.¹

² *Discrimination* occurs when persons with disabilities are treated in legal or practical terms differently from persons without disabilities and thus without material justification are disadvantaged when compared to persons without disabilities, or

when they are not treated differently but different treatment is necessary to ensure that persons with disabilities have the same rights as persons without disabilities.

³ *Discrimination relating to access to a building, a structure, a dwelling or a public transport facility or vehicle* occurs when access for persons with disabilities is not possible for structural reasons or is only possible with difficulty.

⁴ *Discrimination in obtaining a service* occurs when it is impossible or only possible with difficulty for persons with disabilities to obtain a service.

⁵ *Discrimination in access to general and advanced education and training* occurs in particular when:

a.

it is difficult for persons with disabilities to use aids or obtain the necessary assistance from other persons;

b.

the duration and organisation of the course and examinations are not adapted to the specific needs of persons with disabilities.

¹ Amended by Annex No 3 of the FA of 20 June 2014 on Continuing Education and Training, in force since 1 Jan. 2017 (AS 2016 689; BBl 2013 3729).

Art. 3 Scope of application

This Act applies to:

a.

publicly accessible buildings and structures where authorisation for the construction or renovation of their publicly accessible areas is granted following the commencement of this Act;

b.

publicly accessible public transport facilities (buildings, structures, communications systems, ticket offices and machines) and vehicles that are subject to any of the following Acts:

1.

the Railways Act of 20 December 1957¹,

2.

the Federal Act of 20 March 1998² on the Swiss Federal Railways,

3.

the Passenger Transport Act of 18 June 1993³, with the exception of ski lifts, chairlifts and gondola lifts with fewer than nine places in each transport unit,

4.

the Federal Act of 29 March 1950⁴ on Trolleybus Companies,

5.

the Federal Act of 3 October 1975⁵ on Inland Navigation, and

6.

the Civil Aviation Act of 21 December 1948⁶;

c.

residential buildings with more than eight residential units where authorisation for their construction or renovation is granted following the commencement of this Act;

d.

buildings with more than 50 workplaces where authorisation for their construction or renovation is granted following the commencement of this Act;

e.⁷

services that are in principle made available to any person by undertakings that require an infrastructure licence under Article 5 of the Railways Act of 20 December 1957⁸ or a passenger transport licence under Article 6 of the Passenger Transport Act of 20 March 2009⁹, other licensed undertakings or state authorities;

f.

basic and advanced education and training;

g.

employment contracts under the Federal Personnel Act of 24 March 2000¹⁰.

¹ SR 742.101

² SR 742.31

³ SR 744.10

⁴ SR 744.21

⁵ SR 747.201

⁶ SR 748.0

⁷ Amended by Annex No 1 of the FA of 26 Sept. 2014, in force since 1 July 2016 (AS 2016 2131; BBI 2013 4975).

⁸ SR 742.101

⁹ SR 745.1

¹⁰ SR 172.220.1

Art. 4 Relationship with cantonal law

This Act shall not override cantonal provisions that are more favourable to persons with disabilities.

Art. 5 Federal and cantonal measures

¹ The Confederation and the cantons shall take measures to prevent, reduce or eliminate discrimination; in doing so, they shall take account of the special needs of women with disabilities.

² Appropriate measures to alleviate discrimination against persons with disabilities do not constitute unequal treatment under Article 8 paragraph 1 of the Federal Constitution.

Art. 6 Services provided by private entities

Private entities that offer public services may not discriminate against persons with disabilities due to their disabilities.

Section 2 Legal Rights and Procedures

Art. 7 Legal rights relating to buildings, facilities or vehicles

¹ Any person suffering discrimination as defined in Article 2 paragraph 3 may when a building or structure as defined in Article 3 letters a, c and d is constructed or renovated:

a.

during the building authorisation procedure, request the competent authority that the discrimination cease;

b.

by way of exception, claim in civil proceedings a legal right to the elimination of discrimination on conclusion of the building authorisation procedure, where the failure to take the measures required by law was not recognisable during the building authorisation procedure.

² Any person who suffers discrimination as defined in Article 2 paragraph 3 in relation to a public transport facility or vehicle as defined in Article 3 letter b may request the competent authority to order the licensed undertaking to eliminate or cease the discrimination.¹

¹ Amended by No I 1 of the FA of 16 March 2012 on the Second Stage of Railways Reform 2, in force since 1 July 2013 (AS 2012 5619, 2013 1603; BBI 2011 911).

Art. 8 Legal rights in the case of services

¹ Any person who suffers discrimination as defined in Article 2 paragraph 4 by a licensed undertaking or a state authority may request a court or an administrative authority to order the provider of the service to eliminate or cease the discrimination.¹

² Any person suffers discrimination as defined in Article 2 paragraph 5 by a state authority may request a court or an administrative authority to order the state authority to eliminate or cease the discrimination.

³ Any person who suffers discrimination as defined in Article 6 may claim compensation in a court.

¹ Amended by No I 1 of the FA of 16 March 2012 on the Second Stage of Railways Reform 2, in force since 1 July 2013 (AS 2012 5619, 2013 1603; BBI 2011 911).

Art. 9 Right of organisations for persons with disabilities to appeal and take legal action

¹ Organisations for persons with disabilities operating throughout Switzerland that have been established for at least ten years may take legal action in cases of discrimination that affect a substantial number of persons with disabilities.

² The Federal Council shall designate the organisations entitled to appeal.

³ These organisations have a right of appeal:

a.

in civil proceedings to declare that there is discrimination as defined in Article 6;

b.

in proceedings to grant authorisation for the construction or the renovation of buildings and structures in order to enforce the legal rights defined in Article 7;

c.

in proceedings by the federal authorities for planning approval and for the registration or testing of vehicles under:

1. Article 13 paragraph 1 of the Road Traffic Act of 19 December 1958¹,
2. Article 18 and 18w of the Railways Act of 20 December 1957²,
3. Article 11 and 13 of the Federal Act of 29 March 1950³ on Trolleybus Companies,
4. Article 8 of the Federal Act of 3 October 1975⁴ on Inland Navigation,
5. Article 37 of the Air Navigation Act of 21 December 1948⁵,
- 6.⁶ Article 9 of the Cableways Act of 23 June 2006⁷;

d.

against rulings by the federal authorities on the granting of licences under:

1. Articles 28 and 30 of the Air Navigation Act of 21 December 1948,
2. Article 14 of the Telecommunications Act of 30 April 1997⁸.
3. Article 10 of the Federal Act of 21 June 1991⁹ on Radio and Television.

⁴ The authority shall give notice of rulings under paragraph 3 letters c and d that may be subject to an appeal by organisations for persons with disabilities to the organisations in writing or by publication in the Official Federal Gazette or in the cantonal publication organ. An organisation that does not file an appeal may only participate in subsequent proceedings as a party if the ruling is amended such that persons with disabilities are discriminated against.

⁵ If objection proceedings are conducted before a ruling is issued, notice must be given of the application in accordance with paragraph 4. An organisation has a right of appeal only if it was a party to the objection proceedings.

¹ SR 741.01

² SR 742.101

³ SR 744.21

⁴ SR 747.201

⁵ SR 748.0

⁶ Amended by No I 1 of the FA of 16 March 2012 on the Second Stage of Railways Reform 2, in force since 1 July 2013 (AS 2012 5619, 2013 1603; BBI 2011 911).

⁷ SR 743.01

⁸ SR 784.10

⁹ SR 784.40

Art. 10 Costs of the proceedings

¹ Proceedings under Articles 7 and 8 are free of charge.

² A party that acts in bad faith or that fails to take the proceedings seriously may be required to pay procedural costs.

³ In proceedings before the Federal Supreme Court, the court costs are governed by the Federal Supreme Court Act of 17 June 2005^{1,2}

¹ SR 173.110

² Amended in accordance with Annex No 5 of the Administrative Court Act of 17 June 2005, in force since 1 Jan. 2007 (AS 2006 2197 1069; BBI 2001 4202).

Section 3 Proportionality

Art. 11 General principles

¹ The court or the administrative authority is not required to order the elimination of discrimination if the expected benefit for persons with disabilities is disproportionate in particular to:

- a. the financial cost;
- b. the interests of environmental protection and the protection of nature and cultural heritage;
- c. transport and operational safety concerns.

² In determining compensation under Article 8 paragraph 3, the court shall take account of the circumstances, the seriousness of the discrimination and the value of the service. Compensation shall amount to a maximum of 5000 francs.

Art. 12 Special cases

¹ When weighing-up interests under Article 11 paragraph 1, the court or the administrative authority is not required to order the elimination of discrimination relating to access to buildings, structures and dwellings under Article 3 letters a, c and d if the cost of the modifications exceeds five per cent of the insurance value of the building or new value of the structure or 20 per cent of the renovation costs.

² When weighing-up interests under Article 11 paragraph 1, the court or the administrative authority shall take account of the time required to make adaptations in public transport (Art. 22); account must also be taken of the federal implementation concept for the payment of financial assistance (Art. 23 para. 3) and the operations and investment plans of the public transport company based thereon.

³ The court or the administrative authority shall require the licensed undertaking or state authority to offer an appropriate alternative solution if it decides under Article 11 paragraph 1 not to order the elimination of discrimination.¹

¹ Amended by No I 1 of the FA of 16 March 2012 on the Second Stage of Railways Reform 2, in force since 1 July 2013 (AS 2012 5619, 2013 1603; BBI 2011 911).

Section 4 Special Provisions for the Confederation

Art. 13 Measures relating to employees

¹ The Confederation as an employer shall make every effort to offer persons with disabilities the same opportunities as those without disabilities. In all employment relationships and at all levels, but in particular in the case of employment vacancies, the Confederation shall take the measures required to implement the Act.

² Paragraph 1 applies to employers under Article 3 of the Federal Personnel Act of 24 March 2000¹.

¹ SR 172.220.1

Art. 14 Measures for persons with speech, hearing or visual disabilities

¹ In its dealings with the public, the authorities shall take account of the special concerns of persons with speech, hearing or visual disabilities.

² Where they offer their services online, such services must be accessible to persons with visual disabilities without difficulty. The Federal Council shall issue the required technical regulations. It may declare technical standards to be binding for private organisations.

³ In addition to the benefits under Invalidity Insurance, the Confederation may:

a.

support cantonal measures to promote the academic and professional education and training of persons with speech or hearing disabilities in sign and spoken language and to promote the language skills of persons with visual disabilities;

b.

support non-profit organisations and institutions of national importance that address the problems of language and understanding faced by persons with speech, hearing or visual disabilities.

⁴ The Confederation may promote measures to make television programmes accessible to persons with hearing or visual disabilities.

Art. 15 Regulations on technical standards

¹ To ensure the provision of a public transport system suitable for persons with disabilities, the Federal Council shall issue regulations for licensed undertakings that require a licence under federal law on the design:¹

a.

of railway stations, public transport stops and airports;

b.

of communications systems and ticket-issuing systems;

c.

of vehicles.

² The Federal Council shall issue regulations on measures benefiting persons with disabilities for buildings and structures that the Confederation constructs or partly finances.

³ The regulations under paragraphs 1 and 2 shall be regularly adapted to the state of the art. The Federal Council may declare technical standards or other stipulations to be binding on private organisations.

⁴ The Federal Council shall consult interested groups before issuing the regulations under paragraphs 1 and 2.

⁵ Different regulations may be issued for existing and new buildings, structures, communications and ticket issuing systems, and vehicles.

¹ Amended by No I 1 of the FA of 16 March 2012 on the Second Stage of Railways Reform 2, in force since 1 July 2013 (AS 2012 5619, 2013 1603; BBI 2011 911).

Art. 16 Programmes for the integration of persons with disabilities

¹ The Confederation may conduct programmes to promote the integration of persons with disabilities into society.

² The programmes may relate to the following matters in particular:

- a. education;
- b. employment;
- c. housing;
- d. personal transport;
- e. culture;
- f. sport.

³ The Confederation may participate in such programmes where they are offered by national organisations or organisations in specific language regions, in particular by providing financial assistance.

Art. 17 Pilot projects on integration into working life

The Federal Council may conduct or support fixed-term pilot projects in order to test incentive systems for the employment of persons with disabilities. It may to this end provide investment contributions for the creation or equipping of workplaces suitable for persons with disabilities.

Art. 18 Information, advice and monitoring effectiveness

¹ The Confederation may conduct information campaigns in order to increase public awareness of the problems regarding equality and integration of persons with disabilities and to indicate to the groups concerned what action can be taken.

² It may advise and make recommendations to private individuals and authorities.

³ It shall regularly monitor the effect that its measures are having on integration. It may also investigate the effects of measures taken by other state authorities or private individuals.

Art. 19 Bureau for the Equality of Persons with Disabilities

The Federal Council shall establish a Bureau for the Equality of Persons with Disabilities. This shall in particular promote:

- a. information on the statutory principles and guidelines on preventing, reducing or eliminating discrimination against people with disabilities;
- b. programmes and campaigns under Articles 16 and 18;
- c. analyses and surveys relating to equal rights and the integration of persons with disabilities;
- d. coordination of the activities of public and private organisations in this field.

Section 5 Special Provisions for the Cantons

Art. 20

¹ The cantons shall ensure that children and young people with disabilities receive a basic education adapted to their special needs.

² Wherever possible and beneficial to the child or young person with a disability, the cantons shall provide suitable forms of schooling to encourage the integration of children and young people with disabilities in the regular school system.

³ In particular, they shall ensure that that children and young people with perceptual or articulation disorders and persons close to them can learn a communication technique appropriate for the disability.

Section 6 Final Provisions

Art. 21 Amendment of current legislation

The amendment of current legislation is regulated in the Annex.

Art. 22 Deadlines for public transport adaptations

¹ Existing public transport buildings, structures and vehicles must be adapted for use by persons with disabilities within 20 years of the commencement of this Act.

² Communications systems and ticket issuing systems must be adapted for use by persons with disabilities within ten years of the commencement of this Act.

³ Prior to the adaptation deadlines under paragraphs 1 and 2, public transport companies have the right to have their operations and investment plans based on the federal implementation concept for the granting of financial assistance (Art. 23 para. 3) considered.

Art. 23 Financial assistance

¹ Within the scope of their responsibilities for the funding of public transport, the Confederation and the cantons shall grant financial assistance for the measures under Article 22.

² The Confederation shall specify a spending ceiling for a period of 20 years.

³ The Federal Council shall in particular specify the priorities, conditions and applicable rates for financial assistance.

Art. 24 Referendum and commencement

¹ This Act is subject to an optional referendum.

² The Federal Council shall determine the commencement date.

Commencement date:³ 1 Jan. 2004 Annex Nos 2 and 3: 1 Jan. 2005

Annex

(Art. 21)

Amendment of Current Legislation

The following enactments are amended as follows:

1

¹ The amendments may be consulted under AS 2003 4487.

AS 2003 4487

¹ SR 101²BBl 2001 1715³ Federal Council Decree of 25 June 2003.

Additional informations

This text is in force.

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