

**3 March 2009**

**WORK AND PENSIONS**

**UN CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES**

**The Parliamentary Under-Secretary of State for Work and Pensions (Mr. Jonathan Shaw):**

I am pleased to announce that the Explanatory Memorandum and Command Paper for ratification of the UN Convention on the Rights of Persons with Disabilities will be laid before Parliament later today.

In taking this important step, the Government has confirmed its commitment both to this Convention, and to the principle that it enshrines that disabled people have, and should be able to enjoy, the same human rights as other people.

In working towards this point, Government Departments and the Devolved Administrations have been checking their legislation, policies, practices and procedures against the Convention's provisions. The UK does not ratify any international treaty until it is in a position to ensure that it can implement the provisions and therefore comply with its obligations. The Explanatory Memorandum which has been laid explains the basis on which the Government proposes the UK should now ratify the Convention, and the handful of reservations and interpretative declarations that are required in order that we may do so.

A reservation is proposed in respect of service in the Armed Forces to preserve the position already reflected in the Disability Discrimination Act 1995 as amended (DDA). Service in the Armed Forces is exempt from the employment provisions of the DDA. This approach is entirely consistent with EU Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation. Service in any of the naval, military or air forces of the Crown are excluded from the DDA's employment provisions to preserve their combat effectiveness. The Government decided to exclude members of the Armed Forces in the DDA because Armed Forces personnel need to be combat effective in order to meet a world-wide liability to deploy, and to ensure that military health and fitness remain matters for Ministry of Defence Ministers based on military advice, not for the courts.

An interpretative declaration is proposed to make clear that the UK general education system includes both mainstream and special schools, thereby clarifying how the UK Government interprets the Convention. This will make it clear that special schools are considered part of the UK's general education system and that parents have the right to express a preference for a special

school. A reservation is proposed to allow for circumstances where disabled children's needs may be best met through specialist provision, which may be some way from their home – so they will need to be educated outside their local community. This also maintains parental choice for schools outside the local community.

A general reservation is proposed in order to retain the right to apply immigration rules and to retain the right to introduce wider health screening for applicants entering or seeking to remain in the UK, particularly in the event of a global health emergency, if this is considered necessary to protect public health. This clarifies the Government's understanding that the Convention does not create new or additional rights for non-UK national disabled people relating to the entry into, stay in and departure from the United Kingdom. This reservation will be subject to review 12 months after the UK has ratified the Convention in order to assess whether there is a continued need for it in practice.

A reservation is proposed in respect of Article 12.4, which concerns safeguards for the exercise of substituted decision-making and includes a requirement for "regular review" by a competent, independent and impartial authority or judicial body. There is currently no review system for Department for Work and Pensions (DWP) appointees i.e. people who are appointed to claim and collect benefits on behalf of another person due to that person's lack of physical or mental capacity. Those appointee arrangements are not at present subject to the safeguard of regular review, as the Government believes this Article requires. DWP is therefore actively working towards a proportionate system of review to address this issue.

Moving towards ratification is a major achievement. I believe that this step will be welcomed, along with the signing of the Optional Protocol to the UN Convention last week. Together, these two actions send out a very strong signal – the Government is serious about achieving equality of human rights for disabled people and is making real progress towards its goal of disability equality by 2025.