STATUTORY RULES OF NORTHERN IRELAND

2007 No. 474

DISABLED PERSONS

The Disability Discrimination (Premises) Regulations (Northern Ireland) 2007

Made - - - -	*15th November 2007*
Coming into operation	*31st December 2007*

The Office of the First Minister and deputy First Minister, in exercise of the powers conferred by sections 22(3A), 24(4A) and (5), 24K(3), 24L(1), 67(3) and 68(1) of the Disability Discrimination Act 1995(**1**) and now vested in it(**2**) makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Disability Discrimination (Premises) Regulations (Northern Ireland) 2007 and shall come into operation on 31st December 2007.

(2) The Interpretation Act (Northern Ireland) 1954(**3**) applies to these Regulations as it applies to an Act of the Assembly.

(3) In these Regulations—

"the 1995 Act" means the Disability Discrimination Act 1995.

Circumstances in which mental incapacity justification does not apply

2. The condition specified in sections 24(3)(b) and 24K(2)(b) of the 1995 Act shall not apply where another person is acting for a disabled person by virtue of—

(a) an enduring power of attorney;

(b) functions conferred by or under Part VIII of the Mental Health (Northern Ireland) Order 1986(**4**).

(**1**) 1995 c.50. Sections 22(3A) and 24(4A) were inserted by paragraphs 14 and 16(4) of Schedule 1 to the Disability Discrimination (Northern Ireland) Order 2006 (S.I. 2006 No. 312 (N.I.1)) ("the 2006 Order"); sections 24A to 24L were inserted by Article 14 of the 2006 order; section 67(3) and section 68(1) are modified in their application to Northern Ireland by paragraphs 46 and 47 of Schedule 8; section 68(1), which was amended by paragraph 26 of Schedule 1 to the 2006 Order, is an interpretation provision and is cited for the definitions of "prescribed" and "regulations".

(**2**) *See*S.R. 1999 No. 481, Article 4(a) and Schedule 2, Part I for transfer of functions

(**3**) 1954 c.33 (N.I.)

(**4**) S.I. 1986/595 (N.I.4)

Circumstances in which less favourable treatment is justified: deposits

3.—(1) Where, for a reason which relates to the disabled person's disability, a person with power to dispose of any premises ("the provider") treats a disabled person less favourably than he treats or would treat others to whom that reason does not or would not apply, that treatment shall be taken to be justified for the purposes of section 24(1) of the 1995 Act in the circumstances specified in paragraph (2).

(2) The circumstances referred to in paragraph (1) are that—

(a) the provider grants a disabled person a right to occupy premises (whether by means of a formal tenancy agreement or otherwise);

(b) the disabled person is required to provide a deposit which is refundable at the end of the period of occupation provided that the premises and contents are not damaged;

(c) the provider refuses to refund some or all of the deposit because the premises or contents have been damaged for a reason which relates to the disabled person's disability, and the damage is above the level at which the provider would normally refund some or all of the deposit; and

(d) it is reasonable in all the circumstances for the provider to refuse to refund some or all of the deposit.

Physical features

4.—(1) This regulation applies for the purposes of sections 24E(1) and 24J(5) of the 1995 Act.

(2) The following are to be treated as physical features—

(a) any feature arising from the design or construction of the premises;

(b) any feature of any approach to, exit from, or access to the premises;

(c) any fixtures in or on the premises;

(d) any other physical element or quality of any land comprised in the premises.

(3) Any furniture, furnishings, materials, equipment or other chattels in or on the premises are not to be treated as physical features.

(4) The following are not to be treated as alterations of physical features—

(a) the replacement or provision of any signs or notices;

(b) the replacement of any taps or door handles;

(c) the replacement, provision or adaptation of any door bell, or door entry system;

(d) changes to the colour of any surface (such as, for example, a wall or door).

Auxiliary aids or services

5.—(1) The following are to be treated as auxiliary aids or services for the purposes of sections 24C and 24J(1) and (2) of the 1995 Act—

(a) the removal, replacement or (subject to paragraph (2)) provision of any furniture, furnishings, materials, equipment or other chattels;

(b) the replacement or provision of any signs or notices;

(c) the replacement of any taps or door handles;

(d) the replacement, provision or adaptation of any door bell, or door entry system;

(e) changes to the colour of any surface (such as, for example, a wall or door).

(2) Paragraph (1)(a) does not include the provision of any item which would be a fixture when installed.

(3) It is reasonable to regard a request for a matter falling within paragraph (1) as a request for the controller of premises to take steps in order to provide an auxiliary aid or service.

(4) In paragraph (3), the "controller of premises" means, in relation to section 24C of the 1995 Act, the controller of let premises and, in relation to section 24J(1) and (2) of that Act, the controller of premises that are to let.

Reasonable steps where third party consent to change a term of a letting is required

6.—(1) Where—

(a) under the terms of any lease or other binding obligation a controller of let premises is required to obtain the consent of any person to change a term of a letting; and

(b) but for that requirement, it would be reasonable for the controller of let premises to change the term in order to comply with a duty under section 24D(3) of the 1995 Act,

it is reasonable for the controller of let premises to have to request that consent, but it is not reasonable for him to have to change the term of the letting before that consent is obtained.

(2) In this regulation "binding obligation" means any legally binding obligation in relation to premises, whether arising from an agreement or otherwise.

Reasonable steps where a term of a letting of a dwelling house prohibits improvements

7.—(1) Paragraph (2) prescribes circumstances in which it is reasonable for the purposes of section 24D(3) of the 1995 Act for a controller of let premises to have to take the steps specified in paragraph (3).

(2) The circumstances are as follows—

(a) a controller of let premises is subject to a duty under section 24D(3) in relation to a term of the letting of a dwelling house;

(b) the duty has arisen because a term of the letting prohibits the person to whom the premises are let from making alterations or improvements to the premises;

(c) the terms of the letting contain no exception to that prohibition for alterations or improvements to be made with the consent of the controller of let premises;

(d) the person to whom the premises are let has requested permission to make an improvement to the premises;

(e) if the improvement in question were excluded from the prohibition, the term would no longer have the effect of making it impossible or unreasonably difficult for a relevant disabled person to enjoy the premises or make use of any benefit or facility which by reason of the letting is one of which he is entitled to make use(**5**); and

(f) it would be reasonable in all the circumstances for the person to whom the premises are let to make the improvement in question.

(3) Where paragraph (2) applies, it is reasonable for the controller of let premises to have to take steps to change the term referred to in sub-paragraph (b) of that paragraph, so far as it relates to the improvement in question, so that it becomes a term which permits the making of that improvement, subject to the imposition of reasonable conditions by the controller of let premises.

(4) This regulation is subject to regulation 6.

(**5**) *See* section 24D(1) of the 1995 Act. By section 24E(3) of that Act, the term "relevant disabled person" means a particular disabled person who is either a person to whom the premises are let, or a person who is lawfully under the letting an occupier of the premises