STATUTORY RULES OF NORTHERN IRELAND

2004 No. 374

DISABLED PERSONS

The Disability Discrimination (Employment Field) (Leasehold Premises) Regulations (Northern Ireland) 2004

Made - - - -	*2nd September 2004*
Coming into operation	*1st October 2004*

The Office of the First Minister and deputy First Minister, in exercise of the powers conferred on it by sections 5(6) and (7), 6(8) and (10), 12(3), 16(3) and 67(3) of, and paragraphs 3 and 4 of Schedule 4 to, the Disability Discrimination Act 1995(**1**), and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Disability Discrimination (Employment Field) (Leasehold Premises) Regulations (Northern Ireland) 2004 and shall come into operation on 1st October 2004.

Interpretation

2.—(1) In these Regulations –

"the Act" means the Disability Discrimination Act 1995; and

"binding obligation" means a legally binding obligation (not contained in a lease(**2**)) in relation to the premises whether arising from an agreement or otherwise.

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

(**1**) 1995 c. 50; section 67(3) and paragraph 4 of Schedule 4 are modified in their application to Northern Ireland by paragraphs 46 and 51(2) of Schedule 8. *See also*S.R. 1999 No. 481, Article 4(a) and Schedule 2, Part I and Article 8(a) and Schedule 6, Part I for transfer of functions. With effect from 1st October 2004, sections 5, 6, and 12 are repealed by regulations 5 and 12 respectively of the Disability Discrimination Act 1995 (Amendment) Regulations (Northern Ireland) 2004 (S.R. 2004 No. 55). Section 16 is moved, renumbered as section 18A and amended by regulation 14. Schedule 4 is amended by regulation 28. For the meaning of "prescribed" and "regulations" *see* section 68(1) of the Act as modified by paragraph 47(1) of Schedule 8 (with effect from 1st October 2004, the definition of "regulations" is amended by regulation 27 of S.R. 2004 No. 55)

(**2**) The term "lease" is defined in section 18A(3) (ex section 16(3)) of the Act

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

Revocations

3. The Disability Discrimination (Employment) Regulations (Northern Ireland) 1996(**4**) and the Disability Discrimination (Sub-leases and Sub-tenancies) Regulations (Northern Ireland) 1996(**5**) are hereby revoked.

Lessor withholding consent

4.—(1) For the purposes of section 18A of and Part I of Schedule 4 to the Act, a lessor is to be taken to have withheld his consent to an alteration where he has received a written application by or on behalf of the occupier(**6**) for consent to make the alteration and has failed to meet the requirements specified in paragraph (2).

(2) The requirements are that the lessor within a period of 21 days (beginning with the day on which he receives the application referred to in paragraph (1)) or such longer period as is reasonable –

(a) replies consenting to or refusing the application, or

(b) (i) replies consenting to the application subject to obtaining the consent of another person required under a superior lease or pursuant to a binding obligation, and

(ii) seeks that consent.

(3) A lessor who fails to meet the requirements in paragraph (2) but who subsequently meets those requirements (except as to time) –

(a) shall be taken to have withheld his consent from the date of such failure, and

(b) shall be taken not to have withheld his consent from the time he met those requirements (except as to time).

(4) For the purposes of this regulation, a lessor is to be treated as not having sought another person's consent unless he has applied in writing to that person indicating –

(a) that the lessor's consent to the alteration has been applied for in order to comply with a duty to make reasonable adjustments(**7**), and

(b) that he has given his consent conditionally upon obtaining the other person's consent.

Lessor withholding consent unreasonably

5.—(1) For the purposes of section 18A of and Part I of Schedule 4 to the Act, a lessor is to be taken to have withheld his consent unreasonably where paragraph (2), (3) or (4) applies.

(2) This paragraph applies where –

(a) the lease provides that consent shall or will be given to an alteration of the kind in question; and

(b) the lessor withholds his consent to the alteration.

(3) This paragraph applies where –

(a) the lease provides that consent shall or will be given to an alteration of the kind in question if it is sought in a particular way;

(b) it is sought in that way; and

(c) the lessor withholds his consent to the alteration.

(**4**) S.R. 1996 No. 419
(**5**) S.R. 1996 No. 420
(**6**) The term "occupier" is defined in section 18A(1) (ex section 16(1)) of the Act, as amended by S.R. 2004 No. 55, reg. 14(3)(a)
(**7**) The term "duty to make reasonable adjustments" is defined in section 18D(2) of the Act, inserted by S.R. 2004 No. 55, reg. 18