STATUTORY RULES OF NORTHERN IRELAND

2003 No. 109

DISABLED PERSONS

The Disability Discrimination (Providers of Services) (Adjustment of Premises) Regulations (Northern Ireland) 2003

Made - - - - 28th February 2003

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 21(5)(a) and (b), 27(3) and 67(3) of, and paragraph 8(a) and (b) and paragraph 9 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 (Providers of Services) (Adjustment of Premises) Regulations (Northern Ireland) 2003 and shall come into operation on 1st October 2004.

Interpretation

2.—(1) In these Regulations –

"the Act" means the Disability Discrimination Act 1995;

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

"building" means an erection or structure of any kind;

"relevant lessor" in relation to any premises means a lessor who has received a written application by or on behalf of the occupier of the premises for consent to make an alteration to premises for the purposes of section 27 of, and Part II of Schedule 4 to, the Act(**2**).

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

(**1**) 1995 c. 50; section 67(3) and paragraph 9 of Schedule 4 are modified in their application to Northern Ireland by paragraphs 46 and 51(5) of Schedule 8. For the meaning of "prescribed" and "regulations" *see* section 68(1) as modified by paragraph 47(1) of Schedule 8. *See also*S.R.1999 No. 481, Article 8(a) and Schedule 6, Part I for transfer of functions

(**2**) Schedule 4 is modified in its application to Northern Ireland by paragraph 51 of Schedule 8

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

Duty of providers of services to make adjustments: reasonable steps

3.—(1) This regulation prescribes particular circumstances, for the purposes of section 21 of the Act, in which it is reasonable, and in which it is not reasonable, for a provider of services to have to take the steps specified in this regulation.

(2) Where –

(a) under any binding obligation a provider of services is required to obtain the consent of any person to an alteration to premises which he occupies, and

(b) that alteration is one which, but for that requirement, it would be reasonable for the provider of services to have to make in order to comply with a duty under section 21 of the Act,

it is reasonable for the provider of services to have to request that consent; but it is not reasonable for him to have to make that alteration before that consent is obtained.

(3) It is not reasonable for a provider of services to have to remove or alter a physical feature where the feature concerned –

(a) was provided in or in connection with a building for the purpose of assisting people to have access to the building or to use facilities provided in the building; and

(b) satisfies the relevant design standard.

(4) The Schedule explains –

(a) the meaning of "relevant design standard" for the purpose of paragraph (3)(b); and

(b) the circumstances in which a physical feature is to be regarded as satisfying that standard.

Definition of sub-lease and sub-tenancy

4. For the purposes of section 27 of the Act –

"sub-lease" means any sub-term created out of, or deriving from, a superior leasehold interest; and

"sub-tenancy" means any tenancy created out of, or deriving from, a superior tenancy.

Lessor withholding consent

5.—(1) This regulation prescribes particular circumstances in which a relevant lessor is to be taken, for the purposes of section 27 of, and Part II of Schedule 4 to, the Act to have withheld his consent for alterations to premises.

(2) Subject to paragraph (3), a relevant lessor is to be taken to have withheld such consent where, within the period of 42 days beginning with the date on which he receives the application for consent, he –

(a) fails to reply consenting to or refusing the application; or

(b) does reply consenting to the application subject to obtaining the consent of another person required under a superior lease or pursuant to a binding obligation, but fails to seek that consent.

(3) A relevant lessor is not to be taken to have withheld his consent for the purposes of paragraph (2) where –

(a) the applicant fails to submit with the application such plans and specifications as it is reasonable for him to require before consenting to the alteration, and

(b) within the period of 21 days beginning with the date on which he receives the application, he replies requesting the applicant to submit such plans and specifications.

(4) However, where such plans and specifications are submitted to a relevant lessor in response to a request made in accordance with paragraph (3)(b), he shall be taken to have withheld his consent to the alteration where, within the period of 42 days beginning with the date on which he receives those plans and specifications, he –

(a) fails to reply consenting to or refusing the alteration; or

(b) does reply consenting to the alteration subject to obtaining the consent of another person required under a superior lease or pursuant to a binding obligation, but fails to seek that consent.

(5) A relevant lessor who, having sought the consent of the other person referred to in paragraphs (2)(b) or (4)(b), receives that consent, shall be taken to have withheld his consent to the alteration where, within the period of 14 days beginning with the day on which he receives the consent, he fails to inform the applicant in writing that he has received it.

(6) A relevant lessor who, but for the requirements as to time, complies with the requirements of paragraphs (2), (4) or (5) shall be taken to have withheld his consent until such time as he so complies.

(7) For the purposes of this regulation –

(a) a relevant lessor is to be treated as not having sought another person's consent unless –

(i) he has applied in writing to that person indicating that –

(aa) the occupier has applied for consent to the alteration of the premises in order to comply with a section 21 duty; and

(bb) the relevant lessor has given his consent conditionally upon obtaining the other person's consent; and

(ii) he submits to that other person any plans and specifications which have been submitted to him;

(b) "to reply" means to reply in writing.

Lessor withholding consent unreasonably

6.—(1) This regulation prescribes particular circumstances in which a relevant lessor is to be taken, for the purposes of section 27 of, and Part II of Schedule 4 to, the Act to have acted unreasonably in withholding his consent for alterations to premises.

(2) The circumstances so prescribed are that the lease provides that he shall give his consent to an alteration of the kind in question and he has withheld his consent to that alteration.

Lessor withholding consent reasonably

7.—(1) This regulation prescribes particular circumstances in which a relevant lessor is to be taken, for the purposes of section 27 of, and Part II of Schedule 4 to, the Act to have acted reasonably in withholding his consent for alterations to premises.

(2) The circumstances so prescribed are where –

(a) there is a binding obligation requiring the consent of any person to the alteration and

(i) the relevant lessor has taken steps to seek that consent; and

(ii) that consent has not been given, or has been given subject to a condition making it reasonable for him to withhold his consent; or

(b) the relevant lessor does not know, and could not reasonably be expected to know, that the alteration is one which the occupier proposes to make in order to comply with a section 21 duty.