STATUTORY RULES OF NORTHERN IRELAND

1996 No. 557

DISABLED PERSONS

The Disability Discrimination (Services and Premises) Regulations (Northern Ireland) 1996

Made - - - -	*29th November 1996*
Coming into operation	*2nd December 1996*

The Department of Health and Social Services, in exercise of the powers conferred on it by sections 19(5)(*c*), 20(7) and (8), 24(5), 67(2) and (3) and 68(1) of the Disability Discrimination Act 1995(**1**), and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Disability Discrimination (Services and Premises) Regulations (Northern Ireland) 1996 and shall come into operation on 2nd December 1996.

(2) In these Regulations—

"the Act" means the Disability Discrimination Act 1995;

"incepted" refers to the time when the liability to risk of an insurer under a policy of insurance commenced;

"insurance business" has the same meaning as in the Insurance Companies Act 1982(**2**);

"insurer" means an insurance company as defined in section 96 of the Insurance Companies Act 1982.

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

Circumstances in which less favourable treatment is justified: insurance

2.—(1) Where, for a reason which relates to the disabled person's disability, a provider of services 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 20 of the Act in the circumstances specified in paragraph (2).

(**1**) 1995 c. 50; sections 19, 20, 67 and 68 are modified in their application to Northern Ireland by paragraphs 9, 10, 46 and 47 respectively of Schedule 8. Section 68(1) is an interpretation provision and is cited for the definitions of "prescribed" and "regulations"

(**2**) 1982 c. 50

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

(2) The circumstances referred to in paragraph (1) are that the less favourable treatment is—

(a) in connection with insurance business carried on by the provider of services;

(b) based upon information (for example, actuarial or statistical data or a medical report) which is relevant to the assessment of the risk to be insured and is from a source on which it is reasonable to rely; and

(c) reasonable having regard to the information relied upon and any other relevant factors.

Existing policies of insurance: transitional provisions

3.—(1) Subject to paragraph (2), and except where regulation 4 applies, where, for a reason which relates to the disabled person's disability, a provider of services 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 20 of the Act if the treatment is in connection with insurance business carried on by the provider of services and relates to an existing policy.

(2) Subject to paragraph (3), where an existing policy is due to be renewed, or the terms of such a policy are due to be reviewed, on or after 2nd December 1996, any less favourable treatment which occurs on or after the date that the review or renewal is due shall not be taken to be justified under paragraph (1).

(3) A review of an existing policy which is part of, or incidental to, a general reassessment by the provider of services of the pricing structure for a group of policies shall not be treated as a review for the purposes of paragraph (2).

(4) In this regulation "an existing policy" means a policy of insurance which incepted before 2nd December 1996.

Cover documents and master policies: transitional provisions

4.—(1) Subject to paragraphs (2) and (3), where, for a reason which relates to the disabled person's disability, a provider of services 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 20 of the Act if the treatment is in connection with insurance business carried on by the provider of services and—

(a) results in a refusal to issue a cover document to or in respect of the disabled person, and the refusal occurs before 2nd December 1997; or

(b) relates to a cover document which incepted before 2nd December 1997.

(2) Paragraph (1) does not apply in a case where—

(a) the relevant master policy was entered into or renewed on or after 2nd December 1996; or

(b) the terms of the relevant master policy were reviewed on or after 2nd December 1996,

and for this purpose "the relevant master policy" means the master policy under which the cover document was issued, or under which a cover document would have been issued but for the refusal to issue it.

(3) Where a cover document is due to be renewed, or the terms of a cover document are due to be reviewed, on or after 2nd December 1997, any less favourable treatment which occurs on or after the date that the review or renewal is due shall not be taken to be justified under paragraph (1).

(4) In this regulation—

"cover document" means a certificate or policy issued under a master policy;

"master policy" means a contract between an insurer and another person under which that person is entitled to issue certificates or policies to individuals, and which details the terms on which that person may do so.

Circumstances in which less favourable treatment is justified: guarantees

5.—(1) Where, for a reason which relates to the disabled person's disability, a provider of services(**4**) ("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 20 of the Act in the circumstances specified in paragraph (2).

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

(a) the provider provides a guarantee (whether or not legally enforceable) that—

(i) the purchase price of services that he has provided will be refunded if the services are not of satisfactory quality; or

(ii) services in the form of goods that he has provided will be replaced or repaired if those goods are not of satisfactory quality; and

(b) the provider refuses to provide a replacement, repair or refund under the guarantee because damage has occurred for a reason which relates to the disabled person's disability, and the damage is above the level at which the provider would normally provide a replacement, repair or refund under the guarantee; and

(c) it is reasonable in all the circumstances of the case for the provider to refuse to provide a replacement, repair or refund under the guarantee.

(3) In this regulation "guarantee" includes any document having the effect referred to in paragraph (2)(*a*) whether or not that document is described as a guarantee by the provider.

Circumstances in which less favourable treatment is justified: deposits in respect of goods and facilities

6.—(1) Where, for a reason which relates to the disabled person's disability, a provider of services ("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 20 of the Act in the circumstances specified in paragraph (2).

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

(a) when goods or facilities are provided, the disabled person is required to provide a deposit which is refundable if the goods or facilities are undamaged; and

(b) the provider refuses to refund some or all of the deposit because damage has occurred to the goods or facilities 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 the deposit in full; and

(c) it is reasonable in all the circumstances of the case for the provider to refuse to refund the deposit in full.

Circumstances in which less favourable treatment is justified: deposits in respect of premises

7.—(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 of the Act in the circumstances specified in paragraph (2).

(**4**) The provision of "services" for these purposes includes the provision of any goods or facilities; *see* section 19(2)(*a*) of the Act