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STATUTORY INSTRUMENTS

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**2018 No. 852**

**The Public Sector Bodies (Websites and Mobile Applications) Accessibility Regulations 2018**

**PART 5**

**Enforcement**

**Enforcement bodies for the obligations in Part 2**

**10.** Subject to regulation 13, the enforcement bodies are—

- (a) for a website or mobile application of a public sector body that is required to comply with the Equality Act 2010<sup>(1)</sup>, the Equality and Human Rights Commission;
- (b) for a website or mobile application of a public sector body that is required to comply with the Disability Discrimination Act 1995<sup>(2)</sup>, the Equality Commission for Northern Ireland.

**Failure to make a reasonable adjustment**

**11.—**(1) A failure by a public sector body to comply with the accessibility requirement is to be treated as a failure to make a reasonable adjustment.

(2) A failure by a public sector body to provide a satisfactory response to a request to provide information in an accessible format, pursuant to regulation 12(2), is to be treated as a failure to make a reasonable adjustment.

(3) A “failure to make a reasonable adjustment” in this regulation means a failure to make a reasonable adjustment for the purposes of—

- (a) sections 20, 21 and 29 of the Equality Act 2010; or
- (b) sections 19 to 21 and 21B to 21E of the Disability Discrimination Act 1995<sup>(3)</sup>.

**Notification and request for information**

**12.—**(1) If a person believes that a website or mobile application of a public sector body has failed to comply with the accessibility requirement, that person may notify the public sector body of that failure.

(2) A person may request information in an accessible format that has been excluded from a website or mobile application of a public sector body pursuant to regulation 3(2) or regulation 6.

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(1) 2010, c.15.

(2) 1995, c.50.

(3) 1995, c.50; section 19 was amended by Sch.8 para.9 of the Disability Discrimination Act 1995 (c.50), Sch 1 para.12 of the Disability Discrimination (Northern Ireland) Order 2006/312 and reg.8 of the Civil Aviation (Access to Air Travel for Disabled Persons or Persons with Reduced Mobility) Regulations 2007/1895. Section 20 was amended by Sch.8 para.10 of the Disability Discrimination Act 1995 (c.50). Sections 21B to 21E were inserted by art.4 of the Disability Discrimination (Northern Ireland) Order 2006/312. The Disability Discrimination Act 1995 was repealed for England, Wales and Scotland (subject to limited savings for Scotland) by the Equality Act 2010 (c.15).

(3) A public sector body must provide a response to a notification or request made by a person under this regulation within a reasonable period of time.

(4) If a public sector body does not comply with paragraph (3) of this regulation, or a person is dissatisfied with the response received, that person may complain to the applicable enforcement body.

#### **Accessibility statements: assessment**

**13.**—(1) The Minister for the Cabinet Office may undertake an assessment as to whether a public sector body has complied with regulation 7.

(2) As part of an assessment, the Minister for the Cabinet Office may by notice require a public sector body to provide information to the Minister for the Cabinet Office for the purpose of demonstrating compliance with regulation 7.

(3) A public sector body that receives a notice under this regulation must provide such information within a period of 28 days beginning on the date of the notice.

(4) A notice under this regulation must not oblige a public sector body to give information that it is prohibited from disclosing by virtue of an enactment.

(5) Paragraph (6) applies where the Minister for the Cabinet Office sends a public sector body a notice under paragraph (2) and—

- (a) the Minister for the Cabinet Office considers that the public sector body's response does not demonstrate compliance with regulation 7; or
- (b) the public sector body does not respond at all, within a period of 28 days beginning on the date of the notice.

(6) The Minister for the Cabinet Office must make a determination that the public sector body has failed to demonstrate compliance with regulation 7, and notify the public sector body of the determination.

(7) A public sector body that receives a determination made under paragraph (6) and disagrees with it may request a review.

(8) Any request for a review must—

- (a) be in writing;
- (b) state the reason for the request for a review; and
- (c) be made within a period of 28 days beginning on the date of the determination.

(9) The Minister for the Cabinet Office must consider a request for a review, made in accordance with paragraphs (7) and (8), within a reasonable period of time.

(10) If, following a request for a review, the Minister for the Cabinet Office determines that the public sector body has complied with regulation 7, the Minister for the Cabinet Office must set aside the determination made under paragraph (6), and notify the public sector body.

(11) The Minister for the Cabinet Office may uphold the determination made under paragraph (6) if—

- (a) a public sector body does not request a review in the form specified in paragraph (8);
- (b) a public sector body does not request a review at all; or
- (c) the Minister for the Cabinet Office has considered the request for a review and is not satisfied that the public sector body has complied with regulation 7.

(12) If the determination has been upheld pursuant to paragraph (11), the Minister for the Cabinet Office must publish the name of the public sector body and the determination of the Minister for the Cabinet Office electronically, and notify the public sector body.

