
DRAFT STATUTORY RULES OF NORTHERN IRELAND

2008 No.

**The Special Educational Needs and Disability (2005 Order)
(Amendment) (General Qualifications Bodies) (Alteration of
Premises and Enforcement) Regulations (Northern Ireland) 2008**

PART 2

**Amendments to the Special Educational Needs
and Disability (Northern Ireland) Order 2005**

Premises occupied under leases

6. The following Schedule is inserted after Schedule 3 to the 2005 Order (premises occupied by educational institutions under leases)—

“SCHEDULE 3A

Article 37B

PREMISES OCCUPIED BY GENERAL QUALIFICATIONS BODIES UNDER LEASES

Failure to obtain consent to alteration

1. If any question arises as to whether a general qualifications body has failed to comply with the duty imposed by Article 37 by failing to make a particular alteration to the premises, any constraint attributable to the fact that that general qualifications body occupies the premises under a lease is to be ignored unless that general qualifications body has applied to the lessor in writing for consent to the making of the alteration.

Reference to court

2.—(1) If the general qualifications body has applied in writing to the lessor for consent to the alteration and—

- (a) that consent has been refused, or
- (b) the lessor has made his consent subject to one or more conditions,

that general qualifications body or a disabled person who has an interest in the proposed alteration to the premises being made, may refer the matter to a county court.

(2) On such a reference the court must determine whether the lessor’s refusal was unreasonable or (as the case may be) whether the condition is, or any of the conditions are, unreasonable.

(3) If the court determines—

- (a) that the lessor’s refusal was unreasonable, or
- (b) that the condition is, or any of the conditions are, unreasonable,

it may make such declaration as it considers appropriate or an order authorising the general qualifications body to make the alteration specified in the order.

(4) An order under sub-paragraph (3) may require the general qualifications body to comply with conditions specified in the order.

Joining lessors in proceedings under Article 37A

3.—(1) In any proceedings on a claim under Article 37A, in which a question arises as to whether a general qualifications body has failed to comply with the duty imposed by Article 37 by failing to make an alteration to premises occupied by the general qualifications body under a lease—

- (a) the claimant, or
- (b) the general qualifications body concerned,

may ask the court to direct that the lessor be joined as a party to the proceedings.

- (2) The request shall be granted if it is made before the hearing of the claim begins.
- (3) The court may refuse the request if it is made after the hearing of the claim begins.
- (4) The request may not be granted if it is made after the court has determined the claim.
- (5) If a lessor has been so joined as a party to the proceedings, the court may determine—

- (a) whether the lessor has—
 - (i) refused consent to the alteration, or
 - (ii) consented subject to one or more conditions, and
- (b) if so, whether the refusal or any of the conditions was unreasonable.

(6) If, under sub-paragraph (5), the court determines that the refusal or any of the conditions was unreasonable, it may take one or more of the following steps—

- (a) make such declaration as it considers appropriate;
- (b) make an order authorising the general qualifications body to make the alteration specified in the order;
- (c) order the lessor to pay compensation to the claimant.

(7) An order under sub-paragraph (6)(b) may require the general qualifications body to comply with the conditions specified in the order.

(8) If the court orders the lessor to pay compensation it may not order the general qualifications body to do so.”.