
STATUTORY INSTRUMENTS

2005 No. 1117

**The Special Educational Needs and
Disability (Northern Ireland) Order 2005**

PART III

DISABILITY DISCRIMINATION IN EDUCATION

CHAPTER III

GENERAL QUALIFICATIONS BODIES

Chapter III: claims, leased premises and certain agreements

38.—(1) Regulations may make provision for, or in connection with, the making of a claim by a person—

- (a) that a general qualifications body has discriminated against him, or subjected him to harassment, in a way which is unlawful under this Chapter;
- (b) that a general qualifications body is by virtue of Article 44 or 45 to be treated as having done so; or
- (c) that a person is by virtue of Article 44 to be treated as having done so.

(2) Regulations may, in relation to a case where premises are occupied by a general qualifications body under a lease—

- (a) make provision modifying the lease, or make provision for its modification, in connection with the making of alterations to the premises in pursuance of a duty imposed on the body by Article 37;
- (b) make provision in connection with the determination of questions that are about the body's compliance with any such duty and are related to the making of alterations to the premises.

(3) Any term in a contract or other agreement made by or on behalf of a general qualifications body is void so far as it purports to—

- (a) require a person to do anything which would contravene any provision of, or made under, this Chapter;
- (b) exclude or limit the operation of any provision of, or made under, this Chapter; or
- (c) prevent any person making a claim of a kind mentioned in paragraph (1).

(4) Regulations may—

- (a) make provision for paragraph (3)(b) or (c) not to apply to an agreement settling a claim of a kind mentioned in paragraph (1);
- (b) make provision modifying an agreement to which paragraph (3) applies, or make provision for the modification of such an agreement, in order to take account of the effect of that paragraph.

(5) The provision that may be made under paragraph (1), (2) or (4) includes (in particular)—

Changes to legislation: *The Special Educational Needs and Disability (Northern Ireland) Order 2005, Section 38 is up to date with all changes known to be in force on or before 06 October 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (a) provision as to the court or tribunal to which a claim, or an application in connection with a modification, may be made;
 - (b) provision for the determination of claims or matters otherwise than by the bringing of proceedings before a court or tribunal;
 - (c) provision for a person who is a lessor in relation to a lease under which a general qualifications body occupies premises to be made a party to proceedings;
 - (d) provision as to remedies;
 - (e) provision as to procedure;
 - (f) provision as to appeals;
 - (g) provision as to time limits;
 - (h) provision as to evidence;
 - (i) provision as to costs or expenses.
- (6) Provision under paragraph (1), (2) or (4) may take the form of amendments of this Part or the 1995 Act.
- (7) Regulations may make provision as to the meaning of “lease” or “lessor” in this Article.
- (8) Except as provided in regulations under paragraph (1), no civil or criminal proceedings may be brought against any person in respect of an act merely because the act is unlawful under this Chapter.
- (9) Paragraph (8) does not prevent the making of an application for judicial review.

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Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- [art. 22\(1\)\(i\)-\(ii\)](#) substituted for words by [2016 c. 8 \(N.I.\) s. 12\(1\)](#)