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STATUTORY INSTRUMENTS

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**2005 No. 1117**

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

PART III

DISABILITY DISCRIMINATION IN EDUCATION

CHAPTER II

FURTHER AND HIGHER EDUCATION

*Enforcement, etc.*

**Enforcement, remedies and procedures**

**31.**—(1) A claim by a person—

- (a) that a responsible body has discriminated against him in a way which is unlawful under this Chapter,
- (b) that a responsible body is by virtue of Article 44 or 45 to be treated as having discriminated against him in such a way, or
- (c) that a person is by virtue of Article 44 to be treated as having discriminated against him in such a way,

may be made the subject of civil proceedings in the same way as any other claim in tort for breach of statutory duty.

(2) Damages in respect of discrimination in a way which is unlawful under this Chapter may include compensation for injury to feelings whether or not they include compensation under any other head.

(3) Proceedings may be brought only in a county court.

(4) The remedies available in such proceedings are those which are available in the High Court

(5) The fact that a person who brings proceedings under this Chapter against a responsible body may also be entitled to bring proceedings against that body under Part II of the 1995 Act is not to affect the proceedings under this Chapter.

(6) Part II of Schedule 2 makes further provision about the enforcement of this Chapter and about procedure.

**Occupation of premises by educational institution**

**32.**—(1) This Article applies if—

- (a) premises are occupied by an educational institution under a lease;
- (b) but for this Article, the responsible body would not be entitled to make a particular alteration to the premises; and

- (c) the alteration is one which the responsible body proposes to make in order to comply with Article 30.
- (2) Except to the extent to which it expressly so provides, the lease has effect, as a result of this paragraph, as if it provided—
  - (a) for the responsible body to be entitled to make the alteration with the written consent of the lessor;
  - (b) for the responsible body to have to make a written application to the lessor for consent if it wishes to make the alteration;
  - (c) if such an application is made, for the lessor not to withhold his consent unreasonably; and
  - (d) for the lessor to be entitled to make his consent subject to reasonable conditions.
- (3) In this Article—
  - “lease” includes a tenancy, sub-lease or sub-tenancy and an agreement for a lease, tenancy, sub-lease or sub-tenancy; and
  - “sub-lease” and “sub-tenancy” have such meaning as may be prescribed.
- (4) If the terms and conditions of a lease—
  - (a) impose conditions which are to apply if the responsible body alters the premises, or
  - (b) entitle the lessor to impose conditions when consenting to the responsible body’s altering the premises,the responsible body is to be treated for the purposes of paragraph (1) as not being entitled to make the alteration.
- (5) Schedule 3 supplements the provisions of this Article.

**Validity and revision of agreements of responsible bodies**

- 33.**—(1) Any term in a contract or other agreement made by or on behalf of a responsible 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 from making a claim under this Chapter.
- (2) Sub-paragraphs (b) and (c) of paragraph (1) do not apply to an agreement settling a claim under Article 31.
- (3) On the application of any person interested in an agreement to which paragraph (1) applies, a county court may make such order as it thinks just for modifying the agreement to take account of the effect of paragraph (1).
- (4) No such order may be made unless all persons affected have been—
- (a) given notice of the application; and
  - (b) afforded an opportunity to make representations to the court.
- (5) Paragraph (4) applies subject to any county court rules providing for notice to be dispensed with.
- (6) An order under paragraph (3) may include provision as respects any period before the making of the order.