

Status: Point in time view as at 01/01/2006.

Changes to legislation: The Special Educational Needs and Disability (Northern Ireland) Order 2005, SCHEDULE 3 is up to date with all changes known to be in force on or before 26 May 2023. 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)

SCHEDULES

SCHEDULE 3

Article 32(5)

PREMISES OCCUPIED BY EDUCATIONAL INSTITUTIONS UNDER LEASES

Failure to obtain consent

1 ^{F1}. If any question arises as to whether a responsible body has failed to comply with the duty imposed by Article 30, by failing to make a particular alteration to premises, any constraint attributable to the fact that the premises are occupied by the educational institution under a lease is to be ignored unless the responsible body has applied to the lessor in writing for consent to the making of the alteration.

F1 mod. by SR 2005/371

Reference to court

2 ^{F2}.—(1) If the responsible 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 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.

^{F2}(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 responsible body to make the alteration specified in the order.

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

F2 mod. by SR 2005/371

Joining lessors in proceedings under Article 31

3.—(1) ^{F3} In proceedings on a claim under Article 31, in a case to which this Schedule applies, the claimant or the responsible body concerned may ask the court to direct that the lessor be joined as a party to the proceedings.

(2) ^{F3} The request must be granted if it is made before the hearing of the claim begins.

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- (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 a declaration as it considers appropriate;
 - (b) make an order authorising the responsible body to make the alteration specified in the order;
 - (c) order the lessor to pay compensation to the complainant.
- (7) An order under sub-paragraph (6)(b) may require the responsible body to comply with conditions specified in the order.
- (8) If the court orders the lessor to pay compensation it may not order the responsible body to do so.

F3 mod. by SR 2005/371

Regulations

4. Regulations may make provision as to circumstances in which—
 - (a) a lessor is to be taken for the purposes of Article 32 and this Schedule to have—
 - (i) withheld his consent;
 - (ii) withheld his consent unreasonably;
 - (iii) acted reasonably in withholding his consent;
 - (b) a condition subject to which a lessor has given his consent is to be taken to be reasonable;
 - (c) a condition subject to which a lessor has given his consent is to be taken to be unreasonable.

Sub-leases etc.

5. Regulations may make provision supplementing, or modifying, Article 32 or any provision made by or under this Schedule in relation to cases where the premises of the educational institution are occupied under a sub-lease or sub-tenancy.

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