
STATUTORY INSTRUMENTS

2006 No. 312

The Disability Discrimination (Northern Ireland) Order 2006

Other matters

Discrimination in relation to letting of premises

14. In the 1995 Act, after section 24 insert—

“Let premises: discrimination in failing to comply with duty

24A.—(1) It is unlawful for a controller of let premises to discriminate against a disabled person—

- (a) who is a person to whom the premises are let; or
- (b) who, although not a person to whom the premises are let, is lawfully under the letting an occupier of the premises.

(2) For the purposes of subsection (1), a controller of let premises discriminates against a disabled person if—

- (a) he fails to comply with a duty under section 24C or 24D imposed on him by reference to the disabled person; and
- (b) he cannot show that failure to comply with the duty is justified (see section 24K).

(3) For the purposes of this section and sections 24B to 24F, a person is a controller of let premises if he is—

- (a) a person by whom the premises are let; or
- (b) a person who manages the premises.

(4) For the purposes of this section and sections 24B to 24F—

- (a) “let” includes sub-let; and
- (b) premises shall be treated as let by a person to another where a person has granted another a contractual licence to occupy them.

(5) This section applies only in relation to premises in the United Kingdom.

Exceptions to section 24A(1)

24B.—(1) Section 24A(1) does not apply if—

- (a) the premises are, or have at any time been, the only or principal home of an individual who is a person by whom they are let; and
- (b) since entering into the letting—
 - (i) the individual has not, and
 - (ii) where he is not the sole person by whom the premises are let, no other person by whom they are let has,

used for the purpose of managing the premises the services of a person who, by profession or trade, manages let premises.

(2) Section 24A(1) does not apply if the premises are of a prescribed description.

(3) Where the conditions mentioned in section 23(2) are satisfied, section 24A(1) does not apply.

(4) For the purposes of section 23 “the relevant occupier” means, in a case falling within section 24A(1), a controller of the let premises, or a near relative of his; and “near relative” has here the same meaning as in section 23.

Duties for purposes of section 24A(2) to provide auxiliary aid or service

24C.—(1) Subsection (2) applies where—

- (a) a controller of let premises receives a request made by or on behalf of a person to whom the premises are let;
- (b) it is reasonable to regard the request as a request that the controller take steps in order to provide an auxiliary aid or service; and
- (c) either the first condition, or the second condition, is satisfied.

(2) It is the duty of the controller to take such steps as it is reasonable, in all the circumstances of the case, for him to have to take in order to provide the auxiliary aid or service (but see section 24E(1)).

(3) The first condition is that—

- (a) the auxiliary aid or service—
 - (i) would enable a relevant disabled person to enjoy, or facilitate such a person’s enjoyment of, the premises, but
 - (ii) would be of little or no practical use to the relevant disabled person concerned if he were neither a person to whom the premises are let nor an occupier of them; and
- (b) it would, were the auxiliary aid or service not to be provided, be impossible or unreasonably difficult for the relevant disabled person concerned to enjoy the premises.

(4) The second condition is that—

- (a) the auxiliary aid or service—
 - (i) would enable a relevant disabled person to make use, or facilitate such a person’s making use, of any benefit, or facility, which by reason of the letting is one of which he is entitled to make use, but
 - (ii) would be of little or no practical use to the relevant disabled person concerned if he were neither a person to whom the premises are let nor an occupier of them; and
- (b) it would, were the auxiliary aid or service not to be provided, be impossible or unreasonably difficult for the relevant disabled person concerned to make use of any benefit, or facility, which by reason of the letting is one of which he is entitled to make use.

Duty for purposes of section 24A(2) to change practices, terms, etc.

24D.—(1) Subsection (3) applies where—

- (a) a controller of let premises has a practice, policy or procedure which has the effect of making it impossible, or unreasonably difficult, for a relevant disabled person—
 - (i) to enjoy the premises, or
 - (ii) to make use of any benefit, or facility, which by reason of the letting is one of which he is entitled to make use, or
 - (b) a term of the letting has that effect,
- and (in either case) the conditions specified in subsection (2) are satisfied.

(2) Those conditions are—

- (a) that the practice, policy, procedure or term would not have that effect if the relevant disabled person concerned did not have a disability;
- (b) that the controller receives a request made by or on behalf of a person to whom the premises are let; and
- (c) that it is reasonable to regard the request as a request that the controller take steps in order to change the practice, policy, procedure or term so as to stop it having that effect.

(3) It is the duty of the controller to take such steps as it is reasonable, in all the circumstances of the case, for him to have to take in order to change the practice, policy, procedure or term so as to stop it having that effect (but see section 24E(1)).

Sections 24C and 24D: supplementary and interpretation

24E.—(1) For the purposes of sections 24C and 24D, it is never reasonable for a controller of let premises to have to take steps consisting of or including the removal or alteration of a physical feature.

(2) Sections 24C and 24D impose duties only for the purpose of determining whether a person has, for the purposes of section 24A, discriminated against another; and accordingly a breach of any such duty is not actionable as such.

(3) In sections 24C and 24D “relevant disabled person”, in relation to let premises, means a particular disabled person—

- (a) who is a person to whom the premises are let; or
- (b) who, although not a person to whom the premises are let, is lawfully under the letting an occupier of the premises.

(4) For the purposes of section 24C and 24D, the terms of a letting of premises include the terms of any agreement which relates to the letting of the premises.

Let premises: victimisation of persons to whom premises are let

24F.—(1) Where a duty under section 24C or 24D is imposed on a controller of let premises by reference to a person who, although not a person to whom the premises are let, is lawfully under the letting an occupier of the premises, it is unlawful for a controller of the let premises to discriminate against a person to whom the premises are let.

(2) For the purposes of subsection (1), a controller of the let premises discriminates against a person to whom the premises are let if—

- (a) the controller treats that person (“T”) less favourably than he treats or would treat other persons whose circumstances are the same as T’s; and

(b) he does so because of costs incurred in connection with taking steps to avoid liability under section 24A(1) for failure to comply with the duty.

(3) In comparing T's circumstances with those of any other person for the purposes of subsection (2)(a), the following (as well as the costs' having been incurred) shall be disregarded—

- (a) the making of the request that gave rise to the imposition of the duty; and
- (b) the disability of each person who—
 - (i) is a disabled person or a person who has had a disability, and
 - (ii) is a person to whom the premises are let or, although not a person to whom the premises are let, is lawfully under the letting an occupier of the premises.

Premises that are to let: discrimination in failing to comply with duty

24G.—(1) Where—

- (a) a person has premises to let, and
- (b) a disabled person is considering taking a letting of the premises,

it is unlawful for a controller of the premises to discriminate against the disabled person.

(2) For the purposes of subsection (1), a controller of premises that are to let discriminates against a disabled person if—

- (a) he fails to comply with a duty under section 24J imposed on him by reference to the disabled person; and
- (b) he cannot show that failure to comply with the duty is justified (see section 24K).

(3) For the purposes of this section and sections 24H and 24J, a person is a controller of premises that are to let if he is—

- (a) a person who has the premises to let; or
- (b) a person who manages the premises.

(4) For the purposes of this section and sections 24H and 24J—

- (a) “let” includes sub-let;
- (b) premises shall be treated as to let by a person to another where a person proposes to grant another a contractual licence to occupy them;

and references to a person considering taking a letting of premises shall be construed accordingly.

(5) This section applies only in relation to premises in the United Kingdom.

Exceptions to section 24G(1)

24H.—(1) Section 24G(1) does not apply in relation to premises that are to let if the premises are, or have at any time been, the only or principal home of an individual who is a person who has them to let and—

- (a) the individual does not use, and
- (b) where he is not the sole person who has the premises to let, no other person who has the premises to let uses,

the services of an estate agent (within the meaning given by section 22(6)) for the purposes of letting the premises.

(2) Section 24G(1) does not apply if the premises are of a prescribed description.

(3) Where the conditions mentioned in section 23(2) are satisfied, section 24G(1) does not apply.

(4) For the purposes of section 23 “the relevant occupier” means, in a case falling within section 24G(1), a controller of the premises that are to let, or a near relative of his; and “near relative” has here the same meaning as in section 23.

Duties for purposes of section 24G(2)

24J.—(1) Subsection (2) applies where—

- (a) a controller of premises that are to let receives a request made by or on behalf of a relevant disabled person;
- (b) it is reasonable to regard the request as a request that the controller take steps in order to provide an auxiliary aid or service;
- (c) the auxiliary aid or service—
 - (i) would enable the relevant disabled person to become, or facilitate his becoming, a person to whom the premises are let, but
 - (ii) would be of little or no practical use to him if he were not considering taking a letting of the premises; and
- (d) it would, were the auxiliary aid or service not to be provided, be impossible or unreasonably difficult for the relevant disabled person to become a person to whom the premises are let.

(2) It is the duty of the controller to take such steps as it is reasonable, in all the circumstances of the case, for the controller to have to take in order to provide the auxiliary aid or service (but see subsection (5)).

(3) Subsection (4) applies where—

- (a) a controller of premises that are to let has a practice, policy or procedure which has the effect of making it impossible, or unreasonably difficult, for a relevant disabled person to become a person to whom the premises are let;
- (b) the practice, policy or procedure would not have that effect if the relevant disabled person did not have a disability;
- (c) the controller receives a request made by or on behalf of the relevant disabled person; and
- (d) it is reasonable to regard the request as a request that the controller take steps in order to change the practice, policy or procedure so as to stop it having that effect.

(4) It is the duty of the controller to take such steps as it is reasonable, in all the circumstances of the case, for him to have to take in order to change the practice, policy or procedure so as to stop it having that effect (but see subsection (5)).

(5) For the purposes of this section, it is never reasonable for a controller of premises that are to let to have to take steps consisting of or including the removal or alteration of a physical feature.

(6) In this section “relevant disabled person”, in relation to premises that are to let, means a particular disabled person who is considering taking a letting of the premises.

(7) This section imposes duties only for the purpose of determining whether a person has, for the purposes of section 24G, discriminated against another; and accordingly a breach of any such duty is not actionable as such.

Let premises and premises to let: justification

24K.—(1) For the purposes of sections 24A(2) and 24G(2), a person’s failure to comply with a duty is justified only if—

- (a) in his opinion, a condition mentioned in subsection (2) is satisfied; and
 - (b) it is reasonable, in all the circumstances of the case, for him to hold that opinion.
- (2) The conditions are—
- (a) that it is necessary to refrain from complying with the duty in order not to endanger the health or safety of any person (which may include that of the disabled person concerned);
 - (b) that the disabled person concerned is incapable of entering into an enforceable agreement, or of giving informed consent, and for that reason the failure is reasonable.
- (3) Regulations may—
- (a) make provision, for purposes of this section, as to circumstances in which it is, or as to circumstances in which it is not, reasonable for a person to hold the opinion mentioned in subsection (1)(a);
 - (b) amend or omit a condition specified in subsection (2) or make provision for it not to apply in prescribed circumstances;
 - (c) make provision, for purposes of this section, as to circumstances (other than any for the time being mentioned in subsection (2)) in which a failure is to be taken to be justified.

Sections 24 to 24K: power to make supplementary provision

24L.—(1) Regulations may make provision, for purposes of sections 24(3A) and (3B) and 24A to 24K—

- (a) as to circumstances in which premises are to be treated as let to a person;
- (b) as to circumstances in which premises are to be treated as not let to a person;
- (c) as to circumstances in which premises are to be treated as being, or as not being, to let;
- (d) as to who is to be treated as being, or as to who is to be treated as not being, a person who, although not a person to whom let premises are let, is lawfully under the letting an occupier of the premises;
- (e) as to who is to be treated as being, or as to who is to be treated as not being, a person by whom premises are let;
- (f) as to who is to be treated as having, or as to who is to be treated as not having, premises to let;
- (g) as to who is to be treated as being, or as to who is to be treated as not being, a person who manages premises;
- (h) as to things which are, or as to things which are not, to be treated as auxiliary aids or services;
- (i) as to what is, or as to what is not, to be included within the meaning of “practice, policy or procedure”;
- (j) as to circumstances in which it is, or as to circumstances in which it is not, reasonable for a person to have to take steps of a prescribed description;

- (k) as to steps which it is always, or as to steps which it is never, reasonable for a person to have to take;
 - (l) as to circumstances in which it is, or as to circumstances in which it is not, reasonable to regard a request as being of a particular kind;
 - (m) as to things which are, or as to things which are not, to be treated as physical features;
 - (n) as to things which are, or as to things which are not, to be treated as alterations of physical features.
- (2) The powers under subsections (1)(j) and (k) are subject to sections 24E(1) and 24J(5).”.