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## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These regulations are made under the Disability Discrimination Act 1995 (“the Act”), which makes it unlawful to discriminate against disabled persons. In its application to Northern Ireland the Act has effect subject to the modifications contained in Schedule 8 thereof. Sections 19 and 20 of the Act concern discrimination in relation to the provision of services, including the provision of goods and facilities, to the public. Section 20(1) of the Act states that a person who provides services discriminates against a disabled person if, for a reason relating to the disabled person’s disability, he treats him less favourably than he treats others, and he cannot show that the treatment is justified. Section 20 contains powers to make regulations concerning circumstances when treatment shall be taken to be justified, and so will not constitute discrimination for the purposes of the Act.

These regulations make provision for treatment to be justified in specified circumstances. Firstly treatment is justified in relation to the provision of insurance, if it is based on certain factors and it is reasonable to rely on those factors (regulation 2). Transitional provision is also made for existing insurance policies; any treatment in relation to a policy which existed before these regulations came into operation is automatically taken to be justified until such date as the policy is due to be reviewed or renewed (regulation 3). Further special transitional provision is made for insurance policies which are derived from a general master policy (regulation 4).

Secondly treatment is justified in relation to the provision of guarantees and deposits; a service provider will be justified in refusing to honour a guarantee or refund a deposit if the item in respect of which the guarantee or deposit was provided has been damaged beyond the level at which the guarantee would normally be honoured, or the deposit refunded, and the reason for the damage is related to the disabled person’s disability (regulations 5 and 6).

The regulations also provide that sections 19 to 21 of the Act do not apply to certain youth and community services provided by education and library boards or voluntary organisations, to the provision of facilities for research in certain circumstances or to some examination and assessment services (regulation 9).

Sections 22 to 24 of the Act concern discrimination in relation to premises. Section 24 makes similar provision to section 20 in relation to the definition of “discrimination” and the justification of treatment. The regulations provide that treatment may be justified where a landlord refuses to refund a deposit to a disabled person if the property that was occupied by the disabled person has been damaged beyond the level at which the deposit would normally be refunded, and the reason for the damage is related to the disabled person’s disability (regulation 7).

The regulations also provide that the condition in section 20(4)(b) of the Act, which may allow treatment to be justified if the disabled person is incapable of entering into an agreement, will not apply where the disabled person is acting through an attorney or a person similarly acting on his behalf (regulation 8).

An assessment of the compliance costs for business has been made. Copies can be obtained by post from Social Policy Branch, Department of Health and Social Services, Room 3A, Dundonald House, Upper Newtownards Road, Belfast, BT4 3SF.