

These notes refer to the Special Educational Needs And Disability Act 2001 (c.10) which received Royal Assent on 11 May 2001

SPECIAL EDUCATIONAL NEEDS AND DISABILITY ACT 2001

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Disability Discrimination in Education

Chapter 2 – Further and Higher Education Institutions

Sections 26 to 34 with paragraph 2 of Schedule 3, Schedule 4, Schedule 5 and Schedule 6

Section 31 and Schedule 6: Occupation of premises by educational institutions

115. These provisions amend the DDA by inserting a new section 28W and adding a new Part 3 to Schedule 4. They set out how further and higher education institutions should comply with the duty to make reasonable adjustments to physical features of premises which place disabled students at a substantial disadvantage where they occupy premises under a lease. These provisions mirror those in sections 16 and 27 of the DDA. Section 31 should be read with Schedule 6 to the Act.
116. The effect is that, where the lease of a property occupied by a further and higher education institution forbids an occupier from making the alterations needed to comply with section 28T or puts conditions on those alterations, the occupier can nonetheless make the alterations required under this Act, if he has the written consent of the owner/lessor; but he must apply to the landlord in writing if he wants to make the alteration. If the occupier does apply in writing, the landlord cannot refuse consent unreasonably, although he can attach reasonable conditions to the consent.
117. Regulations will outline what will be regarded as withholding consent and when it is reasonable or unreasonable to do so.
118. **Schedule 6** inserts a provision for circumstances when parties fail to obtain consent and there is a breach of the duty under section 28T. It provides for the owner/lessor to be joined in any action against an educational institution.