

**EXPLANATORY MEMORANDUM TO THE
DISABILITY DISCRIMINATION (EDUCATIONAL INSTITUTIONS)
(ALTERATION OF LEASEHOLD PREMISES) REGULATIONS 2005**

2005 No.1070

1. This explanatory memorandum has been prepared by the Department for Education and Skills and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments and the House of Lords Merits Committee.

2. **Description**

This instrument was made to specify those terms to be read into leases occupied by further and higher educational institutions so as to allow them to comply with obligations to make reasonable adjustments by altering physical features of premises which place disabled students at a substantial disadvantage. The regulations set out circumstances in which a lessor will be regarded as withholding consent and when it is reasonable or unreasonable to do so. It replaces a virtually identical instrument in which an error was made citing the wrong schedule of the Disability Discrimination Act.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

The error in the previous instrument was pointed out by the Joint Committee. The Department advised the Committee that the regulations would be replaced as has now been done.

4. **Legislative Background**

The Special Educational Needs and Disability Act (SENDA) 2001 amended the Disability Discrimination Act (DDA) 1995 to bring educational institutions within scope with effect from September 2002. These Regulations, concerning reasonable adjustments to leasehold premises, are made under paragraph 13 and 14 of Schedule 4 of the DDA. They replace earlier, defective Regulations, SI2002/1458, which came into force on 28 June 2002.

5. **Extent**

This instrument applies to Great Britain.

6. **European Convention on Human Rights**

Ivan Lewis MP has made the following statement regarding human rights:

In my view the provisions of the Disability Discrimination (Educational Institutions)(Alteration of Leasehold Premises) Regulations 2005 are compatible with the convention rights.

7. Policy background

7.1 The Special Educational Needs and Disability Act (SENDA) 2001 amended Part 4 of the Disability Discrimination Act (DDA) 1995 to bring educational institutions within scope, with effect from September 2002. From that date, bodies responsible for Further and Higher Education Institutions and Adult and Community Learning secured through Local Education Authorities, are under a duty not to discriminate against disabled students by treating them less favourably than others. Responsible bodies are also required to make reasonable adjustments to provision where disabled learners would otherwise be at a substantial disadvantage.

7.2 Reasonable adjustments include the alteration or removal of physical features of premises. Where educational institutions occupy leasehold premises, responsible bodies may be required to seek consent from lessors before making any alterations.

7.3 In order to clarify the legal position of both lessors and responsible bodies, and in exercise of the power conferred upon her by paragraphs 13 and 14 of Schedule 4 to the Disability Discrimination Act 1995, the Secretary of State made Regulations (SI2002/1458) which came into force on 28 June 2002.

7.4 Those regulations mistakenly referred to schedule 6 of the Disability Discrimination Act instead of to schedule 4. They have been remade in substantially the same form to correct that error.

8. Impact

As the content of this instrument is identical to that of its predecessor no Regulatory Impact Assessment has been carried out.

9. Contact

Robin Bream at the Department for Education and Skills Tel: 0114 259 4327 or e-mail: robin.bream@dfes.gsi.gov.uk can answer any queries regarding the instrument.