

EXPLANATORY MEMORANDUM TO THE
DISABILITY DISCRIMINATION ACT (PROVIDERS OF SERVICES)
(ADJUSTMENT OF PREMISES) (AMENDMENT) REGULATIONS 2005

2005 No. 1121

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

2. Description

2.1 This Statutory Instrument amends the Disability Discrimination (Providers of Services) (Adjustment of Premises) Regulations 2001 (“the 2001 Regulations”)¹, which came into force on 1 October 2004. It ensures that a provider of services to the public (“service provider”) does not have to make adjustments for the purposes of Sections 21(2)(a) and (b) of the Disability Discrimination Act to a physical feature of a building in Scotland where that feature has been constructed and installed in accordance with the relevant functional standards and guidance in the Scottish Building Standards Agency’s Technical Handbook.

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

3.1 None.

4. Legislative Background

4.1 Section 21 of the Disability Discrimination Act 1995² (“the DDA”) places duties on service providers to make adjustments to the way that they provide their services in order to make them accessible to disabled people. Sections 21(2)(a) and (b) of the DDA require service providers to take reasonable steps to remove or alter physical features of premises, like stairs or doorways, which make it impossible or unreasonably difficult for disabled people to use the service concerned. The 2001 Regulations include a provision which exempts a service provider, in certain circumstances, from having to make adjustments to physical feature of premises. The exemption applies in England and Wales, and Scotland.

4.2 The exemption applies in relation to a building situated in Scotland provided that the feature accords with the relevant Technical Standards which were in effect from 30th June 1994 to 31st March 2002³ and which apply to that feature. The relevant Technical Standards are defined by regulation 2(1) of the Building Standards (Scotland) Regulation 1990. The exemption applies for a period of ten years from the date that the feature was constructed or installed, or where the

¹ S.I. 2001/3253, as amended by S.I. 2004/1429

² 1995. c.50

³ Effect is given to the Technical Standards by S.I. 1994/1226, S.I. 1996/2251, S.I. 1997/2157, S.S.I. 1999/173, S.S.I. 2001/320

feature was provided as part of a larger building project, the date when the works on the project were completed.

- 4.3 On 1st May 2005, the building legislation in Scotland is amended⁴ by the coming into effect of the Building (Scotland) Regulations 2004⁵. From that date the relevant functional standards and guidance will be those in the Technical Handbook published on behalf of the Scottish Building Standards Agency on 1st November 2004. As a consequence of the changes to the building legislation in Scotland, the 2001 Regulations need to be amended to ensure that the exemption for service providers will apply to a physical feature of a building in Scotland if that feature was provided in, or in connection with, a building on or after 1st May 2005 in accordance with the Technical Handbook.

5. Extent

- 5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

- 6.1 Not applicable.

7. Policy Background

- 7.1 The exemption in the 2001 regulations provides reassurance to service providers that, having invested in construction or installation of physical features that comply with the Technical Standards or, from 1st May 2005, the Technical Handbook and therefore provided a minimum standard of access for disabled people and other users, they will not be required to make further adjustments to these features for a period of ten years. The ten year period was agreed following informal consultation on the 2001 Regulations and represents a period after which normal cyclical refurbishment of a building might take place.
- 7.2 This Statutory Instrument maintains the policy intention underlying the exemption for service providers in the 2001 Regulations. It enables the exemption to apply to a physical feature which is installed or constructed in accordance with the Technical Handbook on or after 1st May 2005. It is intended to come into force on 1st May 2005 when the Building (Scotland) Regulations 2004 and Technical Handbook come into effect.

8. Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.
- 8.2 The exemption will apply to public sector bodies where they are service providers.

⁴ Under section 1, 3(3), 8(8), 54, 56 and Schedule 1 to, the Building (Scotland) Act 2003

⁵ S.S.I 2004/406

9. Contact

Peter Nokes at the Department for Work and Pensions, Tel: 020 7962 8527 or e-mail: Peter.Nokes@dwp.gsi.gov.uk can answer any queries regarding this instrument.