
EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations revoke and replace (in part) the Disability Discrimination (Services and Premises) Regulations 1996 ([S.I. 1996/1836](#)), (in full) the Disability Discrimination (Services and Premises) Regulations 1999 ([S.I. 1999/1191](#)), (in full) the Disability Discrimination (Providers of Services) (Adjustment of Premises) (Amendment) Regulations 2004 ([S.I. 2004/1429](#)) and (in full) the Disability Discrimination (Providers of Services) (Adjustment of Premises) (Amendment) Regulations 2005 ([S.I. 2005/1121](#)). In addition, they amend the application of the Disability Discrimination (Providers of Services) (Adjustment of Premises) Regulations 2001 ([S.I. 2001/3253](#)) and revoke and replace Regulation 3 of and the Schedule to those Regulations. These changes partially consolidate provisions in relation to providers of services. In addition, these Regulations make provision in relation to public authorities, which arises out of new duties on public authorities carrying out their functions, introduced into the Disability Discrimination Act 1995 (“the 1995 Act”) by the Disability Discrimination Act 2005.

Regulation 3 (which replaces [S.I. 1996/1836](#), Regulation 8) prescribes the circumstances where justification for discrimination on grounds of mental incapacity and inability to give informed consent in sections 20(4)(b) and 21D(4)(b) of the 1995 Act is not available. The Regulation applies to service providers and to public authorities carrying out functions. A minor change is made to the wording in relation to representatives appointed under the law of Scotland for disabled persons who lack capacity. This reflects changes to the law of Scotland made by the [Adults with Incapacity \(Scotland\) Act 2000 \(asp4\)](#).

Regulations 4 to 8 (which replace [S.I. 1996/1836](#), Regulations 2 to 6) deal with justification for discrimination against disabled people by service providers, who provide insurance or guarantees for their services, or who request deposits in respect of goods and facilities they provide.

Regulation 9 (which replaces [S.I. 1999/1191](#), Regulation 3) sets out a list of things that are to be treated as “physical features” in the context of the duty to make reasonable adjustments in sections 21(2) and 21E(3) and (4) of the 1995 Act which apply to service providers and to public authorities carrying out functions respectively.

Regulation 10 (which replaces [S.I. 2001/3253](#), Regulation 3(2)) sets out, in the context of the duty to make reasonable adjustments in sections 21(2) and 21E(3) and (4) of the 1995 Act, what are and what are not reasonable steps for service providers or public authorities carrying out functions to take, where they require the consent of a third party before making an alteration to premises that they occupy.

Regulation 11 (which introduces Schedule 1 and together they replace [S.I. 2001/3253](#), Regulation 3(3) and (4) and the Schedule to those Regulations, [S.I. 2004/1429](#) and [S.I. 2005/1121](#)) sets out, in the context of the duty to make reasonable adjustments in sections 21(2) and 21E(3) and (4) of the 1995 Act, what steps it is not reasonable for service providers or public authorities carrying out functions to take, where the premises that they occupy satisfy a relevant design standard. The meaning of “relevant design standard” is set out in detail in Schedule 1 to the Regulations, both in respect of Scotland and in respect of England and Wales.

Regulation 12 makes a transitional arrangement in respect of Regulation 8 of the Disability Discrimination (Services and Premises) Regulations 1996 ([S.I. 1996/1836](#)). With effect from 5th December 2005, Regulation 8 of the 1996 Regulations is amended to reflect the new regime introduced in Scotland for the legal representation of persons who lack capacity by the [Adults with Incapacity \(Scotland\) Act 2000 \(asp4\)](#). As of 4th December 2006, Regulation 8 of the 1996

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulations is revoked and replaced by Regulation 3 of these Regulations, the wording of which also reflects the new law in Scotland.

Regulation 13 amends the Disability Discrimination (Providers of Services) (Adjustment of Premises) Regulations 2001 (S.I. 2001/3253) (“the 2001 Regulations”) and inserts an application provision, which provides that the Regulations apply to service providers, public authorities carrying out functions within the meaning of section 21B of the 1995 Act and to associations to which section 21F of the 1995 Act applies. Regulation 3 of the 2001 Regulations is replaced by Regulations 10 and 11 of these Regulations and revoked. The 2001 Regulations, as amended, relate therefore solely to the withholding of consent where the premises are occupied under a lease, sub-lease or sub-tenancy.

An assessment of the impact of these Regulations on bodies exercising public functions was made in relation to the Disability Discrimination Act 2005. Copies of this Regulatory Impact Assessment have previously been placed in the Libraries of both Houses of Parliament. Copies can be obtained from the Disability Rights Division of the Department for Work and Pensions, Level 6, the Adelphi, 1-11 John Adam Street, London WC2N 6HT.

Schedule 1 refers to “Approved Document M” (in the case of England and Wales) and “Technical Handbook” (in the case of Scotland). Copies of Approved Document M (2004 edition: ISBN 011 753901 5; 1999 edition: ISBN 011 753469 2; 1992 edition: ISBN 011 752447 6) are available from The Stationery Office Limited (mail, telephone, fax and e-mail orders only), PO Box 29, Norwich NR3 1GN (telephone orders 0870 600 5522, fax orders 0870 600 5533, e-mail bookorders@tso.co.uk, textphone 0870 240 3701, internet <http://www.tso.co.uk/bookshop>) and from The Stationery Office Bookshops. Copies of the non-domestic Technical Handbook (ISBN 09546292 3 X) published by Astron for the Scottish Buildings Standards Agency (“SBSA”) on 1st November 2004 can be found on the SBSA’s website at: <http://www.sbsa.gov.uk/tbooks/htm>. Alternatively, the Handbook is available in loose-leaf format from the Stationery Office Limited.