
EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations modify the duties imposed on private clubs and other associations by sections 21F to 21J of the Disability Discrimination Act 1995 (“the 1995 Act”), as inserted by the Disability Discrimination Act 2005, and impose a duty on them to make adjustments.

In Part 1, regulation 1 sets out the title and dates of commencement of the Regulations and regulation 2 contains the interpretation provisions.

In Part 2, regulations 3 to 5 modify the application of the duty, set out at section 21G of the 1995 Act, not to treat a disabled person less favourably for a reason relating to his or her disability.

Regulation 3 provides that the condition in section 21G(3)(b), which may allow less favourable treatment to be justified where a disabled person is incapable of entering into an enforceable agreement or of giving an informed consent, does not apply where another person is acting for a disabled person by virtue of a power of attorney or in certain other circumstances.

Regulations 4 and 5 set out the circumstances in which less favourable treatment may be justified where an association is providing guarantees for benefits, facilities or services which it provides and where an association requires a deposit for benefits or services (in either case in the form of goods) or facilities which it provides.

In Part 3, regulations 6 to 14 are concerned with the duties on associations to make adjustments to policies, practices or procedures and physical feature of premises and to provide auxiliary aids or services to disabled persons who are members, associates or guests of the association, or who are prospective members or guests of the association.

Regulation 6 sets out the circumstances in which a duty to make adjustments to a practice, policy or procedure or physical feature arises, or where an association is under a duty to provide an auxiliary aid or service, in relation to disabled persons who are members, associates or guests of the association. The regulation also provides for the circumstances in which it is unlawful for an association to discriminate against a disabled person who is a member, associate or guest of the association by failing to comply with the duty.

Regulation 7 sets out the circumstances in which a duty arises to make adjustments to a practice, policy or procedure, or to provide an auxiliary aid or service, in relation to disabled persons who are members or associates of the association with regard to the variation or withdrawal of their membership or rights as an associate. It also provides for the circumstances in which it is unlawful for an association to discriminate against disabled persons who are members or associates of the association by failing to comply with the duty.

Regulation 8 sets out the circumstances in which a duty arises to make adjustments to a practice, policy or procedure in relation to disabled persons who might wish to become members of the association, or to provide an auxiliary aid or service to such disabled persons. The regulation also provides for the circumstances in which it is unlawful for an association to discriminate against disabled persons who might wish to become members of the association by failing to comply with the duty.

Regulation 9 sets out the circumstances in which a duty arises to make adjustments to a practice, policy or procedure in relation to inviting disabled persons to be guests of the association, or where an association is under a duty to provide an auxiliary aid or service in relation to disabled persons who are likely to become guests. The regulation also provides for the circumstances in

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

which it is unlawful for an association to discriminate against disabled persons who are likely to become guests of the association by failing to comply with that duty.

Regulation 10 sets out for the purposes of the duty to make adjustments in regulation 6(2) examples of the physical features to which it applies.

Regulation 11 sets out, for the purposes of the duty to take steps in relation to a physical feature in regulation 6(2), what it is and what it is not reasonable for an association to do where, under a legally binding obligation, it requires the consent of a third party before making an alteration to a physical feature of premises which it occupies.

Regulation 12 provides that, for the purposes of the duty to take steps in relation to a physical feature in regulation 6(2), it is not reasonable for an association to have to remove or alter a physical feature where the physical feature was provided in or in connection with a building for the purpose of assisting people to have access to the building or to use facilities provided in the building and where the physical feature concerned satisfies a relevant design standard. The meaning of “relevant design standard” is set out in detail in the Schedule to these Regulations.

Regulation 13 sets out the circumstances in which a failure to comply with a duty to make adjustments provided for in regulations 6 to 9 is justified and mirrors the provision made in section 21G(2) and (3)(a) and (b) of the 1995 Act in relation to justification for discrimination consisting of less favourable treatment.

Regulation 14 provides that the reasonable adjustment duties set out in Part 3 of these Regulations do not require an association to take steps which would fundamentally alter the nature of the benefits, facilities or services it provides, or the nature of the association itself. It also provides that those duties do not require a member or an associate of an association which meets in that member’s or associate’s private house to adjust any physical feature in relation to that house.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business is available, copies of which have been placed in the libraries of both Houses of Parliament. Copies are also available from Disability Rights Division, Department for Work and Pensions, Level 6, The Adelphi, 1-11 John Adam Street, London WC2N 6HT.

The Schedule 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.