

*Status: Point in time view as at 01/10/2010.*

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## SCHEDULES

### SCHEDULE 21

Section 189

#### REASONABLE ADJUSTMENTS: SUPPLEMENTARY

##### *Preliminary*

1 This Schedule applies for the purposes of Schedules 2, 4, 8, 13 and 15.

##### *Binding obligations, etc.*

- 2 (1) This paragraph applies if—
- (a) a binding obligation requires A to obtain the consent of another person to an alteration of premises which A occupies,
  - (b) where A is a controller of let premises, a binding obligation requires A to obtain the consent of another person to a variation of a term of the tenancy, or
  - (c) where A is a responsible person in relation to common parts, a binding obligation requires A to obtain the consent of another person to an alteration of the common parts.
- (2) For the purpose of discharging a duty to make reasonable adjustments—
- (a) it is always reasonable for A to have to take steps to obtain the consent, but
  - (b) it is never reasonable for A to have to make the alteration before the consent is obtained.
- (3) In this Schedule, a binding obligation is a legally binding obligation in relation to premises, however arising; but the reference to a binding obligation in sub-paragraph (1)(a) or (c) does not include a reference to an obligation imposed by a tenancy.
- (4) The steps referred to in sub-paragraph (2)(a) do not include applying to a court or tribunal.

##### *Landlord's consent*

- 3 (1) This paragraph applies if—
- (a) A occupies premises under a tenancy,
  - (b) A is proposing to make an alteration to the premises so as to comply with a duty to make reasonable adjustments, and
  - (c) but for this paragraph, A would not be entitled to make the alteration.
- (2) This paragraph also applies if—
- (a) A is a responsible person in relation to common parts,
  - (b) A is proposing to make an alteration to the common parts so as to comply with a duty to make reasonable adjustments,
  - (c) A is the tenant of property which includes the common parts, and

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- (d) but for this paragraph, A would not be entitled to make the alteration.
- (3) The tenancy has effect as if it provided—
  - (a) for A to be entitled to make the alteration with the written consent of the landlord,
  - (b) for A to have to make a written application for that consent,
  - (c) for the landlord not to withhold the consent unreasonably, and
  - (d) for the landlord to be able to give the consent subject to reasonable conditions.
- (4) If a question arises as to whether A has made the alteration (and, accordingly, complied with a duty to make reasonable adjustments), any constraint attributable to the tenancy must be ignored unless A has applied to the landlord in writing for consent to the alteration.
- (5) For the purposes of sub-paragraph (1) or (2), A must be treated as not entitled to make the alteration if the tenancy—
  - (a) imposes conditions which are to apply if A makes an alteration, or
  - (b) entitles the landlord to attach conditions to a consent to the alteration.

*Proceedings before county court or sheriff*

- 4 (1) This paragraph applies if, in a case within Part 3, 4, 6 or 7 of this Act—
  - (a) A has applied in writing to the landlord for consent to the alteration, and
  - (b) the landlord has refused to give consent or has given consent subject to a condition.
- (2) A (or a disabled person with an interest in the alteration being made) may refer the matter to a county court or, in Scotland, the sheriff.
- (3) The county court or sheriff must determine whether the refusal or condition is unreasonable.
- (4) If the county court or sheriff finds that the refusal or condition is unreasonable, the county court or sheriff—
  - (a) may make such declaration as it thinks appropriate;
  - (b) may make an order authorising A to make the alteration specified in the order (and requiring A to comply with such conditions as are so specified).

*Joining landlord as party to proceedings*

- 5 (1) This paragraph applies to proceedings relating to a contravention of this Act by virtue of section 20.
- (2) A party to the proceedings may request the employment tribunal, county court or sheriff (“the judicial authority”) to direct that the landlord is joined or sisted as a party to the proceedings.
- (3) The judicial authority—
  - (a) must grant the request if it is made before the hearing of the complaint or claim begins;
  - (b) may refuse the request if it is made after the hearing begins;

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- (c) must refuse the request if it is made after the complaint or claim has been determined.
- (4) If the landlord is joined or sisted as a party to the proceedings, the judicial authority may determine whether—
  - (a) the landlord has refused to consent to the alteration;
  - (b) the landlord has consented subject to a condition;
  - (c) the refusal or condition was unreasonable.
- (5) If the judicial authority finds that the refusal or condition was unreasonable, it—
  - (a) may make such declaration as it thinks appropriate;
  - (b) may make an order authorising A to make the alteration specified in the order (and requiring A to comply with such conditions as are so specified);
  - (c) may order the landlord to pay compensation to the complainant or claimant.
- (6) An employment tribunal may act in reliance on sub-paragraph (5)(c) instead of, or in addition to, acting in reliance on section 124(2); but if it orders the landlord to pay compensation it must not do so in reliance on section 124(2).
- (7) If a county court or the sheriff orders the landlord to pay compensation, it may not order A to do so.

#### *Regulations*

- 6 (1) Regulations may make provision as to circumstances in which a landlord is taken for the purposes of this Schedule to have—
  - (a) withheld consent;
  - (b) withheld consent reasonably;
  - (c) withheld consent unreasonably.
- (2) Regulations may make provision as to circumstances in which a condition subject to which a landlord gives consent is taken—
  - (a) to be reasonable;
  - (b) to be unreasonable.
- (3) Regulations may make provision supplementing or modifying the preceding paragraphs of this Schedule, or provision made under this paragraph, in relation to a case where A's tenancy is a sub-tenancy.
- (4) Provision made by virtue of this paragraph may amend the preceding paragraphs of this Schedule.

#### **Commencement Information**

- II** [Sch. 21 para. 6](#) wholly in force; [para. 6](#) not in force at Royal Assent see [s. 216](#); [para. 6](#) in force for certain purposes at 6.7.2010 by [S.I. 2010/1736](#), [art. 2](#), [Sch.](#); [Sch. 21](#) in force at 1.10.2010 in so far as not already in force by [S.I. 2010/2317](#), [art. 2\(1\)\(13\)\(c\)](#) (with [art. 15](#))

#### *Interpretation*

- 7 An expression used in this Schedule and in Schedule 2, 4, 8, 13 or 15 has the same meaning in this Schedule as in that Schedule.

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