

**SPECIAL EDUCATIONAL NEEDS AND
DISABILITY (NORTHERN IRELAND) ORDER 2005**

S.I. 2005 1117

EXPLANATORY MEMORANDUM

COMMENTARY ON ARTICLES

Part Iii – Disability Discrimination in Education

Chapter 1 – Schools

Article 15: Meaning of “discrimination”

42. This Article defines discrimination. It works in the same way as the definition in Section 5 of the DDA, except in the respects set out below.
43. The reasonable adjustments duty under Article 16 is owed to pupils at large. For the parents of a pupil to bring proceedings it is necessary for them to show that the general duty is breached and that this breach was to the pupil’s detriment. Responsible bodies will not be liable where they do not know (and could not reasonably be expected to know) of a pupil’s or prospective pupil’s disability, in relation to the less favourable treatment duty and the reasonable adjustment duty.
44. Responsible bodies must consider what reasonable adjustments it should make to meet the needs of pupils who have disabilities but it may need to know that a particular pupil had a disability in order to apply a policy to him. A responsible body would not be liable for failure to take a particular step where it did not know and could not reasonably have been expected to know of the disability.