

Status: Point in time view as at 19/06/2012.

Changes to legislation: Equality Act 2010, SCHEDULE 21 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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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