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SCHEDULES

SCHEDULE 4

Section 38

PREMISES: REASONABLE ADJUSTMENTS

Preliminary

- 1 This Schedule applies where a duty to make reasonable adjustments is imposed on A by this Part.

The duty in relation to let premises

- 2 (1) This paragraph applies where A is a controller of let premises.
- (2) A must comply with the first and third requirements.
- (3) For the purposes of this paragraph, the reference in section 20(3) to a provision, criterion or practice of A's includes a reference to a term of the letting.
- (4) For those purposes, the reference in section 20(3) or (5) to a disabled person is a reference to a disabled person who—
- (a) is a tenant of the premises, or
 - (b) is otherwise entitled to occupy them.
- (5) In relation to each requirement, the relevant matters are—
- (a) the enjoyment of the premises;
 - (b) the use of a benefit or facility, entitlement to which arises as a result of the letting.
- (6) Sub-paragraph (2) applies only if A receives a request from or on behalf of the tenant or a person entitled to occupy the premises to take steps to avoid the disadvantage or provide the auxiliary aid.
- (7) If a term of the letting that prohibits the tenant from making alterations puts the disabled person at the disadvantage referred to in the first requirement, A is required to change the term only so far as is necessary to enable the tenant to make alterations to the let premises so as to avoid the disadvantage.
- (8) It is never reasonable for A to have to take a step which would involve the removal or alteration of a physical feature.
- (9) For the purposes of this paragraph, physical features do not include furniture, furnishings, materials, equipment or other chattels in or on the premises; and none of the following is an alteration of a physical feature—
- (a) the replacement or provision of a sign or notice;
 - (b) the replacement of a tap or door handle;
 - (c) the replacement, provision or adaptation of a door bell or door entry system;
 - (d) changes to the colour of a wall, door or any other surface.

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- (10) The terms of a letting include the terms of an agreement relating to it.

The duty in relation to premises to let

- 3 (1) This paragraph applies where A is a controller of premises to let.
- (2) A must comply with the first and third requirements.
- (3) For the purposes of this paragraph, the reference in section 20(3) or (5) to a disabled person is a reference to a disabled person who is considering taking a letting of the premises.
- (4) In relation to each requirement, the relevant matter is becoming a tenant of the premises.
- (5) Sub-paragraph (2) applies only if A receives a request by or on behalf of a disabled person within sub-paragraph (3) for A to take steps to avoid the disadvantage or provide the auxiliary aid.
- (6) Nothing in this paragraph requires A to take a step which would involve the removal or alteration of a physical feature.
- (7) Sub-paragraph (9) of paragraph 2 applies for the purposes of this paragraph as it applies for the purposes of that paragraph.

The duty in relation to commonhold units

- 4 (1) This paragraph applies where A is a commonhold association; and the reference to a commonhold association is a reference to the association in its capacity as the person who manages a commonhold unit.
- (2) A must comply with the first and third requirements.
- (3) For the purposes of this paragraph, the reference in section 20(3) to a provision, criterion or practice of A's includes a reference to—
- (a) a term of the commonhold community statement, or
 - (b) any other term applicable by virtue of the transfer of the unit to the unit-holder.
- (4) For those purposes, the reference in section 20(3) or (5) to a disabled person is a reference to a disabled person who—
- (a) is the unit-holder, or
 - (b) is otherwise entitled to occupy the unit.
- (5) In relation to each requirement, the relevant matters are—
- (a) the enjoyment of the unit;
 - (b) the use of a benefit or facility, entitlement to which arises as a result of a term within sub-paragraph (3)(a) or (b).
- (6) Sub-paragraph (2) applies only if A receives a request from or on behalf of the unit-holder or a person entitled to occupy the unit to take steps to avoid the disadvantage or provide the auxiliary aid.
- (7) If a term within sub-paragraph (3)(a) or (b) that prohibits the unit-holder from making alterations puts the disabled person at the disadvantage referred to in the first

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requirement, A is required to change the term only so far as is necessary to enable the unit-holder to make alterations to the unit so as to avoid the disadvantage.

- (8) It is never reasonable for A to have to take a step which would involve the removal or alteration of a physical feature; and sub-paragraph (9) of paragraph 2 applies in relation to a commonhold unit as it applies in relation to let premises.

PROSPECTIVE

The duty in relation to common parts

- 5 (1) This paragraph applies where A is a responsible person in relation to common parts.
- (2) A must comply with the second requirement.
- (3) For the purposes of this paragraph, the reference in section 20(4) to a physical feature is a reference to a physical feature of the common parts.
- (4) For those purposes, the reference in section 20(4) to a disabled person is a reference to a disabled person who—
- (a) is a tenant of the premises,
 - (b) is a unit-holder, or
 - (c) is otherwise entitled to occupy the premises,
- and uses or intends to use the premises as the person's only or main home.
- (5) In relation to the second requirement, the relevant matter is the use of the common parts.
- (6) Sub-paragraph (2) applies only if—
- (a) A receives a request by or on behalf of a disabled person within sub-paragraph (4) for A to take steps to avoid the disadvantage, and
 - (b) the steps requested are likely to avoid or reduce the disadvantage.

PROSPECTIVE

Consultation on adjustments relating to common parts

- 6 (1) In deciding whether it is reasonable to take a step for the purposes of paragraph 5, A must consult all persons A thinks would be affected by the step.
- (2) The consultation must be carried out within a reasonable period of the request being made.
- (3) A is not required to have regard to a view expressed against taking a step in so far as A reasonably believes that the view is expressed because of the disabled person's disability.
- (4) Nothing in this paragraph affects anything a commonhold association is required to do pursuant to Part 1 of the Commonhold and Leasehold Reform Act 2002.

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PROSPECTIVE

Agreement on adjustments relating to common parts

- 7 (1) If A decides that it is reasonable to take a step for the purposes of paragraph 5, A and the disabled person must agree in writing the rights and responsibilities of each of them in relation to the step.
- (2) An agreement under this paragraph must, in particular, make provision as to the responsibilities of the parties in relation to—
- (a) the costs of any work to be undertaken;
 - (b) other costs arising from the work;
 - (c) the restoration of the common parts to their former condition if the relevant disabled person stops living in the premises.
- (3) It is always reasonable before the agreement is made for A to insist that the agreement should require the disabled person to pay—
- (a) the costs referred to in paragraphs (a) and (b) of sub-paragraph (2), and
 - (b) the costs of the restoration referred to in paragraph (c) of that sub-paragraph.
- (4) If an agreement under this paragraph is made, A's obligations under the agreement become part of A's interest in the common parts and pass on subsequent disposals accordingly.
- (5) Regulations may require a party to an agreement under this paragraph to provide, in prescribed circumstances, prescribed information about the agreement to persons of a prescribed description.
- (6) The regulations may require the information to be provided in a prescribed form.
- (7) Regulations may make provision as to circumstances in which an agreement under this paragraph is to cease to have effect, in so far as the agreement does not itself make provision for termination.

Victimisation

- 8 (1) This paragraph applies where the relevant disabled person comes within paragraph 2(4)(b), 4(4)(b) or 5(4)(c).
- (2) A must not, because of costs incurred in connection with taking steps to comply with a requirement imposed for the purposes of paragraph 2, 4 or 5, subject to a detriment—
- (a) a tenant of the premises, or
 - (b) the unit-holder.

Commencement Information

- II** Sch. 4 para. 8 partly in force; para. 8 not in force at Royal Assent see s. 216; para. 8 in force for certain purposes at 1.10.2010 by S.I. 2010/2317, art. 2(1)(4)(e)(ii)

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Regulations

- 9 (1) This paragraph applies for the purposes of section 36 and this Schedule.
- (2) Regulations may make provision as to—
- (a) circumstances in which premises are to be treated as let, or as not let, to a person;
 - (b) circumstances in which premises are to be treated as being, or as not being, to let;
 - (c) who is to be treated as being, or as not being, a person entitled to occupy premises otherwise than as tenant or unit-holder;
 - (d) who is to be treated as being, or as not being, a person by whom premises are let;
 - (e) who is to be treated as having, or as not having, premises to let;
 - (f) who is to be treated as being, or as not being, a manager of premises.
- (3) Provision made by virtue of this paragraph may amend this Schedule.

Commencement Information

- I2** Sch. 4 para. 9 wholly in force; para. 9 not in force at Royal Assent see s. 216; para. 9 in force for certain purposes at 6.7.2010 by S.I. 2010/1736, art. 2, Sch.; para. 9 in force at 1.10.2010 in so far as not already in force by S.I. 2010/2317, art. 2(1)(4)(e)(iii) (with art. 15)

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