

Status: Point in time view as at 01/10/2010.

Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995, Part II. (See end of Document for details)

SCHEDULES

SCHEDULE 4

PREMISES OCCUPIED UNDER LEASES

Extent Information

- E1** In its application to Northern Ireland, this Schedule has effect subject to the modifications set out in Sch. 8; see s. 70(6)

PART II

OCCUPATION BY ^[F1]PERSONS SUBJECT TO A DUTY UNDER SECTION 21, 21E OR 21H

Textual Amendments

- F1** Sch. 4 Pt. 2: words in heading substituted (E.W.S.) (4.12.2006) by [Disability Discrimination Act 2005](#) (c. 13), ss. 19(1), 20(3)-(6), **Sch. 1 para. 40(3)**; S.I. 2005/2774, **art. 4(f)** and said words substituted (N.I.) (31.12.2007) by [The Disability Discrimination \(Northern Ireland\) Order 2006](#) (S.I. 2006/312 (N.I. 1)), arts. 1, 19, **Sch. 1 para. 31(3)**; S.R. 2007/466, **art. 2(1)**

Modifications etc. (not altering text)

- C1** Sch. 4 Pt. II modified (1.10.2004) by S.I. 2001/3253, **reg. 9**
C2 Sch. 4 Pt. II modified (N.I.) (1.10.2004) by [The Disability Discrimination \(Providers of Services\) \(Adjustment of Premises\) Regulations \(Northern Ireland\) 2003](#) (S.R. 2003/109), **reg. 9**

Failure to obtain consent to alteration

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^[F2]If any question arises as to whether the occupier has failed to comply with the section 21 duty ^[F3]or the duty imposed under section 21E or 21H, by failing to make a particular alteration to premises, any constraint attributable to the fact that he occupies the premises under a lease is to be ignored unless he has applied to the lessor in writing for consent to the making of the alteration.]

Extent Information

- E2** Following the repeal of this Act for E.W.S. by the Equality Act 2010, this provision now extends to N.I. only. Prior to that repeal, different versions of this provision had been created for N.I. and E.W.S. respectively to reflect the different amendment history for each jurisdiction. This version is based on the N.I. version as it stood at the date of the repeal. It does not reflect the history of E.W.S. effects prior to the 2010 repeal, which can be found in earlier versions.

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Textual Amendments

- F2** Act repealed (E.W.S.) (1.10.2010 (except for the repeal of ss. 49A-49D) and 5.4.2011 in so far as not already in force) by [Equality Act 2010 \(c. 15\)](#), 216(3), Sch. 27 Pt. 1 (as substituted (1.10.2010) by [S.I. 2010/2279, Sch. 2](#)) (with ss. 6(4), 205, and with amendments and savings in the said [S.I. 2010/2279, art. 16](#)); [S.I. 2010/2317, art. 2\(15\)\(f\)](#) (with arts. 4-25, Schs. 1-16); [S.I. 2011/1066, art. 2\(h\)](#)
- F3** Words in [Sch. 4 para. 5](#) inserted (N.I.) (31.12.2007) by [The Disability Discrimination \(Northern Ireland\) Order 2006 \(S.I. 2006/312 \(N.I. 1\)\)](#), arts. 1, 19, [Sch. 1 para. 31\(4\)](#); [S.R. 2007/466, art. 2\(2\)\(I\)](#)

Reference to court

- 6 ^{F4}(1) If the occupier has applied in writing to the lessor for consent to the alteration and—
- (a) that consent has been refused, or
 - (b) the lessor has made his consent subject to one or more conditions,
- the occupier or a disabled person who has an interest in the proposed alteration to the premises being made, may refer the matter to a county court or, in Scotland, to the sheriff.
- (2) In the following provisions of this Schedule “court” includes “sheriff”.
- (3) On such a reference the court shall determine whether the lessor’s refusal was unreasonable or (as the case may be) whether the condition is, or any of the conditions are, unreasonable.
- (4) If the court determines—
- (a) that the lessor’s refusal was unreasonable, or
 - (b) that the condition is, or any of the conditions are, unreasonable,
- it may make such declaration as it considers appropriate or an order authorising the occupier to make the alteration specified in the order.
- (5) An order under sub-paragraph (4) may require the occupier to comply with conditions specified in the order.]

Extent Information

- E3** Following the repeal of this Act for E.W.S. by the Equality Act 2010, this provision now extends to N.I. only and also has effect subject to the modifications for Northern Ireland set out in [Sch. 8 para. 51\(3\)\(4\)](#); see [s. 70\(6\)](#)

Textual Amendments

- F4** Act repealed (E.W.S.) (1.10.2010 (except for the repeal of ss. 49A-49D) and 5.4.2011 in so far as not already in force) by [Equality Act 2010 \(c. 15\)](#), 216(3), Sch. 27 Pt. 1 (as substituted (1.10.2010) by [S.I. 2010/2279, Sch. 2](#)) (with ss. 6(4), 205, and with amendments and savings in the said [S.I. 2010/2279, art. 16](#)); [S.I. 2010/2317, art. 2\(15\)\(f\)](#) (with arts. 4-25, Schs. 1-16); [S.I. 2011/1066, art. 2\(h\)](#)

Joining lessors in proceedings under section 25

- 7 ^{F5}(1) In any proceedings on a claim ^{F6}under section 25 in a case to which section 27 applies, other than a claim presented as a complaint under section 25(8),] the plaintiff,

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the pursuer or the occupier concerned may ask the court to direct that the lessor be joined or sisted as a party to the proceedings.

- (2) The request shall be granted if it is made before the hearing of the claim begins.
- (3) The court may refuse the request if it is made after the hearing of the claim begins.
- (4) The request may not be granted if it is made after the court has determined the claim.
- (5) Where a lessor has been so joined or sisted as a party to the proceedings, the court may determine—
 - (a) whether the lessor has—
 - (i) refused consent to the alteration, or
 - (ii) consented subject to one or more conditions, and
 - (b) if so, whether the refusal or any of the conditions was unreasonable.
- (6) If, under sub-paragraph (5), the court determines that the refusal or any of the conditions was unreasonable it may take one or more of the following steps—
 - (a) make such declaration as it considers appropriate;
 - (b) make an order authorising the occupier to make the alteration specified in the order;
 - (c) order the lessor to pay compensation to the complainant.
- (7) An order under sub-paragraph (6)(b) may require the occupier to comply with conditions specified in the order.
- (8) If the court orders the lessor to pay compensation it may not order the occupier to do so.]

Extent Information

- E4** Following the repeal of this Act for E.W.S. by the Equality Act 2010, this provision now extends to N.I. only.

Textual Amendments

- F5** Act repealed (E.W.S.) (1.10.2010 (except for the repeal of ss. 49A-49D) and 5.4.2011 in so far as not already in force) by [Equality Act 2010 \(c. 15\)](#), 216(3), Sch. 27 Pt. 1 (as substituted (1.10.2010) by [S.I. 2010/2279](#), [Sch. 2](#)) (with ss. 6(4), 205, and with amendments and savings in the said [S.I. 2010/2279](#), [art. 16](#)); [S.I. 2010/2317](#), [art. 2\(15\)\(f\)](#) (with arts. 4-25, Schs. 1-16); [S.I. 2011/1066](#), [art. 2\(h\)](#)
- F6** Words in Sch. 4 para. 7(1) substituted (E.W.S.) (5.12.2005) by [Disability Discrimination Act 2005 \(c. 13\)](#), ss. 19(1), 20(3)-(6), [Sch. 1 para. 40\(5\)](#); [S.I. 2005/2774](#), [art. 3\(j\)](#) and said words substituted (N.I.) (31.12.2007) by [The Disability Discrimination \(Northern Ireland\) Order 2006 \(S.I. 2006/312 \(N.I. 1\)\)](#), arts. 1, 19, [Sch. 1 para. 31\(5\)](#); [S.R. 2007/466](#), [art. 2\(2\)\(l\)](#)

^{F7}^{F8} *Joining lessors in proceedings relating to group insurance or employment services]*

Textual Amendments

- F7** [Sch. 4 para. 7A](#) and cross-heading inserted ((N.I.) (31.12.2007) by [The Disability Discrimination \(Northern Ireland\) Order 2006 \(S.I. 2006/312 \(N.I. 1\)\)](#), arts. 1, 19, [Sch. 1 para. 31\(6\)](#); [S.R. 2007/466](#), [art. 2\(2\)\(l\)](#)

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F8 Sch. 4 para. 7A and cross-heading inserted (E.W.S.) (5.12.2005) by [Disability Discrimination Act 2005 \(c. 13\)](#), ss. 19(1), 20(3)-(6), [Sch. 1 para. 40\(6\)](#); S.I. 2005/2774, [art. 3\(j\)](#)

[^{F8}7A ^{F9}

Regulations

8

- [^{F10}Regulations may make provision as to circumstances in which—
- (a) a lessor is to be taken, for the purposes of section 27 and this Part of this Schedule to have—
 - (i) withheld his consent;
 - (ii) withheld his consent unreasonably;
 - (iii) acted reasonably in withholding his consent;
 - (b) a condition subject to which a lessor has given his consent is to be taken to be reasonable;
 - (c) a condition subject to which a lessor has given his consent is to be taken to be unreasonable.]

Extent Information

E6 Following the repeal of this Act for E.W.S. by the Equality Act 2010, this provision now extends to N.I. only.

Textual Amendments

F10 Act repealed (E.W.S.) (1.10.2010 (except for the repeal of ss. 49A-49D) and 5.4.2011 in so far as not already in force) by [Equality Act 2010 \(c. 15\)](#), 216(3), Sch. 27 Pt. 1 (as substituted (1.10.2010) by [S.I. 2010/2279](#), [Sch. 2](#)) (with ss. 6(4), 205, and with amendments and savings in the said [S.I. 2010/2279](#), [art. 16](#)); S.I. 2010/2317, [art. 2\(15\)\(f\)](#) (with arts. 4-25, Schs. 1-16); S.I. 2011/1066, [art. 2\(h\)](#)

Commencement Information

I1 [Sch. 4 para. 8](#) wholly in force at 31.12.2001; [Sch. 4 para. 8](#) not in force at Royal Assent see [s. 70\(3\)](#); [Sch. 4 para. 8](#) in force (E.W.S.) (9.5.2001) by [S.I. 2001/2030](#), [art. 2\(c\)\(i\)](#); [Sch. 4 para. 8](#) in force (N.I.) (31.12.2001) by [S.R. 2001/439](#), [art. 2\(1\)\(c\)\(i\)](#)

Sub-leases etc.

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[^{F11}The Secretary of State may by regulations make provision supplementing, or modifying, the provision made by section 27 or any provision made by or under this Part of this Schedule in relation to cases where the occupier occupies premises under a sub-lease or sub-tenancy.]

Extent Information

E7 Following the repeal of this Act for E.W.S. by the Equality Act 2010, this provision now extends to Northern Ireland only and also has effect subject to the modifications for Northern Ireland set out in [Sch. 8 para. 51\(5\)](#); see [s. 70\(6\)](#)

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Textual Amendments

- F11** Act repealed (E.W.S.) (1.10.2010 (except for the repeal of ss. 49A-49D) and 5.4.2011 in so far as not already in force) by [Equality Act 2010 \(c. 15\)](#), 216(3), Sch. 27 Pt. 1 (as substituted (1.10.2010) by [S.I. 2010/2279](#), [Sch. 2](#)) (with ss. 6(4), 205, and with amendments and savings in the said [S.I. 2010/2279](#), [art. 16](#)); [S.I. 2010/2317](#), [art. 2\(15\)\(f\)](#) (with arts. 4-25, Schs. 1-16); [S.I. 2011/1066](#), [art. 2\(h\)](#)

Commencement Information

- I2** [Sch. 4 para. 9](#) wholly in force at 31.12.2001; [Sch. 4 para. 9](#) not in force at Royal Assent see [s. 70\(3\)](#); [Sch. 4 para. 9](#) in force (E.W.S.) (9.5.2001) by [S.I. 2001/2030](#), [art. 2\(c\)\(ii\)](#); [Sch. 4 para. 9](#) in force (N.I.) (31.12.2001) by [S.R. 2001/439](#), [art. 2\(1\)\(c\)\(ii\)](#)

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