

## Provisions of the Disability Discrimination Act 2005

4

### PREMISES

<p><b>IMPLEMENTATION DATE</b> <b>4 DECEMBER 2006</b></p>
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#### **Note**

The Disability Discrimination Act 2005 builds on and extends the Disability Discrimination Act 1995. In this fact sheet, the earlier Act is referred to as the 'DDA', and the later Act as 'the DDA 2005'.

#### **Background**

The DDA makes it unlawful to treat a disabled person less favourably than others for a disability-related reason in relation to the disposal or management of residential, commercial and other premises, unless that treatment can be justified under the Act. However, there is currently no duty to make reasonable adjustments. This contrasts with protection afforded in the provision of goods, facilities and services, and in employment, where disabled people may have a right to have reasonable adjustments made for them.

#### **New provisions**

The DDA 2005 addresses the limitations of current legislation by extending disabled people's rights in respect of premises that are let or to be let, and commonhold premises.

#### **Reasonable adjustments**

From 4 December 2006, landlords and managers of let premises and premises that are to let will be required to make reasonable adjustments for disabled people.

Under the new duties, provided certain conditions are met (for example, that a request has been made), landlords and managers of premises which are to let, or of premises which have already been let, must make reasonable adjustments, and a failure to do so will be unlawful unless it can be justified under the Act. They might need to

- alter their policies, practices or procedures;
- provide auxiliary aids or services; or
- change the terms of a letting (but only in respect of premises that have already been let).

For example a landlord may have to, where reasonable,

- use the Typetalk service when communicating with a profoundly deaf person where he would usually telephone other tenants
- put correspondence in large print for a visually impaired tenant, or
- allow a disabled tenant to use her balcony to dry clothes where she cannot access the drying area of her block of flats because of her disability.

Landlords will only have to make reasonable adjustments. And they will not have to remove or alter physical features of the premises. Regulations ([SI 2006/887](#)) set out things which are, and things which are not, to be treated as a physical feature. For example, features arising from the design or construction of the premises are to be treated as a physical feature. But things like furniture and furnishings are not to be treated as a physical feature. In addition certain things such as the replacement of taps and door handles are not to be treated as an alteration of a physical feature, and in certain circumstances these things may need to be provided by the landlord or manager as an auxiliary aid or service. For example, a landlord would not be required to replace a door for a disabled tenant, if the tenant had difficulty opening it, however, it might be reasonable for the landlord to replace the door handle with a more usable one if that would mean the tenant could open the door.

These new duties of reasonable adjustment will not apply, however, to

- prospective lettings where landlords let their only or principal home and do not use the services of an estate agent to arrange the letting; or
- a letting where the landlord lets their only or principal home and does not use a professional management agent to manage the letting; or
- certain small dwellings, for example, where a landlord or manager lives on the premises and there is not normally residential accommodation on the premises for more than six persons.

There is no discrimination where a landlord's failure to comply with the duty can be justified under the Act.

### ***Commonhold***

The duty of less favourable treatment and reasonable adjustment will also apply to commonhold. This is a new system of freehold ownership for blocks of flats, shops, offices and other multiple occupation premises in England and Wales. A commonhold is made up of individual freehold properties which are known as commonhold units.

## ***Disability-related improvements by the tenant***

### ***England and Wales***

Protected tenants, statutory tenants and secure tenants (for example, tenants of local authorities and Rent Act tenants) already have existing rights concerning landlords' consent to make improvements to rented premises.

The DDA 2005 provides for circumstances other than the above where a tenant seeks to make a disability-related improvement to let residential premises in a case where a lease provides the right to make improvements subject to the landlord's consent.

From 4 December 2006, landlords and managers of let residential premises will not be able to refuse consent unreasonably if the tenant seeks permission to make a disability-related improvement at the tenant's expense.

For example, a landlord will not be able to refuse consent unreasonably if a tenant seeks permission to widen, at his own expense, an internal door or to install a wet-room shower so that a wheelchair user can get around more easily.

However, landlords will be able to

- refuse consent when it is reasonable to do so - for example, if the improvement would damage the structural integrity of the premises
- impose reasonable conditions when giving consent, such as that the improvements are carried out to a certain standard, and that the premises be restored to their original condition when the tenant leaves
- pass on to the tenant any reasonable costs incurred in giving consent.

Where a term of a letting specifically prohibits a tenant from making any alteration or improvement to the premises, the tenant may be able to get that term changed as a reasonable adjustment so as to allow them to make the alteration or improvement subject to the imposition of reasonable conditions by the landlord.

### ***Scotland***

The provisions about reasonable adjustments extend to Great Britain. The provisions about improvements to dwellings apply to England and Wales only.

However, in Scotland, social tenants have rights under the Housing (Scotland) Act 2001 enabling them to apply to their landlords for consent to carry out work on their home, and landlords cannot withhold consent for the work unreasonably. Tenants in privately rented accommodation will have similar rights from 4 December 2006 by virtue of the Housing (Scotland) Act 2006.

## **FURTHER INFORMATION**

### **Directgov**

The 'Disabled People' section of the Government website, Directgov, contains a variety of information for those with an interest in disability issues. From this site you can read more about the DDA and the DDA 2005, and there are links to the full texts of the DDA and the DDA 2005.

[www.direct.gov.uk/disability](http://www.direct.gov.uk/disability)

### **Advice and Guidance**

Before the new duties come into force, the Disability Rights Commission (DRC) will issue a code of practice to help landlords, tenants and disabled people understand the new duties (as well as the existing ones, including those concerning requests for consent to make improvements or works). This code will contain guidance which courts must take into account where relevant. The DRC will also be able to provide conciliation services and to support legal cases. You can view the DRC website at:

<http://www.drc-gb.org/>

### **OTHER FACT SHEETS IN THIS SERIES:**

- 1 The definition of disability**
- 2 The public sector**
- 3 Private clubs**