Explanatory Memorandum

The Disability Discrimination (Providers of Services) (Adjustment of Premises) (Amendment) Regulations 2004 No. 1429

Department responsible
Department for Work and Pensions

Laying Authority and Purpose

1. This Explanatory Memorandum is laid before Parliament by Command of Her Majesty. This memorandum contains information for the House of Lords Select Committee on the Merits of Statutory Instruments.

Description

2. This Statutory Instrument amends the Disability Discrimination (Providers of Services) (Adjustment of Premises) Regulations 2001 ("the 2001 Regulations"), which come into force on 1 October 2004.[1] The Regulations are made pursuant to sections 21(5)(b) and 67(3) of the Disability Discrimination Act 1995 (c. 50) ("the DDA").

Legislative and Policy background

3. On 1 October 2004, the provisions of Section 21(2)(a) and (b) of the DDA come into force. These require service providers to take reasonable steps to remove or alter physical features of premises which make it impossible or unreasonably difficult for disabled people to use the service concerned.

4. Regulation 3 of, and the Schedule to, the 2001 Regulations provides that it is not reasonable for a provider of services to have to remove or alter a physical feature of premises situated in England and Wales for the purposes of sections 21(2)(a) or (b) of the DDA where the feature accords with the relevant design considerations and provisions of Approved Document M. (However, this exemption will no longer apply where more than 10 years have elapsed since the feature was constructed or installed: see paragraph 1(3) of the Schedule to the 2001 Regulations.)

5. A new version of Approved Document M (2004 edition) came into force on 1 May 2004. The 2004 version is more detailed, and is aimed at achieving a greater degree of accessibility than its predecessors. Thus any service provider wishing to take advantage of the exemption would be ensuring a higher level of access for disabled people and other users than that required under the 1999 version of the Approved Document M.

6. The exemption provides reassurance to service providers that, having invested in construction or installation of physical features that comply

[1] S.I. 2001/3253.

with the Approved Document M, and therefore provided a minimum standard of access for disabled people and other users, they will not be required to make further adjustments to these features for a period of ten years. The ten year period was agreed following informal consultation on the 2001 Regulations.

7. This Statutory Instrument maintains the policy intention underlying the exemption for service providers by enabling the exemption to apply where a physical feature is installed or constructed in accordance with the 2004 version of Approved Document M. It is intended to come into force on 1 October 2004, at the same time as the new duties for service providers, and the 2001 Regulations, which it amends.

8. This statutory instrument also amends the 2001 Regulations to make it clear that those Regulations do not extend to Northern Ireland. (The DDA itself extends to Northern Ireland subject to the modifications contained in Schedule 8: see section 70(6). By virtue of paragraph 47 of that Schedule, exercise of the regulation-making powers within sections 21(5)(b) and 67(3) of the Act in relation to Northern Ireland is not for the Secretary of State but the Department of Economic Development.)

Extent

9. This statutory instrument extends to Great Britain only.

Impact

10. The regulations will have no negative impact on business as they maintain the exemption for service providers with regard to construction and installation of physical features which accord with Approved Document M. There will be an improved level of access for disabled people, as the requirements of the 2004 version of Approved Document M are more detailed and aimed at achieving a higher level of access than that required by the previous versions of the Approved Document M.

11. In my view, the provisions of the Disability Discrimination (Providers of Services) (Adjustment of Premises) (Amendment) Regulations 2004 are compatible with the rights and freedoms under the European Convention on Human Rights.

Maria Eagle
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Contact

Peter Nokes

Disability Unit
Department for Work and Pensions
Level 6
Adelphi
1-11 John Adam Street
London
WC2N 6HT
Telephone: 0207 962 8527