
DRAFT STATUTORY RULES OF NORTHERN IRELAND

2008 No.

**The Disability Discrimination (Private Clubs,
etc.) Regulations (Northern Ireland) 2008**

PART II

LESS FAVOURABLE TREATMENT: JUSTIFICATION

Circumstances in which mental incapacity justification does not apply

3. The condition specified in section 21G(3)(b) of the 1995 Act shall not apply where another person is acting for a disabled person by virtue of—

- (a) an enduring power of attorney; or
- (b) functions conferred by or under Part VIII of the Mental Health (Northern Ireland) Order 1986(1).

Circumstances in which less favourable treatment is justified: guarantees

4.—(1) Where, for a reason which relates to the disabled person's disability, an association treats a disabled person less favourably than it treats or would treat others to whom that reason does not or would not apply, that treatment shall be taken to be justified for the purposes of section 21G(1) of the 1995 Act in the circumstances specified in paragraph (2).

(2) The circumstances referred to in paragraph (1) are that—

- (a) the association provides a guarantee (whether or not legally binding) that—
 - (i) the purchase price of benefits, facilities or services that it has provided will be refunded if the benefits, facilities or services are not of satisfactory quality, or
 - (ii) benefits or services in the form of goods that it has provided will be replaced or repaired if those goods are not of satisfactory quality; and
- (b) the association refuses to provide a replacement, repair or refund under the guarantee because damage has occurred for a reason which relates to the disabled person's disability, and the damage is above the level at which the association would normally provide a replacement, repair or refund under the guarantee; and
- (c) it is reasonable in all the circumstances for the association to refuse to provide a replacement, repair or refund under the guarantee.

(3) In this regulation "guarantee" includes any document having the effect referred to in paragraph (2)(a) whether or not that document is described as a guarantee by the association.

Circumstances in which less favourable treatment is justified: deposits

5.—(1) Where, for a reason which relates to the disabled person’s disability, an association treats a disabled person less favourably than it treats or would treat others to whom that reason does not or would not apply, that treatment shall be taken to be justified for the purposes of section 21G(1) of the 1995 Act in the circumstances specified in paragraph (2).

(2) The circumstances referred to in paragraph (1) are that—

- (a) when benefits or services (in either case in the form of goods) or facilities are provided, the disabled person is required to provide a deposit which is refundable if such goods or facilities are undamaged; and
- (b) the association refuses to refund some or all of the deposit because damage has occurred to such goods or facilities for a reason which relates to the disabled person’s disability, and the damage is above the level at which the association would normally refund some or all of the deposit; and
- (c) it is reasonable in all the circumstances for the association to refuse to refund some or all of the deposit.