

**Disability adjustments in rented premises**

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## ❖ Disability Discrimination Act 1995

Duty not to discriminate as a provider of premises:

- By refusing to let
- In the terms of lease offered
- In the place on a waiting list
- In the use of benefits or facilities
- By evicting a disabled tenant

## ❖ Disability Discrimination Act 2005

➤ Added duties coming into force on 4 Dec 06:

- To provide auxiliary aids and services, where these are requested by the tenant and they will enable use of the premises or enhance enjoyment of the tenancy.
- No duty to make physical adjustments to the premises.

## ❖ Housing (S) Act 2006 (private lets)

- Applies to any let which is not under a secure or short secure tenancy
- A tenant has the right to apply to carry out work necessary for the accommodation, welfare or employment of a disabled person.
- The landlord cannot withhold consent unreasonably
- A lease cannot remove this right
- The DRC code must be considered when a court decides if a landlord has been unreasonable.

## ❖ Housing (S) Act 2006 (private lets)

- What is reasonable? The Act lists for consideration:
  - The disability
  - Is the work necessary to make the house suitable for a disabled occupant
  - Safety of occupiers of the house
  - Cost to landlord
  - Will work reduce the value of the house
  - Will it make the house less suitable for let
  - Can the house be re-instated to its previous condition
  - The terms of the Code

# ❖ Housing (S) Act 2006 (private lets)

➤ The Code says you also need to consider:

- The nature and effect of a disability
- The relationship between the disability and the work
- The disabled occupants needs
- The effect on the wellbeing of the occupant
- The impact of a refusal to consent
- The ability of a tenant to pay for the work
- The scale and feasibility of the work
- The type and length of the tenancy
- The nature of the premises
- The extent of any disruption
- The effect of planning and building regulations

## ❖ Housing (S) Act 2006 (private lets)

- Reasonable conditions can be attached to any consent
- Conditions which are reasonable are likely to include:
  - The tenant obtaining necessary planning and building permissions
  - Carrying out the work in line with approved plans
  - Allowing the landlord to inspect the work
  - Paying for maintenance if needed
- The landlord must apply for third party consents if asked to do so e.g. from a mortgage lender

## ❖ Housing (S) Acts 2001 (social landlords)

- Applies to those with a secure or short Scottish secure tenancy
- A tenant must request consent to carry out work
- The landlord cannot withhold consent unreasonably to the work
- Previously did not mention disability related work specifically, but it would always have been an issue to take into account when considering what was reasonable.
- The DRC's Code of Practice in this area must now be considered by the court when deciding if a landlord has been unreasonable.

## ❖ Enforcement of rights

- In private lets, if a landlord refuses consent or does not reply or attaches unreasonable conditions, the tenant must raise a Sheriff court action within 6 months.
- In social lets the tenant has 21 days to raise a Sheriff court action.
- The DRC in Scotland has been given power to offer advice on these provisions and legally support court cases.
- DRC also funds a separate conciliation service, to provide independent conciliation in this area.