What do the Discrimination (Disability) (Jersey) Regulations 2018 (the "Regulations") contain and what does their introduction mean for me?

If you have not yet had a chance to mull over the Regulations we have, subject to word count restrictions, distilled their contents below. If you are an employer and/or provider of goods and services the Regulations will impact on how you recruit and manage employees and how you offer your products and/or services.

What constitutes a disability? If a person has one or more long-term physical, mental, intellectual or sensory impairments which can adversely affect a person's ability to engage or participate in any activity. An impairment is "long-term" if it has lasted or is expected to last 6 months or more or expected to last for the remainder of a person's lifetime if that is expected to be less than 6 months.

Following responses to the Social Security Department's consultation on the Regulations, it is proposed that specific provision is contained in the Regulations to include disfigurement (other than by tattoo or decorative piercing) as a disability.

After addictions to alcohol, tobacco and non-prescription drugs were specifically excluded in the draft regulations, the Regulations approved by the States removed this exclusion following the consultation.

In contrast to the UK Equality Act, the Regulations adopt a social model as opposed to a purely medical one in defining disability. The focus is on the potential of the particular impairment to adversely affect a person's ability to engage in an activity i.e. working and using a service as opposed to their ability to undertake day to day activities.

Can I afford more favourable treatment to an individual because of their disability? Yes. Taking positive measures to support a person with a disability will not constitute direct discrimination.

Is unfavourable treatment arising in consequence of a person's disability permitted? Not unless it can be objectively justified as a proportionate means of achieving a legitimate aim. Extra measures have been included in the Regulations to prevent such behaviour. This would include turning away customers at a restaurant because they have a guide dog. The fact a customer has a guide dog arises because of their disability therefore such behaviour is outlawed.

Will adjustments need to be made to working practices, offices and business premises? Potentially. The Regulations provide that reasonable adjustments will have to be made to any provisions, criteria or practices which cause substantial disadvantage to those with disabilities.

Adjustments will also be required where the absence of an auxiliary aid causes a disadvantage to those with a disability. Auxiliary aids include the provision of information in alternative formats such as braille.

Where a physical feature of a premises causes a substantial disadvantage, reasonable adjustments may have to be made to remove such disadvantage. In considering what is reasonable, consideration will be had to the cost of making the adjustment and the size of the organisation together with the extent to

which an organisation would reasonably have foreseen the need for the adjustment and the extent to which it could have been reasonable to have made the adjustment ahead of any person requiring it. As this obligation is more onerous, it will come into force on 1 September 2020 to enable businesses to plan any changes that may be needed. The remainder of the Regulations will come into force on 1 September 2018.

There are exceptions to the Regulations where certain circumstances will not constitute an act of disability discrimination. To find out more you are invited to attend a presentation on the Regulations, hosted by Voisin Law, in conjunction with WetWheels and Citizen's Advice Jersey on 2 July at St Paul's Centre, St Helier. To reserve your place please contact Emma Nicholson at emmanicholson@voisinlaw.com.